

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - Council Offices, Bradley Road, Trowbridge,
BA14 0RD
Date: Wednesday 28 March 2012
Time: 6.00 pm

Please direct any enquiries on this Agenda to Marie Gondlach (Democratic Services Officer), of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713597 or email marie.gondlach@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

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Membership:

Cllr Trevor Carbin	Cllr Christopher Newbury
Cllr Ernie Clark	Cllr Stephen Petty
Cllr Rod Eaton	Cllr Pip Ridout
Cllr Peter Fuller (Chairman)	Cllr Jonathon Seed
Cllr Mark Griffiths	Cllr Roy While (Vice Chairman)
Cllr John Knight	

Substitutes:

Cllr Rosemary Brown	Cllr Tom James MBE
Cllr Andrew Davis	Cllr Francis Morland
Cllr Russell Hawker	Cllr Jeff Osborn
Cllr Malcolm Hewson	Cllr Fleur de Rhe-Philippe
Cllr Keith Humphries	

AGENDA

Part I

Items to be considered when the meeting is open to the public

1. **Apologies for Absence**

2. **Minutes of the Previous Meeting** (*Pages 1 - 18*)

To approve the minutes of the last meeting held on 7 March 2012 (copy attached.)

3. **Chairman's Announcements**

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5. **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 5.50pm on the day of the meeting.

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the

officer named on the front of this agenda no later than 5pm on Wednesday 21 March 2012. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6. **Planning Applications** (*Pages 19 - 20*)

To consider and determine the following planning applications:

- 6.a **W/11/02971/FUL - Erection of terrace of 6 dwellings with car parking, enclosures and associated development (resubmission of W/10/03791/FUL). - Car Park Mill Lane Bradford On Avon Wiltshire** (*Pages 21 - 44*)

- 6.b **W1102717FUL - Alterations and enlargement to existing garage to form residential studio - Tudor Cottage 14 High Street Bulkington Wiltshire SN10 1SJ** (*Pages 45 - 50*)

- 6.c **W/12/00016/FUL - Single storey rear extension, front infill extension and side extension - 18 Little Parks Holt Wiltshire BA14 6QR** (*Pages 51 - 56*)

7. **Appeals Report** (*Pages 57 - 94*)

To review the outcomes of decisions made by the Planning Inspectorate on appeals in the area covered by the Western Area Planning Committee in 2011.

A report by the Area Development Manager is circulated.

8. **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None.

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WESTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 7 MARCH 2012 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Rod Eaton, Cllr Peter Fuller (Chairman), Cllr Mark Griffiths, Cllr John Knight, Cllr Christopher Newbury, Cllr Stephen Petty and Cllr Jonathon Seed

Also Present:

Cllr Malcolm Hewson, Cllr Helen Osborn and Cllr Jeff Osborn

20 Apologies for Absence

Apologies for absence were received from Councillor Roy While (substituted by Councillor Andrew Davis) and Councillor Pip Ridout.

21 Minutes of the Previous Meeting

The minutes of the meeting held on 15 February 2012 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 15 February 2012.

22 Chairman's Announcements

The Chairman offered the committee's thanks to Councillor Jonathon Seed for his work on the appeal regarding application W/11/01206/FUL, Land adjacent to Semington Crematorium.

The Chairman gave details of the exits to be used in the event of an emergency.

23 Declarations of Interest

W/11/03270/FUL - Side extension to 51 Summerleaze to create two new additional dwellings (flats) - Land Adjoining 51 Summerleaze Trowbridge Wiltshire

Councillors Peter Fuller and John Knight declared a personal interest as members of Trowbridge Town Council and its Development Control Committee where the application had been discussed, both gave their assurance that they would consider the application with an open mind.

W/11/03234/FUL - Conversion of single 3-storey terraced house into one 1-bedroom flat and two independent bedsits - 29A Newtown Trowbridge Wiltshire BA14 0BA

Councillors Peter Fuller and John Knight declared a personal interest as members of Trowbridge Town Council and its Development Control Committee where the application had been discussed, both gave their assurance that they would consider the application with an open mind.

24 Public Participation and Councillors' Questions

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

25 Planning Applications

The Committee considered the following applications:

25.a W/11/02971/FUL - Erection of terrace of 6 dwellings with car parking, enclosures and associated development - Car Park Mill Lane Bradford On Avon Wiltshire

Public Participation:

- Mr Peter Leach spoke in objection to the application;
- Mr Christopher Gillett spoke in objection to the application;
- Mr Stephen Green, representing Future Heritage Group, spoke in support of the application;
- Mr Colin Johns, representing Bradford on Avon Town Council, spoke in objection to the application.

The Area Development Manager introduced the report which recommended approval for the application and in doing so drew the committee's attention to the late list.

Members of the public then had the opportunity to speak as detailed above.

Councillor Malcolm Hewson, Unitary Councillor for Bradford on Avon South, spoke about his concerns and encouraged the committee to undertake a site visit before making a decision on the application.

Members of the committee could not be satisfied that the information provided enabled them to accurately envision the proposed development, it was therefore

Resolved:

To defer the application until a site visit had been organised to enable the committee to view the site and its surroundings.

25.b W/11/03270/FUL - Side extension to 51 Summerleaze to create two new additional dwellings (flats) - Land Adjoining 51 Summerleaze Trowbridge Wiltshire

Public Participation:

- Mr David Nutley spoke in objection to the application.

Councillor Helen Osborn, Unitary Councillor for Trowbridge Lambrock, expressed her concerns about the application and the impact it would have on a predominantly family orientated area and encouraged the Committee to either defer for a site visit or refuse planning permission.

The Chairman permitted Councillor Jeff Osborn, Unitary Councillor for Trowbridge Grove, to briefly address the Committee. Councillor Jeff Osborn also expressed concerns about the application and supported what Councillor Helen Osborn had said.

The Area Development Manager introduced the report which recommended approval for the application.

Members of the public then had the opportunity to speak as detailed above.

During the ensuing debate it became clear that there were no objections on planning grounds to the application it was therefore

Resolved:

That planning permission be GRANTED

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing: 11.45.1 received on 15 December 2011 (site plan only);
Drawing: 11.45.1 Rev A received on 30 January 2012;
Drawing: Parking plan received on 30 January 2012;
Drawing: 11.45.4 Rev A received on 30 January 2012; and
Drawing: 11.45.5 Rev A received on 30 January 2012.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 4 The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 5 No part of the development hereby approved shall be first occupied until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: T10

- 6 The development hereby permitted shall not be occupied until the flank boundary features have been reduced to not more than 0.6 metres for 1 metre back from the adjacent footway. These features shall be maintained at that height at all times thereafter.

REASON: In the interests of highway safety.

- 7 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the flats or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

- 8 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U2

- 9 Notwithstanding the hereby approved plans a rear access shall be provided to serve the amenity areas of both the approved development and 51 Summerleaze before the first occupation of the development. Details of this shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development. The approved details of access shall be maintained in perpetuity.

REASON: To ensure that rear access to private and secured amenity areas is maintained to facilitate bin, recycling, bicycle storage etc.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policy H1.

Informative(s):

- 1 The developer is advised to contact Wessex Water to ensure that any section 105a sewers (formally private sewers and lateral drains) that may be existing on the site are identified and then, as appropriate, suitable action is taken to ensure proper drainage and sewerage to serve residential property is provided. Wessex Water may be contacted on 01225 526000.
- 2 The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence may be required from Wiltshire's highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.
- 3 The developer is advised that any details of landscaping should include frontage planting to compliment the built form and soften the hard landscaping / parking area. To discuss this further you are advised to contact the planning case officer on 01225 770249.

25.c W/11/03234/FUL - Conversion of single 3-storey terraced house into one 1-bedroom flat and two independent bedsits - 29A Newtown Trowbridge Wiltshire BA14 0BA

Public Participation:

- Mrs Christine Dolan spoke in support of the application.

The Area Development Manager introduced the report which recommended approval for the application.

In responding to technical questions asked the Area Development Manager clarified that the nearest listed building was at least five dwellings away from 29A.

Members of the public then had the opportunity to speak as detailed above.

Councillor John Knight, Unitary Councillor for Trowbridge Central, spoke of the Town Council's concerns about this application and its objection to it.

During the ensuing debate members of the committee highlighted the fact that there had been no objections from the Highways Department. It was therefore

Resolved:

That planning permission be GRANTED

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Site Location Plan received on 13 December 2011

Elevations plan no date stamp

Proposed Ground and First Floor Plan received on 13 December 2011

Revised First Floor Plan received no date stamp

Reason: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

25.d W/11/03130/FUL - Stables with new vehicular access - Land East Of 3 Lower Marsh Road Warminster Wiltshire

Public Participation:

- Mr Robert Chapman spoke in objection to the application;
- Mrs Debbie McKee spoke in support of the application;
- Mr Barry Pirie spoke in support of the application;
- Mr Peter Grist, agent, spoke in support of the application.

It was clarified that Councillor Keith Humphries was the Unitary Councillor for Warminster Broadway in which division the application site was located and that he had not objected to the application being called in after Councillor Pip Ridout had called it in.

The Area Development Manager introduced the report which recommended approval for the application.

In responding to technical questions asked it was clarified that the application site was located outside of the Town Policy Limits and that the materials used would be timber.

Members of the public then had the opportunity to speak as detailed above.

During the ensuing debate members of the committee felt that the materials to be used should be specified and that condition 2 should be amended to reflect this. The committee also felt that additional conditions were required regarding the use of the site and lighting to ensure that the character and appearance of the site was protected; this is reflected in conditions 13 and 14.

Resolved:

That planning permission be GRANTED.

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The stables shall be constructed of timber walls with dark coloured plastic coated sheeting as the roofing material. Details of the colour of the roofing material shall be submitted to and approved in writing by the local planning authority before works commence.

REASON: To protect the character and appearance of the area.

- 3 No development shall commence on site until details for the storage of manure and soiled bedding (including the location of such storage) and its disposal from site (including frequency) have been submitted to and approved in writing by the Local Planning Authority. Before the development is first brought into use, the works for such storage and disposal shall be completed in accordance with the approved details and shall subsequently be maintained in accordance with the approved details. No storage of manure and soiled bedding shall take place outside of the storage area approved under this condition.

REASON: In the interests of public health and safety, in order to protect the natural environment and prevent pollution.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: E10 and C38

- 4 No horse manure or any other materials shall be burnt on site.

REASON: In order to minimise nuisance and safeguard the amenities of the area.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 : Policy C38.

- 5 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- indications of all existing trees and hedgerows on the land including measures to ensure that the boundary hedge between No 3 Lower Marsh Road and the countryside is re-instated;
- details of trees and hedges to be retained, together with measures for their protection in the course of development;
- means of enclosure;
- the layout of the parking and turning area, and proposed surfacing materials; and
- other vehicle and pedestrian access and circulation areas.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

- 6 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C32

- 7 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U2

- 8 The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

REASON: In the interests of highway safety and/or to protect the living conditions of nearby residents.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: E10 and C38

- 9 The development hereby permitted shall not be first brought into use until the splayed access area between the carriageway edge and the field boundary has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: E10

- 10 Any gates to close the access shall be set back on the field boundary (existing hedge) and shall be made to open inwards (away from the highway) only.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: E10

- 11 The gradient of the new access shall not at any point be steeper than 1 in 15 for a distance of 4.5 metres measured back from the carriageway edge.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: E10

- 12 The development hereby permitted shall be carried out in accordance with the approved plans:

Drawing: Locality Plan received on 25 November 2011;
Drawing: No. 2924 received on 25 November 2011;

REASON: For the avoidance of doubt and in the interests of proper planning.

- 13 No external lighting shall be erected on the stable building unless details of its position and specification have been agreed in writing by the local planning authority before the lighting is installed. The development shall be carried out in accordance with the approved details.

REASON: To protect the character and appearance of the area.

- 14 No caravans shall be sited on the site.

REASON: To protect the character and appearance of the area.

Informative(s):

- 1 The applicant is advised to contact Wessex Water 01225 526000 with regard to the protection of water infrastructure prior to the commencement of works.
- 2 The applicant is advised that under the terms of Section 23 of the Land Drainage Act 1991 any works (permanent or temporary) that may affect the flow of an 'ordinary' watercourse will require the prior written consent (Flood Defence Consent) of the Environment Agency. The need for this consent is separate from the need for planning consent. The applicant is advised to contact Daniel Griffin at the Environment Agency on 01258483351 with regard to the proposed bridging of the drainage ditch. There should be no interruption to the surface water drainage system of the surrounding land as a result of the operations on the site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively.
- 3 The new access crosses a highway ditch which will require to be piped as part of the development. In this connection the applicant is advised to contact the Wilton Highways Office, Tel 01722 744440.

25.e W/11/03298/FUL - Replacement garage - Little Orchard Chitterne Road Codford Wiltshire BA12 0PF

Public Participation:

- Mr Jonathon Nuth, agent, spoke in support of the application;
- Mr Bernard Abbott, applicant, spoke in support of the application;
- Mrs Vincie Abbott, applicant, spoke in support of the application;

- Mrs Rosemary Wyeth, Codford Parish Council, spoke in support of the application.

The Area Development Manager introduced the report which recommended refusal of the proposal.

In answering technical questions it was clarified that no windows were planned in the roof of the garage and that the siting of the garage was the main issue.

Councillor Christopher Newbury, Unitary Councillor for Warminster Copheap and Wylye, spoke in support of the application.

During the debate members of the committee discussed the location of the garage and its impact on the appearance of the area.

Resolved:

That planning permission be GRANTED

For the following reason(s):

The proposed development conforms to the Development Plan.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country

Planning Act 1990 as amended by the Planning & Compulsory Purchase Act 2004.

- 2 The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Little Orchard.

REASON: To ensure that the development is not occupied separately from Little Orchard as any separate use would have an adverse impact on the character of the area and the amenity of Little Orchard.

- 3 This permission relates solely to the detached new garage/study and shall be carried out in accordance with the details shown on Drawing No. 1015-P.04 received on 22nd December 2011.

REASON: For the avoidance of doubt and in the interests of proper planning.

25.f W/11/02471/REG3 - Erection of single storey modular changing accommodation consisting of 3 units and limited car parking - Former Innex Hall Site Innex Road Trowbridge Wiltshire

The Area Development Manager introduced the report which recommended approval of the application.

Councillor John Knight, Unitary Councillor for Trowbridge Central, welcomed the proposed development.

Resolved:

That planning permission be GRANTED

For the following reason(s):

The proposed development is in conformity with the policies of the development plan and would result in no harm to acknowledged planning interests. Any concerns are outweighed by other material planning considerations, the benefit of providing enhanced recreation and community facilities, and can be adequately controlled by the appropriate use of planning conditions.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall commence on site until details of the finished wall colour to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 3 The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 4 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U2

- 5 No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees shall be submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following: -

- * A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2005 and a plan indicating the alignment of the protective fencing;
- * A specification for scaffolding and ground protection within tree protection zones in accordance with BS5837:2005
- * A schedule of tree works conforming to BS3998.
- * Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- * Plans and particulars showing the sighting of the service and piping infrastructure;
- * A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- * Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- * Details of all other activities, which have implications for trees on or adjacent to the site.

Reason: In order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the

work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

POLICY: West Wiltshire District Plan 1st Alteration 2004 – policies C31a and C32.

- 6 The development shall be carried out as specified in the approved Arboricultural Method Statement (AMS), and shall be supervised by an arboricultural consultant.

Reason: To prevent trees on site from being damaged during construction works.

POLICY: West Wiltshire District Plan 1st Alteration 2004 – policies C31a and C32.

- 7 A pre-commencement site meeting shall be held and attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Authority to discuss details of the proposed work and working procedures prior to any demolition, site clearance and any development. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required shall be submitted to and approved in writing by the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

Reason: In order that the Local Planning Authority may be satisfied that the trees to be retained on-site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice.

POLICY: West Wiltshire District Plan 1st Alteration 2004 – policies C31a and C32.

- 8 No development shall commence until a full No-Dig specification and a cellular containment system for works within the root protection area/canopies of protected and retained trees has been submitted and approved in writing by, the Local Planning Authority. The construction of the surface shall be carried out in accordance with approved details and thereafter retained.

REASON: In order to protect trees on and adjacent to the site which are to be retained with surfacing placed near to or over the trees root system.

9 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- indications of all existing trees and hedgerows on the land;
- A detailed soft landscape scheme shall include all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- retained historic landscape features and proposed restoration, where relevant.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY: West Wiltshire District Plan 1st Alteration 2004 - policies C31a and C32.

10 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY: West Wiltshire District Plan 1st Alteration 2004 – policies C31a and C32.

- 11 Prior to the commencement of any development on site (including preparation and enabling works) an Ecological Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure biodiversity interests are protected.

POLICY: Planning Policy Statement 9: Biodiversity and Geological Conservation.

- 12 Prior to the development being first brought into use / occupied an ecological management plan for the site shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure biodiversity interests are protected.

POLICY: Planning Policy Statement 9: Biodiversity and Geological Conservation.

- 13 On or before 7 March 2017 the modular changing rooms shall be removed from the site and the land restored to its former condition (or otherwise approved in writing by the Local Planning Authority) in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of amenity, in order to secure the restoration of the land upon removal/extinguishment of a building for which permission can be justified only on the basis of a special temporary need.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 14 The development shall be carried out in accordance with the hereby approved plans:

Drawing: Site location plan;
Drawing: Revised block plan;
Drawing: 09-0058-02;
Drawing: 08-0612-02;
Drawing: 1989/22/1 Rev O; and
Drawing: Topographical survey.

REASON: In order to define the terms of this permission and in the interests of proper planning.

Informative(s):

- 1 The developer is advised to contact the Council's tree and landscape officer in relation to conditions 5, 6, 7, 8, 9, and 10 on 01225 770232.

- 2 The developer is advised to contact the Council's tree and landscape officer in relation to conditions 11 and 12 on 01225 713241.

26 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 6.00 - 8.30 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), of Democratic Services, direct line 01225 713597, e-mail marie.gondlach@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

WESTERN AREA PLANNING COMMITTEE

28 March 2012

Planning Applications for Determination

Item No.	Application No.	Location	Unitary Councillor and Division	Parish	Recommendation
6.a	W/11/02971/FUL	Erection of terrace of 6 dwellings with car parking, enclosures and associated development (resubmission of W/10/03791/FUL). - Car Park Mill Lane Bradford On Avon Wiltshire	Cllr Malcolm Hewson, Bradford on Avon South	Bradford On Avon	Approval
6.b	W/11/02717/FUL	Alterations and enlargement to existing garage to form residential studio - Tudor Cottage 14 High Street Bulkington Wiltshire SN10 1SJ	Cllr Jonathon Seed, Summerham and Seend	Bulkington	Approval
6.c	W/12/00016/FUL	Single storey rear extension, front infill extension and side extension - 18 Little Parks Holt Wiltshire BA14 6QR	Cllr Trevor Carbin, Holt and Staverton	Holt	Approval

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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	28.03.2012		
Application Number	W/11/02971/FUL		
Site Address	Car Park Mill Lane Bradford On Avon Wiltshire		
Proposal	Erection of terrace of 6 dwellings with car parking, enclosures and associated development (resubmission of W/10/03791/FUL).		
Applicant	Fortdene Limited		
Town/Parish Council	Bradford On Avon		
Electoral Division	Bradford On Avon South	Unitary Member:	Malcolm Hewson
Grid Ref	382768 160979		
Type of application	Full Plan		
Case Officer	Mr Kenny Green	01225 770344 Ext 01225 770251 kenny.green@wiltshire.gov.uk	

Members will recall that this application was deferred for a site visit at the meeting of the Planning Committee on March 7th. The site meeting is scheduled to take place prior to this committee meeting.

