

## AGENDA

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**Meeting:** Northern Area Planning Committee  
**Place:** Council Chamber - Council Offices, Monkton Park, Chippenham,  
SN15 1ER  
**Date:** Wednesday 2 April 2014  
**Time:** **6.00 pm**

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Please direct any enquiries on this Agenda to Eleanor Slack, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718255 or email [eleanor.slack@wiltshire.gov.uk](mailto:eleanor.slack@wiltshire.gov.uk)

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### Membership:

Cllr Christine Crisp	Cllr Mark Packard
Cllr Bill Douglas	Cllr Sheila Parker
Cllr Mollie Groom	Cllr Toby Sturgis
Cllr Chris Hurst	Cllr Anthony Trotman (Chairman)
Cllr Peter Hutton (Vice-Chair)	Cllr Philip Whalley
Cllr Simon Killane	

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### Substitutes:

Cllr Desna Allen	Cllr Dennis Drewett
Cllr Glenis Ansell	Cllr Howard Greenman
Cllr Chuck Berry	Cllr Jacqui Lay
Cllr Mary Champion	Cllr Howard Marshall
Cllr Terry Chivers	Cllr Nick Watts
Cllr Ernie Clark	

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# **AGENDA**

## **Part I**

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

**1 Apologies**

To receive any apologies for absence.

**2 Minutes of the previous Meeting (*Pages 1 - 12*)**

To approve and sign as a correct record the minutes of the meeting held on Wednesday 12 March 2014.

**3 Declarations of Interest**

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

**4 Chairman's Announcements**

To receive any announcements through the Chairman.

**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 26 March 2014.** 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 13 - 14)*

To consider and determine planning applications in the attached schedule.

7      **13/00958 - ITEM WITHDRAWN - Oaksey Park, Lowfield farm, Oaksey, Wiltshire - ITEM WITHDRAWN** *(Pages 15 - 34)*

8      **13/05989 - Land opposite 21 Greenhill, Wootton Bassett, Wiltshire, SN4 8EH** *(Pages 35 - 40)*

9      **13/06430/OUT - Hunting Villa Farm, Hunts Mill Road, Royal Wootton Bassett, Swindon, SN4 7FS** *(Pages 41 - 46)*

10     **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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## **NORTHERN AREA PLANNING COMMITTEE**

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**DRAFT MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING  
HELD ON 12 MARCH 2014 AT COUNCIL CHAMBER - COUNCIL OFFICES,  
MONKTON PARK, CHIPPENHAM, SN15 1ER.**

**Present:**

Cllr Chuck Berry (Substitute), Cllr Christine Crisp, Cllr Bill Douglas, Cllr Mollie Groom,  
Cllr Chris Hurst, Cllr Peter Hutton (Vice-Chair), Cllr Simon Killane, Cllr Mark Packard,  
Cllr Toby Sturgis, Cllr Anthony Trotman (Chairman) and Cllr Philip Whalley

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**18     Apologies**

Apologies were received from Cllr Parker.

Cllr Parker was substituted by Cllr Berry.

**19     Minutes of the previous Meeting**

The minutes of the previous meeting held on Wednesday 29 January were presented.

**Resolved:**

**To approve as a true and correct record and sign the minutes.**

**20     Declarations of Interest**

Cllr Groom declared an interest in agenda item no. 7b as she served on the Lydiard Millicent Parish Council. She declared she would participate in the debate and vote for each item with an open mind.

**21     Chairman's Announcements**

There were no Chairman's announcements.

**22     Public Participation and Councillors' Questions**

The Committee noted the rules on public participation.

## 23 **Planning Applications**

Attention was drawn to the late list of observations provided at the meeting and attached to these minutes, in respect of application 13/05724/OUT and 7a as listed in the agenda pack.

### **1a 13/05724/OUT - Land South of Bradford Road, Rudloe, SN13 0**

Kieth Chubb, Juliett Powell and Paul Turner spoke in objection to the application.

Chris Watt, Jamie Lewis and Cllr Whalley (speaking on behalf of Corsham Town Council) spoke in support of the application.

The officer introduced the report which recommended planning permission be delegated to the Area Development Manager to GRANT subject to the signing of a s106 agreement and conditions.

He explained that the proposal comprised of 12 small commercial units, two slightly larger commercial blocks, 88 dwellings and landscaping surrounding the central area. Neighbouring the site were several business units. It was proposed that the site was access by a right-turn lane. A toucan crossing and a crossing island on the road neighbouring the site were also proposed. Attention was drawn to the late observations circulated at the meeting.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that the commercial sites proposed were for B1 use and that further applications would be required to alter this use.

Members of the public then addressed the Committee as detailed above.

The local member, Cllr Tonge spoke in objection to the application. He noted other proposed developments in the area and concern that the application could set a precedent for future developments.

In the debate that followed, some members noted potential benefits for the local community such as providing housing for local workers and the possibility that the development would serve as a catalyst for the improvement of local services. The Committee highlighted difficulty in striking a balance between permitting development to meet government policy whilst also respecting the local community.