Reason for the application being considered by Committee

Councillor Hewson requested that this item be determined by Committee due to the following:

The proposed development makes no positive contribution to the long-term preservation and enhancement of the Conservation Area.

The proposal represents an overdevelopment of the site in a use and form that have a detrimental effect on its immediate surroundings and the Town Centre.

The proposal does not provide for the proper development of this site as assessed with regard to Policies HE 6.1, HE7.5, HE9.5 and HE10 of Planning Policy Statement 5 and District Plan Policy C18.

The form of development is inappropriate in terms of bulk, scale and visual intrusion. It also has an adverse effect on the views from Mill Lane and the setting of the Manvers House (Grade II*) and The Hall (Grade I) and its Registered Park and Garden.

1. Purpose of Report

To consider the above application and to recommend that planning permission be approved subject to conditions.

Neighbourhood Responses

15 letters of public representation received together with a petition signed by two people.

Parish/Town Council Response

Objects to this application for the reasons cited within section 7 below.

2. Report Summary

The main issues to consider are:

Principle of Further Residential Development Within Town Policy Limits
Impact on the Conservation Area / Heritage Assets
Loss of Car Parking / On Site Servicing / Environmental Considerations
Landscape / Loss of Trees (including TPO'D tree)
Impact on surroundings / residential amenity / privacy
Archaeological and Ecological Issues
Education Contributions

3. Site Description

The application site measures about 0.12ha, located within Bradford on Avon's Conservation Area. The adopted District Plan identifies this site (along with the former Kingston Mills site), for new housing allocations and urban mixed use brownfield allocation under Policy H4A. The site is identified as being located within the Commercial Area Boundary in an area of archaeological interest.

The car park site is positioned to the immediate west of Mill Lane, a one-way carriageway which has an approximate 1 metre wide footway, introduced by the Kingston Mills developer with an on-street parking prohibition in place. Historically, the land subject to this application was associated to Manvers House, a Grade II* Listed Building, located along Kingston Road, but it has been used as a private car park for many decades.

The site is predominantly laid as tarmac hardstanding and is walled on four sides. The northern boundary is marked by a high (5.8 metres) brick wall that separates the car park and residential gardens associated to properties located along Silver Street. At the eastern end, the stone wall drops down in height to about 3 metres and has an existing 6 metre wide vehicular entrance served off Mill Lane, which has an automatic barrier. Further to the east, and about 100 metres from the application site, the 17th Century Grade I listed property known as The Hall is positioned within its protected historic park and garden landscape.

At the foot of Mill Lane, on the far side of Kingston Road is Kingston House, another substantial listed property dating from the 18th Century, which was directly related to the development of manufacturing on the Kingston Mill site.

Manvers House and its rear yard/car park are situated to the immediate south. A 4.3 metre high wall defines the southern boundary. A flight of steep, narrow steps link the application site with Manvers House. Four well established trees are located along the southern and south western corner of the car park site. Since these trees are located within the Conservation Area, they are protected. The large poplar tree located in the SW corner of the site is TPO'd in its own right.

To the west, a solid stone wall measuring about 2.7 metres encloses the site and separates it from the rear gardens associated to Silver Street properties, service yards and outbuildings.

The applicant/site owner submits that there are 33 useable parking spaces in the existing car park. 9 of these are let to local businesses, 6 to local residents and 10 are temporarily let to Linden Homes whilst the Kingston Mills site is being developed. The remainder of the spaces were to be let to the Railway Engineering Company if required, but the offer has not been taken up; and thus, the spaces have been kept vacant. As an aside, the site owner has reported that the barrier at the entry point to the car park "is regularly broken by people trying to get out of the car park. When this happens, the car park fills up with non-licensed users".

4. Relevant Planning History

97/01455/CON - Removal of 2 metres of wall and widen entrance to car park - Withdrawn - 17.02.1998

97/01665/FUL - Widen entrance and reconstruction of stone pillar and security barrier - Withdrawn - 17.02.1998

08/00917/FUL - Conversion of Manvers House to form 6 dwellings and one office suite (Class B1) and erection of 7 new build dwellings and associated works - Refused 10.09.2008

08/00918/FUL - Conversion of Manvers House to form 6 dwellings and one office suite (Class B1) and erection of 7 new build dwellings and associated works - Refused 10.09.2008

W/10/03792/CAC - Partial demolition of boundary wall - Withdrawn (application not required) 17.05.2011

W/10/03791/FUL - Erection of 6 terrace dwellings with associated car parking, enclosures and tree felling and planting - Withdrawn 15.08.2011

5. Proposal

Full planning permission is sought for the erection of 6 dwelling houses to be formed as part of a 2.5 storey, 10 metre high terraced block to be orientated east-west across the central part of the site. The attic space accommodation would be served by wall head dormers. The exterior walls of the proposed terrace would be constructed using a mix of rubble Cotswold limestone, bath stone and lime render, with sandstone and stone lintels and cills. Fenestration finishes would be of timber joinery in oak or painted. Bespoke green oak framed porches with lead canopies are also proposed. The terraced property would have clay pantile and natural slate roofs. Sedum roofed car ports/cycle stores are also proposed.

Following the withdrawal of application W/10/03791/FUL negotiations took place with the applicant's agent. These negotiations led to the height and fenestration detailing being revised. The proposed ridge height has been lowered (than previously submitted) and the terraced building would be set into the site more through site excavations; and it has been re-sited about 12-14 metres from the boundary wall separating the site and the residential properties and gardens located along Silver Street. The applicant has also reconfigured the internal space and introduced some obscure glazing to address previous concerns raised about overlooking of neighbouring properties to and from habitable windows.

In support of the application, the applicant's agent has submitted a revised Planning Statement, an updated Design and Access Statement, an Arboricultural Impact Assessment, a Transport Assessment including vehicle swept path analysis and an addendum dated November 2011.

A Unilateral Undertaking has been entered into by the applicant/site owner and the Council covering the necessary education contributions pursuant to this development. Should permission be granted for this 6-house development, the owner of the site would be legally bound to pay an index linked contribution to the Council to the sum of £25,196 to be applied for the provision of two primary school places.

6. Planning Policy

Government Guidance

PPS1 - Delivering Sustainable Development

PPS3 - Housing

PPS4 - Planning for Sustainable Economic Development

PPS5 - Planning for the Historic Environment

PPS6 - Planning for Town Centres

PPS9 - Biodiversity and Geological Conservation

PPG13 Transport

PPG24 Planning and Noise

The Emerging Wiltshire Core Strategy

Core Policy 36 - Economic Regeneration

Core Policy 41 - Sustainable Construction and Low-Carbon Energy

Core Policy 45 - Meeting Wiltshire's Housing Needs
Core Policy 50 - Biodiversity and Geodiversity
Core Policy 51 - Landscape
Core Policy 57 - Ensuring High Quality and Place Shaping
Core Policy 58 - Ensuring the Conservation of the Historic Environment
Core Policy 61 - Transport and Development

Wiltshire and Swindon Structure Plan

DP1 - Priorities for Sustainable Development
DP2 - Infrastructure
DP4 - Housing and Employment Proposals
DP5 - Town Centres, District Centres and Employment Areas
DP7 - Housing in Towns and Main Settlements
DP8 - Affordable Housing
DP9 - Reuse of Land and Buildings
T1 - Integrated Transport Plans
T3 - Public Passenger Transport
T5 - Cycling and Walking
T11 - The Strategic Transport Network
HE7 - Conservation Areas and Listed Buildings

West Wiltshire District Plan - 1st Alteration

C6a - Landscape Features
C15 - Archaeological Assessment
C17 - Conservation Areas
C18 - New Development in Conservation Areas
C20 - Change of use in Conservation Areas
C21 - Planning Permission in Conservation Areas
C23 - Street Scene
C30 - Skylines
C31a Design
C32 - Landscaping
C35 - Light Pollution
C38 - Nuisance
C40 - Tree Planting
H1 - Further Housing Development Within Towns
H2 - Affordable Housing Within Towns and Villages
H3 - Urban Brownfield Allocations
H4 - Urban Mixed Use Brownfield Allocations
H24 - New Housing Design
T10 - Car Parking
TC2 - Traffic Management and Pedestrian Priority
U1a - Foul Water Disposal
U2 - Surface Water Disposal
S1 - Education
SP5 Secondary Retail Frontages
I1 - Implementation

Supplementary Planning Guidance

Kingston Mills Development Brief
Residential Design Guide
Design Guidance

7. Consultations

Town Council - Recommends refusal of this proposed development and cites the following reasons:

The proposed development makes no positive contribution to the long-term preservation and enhancement of the Conservation Area.

The proposal represents an overdevelopment of the site in a use and form that have a detrimental effect on its immediate surroundings and the town centre.

The terrace, its balconies and ecclesiastical windows are not characteristics of the area. The open spaces and views towards Woolley Street and Silver Street will be lost as well as the view of Kingston House. The development makes no contribution to the economy of the town. The car park is an important facility to residents and shop owners. The Town Council recommends that a site visit takes place prior to Wiltshire Council's Planning Committee meeting.

The proposal does not provide for the proper development of this site as assessed with regard to Policies HE 6.1, HE7.5, HE9.5 and HE10 of Planning Policy Statement 5 and District Plan Policy E18. The form of development is inappropriate in terms of bulk, scale and visual intrusion. It also has an adverse effect on the views from Mill Lane and the setting of the Manvers House (Grade 1) and The Hall (Grade I) and its Registered Park and Garden.

The Architects Planning Statement - Revised submission, sets out in some detail the outcome of discussions held with officers of Wiltshire Council since withdrawal of the earlier scheme and includes the following:

"The Planning Statement assesses the proposals against those of the previous application and highlights the changes that have been made to overcome officers' previous concerns. The remaining issues on the previous application were regarding the overall height of the terrace in relation to neighbouring buildings, and concern regarding privacy and neighbour amenity in relation to 18 Silver Street, which lies on the northern boundary of the application site. In summary these issues have been overcome by proposing to dig out and lower the terrace by approximately 1 m, and an internal reconfiguration so habitable rooms do not face Silver Street, and an additional window looking away from the neighbouring property and the use of obscure glass where a direct line of sight occurs".

The proposed reduction of 1 m in height is meaningless and other variations, particularly the use of obscure glass, demonstrate a failure of the fundamental design. If the scheme were to be properly related to its setting such inappropriate techniques would not be necessary. This scheme has all the faults of the previous submission; it contains no community benefit to offset the disadvantages and should be refused.

The important issues that require full consideration are:

1. the original brief for the Kingston Mill site and the finally approved scheme
2. sustainable development
3. the potential contribution to the overall conservation of the town neighbourhood issues
4. District Plan policies and the policies in PPS 5 (Planning for the Historic Environment)

The development of this site should not be considered in isolation from decisions that have already been made in relation to the Kingston Mill project. Comments made on the April 2008 application for Manvers House and the Car Park are also relevant. As the Mill Lane car park remains in the ownership of Avon plc, it is not unreasonable to link the two schemes within the overall employment considerations.

It has been recognised that car parking on the Kingston Mill site is below standard and that some oversell is inevitable; there is an opportunity therefore to address this in relation to the Mill Lane car park site.

There is no justification in seeking additional dwellings without providing additional local amenities or community benefit.

With any proposal within the town centre there is a prime requirement to preserve and enhance the Bradford on Avon Conservation Area which needs to be considered in a much wider context than purely visual. Conservation Character is made up of a number of elements, of which appearance is only one part. For many years the conservation and long term viability of the listed buildings on the south side of Silver Street has made difficult because of the lack of convenient access, and in particular pedestrian safety. Ground levels in the area need to be assessed and development of the car park in isolation is premature pending a thorough investigation of the possibilities of providing links with the surrounding buildings and permeability through the site.

The existing situation with the car park cannot be said to contribute to the visual character of the town but it does make a valuable functional contribution. There is however significant potential for improvement on both counts. This can only be achieved if the development creates interesting and attractive spaces that can be integrated with the town centre and in so doing preserves and enhances the Conservation Area. The proposal for 100% residential development does not make a positive contribution, either in visual or functional terms.

District Plan Policy C18 states that proposals for new development in a Conservation Area will be permitted only if set criteria are met. Policy HE6.1 of PPS 5 requires an assessment to be made of the significance of the site being considered for development. This includes the examination of the setting. The PPS also states that there are a number of potential heritage benefits that could weigh in favour of a proposed scheme. Additional policies within PPS 5 and the accompanying guidance provide further information on how development proposals should be assessed.

Policies HE7.5, HE9.5 and HE10 require attention to the extent to which the design of new development contributes positively to the character, distinctiveness and significance of the historic environment. A successful scheme will be one whose design has taken account of the characteristics of the surroundings.

The planning system has a key role of facilitating and promoting sustainable and inclusive patterns of development, including the creation of vital and viable town centres (PPS 6 - Planning for Town Centres).

Any development needs to address the long-term impact on nearby listed buildings because this is the last remaining opportunity to do so. It is therefore reasonable to argue that a properly integrated and permeable development or use of the car park is essential if the character of the Conservation Area and if the listed buildings in this part of the town are to be properly protected. At present the car parking used by businesses and residents in the immediate locality provides an essential facility to ensure that buildings in Silver Street and Woolley Street are fully utilised and properly maintained. In addition to the objections in principle there are also design issues regarding the bulk, scale and form of the proposed scheme. The Design and Access Statement makes particular reference to "the tradition of terrace housing in Bradford on Avon" as a justification for a two storey plus attic development on this site. This however ignores the fact that terraces in Bradford on Avon are a key feature of the southern hillsides, and some of the surrounding areas, but are not typical of development in Silver Street and Woolley Street. Here, buildings sit along the road frontages or in courtyards behind.

There is at present an attractive view of the hillsides from Mill Lane across the car park and this will be entirely lost if a tall terrace block is built along the contour as suggested. The block will significantly impact on nearby buildings including affecting the setting of the Grade II* Manvers House. It may also have an impact on the Hall gardens. The planning application includes considerable design detail. In particular, there is reference to a proposal for the construction of balconies to the south elevation. Balconies are an entirely alien feature within the historic core of the town, and especially so on buildings that are based on historic precedents.

Recommendation: Refuse on the basis that:

The proposed development makes no positive contribution to the long-term preservation and enhancement of the Conservation Area. It represents an overdevelopment of the site in a single use and form that have a detrimental effect on the immediate surroundings (especially the buildings in this part of Silver Street) and the town centre.

The proposal does not provide for the proper development of this site as assessed with regard to Policies HE 6.1, HE7.5, HE9.5 and HE10 of Planning Policy Statement 5 and District Plan Policies including those related to the redevelopment of Kingston Mill.

The form of development is inappropriate in terms of bulk, scale and visual intrusion. It also has an adverse effect on the views from Mill Lane and the setting of the Manvers House (grade II*) and The Hall (grade I) and its Registered Park and Garden.

Additional Comment

To be acceptable development on this site needs to:

- * preserve the character of the Conservation Area
- * make a positive contribution to economic vitality and sustainable communities
- * be of an appropriate design for its context and make a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment and to the setting and uses of neighbouring buildings

This traditional form of development in this part of Bradford on Avon is outlined in the Approved Conservation Area Character Assessment as:

"development is generally of a lower density with buildings interspersed with gardens and other areas of open space...Building types are predominantly 2-storey; terrace forms, generally not of a unified design."

The Mill Lane Car Park has considerable potential but not if developed as proposed. It is important that the opportunity is not lost. Much of the comment in this report is based on earlier versions but has been amended to take into account the Planning Statement Revised Submission and accompanying drawings and details.

Highways Authority - No objections, subject to conditions.

Council's Conservation Officer - No objections. The current proposals would not unduly harm the special character and appearance of the Conservation Area and would not result in significant harm to the setting of nearby listed buildings by reason of the scale, form, design and layout of the development. The terrace would represent a new element to the townscape when viewed from the hillside south of the river, however Bradford on Avon is characterised by terraces and tight rows of buildings. Therefore, this scheme would be in keeping with that overall theme of Bradford on Avon's character.

Council's Tree and Landscape Officer - All the previously raised arboricultural and landscape concerns have been addressed. This proposed development is supported, subject to planning conditions.

English Heritage - Previously advised in relation to application w/10/03791/FUL as follows:

This application follows the refusal of previous proposals in the summer of 2008. English Heritage raised no objection in principle to that application, but drew attention to the relationship between new build dwellings and the residential conversion of Manvers House which was then included in the proposals. Manvers House and its immediate car park is now excluded from the current proposals, but there is a need to ensure that its sustainable and viable future, whatever that may be, is not compromised by the current scheme.

English Heritage also confirmed that they were comfortable leaving such an assessment to the discretion and judgement of the planning authority.

In carrying out such an assessment, attention is drawn to the provisions of PPS5 which have come into statutory force since the previous application was considered, and the need to provide evidence on the significance of the heritage assets likely to be affected, their importance, the degree of impact which will result, and the public benefits which might justify such proposals or provide adequate mitigation.

In this case, the contribution made by the site to the special interest of the Grade II* listed Manvers House, in its spatial relationship as well as in its openness, the role of the site in defining the historic character and appearance of the conservation area, and the setting of the Grade I listed Hall, all need to be considered. While the design and footprint of the main block may accord with prevailing townscape character, the planning authority is encouraged to assure itself that the development's scale will not be unduly dominant.

It is appreciated that the site may be part of a "brownfield" area identified for development within extant planning policy, but this does not obviate the need for any set of specific proposals to justify their acceptability in compliance with statutory planning policy guidance.

Council's Education Team - No objections subject to the issuing of a Unilateral Undertaking which requires the owner of the site to provide an index linked education contribution to the sum of £25,196 prior to the commencement of any development.

This development generates a requirement for 2 primary places at £12,598 each. The proposals also generate a need for one additional secondary school place, however, in this particular case, it has been agreed not to pursue the one secondary place. As far as secondary school contributions are concerned, pupil numbers and school capacities do change over time and so s.106 requests must vary accordingly.

In relation to primary school contributions, it has been confirmed that the current numbers of pupils, and pre-school children will mean that both primary schools, serving the area will be full in the coming years. There is, therefore, a clear need for additional accommodation in relation to any new housing, irrespective of the size of the development.

Following discussions with the applicant's agent, even after the detached studio unit was deleted from the scheme, the requirements listed above remain relevant.

Council's Spatial Planning Team - Recognises that this application is a resubmission of W/10/03971, and that the changes made to the application relate to matters of design detail.

The strategic and local planning policy for Bradford on Avon is provided by the Wiltshire and Swindon Structure Plan 2016 and the West Wiltshire District Plan First Alteration (June 2004). The majority of the policies in the Structure Plan and District Plan are currently saved. District Plan Policy H4A (urban mixed use brownfield allocations) is particularly relevant to this proposal. Policies C15 (archaeological assessment), C17 (conservation areas), C18 (new development in conservation areas), H1 (future housing development within towns) and SP5 (secondary retail frontages) also apply.

The Wiltshire 2026 consultation was undertaken between October and December 2009 to inform the development of the Wiltshire Core Strategy. Relevant material from the consultation document and responses to this are discussed below.

Background:

The site is located within the Kingston Mills urban mixed use brownfield allocation, as identified by Policy H4A of the District Plan. The site is within a Conservation Area, and is within an Area of Archaeological Interest. The site is also within the Commercial Area boundary.

There was a previous planning application at this site in 2008, with proposals including the conversion of offices at Manvers House into residential dwellings and the provision of new build residential dwellings on the Mill Lane car park (ref. 08/00917/FUL). This application was refused. The planning policy response to the 2008 application raised concerns about the loss of employment use at Manvers House and this was one of the reasons for refusing the application. With regards to the proposed development on the car park site, the 2008 policy response stated that "the provision of new build housing should be considered in relation to other matters such as traffic, conservation and amenity matters"; and that, in particular, "the implications for traffic flow and parking within this part of Bradford on Avon should be investigated given the existing degree of congestion". It was also noted that a separate application for 170 dwellings on the Kingston Mill site (ref. 06/02394/FULES, since permitted) would already provide more than the 130 dwellings indicated for the Kingston Mill site by policy H4A.

The key issue in respect to this application is:

Whether residential development on this site would be acceptable in principle, and whether matters of traffic flow, parking, conservation and amenity have been sufficiently addressed.

As noted above, the Mill Lane car park forms part of the Kingston Mills development site identified by Policy H4A as suitable for about 130 dwellings and "small scale retail, further education, financial services office and leisure/arts". Permission has already been granted for comprehensive mixed use redevelopment of a large portion of the Kingston Mills site (not including the Mill Lane car park), to include provision of around 170 dwellings. Any proposal for residential use on this site would therefore need to be considered within the wider context of the redevelopment of the whole Kingston Mills site. However, as the car park is not currently in employment use, and is located within the town policy limits, it is considered that small-scale residential development would be acceptable in principle (policies H1 and SP5 of the District Plan refer).

The policy comments relating to the new build proposals in 2008 are still relevant, and the implications for traffic flow and parking, and conservation and amenity matters should be considered. The Wiltshire 2026 consultation document noted that "poor air quality as a result of high traffic volumes and congestion in the town centre" is one of the key issues in Bradford on Avon, and responses to the consultation indicated that traffic problems are an issue in the town.

The Council will need to be satisfied that issues of traffic and parking are sufficiently addressed. In particular, there is a question over where the current users of the car park will park, should the application be permitted.

The site is located within an Area of Archaeological Interest, and an archaeological assessment is therefore required under Policy C15 of the District Plan.

The Council will also need to be satisfied that matters of conservation and amenity have been sufficiently addressed.

Policy Recommendation: It is considered that residential development on the Mill Lane car park site is acceptable in principle, as indicated by Policies H1 and SP5 of the District Plan. The Council will need to be satisfied that matters of traffic flow, parking, conservation and amenity have been sufficiently addressed.

Council's Drainage Engineer - As the site is located within a sewered area for both storm and foul drainage, it would be up to Wessex Water to accept and agree to additional connection flows from the site.

Council's Economic Development Officer - Objects to this residential proposal on the basis that the town has lost most of its employment sites to residential use in recent years which has increased out commuting. The vision that the Bradford on Avon Development Trust has is supported in terms of identifying the Mill Lane Car Park having potential for employment use with better access being provided for the vacant units on Silver Street and the potential to create additional workspace surrounding the car park. In this vision, the car park would remain to serve the northern side of the town where there is very little parking space available.

Council's Affordable Housing Officer - The proposed development does not trigger a need for any AH contributions.

Council's Archaeologist - No objections. The site was evaluated in 2007 ahead of an expected application and no significant archaeology was recovered and no further action is recommended.

Council's Ecologist - Previously advised having no objections.

Wessex Water - New water and waste water connections will be required. Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer.

Council's Environmental Health - No objections raised.

8. Publicity

The application was advertised by site notice/press notice /neighbour notification.

Expiry date: 23 December 2011

Summary of points raised:

7 letters of representation received raising the following objections:

Duncan Hames MP - Alongside objections raised by constituents about the value of homes on the site, residential privacy and the effect on Manvers House and The Hall are matters of concern. It is further felt that housing on the site would not provide lasting or economic benefits to residents and parking and traffic problems would be exacerbated. Concerns are also raised about whether the development preserves or enhances the Conservation Area.

Alternative proposals exist, such as turning the car park into a public one, which would benefit many more residents.

Constituents have informed me that even though the land is covered by the Kingston Mills Development Brief, the current planning proposals will not bring any "lasting benefits to the town, its workforce and residents". My constituents feel that there are a number of alternative proposals that could fulfil these conditions, but that the construction of residential housing on Mill Lane is detrimental to the future of Bradford on Avon. I have also been advised that the proposals breach Policies HE 6.1, 7.5 9.5 and 10 of Planning Policy Statement 5 and District Plan Policy C18.

Members of the Bradford on Avon Development Trust feel that residential housing on this site will not provide any positive contribution towards efforts to preserve or enhance the Conservation Area, as well as having an adverse effect on the views from Manvers House and The Hall - both of which are listed buildings. A similar planning application in the same area was rejected by the planning authority in 2008, and my constituents are unable to find any changes in the last two years that would invalidate the reasons given for the refusal. (NB - the applicant's agent points out that this application included Manvers House and was rejected because of loss of employment, not residential use on the car park site as proposed here).

Additionally, it is felt that residential housing will only have the capacity to benefit the families living there, although there are a number of alternative proposals that could increase employment or alleviate parking problems for many more residents.

The Mill Lane Car Park, although currently in need of regeneration, has the potential to bring lasting positive contributions to the residents and local businesses of Bradford on Avon.

Bradford on Avon Preservation Trust - Objects and argues that the site is totally unsuitable for further housing development and must be used to encourage business development. With the commitment of the owner of the yard above the site, this car park could afford a convenient access up into Silver Street and parking for customers who need to do business there through the archway of the old brewery. The turnover of the shops and other businesses in Silver Street has been tragically fast in recent years because of the difficulty of getting there and the lack of parking.

This whole area immediately to the north of the river has been the industrial heart of the town from time immemorial and has been deprived of that possibility by the redevelopment of the Kingston Mills site. The Preservation Trust recommends refusal in principle and confirmed having no interest in details of design in this case, so further revisions to the design carry no weight.

The Trust fully concurs with the Town Council's recommendation for refusal and its comprehensive account of its reasoning. The Trust, however, would like to add a further reference to PPS 5.HE 3.1 which gives advice on maintaining economic vitality in historic areas. Silver Street is already under serious threat with no less than three premises being vacated in the past six months.

There is no off-street public parking north of the river in Bradford and this site offers the last opportunity to create some in the commercial and historic centre of the town, which is already a

Conservation Area with numerous listed buildings. Silver Street suffers from very narrow footpaths, or none at all. This car-park, if retained and made public, would greatly add to the economic viability of this street and the commercial buildings being built within the Kingston Mills redevelopment.

The Traffic Assessment with the approved planning application for the Kingston Mills redevelopment admitted a shortfall of on-site parking spaces. On street space for parking eleven vehicles has been lost by the creation of a footpath along Mill Lane. The subsequent raising of the Social Housing units on the redevelopment from 17 to 53 is expected to increase the demand for residential parking, and thereby cause even greater overspill of demand to nearby streets and the north side of the town centre.

In sum, housing on this site would be unsustainable by aggravating rather than mitigating the existing problem of inadequate parking for residents and businesses. Anyway, further housing is accepted by Wiltshire Council to be no longer needed within the town.

This proposal must not be decided under delegated powers, but refused by the Planning Committee of Wiltshire Council on principle, not just because of poor design. The proposals will not benefit the character of the town and will add nothing to the activity, amenity or visual quality of the Conservation Area.

Wiltshire Heritage - On behalf of the Council for British Archaeology (CBA) and the Wiltshire Archaeological and Natural History Society (WANHS), the following comments are made:

The site is well known to us and it is argued that the revised proposals would be detrimental to the surrounding landscape of the protected buildings by introducing structures that impose on the sight lines from existing buildings as they exceed the roof lines and are of totally different architecture.

The courtyard is bounded by walls which predate some of the surrounding listed buildings and the ground will certainly hold archaeology relating to the Saxon occupation of the town north of the River. The proposal seeks the removal and demolition of parts of the retaining walls (measuring over 2 metres in height). The walls should not be removed and the archaeology should be preserved in an accessible way.

This development would be contrary to HE3.4 of PPS5 and thus undermine the local distinctiveness of this courtyard and its place in the historic environment of the town.

The dense development would not be in line with HE7.4 and HE7.5 as it does not make a positive contribution to the surrounding heritage assets nor bring sustainable economic development to the town. It could be argued that the loss of parking for local shops, restaurants, offices would have their economic sustainability impeded by the loss of such facilities, especially since that they are the only facility on the north side of the River.

In addition to the above, the following objections were received from 4 local residents:

Local residents agree with the objections raised by the Town Council and the Preservation Trust. The site is a vital future resource with potential to contribute towards the economic growth of the community. Building on this land will permanently block access to the area behind the buildings on the south side of Silver Street.

The application disregards the urgent community need for sustainable economic provision/enhanced employment opportunities. Given the site's position, it should principally be considered as a priority site / resource for small businesses. It is essential that the site is used efficiently.

This area is underutilised because the current access is extremely difficult and dangerous, but could be developed for commercial use. The balance between commercial and residential property in the centre of Bradford-on-Avon is, sadly, very skewed in favour of the latter.

The car park in its present form is not particularly attractive, though it could be made so. However, even though operated privately, it does make a positive contribution to the town by providing much-needed parking for local residents, shop owners and businessmen.

The proposed development would adversely affect the character and appearance of the Conservation Area.

Whilst the height of the terrace and neighbouring amenities are not the only of concern, the reduction in height by one metre does not alter the fact that the building would be intrusive in both its bulk and its style and lead to overlooking / loss of daylight and loss of privacy to neighbours.

The 2008 application was refused on the grounds that the residential requirements for the Town had been met by the Kingston Mills site. The Town does not need more housing.

This is the only car park on the north side of the town and because most houses have no garages or driveways. Unlike residents on the south side of the town, locals residents have no residents' parking permits.

It will adversely affect existing properties, by way of privacy loss, inferior spatial resolutions, together with a cumulative impact on the immediate locale.

It is contrary to Policy PPS5 (HE6.1; HE7.5; HE9.5; HE10 and District Plan Policy C18.

The proposal is contrary to the spirit and specifics of the Development Brief.

The submitted Design & Access Statement is entirely spurious.

The proposed design, layout and appearance of the development will not contribute to the historical structures around or the grain of character of the wider Conservation Area.

This is a purely profiteering proposal that would not benefit residents and businesses.

Insensitive overdevelopment of the site.

9. The Applicant's Case

The applicant recognises that whilst the 2008 applications were refused, there was no in principle objection raised or reasoned grounds for refusal covering the erection of houses on the car park site. Subject to satisfying adopted District Plan Policy, the site is identified for such purposes and therefore the principle has been established. The redevelopment of Manvers House no longer forms part of the proposals.

It is also stressed that "PPS3 advocates housing development on brownfield land in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. As the site is within Bradford Town Centre it is afforded easy access to all of the facilities that it provides. There are also good bus links to nearby towns and cities".

The scheme would be able to "plug-in to the one-way transport strategy devised for Kingston Mills proposals". The parking proposals have been subject to discussions and negotiations with Council highways officials. The design for the car parking allows vehicles to reverse out of parking spaces and leave the site in forward gear.

The applicant further submits that "Mill Lane is characterised by its enclosure on both sides by an almost solid building line, either by buildings or by high boundary walls...This character will not be altered by the proposed development because the terrace [would] continue this solid building line".

"The layout of the dwellings has been reconfigured to create a terrace of dwellings orientated to sit on the contours of the town. This is because throughout the steep slopes of the northern side of Bradford on Avon, the short terraces running along the corridors can be seen as evidence of the incremental pattern of development here over many centuries that, with extreme topography, have created such distinctive urban character. Based on this, the layout has been revised to make it more in keeping with the urban form of Bradford-on-Avon".

"All of the buildings beyond the car park turn their back on the site and so there, are no proximate windows overlooking, with one exception. Above the wall at the northern side of the car park is a building with windows directly overlooking the site. Beyond this elevation, there is another building with windows looking over the car park. The design of the proposed dwellings has taken into account the proximity of these buildings to the site. For this reason the terrace has been located closer to the southern end of the site providing a distance of 14.5m between. It is only the attic floor of the proposed development that presents any potential issues with overlooking and this was fully considered in the design process. The windows of the attic floor looking out from the northern elevation belong to a small bedroom and bathroom. These rooms also have roof lights to supplement the intake of light and therefore the windows facing the northern boundary are small. It is considered that adequate measures have been taken to prevent any significant overlooking and amenity issues; however obscure glazing could be used if additional measures were deemed necessary.

Further to this, the window located above the northern boundary wall is clearly not part of a habitable room as its window is partly boarded up. Therefore there are no amenity issues arising from it.

Careful consideration has also been given to the potential for the proposed development to overshadow surrounding buildings. Bradford on Avon is characterised by its topography and by the different orientation of buildings caused by organic, incremental growth of the town.

The proposed building would not be incongruous and overshadow buildings in the vicinity. The buildings have been orientated and located far away enough from the boundaries to ensure this. This is in accordance with Policy C38 of the Local Plan".

The applicant's architect argues that "the way buildings are perceived within the wider urban landscape is always determined by the largest buildings. There are, inevitably, given the complexity of towns; some lesser buildings will disappear in such views, hidden by others. So it did not seem unreasonable to test the height of the proposed new building against the most significant of the existing as these are the ones that manifest in distant views.

The important thing to note is that this car park site within Bradford on Avon town is quite a large site, but it is entirely level in an east/west direction (whereas Silver Street falls) and in a north/south direction falls far less than Mill Lane. The gradient across it in a north/south direction is actually only 2 ½ degrees.

Perhaps the best way to judge how the buildings should fit within this location is to look at the way they would lie within a photo montage prepared to a photograph taken from Bradford on Avon's well known high point, the Scout Hut, south of Bridge Street. A photographic montage submitted on 18 July was taken after the scaffolding on the Kingston Mills was removed and thus features, for the first time, the effect of the variation of prepared house types with the lower hip roof buildings at the western end.

In overall impact terms this would present an appearance wholly consistent with the character of Bradford on Avon where many terraces present their best face to the valley, but terraces are rarely built of more than 4 or 6 dwellings and within them there is much variation and many eccentricities.

Within Bradford on Avon, there are only a limited number of high points from which issues like this can be considered. East of the Scout Hut the foreground becomes obscured by trees, to the west, buildings and view lines follow the curves of the roads leading out of the town and there are no elevated view points at all to the west from which this site is significant.

Building Hierarchies

The Council's Conservation officer previously made a point about the hierarchies of development on the site, compared with that of surrounding buildings. A separate photograph was submitted showing the 3 dwellings running west of Mill Lane. All have attic accommodation of varying degrees and one features a stone fronted gable and eaves line set around one metre above the floor level the gable window serves. This was one of the direct precedents used to produce this design and is common throughout the town. However, it was decided for this application to make the gables more compact and narrower.

One of the notable characteristics of Bradford on Avon is how buildings of different classes and qualities sit cheek by jowl to a very unusual degree. It is a most distinctive feature with fine and substantial 18th century mansions sitting alongside diminutive cottages.

Since the Silver Street buildings are very well hidden behind high rear boundary walls, the true Conservation Area Character context set by this site is that determined by this relationship with the boundary and landscaping of The Hall nearby and Manvers House whose walled garden this once was. The applicant submits that the proposed buildings are not out of scale with the substantial eastern elevation of the property at the top of Mill Lane and the gable end of our terrace will be seen within the generous spatial setting that the grounds of The Hall create. It is common to find that with a building of the substantial scale and status of The Hall that buildings in its vicinity reflect that status.

Close Quarter Views

As various 3D illustrations and model photos show, the gable end of Mill Lane adds a note of drama of a kind found all over Bradford on Avon all the more interesting because of the contrasts of street width, building height and variety of form.

The other close-quarter view available is that from Kingston Road where the lower level car park of Manvers House is undeveloped and so reveals the high rubble stone wall behind which this elevated site is located. This wall is around 5 metres high and substantially determines the degree of visibility of the new houses. So for someone walking along Kingston Road, the line of sight and the site's boundary wall would obscure all but a few metres of the walling of the terrace below its eaves line and it would not loom over Kingston Road.

Bradford on Avon is a remarkable town due to the severity of its topography and the way this is heightened and exaggerated by the presence of great variety of structure for the most part displaying craftsmanship in stone and an eccentric variety of form and architectural character. The town's character is all the more remarkable by the fact that, particularly in its centre, it has a large number of buildings of substantial scale whose juxtaposition frames urban views and makes for rich overall visual experience from a multitude of viewpoints.

Closing remarks

In the evidence prepared in support of this application, it has been demonstrated that the proposed revised terrace is not in fact out of scale as regard its length, its number of storeys or its height when measured either by reference to surrounding ridge heights, by reference to topography or by reference to its impact within a photomontage from the only significant distant viewpoints the town affords.

In terms of status, this is an unusually well-crafted building supported by a large amount of detailed drawing, which has been designed, quite rightly, to reflect the architectural status of The Hall and that of Manvers House, rather than that of the buildings within Silver Street which are substantially screened from it.

If the alternative to the scheme were to be to provide a terrace of ordinary two storey dwellings, such as that previously considered in 2008, the character contribution to the town would be much less. There is evidence that there is no case for concern about loss of privacy for the gardens of the Silver Street properties in view of the relationships of height between the dwellings of those gardens and properties and the functions that will take place within the rooms under consideration.

If the only way to win the support of the Council for development on this site is to revert to a wholly '2 storey to eaves' design and it must be recognised that it would have to be more humdrum and risk presenting when done as just another piece of urban infill.

There are times, especially in Conservation Areas where it is right to add something of distinctiveness, especially given the site's proximity to and the status of The Hall.

10. Planning Considerations

Principle of Further Residential Development Within Town Policy Limits

Government advice contained within PPS 3 (as revised in June 2010) states, inter alia, that the planning system and decisions should deliver a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas and the provision of a sufficient quantity of housing taking into account need and demand and seeking to improve choice. It is also duly acknowledged that PPS3 (as revised) removed the prescriptive minimum housing density requirement.

Whilst having due cognisance of the above, the site is identified in the adopted West Wiltshire District Plan - 1st Alteration as forming part of a 2.18 hectare landholding which includes the Kingston Mills site, which is still being re-developed. For the avoidance of any doubt, both the Kingston Mills site and

the Mill Lane car park site are both included within Policy H4A - titled 'Urban Mixed Use Brownfield Allocations'. This Policy suggests that both the Kingston Mill site and the Mill Lane car park could be redeveloped "to include about 130 dwellings" and "small scale retail, further education, financial services office and leisure/arts".

The car park site is located entirely within the defined Town Policy limits of Bradford on Avon. Notwithstanding the fact that the Kingston Mills redevelopment has led to an increased number of residential units beyond what the Policy initially identified, under Policy H1 proposals for new housing development in this area may be appropriate provided, inter alia, that the siting, layout and design considerations are satisfactory, and that they are in keeping with the character of the surrounding area and that providing such development does not give rise to highway problems or create inappropriate backland or tandem development.

Policy H24 stresses that new housing should face onto, with windows and doors overlooking, the street or other public areas. Whilst offering some innovative design opportunities in new developments, the Policy also states that details, materials and finishes should complement the local characteristics.

West Wiltshire District Plan Policy C31a states that all new development, residential or otherwise, is required to respect or enhance the townscape features and views, existing patterns of movement, activity and permeability and historic layout and spatial characteristics. Policy C38 further states that new development will not be permitted if neighbouring amenities and privacy values are significantly detrimentally affected.

Whilst local residents have raised concerns about the above and referenced the emerging Core Strategy as grounds for refusal, Members are advised that officers, including the Council's Highways Authority and the Spatial Planning team, submit that a small-scale residential development would be acceptable in principle and would not conflict with established Policy. Within the Emerging Core Strategy for Wiltshire, the Town is "not identified as a strategic location for employment". Instead, the "economic self containment of Bradford on Avon will be addressed through delivering employment growth as part of strategic development and retaining all existing employment sites" (page 49 of the Wiltshire Core Strategy).

Whilst each application should be assessed on its own merits, the abovementioned 2008 planning application is a material consideration. It is recognised that Manvers House no longer forms part of the development proposals. It is further submitted that in planning terms, whilst the car park may well service local businesses, it is not considered employment land, and therefore, this development would not result in any loss of employment buildings/land or floorspace. It is also important to stress that in refusing planning application 08/00917/FUL, the Council did not raise any principle objection to developing the car park site (which would consequently displace private car parking). Officers argue that since the site has been identified having redevelopment opportunities as enshrined within the Council's adopted District Plan, the loss of a privately owned car park should not be grounds for refusal.

Impact on Conservation Area / Heritage Assets

Planning Policy Statement 5 - Planning for the Historic Environment and Section 66 & 72 of the Planning (Listed Building and Conservation Area) Act 1990 highlights that the Local Planning Authority has a duty to pay special attention to the desirability of preserving and enhancing the setting of a building or buildings of special architectural or historic importance and character or appearance of the Conservation Area.

The site is within the Bradford on Avon Conservation Area and any development of the site has the potential to affect the settings of Grade II, II* and I listed buildings. There is relevant planning history on this site and it is argued that the principle of developing on the car park site has been previously accepted. The Bradford on Avon Conservation Area Character Assessment does not identify the car park as an important open space, it is simply identified as a car park. Therefore, the principle of developing this site raises no objection.

Throughout the planning process, the Council's Conservation officer has been involved with the negotiations held with the applicant's agent. As reported above, the Conservation officer is supportive of this revised proposal. The proposed terrace of six properties have been lowered in height compared to the previous submissions. The car park is a hard space bounded by a mixture of stone and brick walling. The area has the appearance of a courtyard and this forms part of its character within the Conservation Area.

The current proposal is a straight terrace of six dwellings along with two car port structures against the north boundary wall. This follows a withdrawn 2010 scheme for a taller building. The sections of the stone boundary wall along Mill Lane to be removed would be a regrettable loss, however under current legislation these sections could be removed without the need for Conservation Area Consent or Planning Permission and therefore, no objections can be justifiably raised.

This site is flat although it is on a hill where a difference in ridge heights would be expected between the buildings at the top and those at the base. The lowered height of the proposal (in relation to the previous submission) would now fit in with that rhythm of descending ridge heights and the terrace would not appear too tall for the area. It would relate to the height of the rear projection of No. 18 Silver Street without visually dominating that structure.

As such, the scale of the proposed terrace would not result in harm to the special character and appearance of the Conservation Area or to the settings of surrounding listed buildings.

The layout would mean that the development would retain a courtyard, albeit in a different shape, but a courtyard would remain nevertheless. This element of the character of the area would therefore be somewhat retained.

The car port designs are acceptable and the use of a flat sedum roofs is a good solution in this location.

Loss of Car Parking / On Site Servicing / Environmental Considerations

As reported above, following lengthy discussions with the applicant's agent, the Council's Highways Authority raise no objection to the revised housing development, subject to conditions.

It is recognised that if approved, this development would result in a displacement of existing car parking. Whilst the concerns raised about the loss of car parking are duly acknowledged, the fact that the Mill Lane car park is in private ownership cannot be ignored. It must also be recognised that the short term lease arrangements/agreements which allow local businesses and local residents to use the car park, could be curtailed without any Council involvement. In addition to the above, adopted District Plan identifies the car park site for residential / urban mixed use redevelopment.

On the basis of the above, whilst the consequences of the development are fully respected, Members are advised that it would be unreasonable for the Council to refuse planning permission on the grounds of loss of the private car park and cause displaced parking.

As part of the consultation exercise, Wessex Water advised that surface water run off cannot connect to their foul mains, as it would potentially cause unacceptable overflow issues downstream. After advising on Wessex Water's comments, the applicant's agent advised that an alternative system would involve the provision of soakaways and possibly incorporating a retention system to stretch the infiltration over a longer period. At present, the car park is mainly in hard standing and is served by a couple of gulleys draining the surface water. However, if this development is approved, there would be less hard standing with the provision of gardens and soft and hard landscaping, which could assist in draining future surface water. Should the application be approved, a suitably worded condition would be necessary to cover surface water drainage.

The Council's Environmental Health team were consulted and took part in the early discussions held with the applicant's agent. Following a site inspection and review of the proposals, no environmental objection was raised.

Landscape / Loss of Trees (including a TPO'D tree)

Along with the case officer and the conservation officer, the Council's tree and landscape officer has been party to lengthy discussions with the applicant's agent. Following the submission of the revised plans, which includes the felling a Poplar tree, which is subject to a TPO, the above officer raised no objections. In tree and landscape terms, the development would be considered acceptable, subject to conditions.

Impact on Surroundings / Residential Amenity/Privacy

Officers recognise that the applicant's agent has endeavoured to address the concerns raised about the impacts the terraced development would have upon residential amenity and privacy. A sketch plan drawing (dwg. no 10056/SK/19/4/2011) was submitted in an attempt to contextualise the likely impacts of the terrace on its immediate neighbours. This sketch plan and its accompanying letter from the architect implies that there is 22 metre separation or thereabouts between the northern facade of the proposed terrace and the southern rear habitable elevations of residential properties along Silver Street. There is a 22 metre separation in some cases, but some of the Silver Street properties project much closer to the car park than others. For example, No. 18 Silver Street has a rear extension which is understood to be used as a garden room and has two glazed window openings on its rear facade. Following the withdrawal of application w/10/03791/FUL, the applicant has amended the siting of the terrace, lowered its previously proposed ridge height, re-configured the internal space and introduced obscure glazing to windows which would otherwise potentially cause demonstrable harm through overlooking or loss of privacy.

In addition to the revisions made to the design and detailing, it is recognised that a high wall separates the lower level car park site from the Silver Street properties and gardens. This will in part, afford neighbouring residents a degree of privacy. The applicant's architect makes a cogent point of highlighting a "typical situation" whereby dwellings of two storeys with 12 metre gardens separating each other, and thus have a separation of 24 metres, consequently results in overlooking of 50% of neighbours garden ground from upper floor windows.

Officers note that the owner/occupier of the Hall, the Grade I listed property located 105 metres to the east of the car park site, has raised an objection to the eastern gable window opening. The separation between the site and the Hall and the well established tree planting within the Historic Park and Garden is sufficient to ensure that the proposed development would not detrimentally affect the character, the setting of or amenities enjoyed by the listed Hall property.

Archaeological and Ecological Issues

The Council's Archaeologist and Ecologist both confirmed that they wished to raise no objections. The application proposals are therefore seen to accord with the respective guidance contained within PPS5 on Archaeological issues and PPS9: Biodiversity and Geological Conservation.

Education Contributions

The Council's Education Team report that as a result of considerable pressure in Bradford on Avon, contributions would be sought for primary school places. No contributions have been earmarked for secondary places as capacity exists at St Lawrence School. It is understood that the education team remain concerned that following on from representations to the Core Strategy, there is predicted growth of Bradford-on-Avon to the east and therefore they have started anticipating the school places that this will generate.

Adopted District Plan Policy S1 and the Education Services own 'Policy for Requesting Section 106 Contributions for Education Infrastructure' state that where reasonable and appropriate, education infrastructure contributions shall be sought from developers in accordance with the requirements of the Local Education Authority. The Head of the Council's Schools Strategic Planning recommends that if this application was to be approved, the 6 house development would create a need for 2 primary school spaces, calculated at £12,598 each. This index linked sum of money stated would contribute towards the expansion of Fitzmaurice Primary, together with Council funds to meet the demographic pressures.

The above contribution requirement had been the subject of lengthy discussions between planning officials, the education service and the applicant's agent during the course of application w/10/03791/FUL, which was ultimately withdrawn in mid August 2011. Under that application, the applicant was initially opposed to being subjected to the above obligation. However, after meeting with Council officials on 12 May 2011, the applicant's agent confirmed that they would no longer challenge the necessity of the abovementioned contribution.

For the avoidance of any doubt, the Unilateral Undertaking was issued on 20 February 2012 which legally binds the owner of the site to pay the appropriate index linked sum of monies required prior to any commencement of works on site. If this application is granted permission, a directive covering the Unilateral Undertaking is required.

Alternative Scheme

The Town Council have suggested that there is a much better form of development that could take place that includes a wider area of Silver Street. They have submitted a single side A4 plan marked 'ideas and aspirations'. However, it is important to note that no planning application has been submitted for such a scheme and no detailed plans have been presented for the Council or the committee to consider. The views of the respective landowners on such 'ideas and aspirations' are not known, and neither are the views of any statutory consultees. In these circumstances, whilst it can be acknowledged that there may be more than one form of development that could be acceptable on the site, the Council cannot give anything other than very limited weight to such suggestions and must consider the application before it on its own merits. The Council cannot refuse the current scheme on the basis that another alternative may exist.

CONCLUSION

The site is a brownfield site identified in the adopted development plan for redevelopment. The residential use proposed is one of the uses identified as suitable for this area. The design represents a form of terraced development that is in keeping with the character of the area and uses traditional materials that are appropriate for this location. The proposal will enhance the appearance of this part of the conservation area by replacing an undistinguished private car park with carefully designed houses. The proposal is therefore in accordance with the Council's planning policies for the area, and with the educational contribution, addresses the demands on local infrastructure imposed by the development. Accordingly, planning permission is recommended.

Recommendation: Permission

For the following reason(s):

This proposed application would be an appropriate form of development within the Conservation Area and within the setting of Listed Buildings; and through negotiations, the revised scheme overcomes previous grounds for refusal; and any additional concerns can be overcome by planning conditions.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 3 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- (a) the parking of vehicles of site operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials used in constructing the development;
 - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (e) wheel washing facilities;
 - (f) measures to control the emission of dust and dirt during construction;
 - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - (h) measures for the protection of the natural environment.
 - (i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

POLICY: PPG24 - Planning and Noise and West Wiltshire District Plan 1st Alteration 2004 policy C38

- 4 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

POLICY: West Wiltshire District Plan 1st Alteration 2004 policies C18, C31a and C38.

- 5 The development hereby permitted shall not be occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 6 Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

- 7 The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

- 8 No part of the development hereby permitted shall be occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 9 No part of the development shall be occupied until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 0.6 metres above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

Reason: In the interests of highway safety

- 10 The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the car port(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To safeguard the amenities and character of the area and in the interest of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: T10

- 12 Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the dwelling houses hereby approved have been brought into use. Development shall be carried out in accordance with the approved details.

REASON: In the interests of preventing light pollution and nuisance

POLICY: West Wiltshire District Plan - 1st Alteration policies C35 and C38.

- 13 The development hereby permitted shall not be occupied until provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway. Details of such provision shall have first been submitted to and approved by the Local planning Authority.

REASON: In the interests of Highway safety.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order with or without modification, no development falling within Schedule 2, Part 1 Classes A-E of the Order, shall be carried out without the express planning permission of the Local Planning Authority.

REASON: In order to protect the amenity interests of neighbours and to safeguard the character of the Conservation Area and to enable the local planning authority to consider individually whether future additions and alterations should be granted.

POLICY: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan - 1st Alteration policies C18, C31a and C38.

- 15 No development shall commence on site until details of the obscure glazing to be used throughout the scheme for all wc and bathroom windows have been submitted to and approved in writing by the Local Planning Authority. The obscure glazing shall be installed as approved and prior to the first occupation of the development hereby approved and thereafter shall be maintained in accordance with the approved details.

REASON: In the interests of residential amenity and privacy.

- 16 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

LOCATION PLAN drawing no. 10056(L)001 Rev A received on 11.11.2011
BLOCK PLAN drawing no. 10056(L) 002 Rev H received on 09.02.2012
TOPOGRAPHIC PLAN drawing no. 10056(D)003 Rev A received on 11.11.2011
EAST ELEVATION drawing no. 10056(D)009 Rev E received on 11.11.2011
WEST ELEVATION drawing no. 10056(D)017 Rev G received on 11.11.2011
NORTH ELEVATION (UNITS 5 & 6) drawing no. 10056(L)010 Rev F received on 09.02.2012
SOUTH ELEVATION (UNITS 5 & 6) drawing no. 10056(L)011 Rev G received on 09.02.2012
FULL ELEVATIONS drawing no. 10056(D)018 Rev G received on 11.11.2011
SITE SECTIONS 1 / 2 drawing no. 10056(D)022 Rev D received on 11.11.2011
SITE SECTIONS 2 / 2 drawing no. 10056(D)023 Rev D received on 11.11.2011
CAR BARN PLAN drawing no. 10056(L)021 Rev E received on 11.11.2011
PORCH DETAIL PLAN drawing no. 10056(D)001 Rev C received on 09.02.2012
CONTEXT PLAN drawing no. 10056(L)014 Rev F received on 09.02.2012
GROUND / FIRST FLOOR PLANS drawing no. 10056(L)015 Rev F received on 09.02.2012
SECOND / ROOF PLANS drawing no. 10056(L)016 Rev E received on 09.02.2012
WINDOW DETAIL PLAN drawing no. 10056(D)002 Rev A received on 11.11.2011
BALCONY DETAIL PLAN drawing no. 10056(D)003 Rev A received on 11.11.2011
TREE CONSTRAINTS PLAN received on 11.11.2011
TREE PROTECTION ZONE BARRIER PLAN received on 11.11.2011

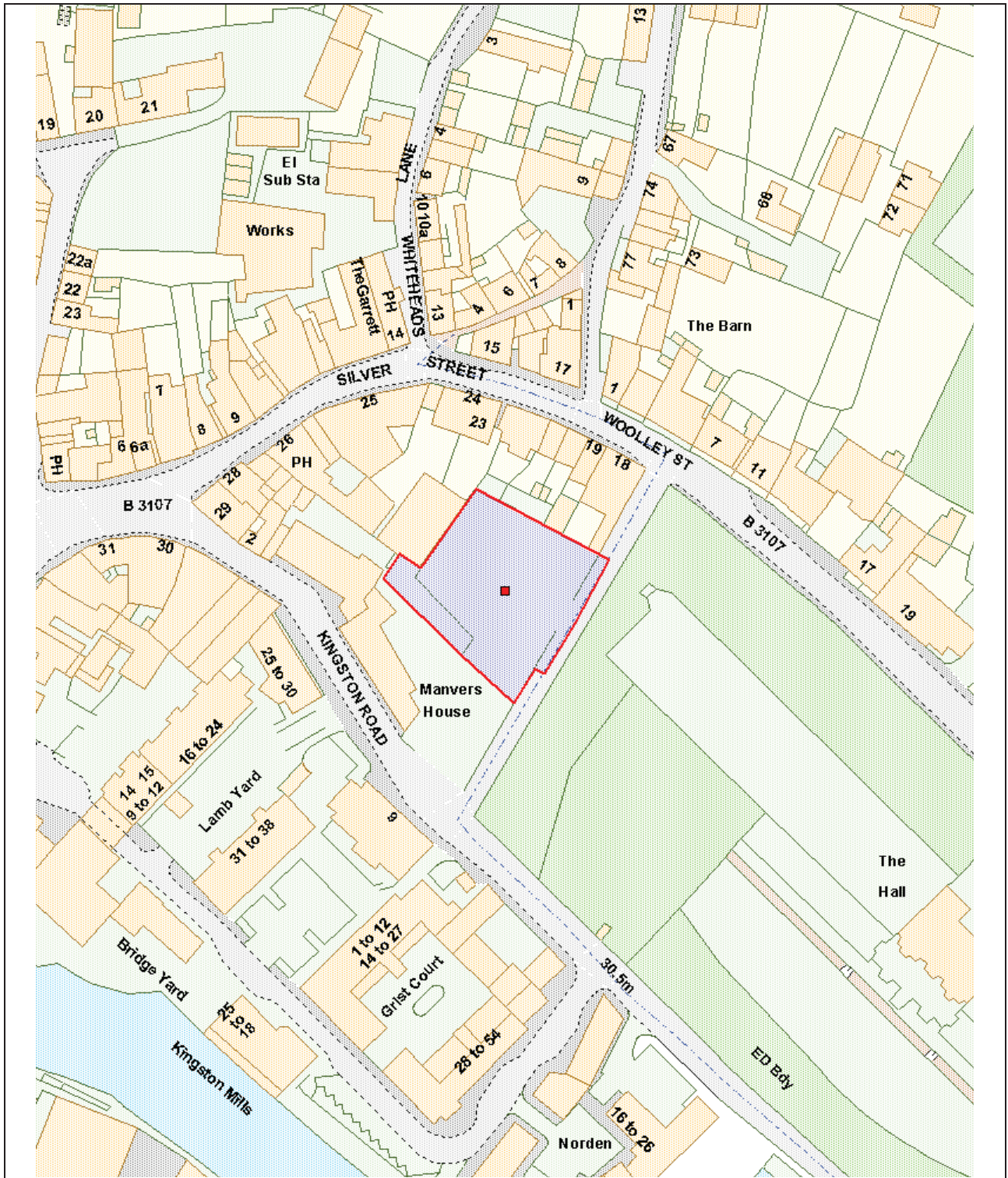
REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

Informative(s):

- 1 The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway

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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	28.03.2012		
Application Number	W/11/02717/FUL		
Site Address	Tudor Cottage 14 High Street Bulkington Wiltshire SN10 1SJ		
Proposal	Alterations and enlargement to existing garage to form residential studio		
Applicant	Mr Melvyn Difford		
Town/Parish Council	Bulkington		
Electoral Division	Summerham And Seend	Unitary Member:	Jonathon Seed
Grid Ref	394441 158387		
Type of application	Full Plan		
Case Officer	Mr Steve Vellance	01225 770344 Ext 01225 770255 steven.vellance@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Seed has requested that this item be determined by Committee due to:

- * Scale of development
- * Visual impact upon the surrounding area
- * Relationship to adjoining properties

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses:

Seven representations were received to the original plans received in November and three to the amended plans received in February.

Parish Council

Objects to the amended plans for the reasons cited within section 7 below.

2. Report Summary

The main issues to consider are:

- Impact on the appearance of the area;
- Off- street parking;

3. Site Description

The application site is a modern standalone garage building capable of accommodating two vehicles. It is a red brick building with a shallow pitched roof with matching concrete roof tiles. The building is approached via a gravelled driveway access.

The site is set within an established residential area off the Bulkington High Street and is visible from the street and located within village policy limits.

4. Relevant Planning History

08/01842 Erection of this detached double garage Permission 30.07.2009

5. Proposal

The proposal is for the alteration and enlargement of the existing garage (5.9 metres x 6.4 metres in size) to form a residential annexe/studio. This would involve the enlargement of the existing building by raising the roof height of the building by approximately 1.4 metres to a maximum at the ridge of 5.7 metres. The alterations include the addition of two roof lights on the front elevation and one roof light on the rear elevation and the construction of a small single storey extension to the rear measuring 3.6 metres x 3.3 metres. The current garage doors would be replaced by a pedestrian entrance and a window, providing a more domestic appearance. Materials would match the existing.

The plans have been substantially revised from those initially received, with the roof height reduced, front facing dormers removed, and the two storey rear extension replaced by a single storey extension.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004) - policies C31a Design; C38 Nuisance

7. Consultations

Bulkington Parish council

Object to the revised plans and raise the following comments:

- Is Listed building consent required for the works_
- Issue of severance of the annex building and would like condition attached to any permission tying the annex into Tudor Cottage.
- Would constitute over development and set a harmful precedent

Highways

No objections, subject to the imposition of conditions retaining the annexe as ancillary accommodation and maintaining off-street parking provision.

8. Publicity

The application was advertised by site notice, press notice and neighbour notification. Objections to the amended plans have been received raising the following points:

- Over bearing and over-development of the site.
- Insufficient access.
- The residential dwelling already has an annexe.
- Not in keeping with the typical village built form.
- If allowed would set a bad precedent.

9. Planning Considerations

The proposal is for the creation of a separate annex studio by the conversion of an existing single storey garage building, to be used by a family member. The building is within the ownership of the applicant who also owns Tudor Cottage, which is a grade II listed building, sited within the same curtilage.

The detached garage is not a listed building because it was erected in 2009 and is a free standing building separate from the main house. Listed building consent is therefore not required for the works.

The main issue is the impact of the design on the appearance of the area. The initial plans proposed alterations that were out of scale with the size and proportions of the building, with a high ridge height and two dormer windows packed closely together. This would have created a discordant feature that would have looked out of place. These aspects of the initial design have been removed in the amended plans, which reduce the increase in height of the roof and replace the dormers on the front with rooflights and remove the first floor of the rear extension. As the garage is set back from the carriageway by approximately 9 metres, the visual appearance of the building in its altered state will not now have an adverse impact on the appearance of the area.

Although the garage will no longer be available for parking, the 9 metre set back from the road leaves adequate off-street parking for Tudor Cottage. Likewise, the incorporation of the angled roof lights on the pitched roof would ensure the preservation of neighbouring amenity, by preventing any direct overlooking.

As the proposal is for an annexe, it is necessary to impose a condition maintaining its use as ancillary accommodation for Tudor Cottage, as suggested by the parish council.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area. West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 3 The existing parking area between the building and the High Street shall be retained at all times for off-street parking in connection with the residential use of the dwelling at Tudor Cottage and the annexe hereby approved.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 4 The building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Tudor Cottage.

REASON: The creation of an independent dwelling in this location would give rise to additional planning considerations, including parking and amenity issues.

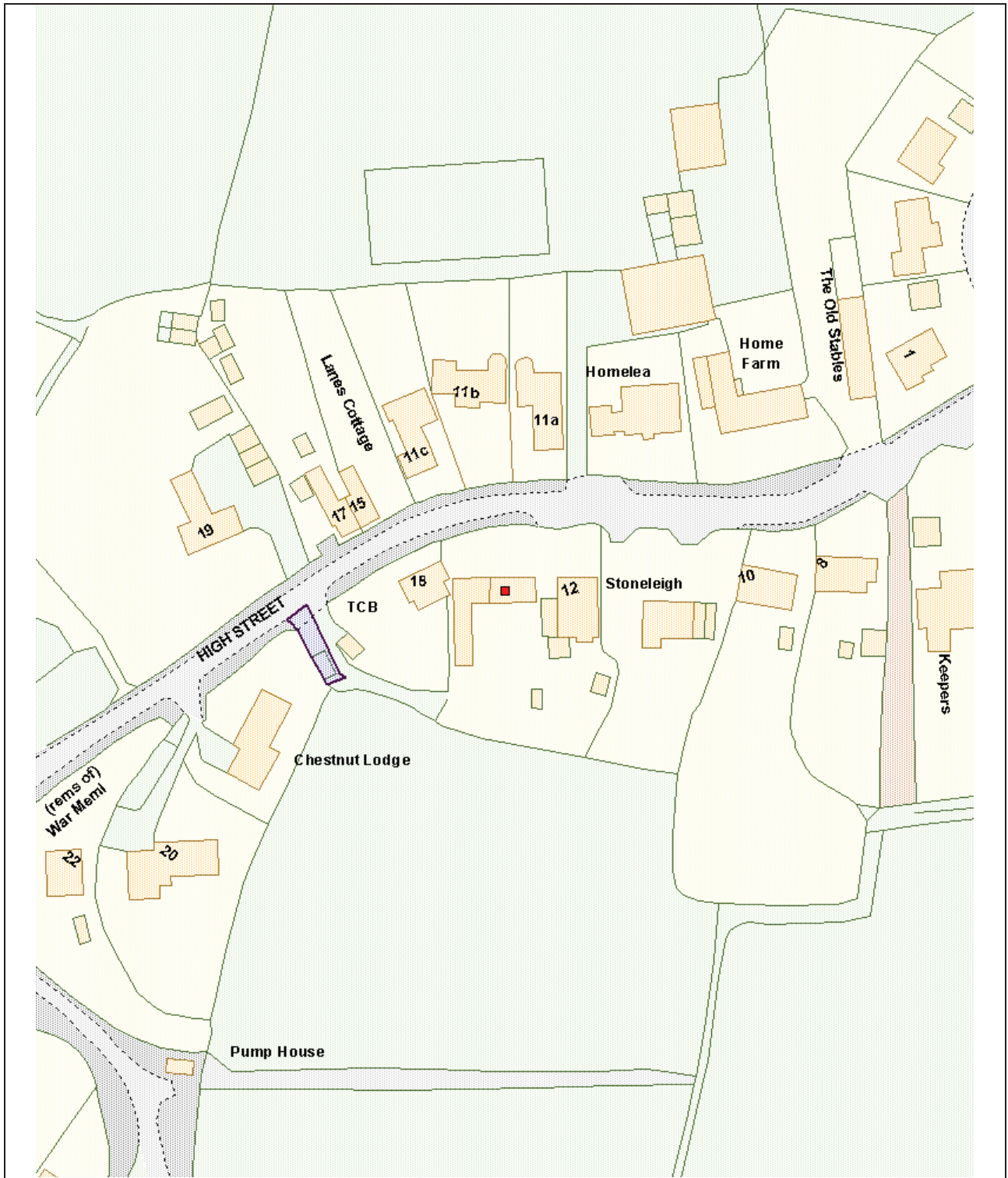
- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan/s:

Drawing number 046 02 01 Rev 01 received on 07 February 2012
Drawing number 046 02 02 received on 11 October 2011
Drawing number 046 02 03 Rev 03 received on 07 February 2012
Drawing number 046 02 04 Rev 02 received on 07 February 2012

Reason: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

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REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	28.03.2012		
Application Number	W/12/00016/FUL		
Site Address	18 Little Parks Holt Wiltshire BA14 6QR		
Proposal	Single storey rear extension, front infill extension and side extension		
Applicant	Mr Richard Chruzc		
Town/Parish Council	Holt		
Electoral Division	Holt And Staverton	Unitary Member:	Trevor Carbin
Grid Ref	386736 162189		
Type of application	Full Plan		
Case Officer	Mr David Cox	01225 770344 Ext 01380 734826 david.cox@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Carbin has requested that this item be determined by Committee due to:

- * Scale of development
- * Visual impact upon the surrounding area
- * Relationship to adjoining properties
- * Design - bulk, height, general appearance

Councillor Carbin adds that the application should be heard by Committee as there still are objections from neighbours following receipt of the revised plans.

1. Purpose of Report

To consider the above application and to recommend that planning permission be approved.

2. Report Summary

The main issues to consider are:

- * Design impact of the extension on the appearance of the area.
- * Impact on neighbouring amenity.

3. Site Description

Little Parks is a residential street comprising of detached two storey dwellings. Most of the dwellings are uniform in appearance with similar lean- to roofs that cover both front porch and side garages. There are other examples of two storey side extensions on 'Crandon Lea' where both No's 30 and 32 have had flush two storey side extensions. These permissions were granted in 1988 and 2002.

4. Relevant Planning History

There is no relevant planning history.

5. Proposal

The proposal is to extend the existing side garage roof slope upwards at the front and insert a dormer window in the new roof slope. The dormer window would serve a bedroom. At the rear, the extension would be a full two-storey height to eaves with a window at first floor level serving a bedroom and built

at the same level as the existing first floor windows on the rear elevation. The ridge height would be lower than the existing roof. These revised plans have omitted an earlier proposal to include a two storey front gable end extension.

The plans include building a small single storey rear extension (projecting out less than 1.5 metres) and a front extension under a continuation of the line of the existing mono-pitch roof that currently projects over the porch.

The proposal also includes enlarging the front parking area.

6. Planning Policy

West Wiltshire District Plan 1st Alteration 2004 - policies C31a – Design; C38 – Nuisance.

7. Consultations

Holt Parish council

“No comment.”

8. Publicity

The application was advertised by site notice/press notice /neighbour notification. Expiry date 10 February. Eight letters of objection have been received (although 6 of the letters are from the same three neighbours).

Summary of points raised:

- The extensions would overlook our rear garden (No 21 opposite) harming our privacy.
- The design of the extension would be completely out of character with the street scene.
- The extension will create a terracing effect.
- The extension will block light to our only side windows serving our stairs and landing.
- There are no dormer windows in the area and the design guide states they should be on the rear elevation.
- Enlarging the driveway would be out of character with the street scene.
- The proposals represent an over-development of the site.
- Even with the revised plans, the proposal would still be out of character and an over development of the site and overlook and overshadow neighbouring properties.
- The side wall of No 18 is only 39 inches from the boiler flue of No 20 which gives off a lot of fumes.

9. Planning Considerations

Design impact of the extension on the appearance of the area

Following the receipt of the revised plans, the design and overall impact of the proposal is considered to be acceptable.

The proposed extension would continue the existing roof slope of the garage and would effectively become a cat-slide roof with a subservient ridge to the main roof. The use of the sloping roof reduces the bulk of the development and its impact on the appearance of the area. The critical point is that the extension would not cause any significant harm to the appearance of the streetscene. The extension would be built on the boundary with its neighbour No 20, but the use of the sloping roof helps preserve a gap with the adjacent property and it would not cause a terracing impact,

Extending the existing garage roof slope affords the opportunity to have a dormer window on the front elevation. This dormer is set down from the main ridge, having a pitched roof and lining up with other windows. The dormer window would not cause any material harm to the street scene.

In regards to the enlargement of the front driveway, the Council has to be mindful as to what the applicant can do under Permitted Development Rights. Widening the existing dropped curb would not

need planning permission as this is an unclassified road. If a householder wishes to lay their front garden to hard standing, planning permission is not required if a porous material is used. However, it is also permitted development to use tarmac provided it slopes into a lawn or border.

Impact on neighbouring amenity:

The neighbouring property No 20 has commented that the extension would cause overshadowing of their landing window. However landings are not habitable rooms which are afforded more protection under Policy C38 of the District Plan. There would also be an approximate 3 metre gap between the side wall of the extension and the landing window. This would allow for sufficient daylight to reach this window and no adverse harm would be caused.

The additional dormer window would be set back from the existing front wall and would not create any harmful overlooking of neighbours on the opposite side of the road.

The single storey rear extension and front infill extension would not have any adverse impact on either the appearance of the area or the amenity of neighbouring properties.

Conclusion:

The proposal, in this revised form, is subservient to the existing property and will not cause any harmful impact on either the appearance of the streetscene or the amenity of neighbouring properties. It is designed in accordance with the Council's policies and approval is therefore recommended.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area.

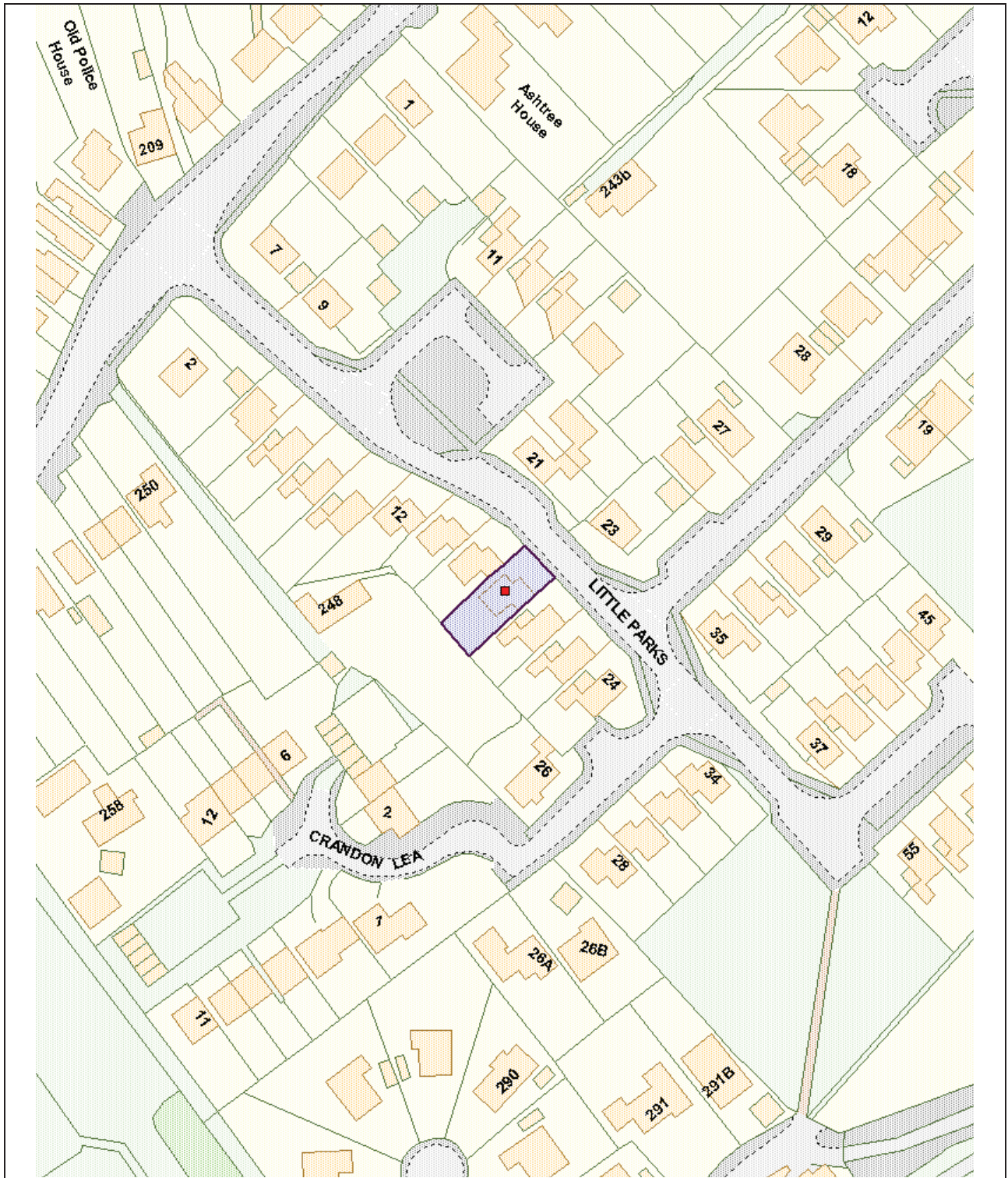
West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

- 3 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Site Location Plan received on 5 January 2012
1407-01 P1 received on 5 January 2012
1407-02 P1 received on 5 January 2012
1407-03 P1 received on 5 January 2012
1407-04 P2 received on 3 February 2012
1407-05 P2 received on 3 February 2012
1407-06 P2 received on 3 February 2012
1407-07 P2 received on 3 February 2012
1407-08 P2 received on 3 February 2012
1407-09 P2 received on 3 February 2012
1407-10 P2 received on 3 February 2012

Reason: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

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Wiltshire Council

Western Area Planning Committee

28 March 2012

Appeal performance 2011

Purpose of Report

1. To review the outcomes of decisions made by the Planning Inspectorate on appeals in the area covered by the Western Area Planning Committee in 2011.

Appeal Decisions

2. The Western Area Planning Committee determined 39 planning applications in 2011. Eleven of these were refused, of which eight were refused against the recommendation of officers, whilst three were refused in accordance with the reasons for refusal recommended by officers.
3. Out of the 11 planning applications that were refused by the committee, 8 (73%) have been taken to appeal. To date, decisions have been received on six of these appeals, with four of these being allowed and two dismissed (33% success rate for the Council). Two decisions are still outstanding. Out of the four that were allowed, costs were applied for and awarded against the Council for unreasonable behaviour in two cases. A third application for an award of costs for unreasonable behaviour is outstanding. A list of the applications refused by the committee and the subsequent appeal decisions are set out in Table A. A copy of the appeal and cost decisions for the two cases where costs were awarded against the Council are attached as an appendix to this report.
 - a. During 2011, the Council received decisions on a further 29 appeals against decisions made under delegated powers in the area covered by the Western Area Planning Committee. Nine of these were against the refusal of permission for residential development. All of these were dismissed. A further three concerned commercial/industrial/retail development. These were also all dismissed. Two concerned a listed building application and a certificate of lawful use respectively and were both dismissed. The remaining 15 decisions related to householder applications. Of these decisions, 3 were dismissed, ten were allowed and two were partially allowed/partially refused.
 - b. There were no cost awards against the Council in any delegated decision. The list of appeal decisions made on delegated applications is set out in Table B.

Financial Implications

4. The extent of the liabilities that the Council has incurred as a result of the two cost awards for unreasonable behaviour and a potential third is not possible to quantify at this stage as no claim has yet been submitted from the appellants concerned. However, the costs burden was reduced by the Council's decision to put forward Councillor Seed as a witness in the Semington gypsy appeal and by the prompt withdrawal of opposition to the Slag Lane appeal, commended by the Inspector as reducing the costs of both the Council and the appellants.

Table A
Applications Refused by Western Area Planning Committee 2011

Reference	Parish	Location	Description	Decision
W/11/00490/FUL	Winsley	Green Lane Turleigh	Earth Shelter dwelling	Dismissed
W/11/00286/FUL	Trowbridge	43, Crawley Crescent	Single dwelling	Dismissed
W/10/04066/FUL	Bratton	Court Lane	Mobile home (Gypsy pitch)	Allowed
W/10/02508/OUT	Trowbridge	Bradley Road	Seven dwellings	Allowed
W/11/01206/FUL	Semington	Land adjacent to Semington Crematorium	Three pitch gypsy/traveller site	Allowed Costs awarded against Council
W/10/03406/FUL	Westbury	Slag Lane	117 houses and public open space	Allowed Costs awarded against Council
W/10/03031/FUL	West Ashton	Biss Farm	Business Park	Awaited Costs decision against Council also awaited
W/11/02232/FUL	Codford	Mayflower Farm New Road	Office building	Awaited
W/10/0650/FUL	Melksham Without	112 Beanacre	Extensions to dwelling	Not appealed
W/11/00283/FUL	Melksham	Chalfield Crescent	Two apartments and parking spaces	Not appealed
W/11/01460/FUL	Atworth	Oak Tree Farm	Temporary dwelling (agricultural worker)	Not appealed to date

Table B
Appeal Decisions Received in 2011 on Applications Refused Under Delegated Powers

Reference	Parish	Location	Description	Decision
W/11/00650/FUL	Warminster	George Street	Two dwellings	Dismissed
W/11/00347/FUL	Warminster	George Street	Three dwellings	Dismissed
W/10/03443/FUL	Bradford	Ashley Road	Agricultural workers dwelling	Dismissed
W/10/03198/FUL	Hilperton	Hilperton Road	One dwelling	Dismissed
W/10/02972/FUL	Semington	Building adjacent to Somerset Arms	Single dwelling conversion	Dismissed
W/10/02910/FUL	Trowbridge	Kingsdown Road	Two houses	Dismissed
W/10/02928/FUL	Southwick	Hoopers Pool	One dwelling	Dismissed
W/10/02115/FUL	Hilperton	Horse Road	One dwelling	Dismissed
W/10/01984/FUL	Trowbridge	Bradley Road	One dwelling	Dismissed
W/10/02181/FUL	Bradford	Leigh Road West	Four garages	Dismissed
W/10/02505/S73	Melksham	Sainsbury's Store	Variation of hours of delivery	Dismissed
W/10/00217/FUL	Warminster	Furnax Lane	Industrial units	Dismissed
W/11/00395/CLE	Westbury	Long River Farm	Stationing of residential caravan	Dismissed
W/10/02261/LBC	Bradford	21 Church Street	Awning	Dismissed

Reference	Parish	Location	Description	Decision
W/10/02788/FUL	Chapmanslade	102 High Street	Householder Extension	Dismissed
W/10/03928/FUL	Sutton Veny	56 Duck Street	Householder Extension	Dismissed
W/11/00574/FUL	Westbury	19 Alfred Street	Householder Extension	Dismissed
W/11/00247/FUL	Dilton Marsh	20, Old Dilton Road	Householder Extension	Part allowed/part dismissed
W/11/01558/FUL	Westbury	14 Leigh Close	Householder Extension	Part allowed/part Dismissed
W/11/01948/FUL	Hilperton	54 Cornbrash Rise	Householder Extension	Allowed
W/11/01832/FUL	Southwick	Semington House	Householder fence	Allowed
W/11/01756/FUL	Corsley	94/95 Lyes Green	Householder Extension	Allowed
W/11/01389/FUL	Hilperton	6 Woodhouse Gardens	Householder Extension	Allowed
W/11/01125/FUL	Bradford	3 Woolley Close	Householder Extension	Allowed
W/11/00393/FUL	Dilton Marsh	9B Stormore	Householder Extension	Allowed
W/11/00378/FUL	Longbridge Deverill	Badger Hollow	Householder Extension	Allowed
W/11/00118/FUL	Trowbridge	55, Jasmine Way	Householder annexe	Allowed
W/10/03292/FUL	Warminster	39, Boreham Rd	Householder Extension	Allowed
W/10/01757/FUL	North Bradley	Organpool Farm	Annexe	Allowed

Report Author: Mike Wilmott, Area Development Manager

Appendix A: Appeal and cost decision for Land adjacent West Wilshire Crematorium, Littleton, Semington.

Appendix B: Appeal and cost decision for Land at Slag Lane and Hawkeridge Road, Westbury.



Appeal Decision

Inquiry opened on 1 December 2011

Site visit made on 2 December 2011

by R J Marshall LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2012

Appeal Ref: APP/Y3940/A/11/2156159

Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Ward against the decision of Wiltshire Council.
 - The application Ref W/11/01206/FUL, dated 4 March 2011, was refused by notice dated 15 June 2011.
 - The development proposed was described as "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding, utility blocks, drainage etc.) and associated keeping of horses".
 - The inquiry sat for 3 days on 1 and 2 December 2011 and 5 January 2012.
-

Decision

1. The appeal is allowed and planning permission is granted for "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding and drainage)" at Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire in accordance with the terms of the application, Ref W/11/01206/FUL, dated 4 March 2011, subject to the conditions on the attached list.

Applications for costs

2. At the Hearing applications for costs were made by both parties against each other. They will be the subject of separate Decisions.

Preliminary matters

3. In the bullet points above the application description and site address is taken from the Council's decision notice and the grounds of appeal, rather than the application forms. It was agreed that this generally best reflects what had been applied for and more accurately gives the site location.
4. However, both parties agreed that the reference to the "associated keeping of horses" should be deleted from the application description. This is because it is sought only to graze horses, which does not require planning permission.
5. The appellant also sought to have the reference to utility blocks removed as the submitted plans do not properly show what is intended and details of their elevations have not been provided. Although utility blocks are required a separate application would be made for them in the event of this appeal being allowed.

6. The above changes would not prejudice anyone with an interest in the appeal. I held that I would determine the proposed development as so amended and this is reflected in my decision paragraph above.
7. I have also had regard to discrepancies in the application plans. However, they do not prevent a decision being made on the proposal, especially as matters such as the area for pitches and the siting of caravans may be controlled by condition.
8. At planning application stage the appellant submitted a supporting statement providing details of the health of one of the children on site. This was initially published on the Council's website and was taken into account in its decision. The Council later sought to have this at least in part removed from the public section of the file due to Data Protection Act concerns. However, the child's mother was content for the information to be in the public domain. Given this I held that it should remain publicly available and that I would have regard to it in my decision.

The appeal site and planning background

9. The appeal site is a roughly rectangular shaped area of land. It lies in a rural area to the east of a roundabout junction between the A361 and the A350. The site fronts onto the former road. To the west of the site are the grounds of a large crematorium. To the north, on the opposite side of the A361 and with intervening fields, lies the small village of Semington. The town of Trowbridge is just over 3 miles distant along the A361.
10. The site is currently occupied as a gypsy site by the appellant and his extended family. It was initially occupied unlawfully. However, in July 2008 retrospective planning permission was granted for a development expressed in similar terms to the current proposal. The permission was for a temporary period, with an expiry date of July 2011, and was made personal to the applicant and his family. The reasons given for these limitations being that the development was not appropriate on a permanent basis and that permission was only granted having regard to personal needs. The proposal before me is in effect for the continuation of the site for gypsy occupation, albeit on a permanent and unencumbered basis.

Local Policy and National Guidance on Gypsy sites

11. The proposal is for a gypsy site and undisputed evidence clearly shows the appellant and those who seek to continue occupying the site are gypsies as defined in *Circular 01/2006 Planning for Gypsy and Traveller Caravan sites*. Consequently relevant Policies regarding gypsies and travellers should be applied.
12. Two of the key Policies from the development plan are, therefore, DP15 of the *Wiltshire and Swindon Structure Plan 2016 (2006)* and CF12 of the *West Wiltshire District Plan First Alteration (2004)* which relate to gypsy sites. The Structure Plan acknowledges the need for additional caravan pitches for gypsies and Policy DP15 supports bona fide proposals for such development on suitable sites. The Local Plan seeks to ensure that adequate gypsy caravan site provision is made and Policy CF12 says proposals for such uses will be permitted in appropriate locations subject to a range of criteria being met.

13. The Council has published the *Wiltshire Core Strategy Consultation Document (2011)*. This seeks to ensure that the need for new pitches is met and contains draft Core Policy 31 on meeting the needs of gypsies and travellers. At this early stage, as the Council accepts, only limited weight can be given to this Policy. The Council is also in the process of preparing a *Gypsy and Traveller Site Allocations Development Plan Document (DPD)*. This also is at an early stage towards adoption.
14. Government guidance is contained in *Circular 01/2006*. The Council says that this now needs to be examined critically. This is because of the Secretary of State's announcement that he intends to revoke the Circular, and his recently published consultation document including a draft planning Policy Statement *Planning for traveller sites*. In this it is said that the current planning policy for gypsy sites does not work and that a new approach is needed. The substance of the consultation document gives an indication as to the Government's intentions and is thus a material consideration. However, the current Circular has yet to be revoked and the consultation may prompt amendments to the draft guidance which reduces the weight that may be given to it at this stage. Furthermore, as the Circular remains in place, I am bound still to have regard to it in determining this appeal.

Main issues

15. The main issues in this appeal are:

first, the effect of the proposal on the adjoining crematorium;

second, whether the use of the appeal site as a gypsy site constitutes an encroachment into open countryside and the impact of the proposal on the character and appearance of the surrounding area;

third, whether the site is a sufficiently sustainable location for what is proposed and whether satisfactory living conditions would be provided;

fourth, the effect of the proposal on highway safety and the free flow of traffic;

fifth, the need for the continued use of the site as proposed having regard to site provision and personal circumstances and;

sixth, are the Council's concerns on prematurity well founded.

Main Issues

Effect on adjoining land uses

16. The Council is concerned that the normal activities associated with a gypsy and traveller site, such as barking dogs, would be an unwelcome source of disturbance to mourners at the crematorium. However, although the appeal site adjoins the grounds of the crematorium the main building upon them is well removed from the boundary with the appeal site in a well landscaped setting. A substantial landscaping strip within the crematorium grounds runs alongside the boundary with the appeal site.
17. Furthermore, the current occupation of the appeal site, and the area shown on the application plans for the continued provision of pitches and the siting of caravans, is limited to its eastern end. As such it is well removed from western boundary of the site with the crematorium. The imposition of a planning

condition in the event of the appeal being allowed could ensure that this would remain the case.

18. Given the above I consider that the day to day residential occupation of the appeal site by gypsy or traveller families should cause no undue disturbance to those using the crematorium. There is, moreover, no evidence that barking dogs are a particular problem on gypsy sites or that they have been on this site. As recognised in *Circular 01/2006* noise and disturbance can sometimes arise from the movement of vehicles to and from such sites. However, given the limited size of the site, and the background noise of traffic adjoining road, such movements should not impact unduly on those seeking peace and quiet at the crematorium. Allegations by the Council that concerns had been raised in the past concerning anti-social behaviour on the site were not supported by substantial evidence.
19. The Council had initially been concerned about the impact of equestrian uses on the crematorium. However, the reference to such uses has been removed from the proposal. The intended grazing of horses could take place on any agricultural land and would be unlikely to cause unacceptable noise and disturbance.
20. It is concluded the proposal would not have a detrimental effect on the adjoining crematorium. Thus the objective of Local Plan Policy CF12 in seeking to prevent nuisance to adjoining land uses would be met.

Encroachment into countryside and effect on the character and appearance of the surrounding area

21. The appeal site is on land that was previously an undeveloped field. The use of the site as a gypsy site and attendant development is therefore an encroachment into the countryside. Local Plan Policy CF12 says that in considering proposals for gypsy sites regard should be had to such encroachment.
22. However, the area in which the appeal site lies, although reasonably attractive is not subject to any special planning constraints or designations. Government guidance in *Circular 01/2006*, which post-dates the Local Plan, says that such rural settings are acceptable in principle for gypsy sites. Thus there can be no objection to what is proposed solely on the grounds of encroachment into the countryside. Otherwise the effect would be likely to prevent any gypsy sites in rural settings.
23. Such encroachment is, though, only one factor in the Council's reason for refusal on this issue. It is also alleged that there would be an adverse impact on the character and appearance of the area.
24. Roadside bunding has been provided on the site frontage with the A361. In itself I do not find this as intrusive as alleged by some and it provides a reasonably effective screen to the area on which the pitches have been created. From the road frontage and the roundabout to the east only the uppermost parts of the caravans on these pitches are seen even with the limited planting currently on the bunds. The impact of the proposal would be similar. The eventual provision of utility blocks, to be separately applied for, need be no more intrusive if of a scale and type common to most gypsy sites. Moreover, the appeal site is seen from the A361 in conjunction with a substantial roundabout, street lights and well manicured roadside verges.

These features give a slightly urbanised appearance to the area. In this context, and with the level of screening referred to, the continued use that is sought would not be overly intrusive or out of keeping. Nor would it detract from the attractive well landscaped grounds of the adjoining crematorium.

25. Turning to other potential viewpoints, an extensive tree belt effectively screens the site from views from the A350. The lie of the land and intervening screening would prevent the continued use of the site as proposed being noticeable to any substantial degree from high ground to the south of Semington. A public footpath runs along the western boundary of the site. From here the siting of the caravans and the hardstandings appear rather intrusive to the detriment of the site's immediate surroundings. However, sufficient space exists for landscape planting, which could be required by condition, to provide an acceptably effective screen.
26. There are 2 single pitch gypsy sites to the east of the roundabout junction of the A361 and A350. However, these sites are small and do not appear to intrude unduly upon the landscape. Moreover, the substantial visual impact of the A350 and the roundabout ensures that the area in which these other sites are located appears divorced from the appeal site. I thus attach little weight to concerns on cumulative visual impact.
27. The Council objects to the visual impact of a tall building on the appeal site with a pyramidal roof. However, this building, which is taller than most utility blocks found on gypsy sites, was constructed unlawfully and does not comprise part of the development for which planning permission is sought.
28. It is concluded that the use of the appeal site as a gypsy site constitutes an encroachment into open countryside and to that extent its continued use for this purpose would conflict with Local Plan Policy CF12. However, the proposal would not have an unacceptably detrimental impact on the character and appearance of the surrounding area and encroachment into the countryside alone would not conflict with guidance in *Circular 01/2006*.
29. In arriving at this conclusion account has been taken of advice in *Planning for traveller sites* that new development in the countryside should be strictly limited. However, it does not appear to necessarily rule out gypsy site provision in such areas and as already stated the potential for amendment to this guidance reduces the weight that may be given to it at this stage.

Sustainability of site and living conditions

30. Local Plan Policy CF12 requires that in considering proposals for gypsy sites regard must be had to the proximity of local services and facilities. The Council says that this requirement is not met because of the site's rural location.
31. However, *Circular 01/2006* makes it clear that gypsy and traveller sites are acceptable in principle in rural settings. In this case, moreover, the site is in reasonable proximity to Semington, a village that contains a primary school, public house, village hall and church. In winter months in particular the unlit and unmade up nature of the public footpath to the village may result in village facilities being accessed by car. However, *Circular 01/2006* advises that in assessing the suitability of rural sites a realistic view should be taken about the availability of alternatives to the car for accessing local services. Senior schools, healthcare facilities, and a wide range of shops etc. are found in Trowbridge and Melksham. The former town is only just over 3 miles from the

site and Melksham is even closer. The appeal site is well connected by main road to both towns and there is a regular and reasonably frequent bus service past the site to Trowbridge. The bus stop for that service is only a short distance from the appeal site.

32. Having regard to the above I consider that the site is reasonably accessible to facilities. Moreover, *Circular 01/2006* advises that issues of sustainability should not only be considered in terms of transport mode and distance from services. Other matters to take into account include: the wider benefits of easier access to GP and other health services; children attending school on a regular basis; and the provision of a settled base that reduces the need for long distance travelling and the possible environmental damage caused by unauthorised encampments.
33. Given the site's reasonable proximity to local services in Semington, to the wider range of facilities in the 2 nearby towns and to the other advantages of a settled site detailed above, I consider the proposal to be sufficiently sustainable.
34. In arriving at this view I have taken into account the Council's concern that those occupying the site would be cut off from the facilities in Semington by the A361. In particular it was said that it would be unsafe for children to cross this road without supervision.
35. The A361 is a busy road and subject to the national 60mph speed limit. It is part of the Department of Transport's preferred routing for long distance traffic. However, a short distance from the application site, and accessible to it along a highway verge, is a pedestrian refuge on the A361. From what I saw this provides for safe pedestrian access across the road. No highways evidence has been provided to the contrary and nor has the Council explained why it has concerns on pedestrian safety and yet was prepared to grant temporary permission for the use in the past. I accept that parents may be reluctant to allow young children in particular to cross the road unsupervised. However, it is not uncommon for such children to be accompanied in many areas for a variety of reasons. The location of this site would not impose substantially greater constraints upon access to facilities than might exist in many areas.
36. The Parish Council says that the site does not provide a pleasant environment in which to live given its proximity to busy and noisy roads and the "imprisoning" effect of the bunds that screen the site. However, there is no technical noise evidence to show that the site is unsuitable for residential occupation and the on-site environment, even with the existence of the bunds, is not unacceptably constrained.
37. It is concluded that the site is a sufficiently sustainable location for what is proposed and that satisfactory living conditions would be provided. As such there would be compliance with *Circular 01/2006* and with Local Plan Policy CF12 in so far that it seeks to ensure that gypsy sites provide for the needs and safety of future occupants and their children.
38. In arriving at this conclusion I have taken into account guidance in *Circular 01/2006* that one of the considerations in sustainability in cases such as this is the promotion of a peaceful and integrated co-existence between the site and the local community. The Council says that this has been prejudiced by the initial unlawful occupation of the site and that community cohesion would be

harmful by the cumulative impact of this proposal and the 2 sites to the east. However, given the small scale of the development, and its acceptable impact visually, there is no reason why over time it should not, even in conjunction with the other sites, become an accepted part of the community.

Highway safety

39. The Council's concern on this issue relates to the proposed retention of the vehicular access onto the A361 to serve the site. This access was provided in connection with the temporary use of the site. The Council supports its concern with reference to Structure Plan Policy T8 which generally seeks to prevent new accesses directly onto the national primary route network.
40. The Council says that it is unreasonable for drivers travelling on the A361 to need to be alert to vehicles turning into the appeal site so close to the A361/A350 roundabout. However, the access has in fact been sited a substantial distance from the roundabout and in a location agreed by the highway authority as safe. All that I saw supports the view that it is acceptably located from a highway safety viewpoint. I have been given no technical/professional evidence to the contrary. Nor has any such evidence been given to support local concerns on the adequacy of sight lines. Moreover, the explanatory text to Policy T8 appears to show that it has more to do with ensuring the free flow of traffic than highway safety.
41. Turning to this other highway consideration, a restriction on the number of accesses to roads of this type is sometimes imposed to ensure the free flow of traffic. However, in this location with roundabout junctions to the east and west of the site there is already disruption, or potential disruption, to traffic flows in the vicinity of the site. Moreover, it is likely that there would be only limited vehicle movements to and from the site. All this points to the likelihood that the proposed development would not unduly disrupt traffic on the A361 and no substantial evidence has been provided to the contrary.
42. It is concluded that the proposal would not have a harmful effect on highway safety, nor unduly restrict the free flow of traffic. As such there would be no conflict with the objectives of Structure Plan Policy T8 or with Local Plan Policy CF12 in so far that it seeks to ensure that highway safety is not compromised.

Need for the proposal

43. The appellant says that taking the period up to 2016 there is currently a need for 14 gypsy/traveller pitches in this part of Wiltshire. The Council fully accepts that there is an unmet need for pitches in this period, but gives the figure as 10 pitches. Whilst I note the difference between the parties, even on the Council's estimate there is a fairly substantial level of need locally. The concerns of the Parish on the Council's assessment of need are noted. However, there is no substantial evidence that the Council's assessment of need is unduly high.
44. The Council says that it is aiming to meet the need for gypsy sites through the *Gypsy and Traveller Site Allocations Development Plan Document (DPD)*. However, this is at an early stage of preparation. Delays for various reasons mean that the Council does not anticipate adoption until 2014. There is then likely to be a further delay until sites are provided. I consider the appellant's estimate of sites not coming forward until 2015 not to be unreasonable, especially as further slippage could easily occur in the preparation of the *DPD*.

45. There is thus a fairly substantial existing unmet need and it is likely to be around another 3 years before sites become available through the Local Development Framework (LDF) process. This is a matter on which I attach significant weight. The Council has made a bid for a Homes and Communities Agency grant to assist with gypsy site provision. However, it is too early to know whether the bid would succeed and little evidence has been given on how any such funding would assist in providing new sites in this area.
46. Turning to individual need, evidence has been provided on the personal circumstances of the appellant and those living on the site. A significant number of those on site have health issues of various degrees of severity. There are 8 children on the site of school age. These factors do not point to the site being uniquely suitable for its current occupants. Access to health and education services is potentially accessible from many areas. However, it does reinforce the benefits of having a settled base. It is this that enables access to health services and education provision to be most readily obtained. This benefit would most likely be lost if the appellant had to move from this site for there is no evidence of pitches being available on suitable alternative sites. Moreover, the appeal site is beneficial in providing somewhere large enough for the appellant and his extended family to reside. It is clear from the witness statements that considerable mutual support is provided.
47. If this appeal was dismissed it is open to the Council to take enforcement action to secure the removal of the use. Even with a reasonable period of compliance being given this could, on the evidence above, lead to those occupying the site having to resort to unlawful roadside locations. Thus the individual needs of the appellant and his extended family add weight his case.
48. It is concluded that there is a need for the proposed development having regard to site provision. Personal circumstances add weight to the need for a site.

Prematurity

49. The Council says that granting permission could prejudice the emerging *Gypsy and Traveller Site Allocations Development Plan Document (DPD)* by contradicting the criteria that the Council is putting forward for considering such sites and thus undermining the credibility of the emerging Policy.
50. I have dealt above with my concerns on refusing permission in circumstances where there is a need for development of this kind and the *DPD* is unlikely to result in the provision of sites for another 3 years.
51. Moreover, Government Guidance in *The Planning System: General Principles* is that refusal of planning permission on grounds of prematurity will not usually be justified. Justification for such a decision would only exist where the proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the *DPD* by predetermining decisions about the scale, location or phasing of new development which are being addressed in the *DPD*.
52. In this case the proposed development is small scale and the Council has not clearly demonstrated how the cumulative effect of such development would be sufficient to prejudice the outcome of the *DPD* process.

53. Nor has the Council provided substantial justification for its view that granting permission would undermine the credibility of the emerging *DPD*. Giving limited weight to this document does not undermine its credibility. It is merely a function of the relatively early stage it has reached in the plan preparation process.

54. It is therefore concluded that the Council's concerns on prematurity are not well founded.

Final Assessment

55. There remains an ongoing need for gypsy site provision. The Council's *DPD* that seeks to address this is unlikely to lead to the provision of gypsy sites until 2015. I have found the site to be satisfactory in terms of its effect on the adjoining land use and its impact on the character and appearance of the surrounding area. It comprises a sufficiently sustainable location for the proposed development and would provide satisfactory living conditions. There would be no detriment to highway safety and the free flow of traffic. As such there would generally not be the conflict with Local Plan Policy CF12 that the Council alleges. The fact that there would be an encroachment into the countryside should not in itself stand against the proposal given guidance in *Circular 01/2006*. All this points strongly towards allowing the appeal. The Council's concerns on prematurity are not well founded and should not weigh against the proposal especially given my findings on the other issues.

56. The fact that the appellant and his family would benefit from the stable base provided by living on the appeal site, and the lack of other pitches for them to occupy, adds weight to this view. It is, however, not a determinative factor so occupation does not need to be limited.

57. Bearing all the above in mind I consider the proposal to be acceptable subject to conditions as set out below.

Conditions

58. Given the specific Policy justification for the proposal I shall restrict occupation of the site to gypsies and travellers. To protect the character and appearance of the area I shall: limit the size of vehicles that may be stored on the site; prevent commercial activity on the site; require the site to be landscaped; limit the area of the site on which pitches may be formed and caravans sited; and restrict the number of pitches and caravans. To fulfil the same function I shall limit the number of caravans and restrict the number that may be static. However, I see no need to go beyond that and prevent a single pitch being occupied by more than one family, and indeed such a condition would be difficult to enforce. To ensure satisfactory drainage I shall require a foul drainage scheme to be approved and implemented.

59. As the use of the site for the purposes sought has already commenced, with the benefit to the temporary permission, there is no need for the standard time limit for the commencement of development. However, it has made it necessary to re-word the suggested landscaping and drainage conditions referred to above to ensure compliance. I have done so in a way that follows established practice.

60. Given my findings on need, the suitability of the site and the alleged prematurity I shall not make the permission personal to the appellant or make

it temporary. In so doing so account has been taken of the fact that in appeal decision APP/Y3940/A/09/2109292, relating to one of the gypsy pitches to the east of the appeal site, permission was made temporary. However, that case was linked to a complex enforcement appeal and for all the reasons given such a restriction is not appropriate in the case before me. More pertinent, in my view, is the decision on appeal APP/Y3940/A/10/2122592, for a gypsy pitch at Sutton Benger, Wiltshire without compliance with a temporary condition. It was held that this condition was not justified on grounds of prematurity and I have been given no substantial reason to come to a different view in this case.

61. I shall not prevent the burning of materials generally on site as that is too onerous a restriction. I see no need to specifically prohibit the burning of commercial waste given that commercial activity as a whole is to be prevented.

Conclusion

62. For the reasons given above the appeal is allowed.

RJ Marshall

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Kean	Solicitor for the Council
He called	
Cllr J Seed	Wiltshire Councillor
Mr M Wilmott BSc	Area Development Manager
(Hons) DipTP DM MRTPI	
Mrs C Gibson BA (Hons)	Of Wiltshire Council
MRTPI	

FOR THE APPELLANT:

Mr M Green	Advocate and witness – of Green Planning Solutions LLP
He called	
Mr P Ward	Appellant
Mr T Ward	Occupant of appeal site
Mrs M Ward	Occupant of appeal site
Mr D Ward	Occupant of appeal site

INTERESTED PERSONS:

Mr B Smyth	Parish Councillor
Mr F Dobbyn	Parish Councillor
MR E Clark	Former District and County Councillor

DOCUMENTS

- 1 Letter of notification of inquiry and those notified.
- 2 Council list of appearances.
- 3 Draft Statement of Common Ground.
- 4 Signed Statement of Common Ground.
- 5 Copy of appeal decisions APP/Y3940/C/09/2105006, 7 and 9 and APP/Y3940/A/09/2109292.
- 6 E mail from D Hames to J Seed.
- 7 Note from Cllr Clark withdrawing request to speak.
- 8 Council minute on LDF.
- 9 Council agenda item on LDF.
- 10 Various witness statements.
- 11 Secretary of State Direction on saved policies.
- 12 Letter of 1 December 2011 from Education Transport Area Co-ordinator.
- 13 Suggested conditions.
- 14 Closing submissions for Parish Council.
- 15 Closing submissions for Wiltshire Council.
- 16 Closing submissions for Appellant.
- 17 Appellant's skeleton cost claim.
- 18 Council response to cost claim.
- 19 Council cost claim

Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 2) No commercial activities shall take place on the land, including the storage of materials.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision schemes for: the means of foul water drainage of the site; landscaping including details of species, plant sizes and proposed numbers and densities; shall have been submitted for the written approval of the local planning authority and the said schemes shall include a timetable for their implementation.
 - ii) within 11 months of the date of this decision the drainage and landscaping schemes shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved schemes shall have been carried out and completed in accordance with the approved timetable.
- 5) Pitches shall not be formed, nor caravans sited, on land other than the eastern part of the site identified for this purpose on the submitted 1:500 scale plan identified and marked as plan B. Other than the access road shown on plan B there shall be no hardstanding other than in the areas identified in plans B and C for the formation of pitches and the siting of caravans.
- 6) No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be a static caravan) shall be stationed on the site at any time.
- 7) There shall be no more than 3 pitches on the site.



Costs Decision

Inquiry opened on 1 December 2011

Site visit made on 2 December 2011

by **R J Marshall LLB Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2012

Costs application in relation to Appeal Ref: APP/Y3940/A/11/2156159 Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Patrick Ward for a full, or in the alternative partial, award of costs against Wiltshire Council.
- The inquiry was in connection with an appeal against the refusal of planning permission for development described as "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding, utility blocks, drainage etc.) and associated keeping of horses".
- The inquiry sat for 3 days on 1 and 2 December 2011 and 5 January 2012.

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Patrick Ward

2. The costs application was made in writing with some minor verbal additions and amendments. The essence of the case is set out below.
3. The decision to refuse permission was unreasonable. Any concerns, if valid, could have been dealt with by condition.
4. At appeal the Council failed to provide evidence or sufficient evidence to justify its reasons for refusal, contrary to Officer advice, on the impact of the proposal. Insufficient account was taken of national Guidance in *Circular 01/2006 Planning for gypsy and traveller caravan sites*.
5. The Council's concern on prematurity ignores Government Guidance and recent Inspector's decisions in this area and is not supported by substantial evidence. Contrary to Government Guidance and recent Secretary of State decisions the Council attributed undue weight to emerging Government Guidance on gypsy sites and insufficient weight to existing Guidance.
6. The Council failed at any stage to adequately assess material considerations in favour of the proposal such as the unmet need for sites, the lack of alternative sites and personal circumstances.
7. The above considerations justify a full award of costs. Should unreasonable behaviour leading to unnecessary costs be found on only some of the matters above then a partial award of costs is justified.

The response by Wiltshire Council

8. The response by the Council was made in writing and supplemented verbally. The essence of the response is set out below.
9. In issuing draft Guidance on gypsy and traveller sites a press circular indicated that current Guidance had become outdated. The Council had reasonable expectations that the new Guidance, supporting its stance, would by now have been issued.
10. Material circumstances such as need and personal circumstances were before the Committee and taken into account.
11. Should it be found that permission should not be refused for the reasons given by the Council the progress made with the Council's *Gypsy and Traveller Site Allocations Development Plan Document (DPD)* would justify a temporary permission. This would prejudice neither the appellant nor the Council pending an assessment of what sites are acceptable for permanent provision in the District.
12. It was legitimate for the Council to have regard to encroachment into the Countryside. It is a criterion of Local Plan Policy CF12 on gypsy sites and is consistent with emerging Government Guidance. Guidance on this in *Circular 01/06* on this is out of date and will soon be withdrawn.
13. The Council has provided evidence to support its case with appropriate reference to the Development Plan. The potential for nuisance to an adjoining land use is a legitimate concern and in any event took up little Inquiry time.
14. The appellant has given undue weight to past appeal decisions. All cases are to be treated on their individual merits.
15. If costs are awarded there should be a deduction for the time unnecessarily incurred by the appellant in providing excessive evidence and failing to sign a SOCG in time.

Appellant's final response

16. The reason for refusal indicates a distinction between encroachment into the countryside and impact on character and appearance. Although it may not be the view of Council Officers the Council's principal witness considers the main issue to be encroachment and that was distinct from matters of character and appearance.
17. Evidence on personal circumstances may have been before the Committee. However, this matter is dealt with in only the briefest terms in the Council's evidence and the Council has failed to show that it was taken into account in its decision.
18. As for the time the Council is seeking to have deducted from any costs award the amount of evidence provided on behalf of the appellant is no different from that supplied on other gypsy appeals and was provided to fully cover the reasons for refusal.
19. The appellant's response to the costs claim reinforces the view that undue weight was given to emerging national Guidance and local Policies on gypsy

site provision and insufficient weight on *Circular 06/2006*. The Council's approach has thus been wholly unreasonable and unlawful.

Reasons

20. Circular 03/2009 on costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
21. The Costs Circular says that Councils are at risk of an award of costs against them if they delay or prevent development which should clearly be permitted. It also requires that at appeal evidence should be provided to substantiate each reason for refusal. Whilst Councillors are not bound to accept Officers' recommendations reasonable planning grounds should be given for a decision contrary to them. Moreover, where appropriate, Councils are expected to show that they have considered the possibility of imposing conditions.
22. The Council's first reason for refusal is based on conflict with various requirements of Policy CF12 of the *West Wiltshire District Plan First Alteration 2004*.
23. The first 2 grounds of concern under this Policy relate to a) the impact of the proposal on the use of the adjoining crematorium and b) encroachment and the character and appearance of the area. Decisions turning on such matters are unlikely to result in an award of costs if realistic and specific evidence was given in support. However, vague, generalised or inaccurate assertions about the impact of a proposal, which are unsupported by objective analysis, are not sufficient.
24. On the effect on the crematorium no substantial evidence was provided to support an assertion that local concerns had been raised regarding anti-social behaviour on the site. Under cross examination the Council's case on the impact on the crematorium was largely narrowed down to the potential for harm caused by barking dogs. However, no substantial evidence was given to show that this is a problem generally on gypsy sites or that it has been so here. I thus consider this reason for refusal to amount to a generalised assertion unsupported by objective analysis.
25. The Council's evidence on the impact of the proposal on the character and appearance of the area was notably sparse. However, seen in the round it went beyond just a mere assertion of encroachment but to the harm that this was alleged to cause to the character and appearance of the area. In this regard it referred to the nature of development on the site, the character and appearance of the area and from where the site can be seen. Whilst I did not find this persuasive it provided a sufficient evidential basis for the stance taken to constitute realistic and specific evidence in the terms of the Cost Circular.
26. The third and fifth grounds of concern under Policy CF12 relate to pedestrian safety and whether the site is in a sufficiently sustainable location. The 2 concerns are linked in part as the Council claims that residents' worries over the safety of crossing the main road fronting the site will cut them off from facilities in the nearest village. However, concerns on pedestrian safety are unsupported by any analysis of actual traffic speeds and flows past the site. Nor has any professional or technical evidence been provided to contradict the advice of Officers or to indicate why the Council should have taken a different

view on this matter than it did when granting temporary permission for the site in 2008.

27. In sustainability terms more generally the Council's concern is that the site is in a rural location and distant from services and in a location where housing generally would not be permitted. However, the site is in reasonable proximity to a nearby village that contains a primary school and is only a few miles from 2 towns offering a good range of services. Both towns are readily accessible by main roads. Moreover, *Circular 01/2006* advises that sustainability should not only be considered in terms of transport mode and distances from services but to various wider benefits including those provided by a settled base. There is little evidence that the Council took such considerations into account. Had it done so, and had regard to the site's reasonable proximity to services, a more reasonable approach would have been taken on sustainability.
28. In part the Council's approach on the suitability of the site for what is proposed is based on a view that *Circular 01/2006* is outdated and will be replaced. However, as the Circular remains in place regard must still be had to it in determining this proposal. The Government has recently produced a consultation document *Planning for traveller sites*. However, consultation on this may prompt amendments, which reduces the weight that may be given to it at this stage. The Council's case on the weight to be given to the emerging guidance was unclear. However, the Council's statement and its written response to this costs claim, suggests that it acted unreasonably in placing too much weight upon it at this stage.
29. The Council's fourth ground of concern under Policy CF12 relates to the principle of allowing a vehicular access onto the A361 due to its status as part of a Primary Route Network. In so doing it relies on Policy T8 of the *Wiltshire and Swindon Structure Plan* which generally seeks to prevent such accesses. However, whilst that may be so, the highways authority has not recommended that this application should be refused and the Council has failed to provide any substantial evidence by way of contrary professional opinion. Matters likely to be relevant to highway safety and the free flow of traffic such as actual traffic speeds and flows, and accident statistics were not addressed in any substantial way by the Council. As such it has acted unreasonably.
30. The second reason for refusal is based on grounds that permanent permission could prejudice the emerging *Gypsy and Travellers Site Allocations Development Plan Document (DPD)* which is in effect an argument on prematurity. However, Government Guidance in *The Planning System: General Principles* requires reasons for refusal on these grounds to be supported by clear evidence on how the grant of permission would prejudice the outcome of the DPD process. The Council's evidence in support of this ground of refusal is notably sparse and does not specifically address relevant considerations such as the scale of the development and cumulative effect. It amounts to little more, therefore to an assertion that harm would arise. The view that the credibility of the DPD would be undermined by a permission in this case has insufficient regard to the weight that can currently be attached to the emerging DPD.
31. The Council's suggestion that this concern could have been overcome by a temporary permission does not greatly assist its case against the cost claim as there is no evidence that the Council had regard to this in its determination of the application.

32. Turning to other material considerations the need for a gypsy sites generally in an area, and the specific needs of those seeking sites, are important considerations given guidance in *Circular 01/2006*. However, there is scant evidence that the Council took this into account. It is said that Members would have been aware of such matters. However, no substantial evidence was provided to show how those matters were considered and balanced against the factors regarded by the Council to cause harm. Thus the Council acted unreasonably in not having due regard to a material consideration.
33. Drawing together my views the Council provided sufficiently substantial evidence, in the terms of the Costs Circular, to justify only one of its reasons for refusal. Moreover, even on that ground I found overwhelmingly for the appellant. Looking, therefore, at the case as a whole, including my findings on the Council's failure to have proper regard to the other material considerations referred to above, I consider that the Council unreasonably prevented development that should clearly have been permitted. The appellant was thus put to the unnecessary expense of appealing and a full award of costs is justified.
34. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.
35. In arriving at this conclusion I have had regard to the Council's view that, were I to find for the appellant on costs, there should be a deduction to account for the costs that may have arisen through his unreasonable behaviour. However, that is a matter best addressed, as it was, in the Council's claim against the appellant and is the subject of a separate decision.

Costs Order

36. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Patrick Ward, the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

RJ Marshall

INSPECTOR



Appeal Decision

Inquiry held on 7 December 2011

Site visit made on 7 December 2011

by **David Morgan BA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 February 2012

Appeal Ref: APP/Y3940/A/11/2156351

Land at Slag Lane and Hawkeridge Road, Westbury (Vivash Park)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by David Wilson Homes against the decision of Wiltshire Council.
 - The application Ref W/10/03406/FUL, dated 21 October 2010, was refused by notice dated 4 May 2011.
 - The development proposed is erection of 117 dwellinghouses, public open space and associated landscaping, highways and drainable infrastructure.
-

Decision

1. The appeal is allowed and planning permission granted for the erection of 117 dwellinghouses, public open space and associated landscaping, highways and drainable infrastructure at Land at Slag Lane and Hawkeridge Road, Westbury (Vivash Park) in accordance with the terms of the application Ref W/10/03406/FUL, dated 21 October 2010, subject to the conditions set out on the schedule at the end of the decision.

Application for costs

2. At the Inquiry an application for costs was made by David Wilson Homes against Wiltshire Council. This application is the subject of a separate Decision.

Procedural matters

3. The planning application was refused by the Council on the basis that the site was not allocated for housing but designated for light industrial use; additionally there were no material considerations presented of sufficient weight to justify setting aside development plan policy in this regard. However, prior to the scheduled date of the Inquiry the Council received further information in the form of a draft employment land study that no longer identified the site as suitable of industrial use. Following further consideration, the Council withdrew its objections to the proposals and there are no longer any substantive matters at issue between the main parties. However, another party sustained their objection, and these representations form the basis of the main issues set out below.
4. After an agreed period following the Inquiry a signed and dated Section 106 Agreement was submitted by the appellant facilitating the provision of affordable housing, financial contributions to local infrastructure, including education, highway works, public open space and waste and recycling. The provision of an urban park and a contribution towards its future maintenance

are also facilitated; this agreement is considered in the reasoning of the decision below.

Main Issues

5. These are a) whether there is a less than five year housing land supply in the West Wiltshire or Westbury Area justifying the application, b) whether there is adequate affordable housing provision within the proposed development, c) whether there is adequate sport and recreational space provided by the proposals, d) whether the proposed development would compromise the delivery of the proposed T4F Western Distributor Road, e) whether the proposed development would compromise the Regionally Important Geological Site (RIGS) within the site boundary, f) whether the proposals would compromise archaeological remains on the site and g) whether the proposals would compromise the use of the footpath in plot D of the development site.

Reasons

Housing land supply

6. The other party relies on the shift in emphasis in consultation documents relating to the Draft Wiltshire Core Strategy (CS) placing less emphasis on housing growth in Westbury to support a view that there is a five year land supply in the West Wiltshire or Westbury Area. However, this Strategy is yet to go out to full public consultation and is still some substantial way short of formal examination or adoption; as such only limited weight may be afforded its policies. Moreover, whilst there are nuanced differences in the availability of a five year housing land supply between the main parties, these differences are not material, and this issue does not constitute a formal reason for refusal. Other than a reliance on the broad thrust of the draft CS, the other party offers no other detailed evidence or evidence-base for suggesting this position is demonstrably flawed. On this basis, existing development plan policy (WWDP DP3) supporting the development of previously developed land, in conjunction with that same expectation set out in Planning Policy Statement 3 *Housing*, further limit the weight that may be afforded such a counter-assertion.

Affordable housing

7. The other party's concerns over inadequate affordable housing provision appear grounded in the belief that the 29 on-site dwelling provision represents the sum contribution to the scheme. The appellant points out in evidence that the total provision is split 83% on site provision with 17% as an off-site financial contribution properly secured through planning agreement. This arrangement is in full accord with the Council's framework for affordable housing provision and no weight may be afforded the other party view, again unsupported by substantive evidence or reasoned justification.

Sport and recreation

8. As the other party states, land at Vivash Park is identified for grass sport pitches in the Council's Recreation and Leisure Development Plan Document, although the supporting text also refers to the land being suitable for formal and informal recreation. Furthermore, analysis of part C of the site demonstrates that due to its size, topography and proximity to both pond and railway, it is better suited to more informal recreational use. This is the view of the Council's officers, who support the provision of the urban park, to mitigate existing under-provision for such space and to provide for future recreational

need. Conclusively, the greater degree of earth and bedrock movement required to facilitate formal pitches would also seem in direct conflict with the other party's concerns over local geology and archaeology set out below.

Western Distributor Road

9. No substantive technical evidence is put forward by the other party to substantiate the assertion that the proposals would compromise or blight the delivery of the proposed Western Relief Road, part of the funding for which has already been secured through planning consent and an associated Section 106 Agreement. It is asserted that due to a requirement to increase housing numbers on an adjoining site the path of the road will have to be realigned, and as a result the current scheme needs to take account of this consideration. This is a view not shared by the Highway Authority or Planning Officers of the Council. Indeed, further evidence submitted by the appellant demonstrates the appeal proposals can be implemented without compromise to the delivery of the relief road, again, a position unchallenged by detailed evidence from the other party. Moreover, whilst it is clearly desirable that the relief road comes forward, this is dependent on the delivery of development on the adjacent site. The non-delivery of development on the adjacent site though regrettable, cannot, in the circumstances of this appeal, be legitimately applied as a justification for withholding permission in this case.

Regionally Important Geological Site

10. This site, comprising an exposed section of the Westbury Iron Stone Formation, is located below Hawkeridge Road, and comprises an element of part C of the site. This area is allocated as urban park and the layout plans indicate the eastern boundary (the location of the RIGS site) would be planted. Conditions attached to the consent cover earth moving and landscape details and there is no reason why full consideration could not be given to safeguarding this site through their provisions.

Archaeology

11. The other party raises concerns over the adverse impact of the proposed development on the potential archaeological remains relating to site C. It is contended that this area has not been the subject of historical iron working (a conclusion apparently predicated on the trial pit analysis relating to Ground Investigation Study by Hydrock Consultants) so suggesting a good survival of Romano-British remains. The County Historic Environment Record confirms the site lies adjacent to a postulated significant Romano-British settlement, a conclusion supported by finds on adjacent ground. However, site C is the area proposed for the urban park, and works here are going to be less invasive than the other areas of the site. It is on this basis that the County Archaeologist has recommended a programme of archaeological investigation is undertaken prior to any works commencing on site. Such a programme can reasonably be secured through condition. On this basis any threat to identified archaeology could be appropriately mitigated.

Footpath

12. There is no consensus, on the base of the evidence presented, as to whether the footpath crossing plot D is an established public right of way or not. Notwithstanding this point, the safeguarding of access to the strip of land to the south of the arched underpass through the railway embankment could

reasonably be considered through the conditions attached in respect of surface water management relating to this part of the site.

13. A second party raised concerns over the impact of the development on the continued successful management of fishing on the adjacent lake. Whilst the dwellings will clearly be lit at night and so emit some light, the boundary of the site will be landscaped and this planting, in conjunction with the existing and in places extensive cover on Slag Lane, would mitigate any increased light emissions.

Conclusions

14. In light of the withdrawal of their objection to the proposal, the evidence submitted by the Council and in light of the Ministerial Statement *Planning for Growth* published on 23 March 2011, I too find no impediment to allowing the appeal. Whilst all the issues raised by the other party may rightly be considered planning considerations material to the case, none individually or collectively merit sufficient weight to outweigh the benefits of the appeal being allowed.

Conditions

15. The appeal being allowed, conditions are attached requiring the submission of samples of materials, the submission of all earthwork details and details of hard and soft landscaping, all to ensure a satisfactory appearance to the development; conditions are also attached requiring the submission of a Construction Method Statement and a Scheme of Archaeological Investigation, both to safeguard any special archaeological, geological and wildlife on and adjacent to the site; conditions are also attached requiring that a scheme and strategy for the management and discharge of surface and foul water are submitted for approval, to safeguard ground water in the environs of the site and manage surface water run-off; a condition is also attached requiring the submission of a detailed scheme of site investigation and remediation is submitted and approved to ensure the full mitigation of any extant soil contamination; conditions are also attached requiring the submission of details of internal road layouts and the submission of a Traffic Management Plan and the provision of carriageway and path to all dwellings, all to safeguard highway safety and to ensure appropriate access to all dwellings; lastly a condition is attached requiring that the development be carried out in accordance with the approved plans, in the interests of sound planning and for the avoidance of doubt.

Section 106 Agreement

16. The parties have completed a Section 106 Agreement in conjunction with Wiltshire Council which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. They relate to the following matters.

Education

17. West Wiltshire District plan First Alteration 2004 (WWDP) policy S1 makes provision for securing financial contributions towards educational infrastructure. Westbury Infants and Junior Schools and Matrevers Secondary School are all identified as destinations of future appeal site occupants, and all are described as effectively full, with a rising roll forecast. Based on agreed capital building

cost multipliers reflecting increased demand, contributions to primary and secondary school infrastructure totalling £615,000 are sought and facilitated by the Agreement. The increase to future pupil numbers as a result of the proposals would place additional demand on at-capacity institutions. The calibrated contributions to help mitigate this impact set out in the obligation therefore pass the statutory tests of the Regulations.

Highways Contribution

18. The Heads of Terms of the Agreement facilitate off-site highway works including the provision of a mini roundabout at the Slag Lane junction and the redesign and reconfiguration of Slag Lane. A Construction Traffic Management Plan is included, as is a financial contribution of £20,000 to necessary works and Traffic Regulation Orders, calibrated and agreed between the parties. Policy I1 of the WWDP facilitates such infrastructure contributions and the provision of the roundabout and upgrading of Slag Lane are directly related to the proposed development. In broad terms therefore, this obligation passes the statutory tests.

Affordable Housing

19. WWDP policy H2 seeks a minimum of 30% of the units to be social rented housing, with 83% of the 30% being housing for rent on site, with a financial contribution of 17% towards off-site provision. The Agreement provides for 29 such units and for a financial contribution to be made in respect of the remaining 17%. The units are broken down into two groups, 60% 2 bed units and 40% 3 bed units. In accordance with the Council's Supplementary Planning Guidance, *Affordable Housing*, the units are also grouped in small clusters through out the scheme, giving social diversity to the whole. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

Public open space and community park

20. WWDP Policy C41 and policy OS2 of the Council's adopted Leisure and Recreation Development Plan Document that supersedes it support part of the site being utilized for recreational purposes. The relevant obligation seeks to provide a fully equipped and landscaped public open space and community park with a commuted sum contribution for its continued maintenance following its transfer to local authority or other nominated body control, or the establishment of a private management company for its continued maintenance. The proposed open space and urban park would address the shortfall in such provision in the town identified by the Council's District Wide Recreational Needs Assessment (2005), serving local existing housing need and address that created by the proposed development. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

Public art

21. Policy I2 of the WWDP anticipates contributions towards public art. This obligation proposes a sum of £30,000 towards such a scheme. Explicit reference is also made to such provision within the open space area in site B on plan 13048/5000/K and the scope and extent of provisions set out within the Agreement. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

Waste and recycling

22. Policy I1 of the WWDP also makes provision for more generic infrastructure provision and a financial contribution for £13,221 is facilitated in the Obligation. Whilst this sets the policy framework and the contribution will address a demand of the development, it is not clear from the submitted evidence how the contribution is calculated; as such it fails to meet one of the statutory tests of the regulations.
23. In light of these findings, since the obligation for waste and recycling fails to meet one of the tests set out in CIL Regulation 122, I am unable to take it into account in determining the appeal. However, I give significant weight to the obligations for education, affordable housing, public art, highway improvements and for the improvement of local open space and urban park provision to address the current levels of such provision in the town.
24. For the reasons given above, and having considered all matters raised in evidence and at the Inquiry, I conclude that the appeal should be allowed.

David Morgan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall commence on site until a scheme for the discharge of surface water from the site and the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the local planning authority. The scheme shall accord with the strategy set out in the flood risk assessment (21 October) and the supplementary information provided by the Environment Agency. The drainage scheme shall be implemented in accordance with the approved details and a timetable agreed with the Local planning authority.
- 4) No development shall commence until a foul water drainage strategy, including a timetable for its implementation, has been submitted and approved in writing by the local planning authority. The drainage scheme shall be completed in accordance with the approved details and timetable.
- 5) No development shall commence on site (other than that required to be carried out as part of a scheme of site investigation or remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An updated investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to human health, property (existing or proposed and including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, groundwater and surface waters, ecological systems and archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is

necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement shall be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

- 6) Prior to the commencement of any development (excluding site investigation and remediation measures), full construction details of all the internal road layouts, generally in accordance with drawing 13048/5000/K, shall be submitted to and approved in writing by the local planning authority, and the internal road layouts shall thereafter be completed in full accordance with the approved details.
- 7) Prior to the commencement of development (excluding site investigation and remediation measures) a construction Traffic Management Plan in relation to the new mini roundabout and improvements to Slag Lane shall be submitted to and approved in writing by the local planning authority and the approved construction Traffic Management Plan shall thereafter be implemented in full accordance with the so approved recommendations.
- 8) The internal road construction shall be completed in such a manner that before it is occupied, each dwelling shall have been provided with a properly consolidated and surfaced footway and carriageway to at least binder course level between the dwelling and the existing public highway.
- 9) No development (excluding site investigation and remediation measures) shall commence on sites A and B respectively until details of all earthworks for that particular site have been submitted to and approved

in writing by the Local Planning Authority. These details shall include existing and proposed site levels, proposed slab levels of new dwellings, proposed grading and mounding of land areas within the site and along boundaries and shall include the levels and contours to be formed, sections where necessary, the nature of the material, and the relationship of proposed mounding to existing and surrounding landform. Development shall be carried out in accordance with the approved details.

- 10) Prior to the commencement of development a Noise Mitigation Scheme in accordance with the recommendations of the submitted Noise and Vibration report dated October 2010 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellings.
- 11) No development, including the deposition of new soil, shall commence within site C (proposed urban park) until:
 - (a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - (b) The approved programme of archaeological work has been carried out in accordance with the approved details.
- 12) No development shall commence (excluding site investigation and remediation measures) within any part of site C until further details of the scheme of hard and soft landscaping for the proposed urban park have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - * a phasing programme for the proposed works
 - * indications of all existing trees and hedgerows on the land and those to be retained;
 - * details of any to be retained, together with measures for their protection in the course of development;
 - * all new planting including species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
 - * existing and finished levels and contours and proposed earthworks and identified on a separate plan;
 - * means of enclosure within, and around the site boundaries;
 - * car park layouts;
 - * other vehicle and pedestrian access and circulation areas;
 - * hard surfacing materials;
 - * minor artefacts and structures including furniture, play and fitness equipment, refuse and other storage units and signs;
 - * retained ecological features and proposed mitigation.
- 13) Prior to the commencement (excluding site investigation and remediation measures) of any development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This

shall incorporate a precautionary method of working for all construction works and phasing in relation to the following:

- * Disturbance avoidance measures to protect waterfowl wintering on Frogmore Lake;
- * Measures to avoid impacts to badgers and their setts;
- * Measures to avoid harm to reptiles;
- * Protection of bats roosting in Hawkeridge Road cave
- * Protection of Regionally Important Geological Site No ST 85.RIGS27

The development shall subsequently be carried out in accordance with the approved method of working.

14) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans and documents:

- * 13048/1000/B received on 21.10.10
- * 13048/5000/K received on 03.03.11
- * 13048/3600 and 3601 received on 21.10.10
- * 13048/6000, 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015, 6016, 6017, 6018 received on 21.10.10
- * CIR.D.0304_01B received on 07.04.11
- * CIR.D.0304_02C received on 07.04.11
- * CIR.D.0304_03 received on 25.10.10
- * CIR.D.0304_04A received on 09.02.11
- * CIR.D.0304_05 received on 09.02.11
- * P9433 G200 rev A and G201 rev A received on 30.12.10
- * Planning Statement received on 21.10.10
- * Design and Access Statement received on 21.10.10
- * Transport Assessment received on 21.10.10
- * Flood Risk Assessment received on 21.10.10
- * Phase 2 Surveys and Ecological Assessment received on 21.10.10, Addendum relating to Reptiles received on 14.01.11 and Addendum relating to Wintering Birds and Great Crested Newts received on 09.02.11
- * Archaeological Assessment received on 21.10.10
- * Noise and Vibration Assessment received on 21.10.10
- * Market Feasibility Report received on 21.10.10
- * Ground Investigation Reports dated May 2006 and June 2006, and letter Report dated September 2010 received on 21.10.10
- * Statement of Community Involvement received on 21.10.10
- * Drawing SK001G and SK005F dated 02.03.11

APPEARANCES

FOR THE APPELLANT:

Mr Richard Phillips QC

Instructed by Mr Neil Bromwich, Osborne Clark,
Solicitors

He called:

Mr Glen Godwin, Dip TP,
MRTPI

Mr John Mullholland

FOR THE LOCAL PLANNING AUTHORITY:

Ms Jacqueline Lean of Counsel

Instructed by Mr Ian Gibson, Solicitor for
Wiltshire Council

She called:

Mr M Wilmott, Area
Development Manager

INTERESTED PERSONS:

Mr Francis Morland

Mr and Mrs Bruce Evans

Documents Submitted at the Inquiry

1. Written Statement – Mr F Morland
2. OS extract map (archaeology) – Mr F Morland
3. Extract for the proceedings of the Wiltshire Geological Society – Mr F Morland
4. Archaeological Report (Hawkridge Pumping Station) – Mr F Morland
5. Signed and dated Statement of Common Ground (SoCG) – Appellant
6. Copy of letter from Barclays Bank (Section 106 Agreement) – Appellant
7. Amendments to SoCG and Mr Godwin's Proof of Evidence – Appellant
8. Amended list of conditions – Council
9. Suggested amendment to conditions (prefix) - Appellant
10. Mr Morland's e mail 7 November 2011 – Mr F Morland
11. Application for full costs – Appellant
12. Rebuttal of costs - Council



Costs Decision

Inquiry held on 7 December 2011

Site visit made on 7 December 2011

by David Morgan BA MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 February 2012

Costs application in relation to Appeal Ref: APP/Y3940/A/11/2156351 Land at slag Lane and Hawkeridge Road, Westbury (Vivash Park)

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by David Wilson Homes for a full award of costs against Wiltshire Council.
 - The inquiry was in connection with an appeal against the refusal of Council to grant planning permission for the erection of 117 dwellinghouses, public open space and associated landscaping, highways and drainable infrastructure.
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Decision

1. I allow the application for costs in the terms set out below.

The submissions for David Wilson Homes

2. The costs application was made in writing.

The response by Wiltshire Council

3. The response was made in writing.

Reasons

4. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The Council is correct in stating that members, in taking a view of the development contrary to that of their officers, formed a different opinion on the amount of weight to be accorded the material planning considerations presented by the appellant in support of a departure from development plan policy. This is reflected in the wording of reason for refusal 3 of the decision notice. However, paragraph B20 of the Circular makes clear that where planning authorities determine not to accept the recommendations of officers, and their professional and technical advice is not followed, they will need to show reasonable planning grounds for taking such a contrary decision, and produce relevant evidence on appeal to support the decision in all respects.
6. Moreover, as paragraph B16 also makes clear, authorities will be expected to produce evidence to show why the development cannot be permitted, and that they are expected to produce evidence at appeal stage to substantiate each

reason for refusal with reference to the development plan and all other material considerations.

7. The appellant broadly accepts that the development is contrary to policies H1 and to a lesser degree C41 of the development plan, and does not fundamentally challenge this fact in evidence, instead cogently arguing that there are indeed substantive material considerations that outweigh dogmatic adherence to those policies which justify the grant of planning permission.
8. The Council do set out their case in section 5 of their Rule 6 Statement; here contravention of development plan policy is identified as key to the case. However, the substantive material considerations presented by the appellant, specifically industrial land supply, five year housing supply and national policy developments post-dating the policies of the development plan, are not meaningfully addressed. In short, the Council has failed to substantiate reason for refusal 3 of the decision notice and has presented no evidence, as anticipated by paragraph B16, necessary to provide a respectable basis for the authority's stance. On the same basis, they have not fulfilled the expectations set out in paragraph B20. Accordingly, there is strong basis for concluding that the Council has behaved unreasonably in this respect.
9. The circumstances determining the Council's withdrawal of their objection to the scheme, and their decision not to present evidence in support of the decision, are set out in the Council's proof. It is made clear that the conclusions of the Draft Wiltshire Workspace and Employment Land Review Report prepared by Roger Tym and Partners, published in November, comprehensively compromise the policy-based justification for refusal and effectively concur with and endorse the evidence of the appellant and the professional judgement of officers on the lack of justification for defending the site's industrial land designation.
10. Officers of the Council are to be commended for acting as promptly as they reasonably could in seeking a review of the case in the light of this evidence and in advising members of the changed circumstances. Indeed, it is these actions, and the prompt and affirmative response of members that are cited, in accordance with paragraph A28 of the Circular (specifically bullet point 5) as the Council's principle defence against charges of unreasonable behaviour (and so wasted expense on behalf of the appellant). Indeed, it is the case that the Council's actions have curtailed their own expenses at the Inquiry, restricting proceedings to one day and, it may also be said, those of the appellant in this respect also.
11. However, bullet point 5 of A28 is clear that mitigation of risk of costs may succeed where 'for example, an appeal or reason for refusal of planning permission is withdrawn at an early stage'. This text also refers to paragraph B4 (in this case bullet point 7) of the Circular which states that one example of unreasonable behaviour could be considered through the 'withdrawal of any reason for refusal....resulting in wasted preparatory work and/or attendance of a witness....who proves not to be required'. Although officers acted as quickly as they reasonably could, the withdrawal of the Council's reasons for refusal came four days before the end of the already extended deadline for proofs of evidence. By this stage the appellant, unclear as to the outcome of the Council's review of the case, had no choice but to progress with their preparation of evidence, already well advanced, for the Inquiry.

12. Although progressed with all haste, the actions of the Council cannot be held to have been undertaken 'at an early stage' in the process, and in any event had not been able to forestall the bulk of the work by the appellant in preparing for the Inquiry. On these clear counts therefore, the Council can be held to have acted unreasonably, resulting in unnecessary and wasted expense, as described in Circular 03/2009, on behalf of the appellant in respect of preparing for and appearing at the Inquiry. On this basis, and in light of the points set out above, a full award of costs is justified.

Costs Order

13. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Wiltshire Council shall pay to David Wilson Homes the costs of the appeal proceedings, such costs to be assessed in the supreme Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

14. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Courts Costs Office is enclosed.

David Morgan

Inspector