**It was resolved to:**

**Delegate to the Area Development Manager to grant planning**

permission, subject to all parties entering into an agreement under S106 of The Act (as amended) in relation to the following matters:

- Delivery of affordable housing;
- Delivery and maintenance of on-site play provision and public open space;
- Provision of a contribution in respect of local leisure provision;
- Provision of a contribution in respect of local cemetery facilities;
- Delivery of site access works and other off-site highways works;
- Provision of costs associated with the requisite Travel Plan;
- Provision of a contribution in respect of strategic highways works;
- Provision of contributions in respect of local primary and secondary education.

And subject to the following conditions:

- 1 The development hereby permitted shall be begun either before expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later.

**REASON:** To comply with the provisions of Section 92 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 following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;

**(d) The landscaping of the site;**

**The development shall be carried out in accordance with the approved details.**

**REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.**

- 3 An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

**REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.**

- 4 No development shall commence on site until full details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. The approved works shall be carried out in full prior to first use/occupation of the development hereby permitted and maintained thereafter in accordance with an approved scheme.**

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

- 5 No development shall commence on site until provision has been made for open space, amenity areas and play areas in accordance with the submitted details. The plans shall define the boundaries and shall include details of the intended future uses of each area, in particular the user age groups of play areas together with the features and items of play equipment it is proposed to install.**

**REASON: To ensure a satisfactory provision of open space throughout the development in the interests of the amenity of future residents.**

- 6 Prior to first occupation of any dwelling hereby permitted a 2 metre wide footway shall be constructed and made permanently available for public use, along the frontage of the site between the site access**



and the bus stop located north-east of Skynet Drive, in accordance with details to be first submitted to and approved by the Local Planning Authority.

**REASON:** In the interests of providing safe and convenient pedestrian link to serve the development.

- 7** The details of the residential development submitted for reserved matters approval shall include a 2 metre wide footway link to the south-eastern boundary of the site.

**REASON:** In the interests of providing permeable pedestrian links and direct access to the primary school and Skynet Drive.

- 8** The details of the residential development submitted for reserved matters approval shall include a 2.5 metre wide cycleway / footway link from the residential part of the site to the employment area.

**REASON:** In the interests of providing permeable pedestrian links and enabling the employment units to have good access to public transport.

- 9** The employment units hereby approved in outline shall not be first brought into use until separate vehicle access to Park Lane for those units has been provided and made available for use, in perpetuity.

**REASON:** In the interests of providing safe and convenient access to the employment units.

- 10** No part of the development hereby permitted shall obstruct a visibility splay at the junction of Skynet Drive with Bradford Road such that nothing exceeds a height of 600mm above carriageway level between the carriageway edge, and a line drawn from a point 2.4 metres back along the centre-line of Skynet Drive from the carriageway edge to a point on the nearside carriageway edge 120 metres to the southwest.

**REASON:** In the interests of highway safety.

- 11** Prior to occupation of the 20th dwelling hereby permitted, parking laybys situated either side of the access road and extending a distance of 60m into the site from its junction with Bradford Road, as

indicated in outline on Indicative Masterplan drawing number 13/052/100 shall be provided and made permanently available for public use.

**REASON:** In the interests of avoiding excessive school parking on nearby roads.

- 12** No development shall commence on site until a surface water drainage scheme for the site based on sustainable drainage principles (SUDS) and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details prior to completion of the development. The scheme shall also include details of how the scheme is to be managed after completion.

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

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

Figure 1 – Site Location Plan

13.052.101 – Site Boundary Plan

13.052.200 rev A – Land Uses Plan

101 rev B – Proposed Site Access Right Turn Lane

Untitled indicative open space/pedestrian links/cycleway overlay plan

Received 6 November 2013

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

- 14** **INFORMATIVE TO APPLICANT:**  
For the avoidance of doubt, the landscape strategy as required by Condition 4 above, should include details of the following:

- a) Retention and successful integration of important existing site trees, hedgerows and landscape features, wherever possible;
- b) Strong Green Infrastructure linkages into the wider GI network.
- c) Reinforcement of the northern perimeter hedge line/tree belt along Bradford Road (within the site) by introducing an

additional wooded belt of tree planting in order to reinforce and extend wooded skyline backdrop for new urban development viewed from lower local vantage points from the south, west and east and also from longer southern countryside vantage points;

- d) Introduction of a structured landscape buffer separation and transition with countryside along the eastern boundary (Skynet Drive) of the proposed residential area;
- e) Additional structural tree planting areas (i.e. wooded belts, space for larger species tree planting within and bordering the residential development block areas) that in combination with landform should aim to better integrate the introduction of new urban development massing on this sloping site over the longer term;
- f) Incorporation of a multifunctional SUD System for functional attenuation, aesthetic/amenity & ecological value and benefit purposes;
- g) High quality design of centrally located and easily accessible and overlooked equipped areas of useable open space, which reinforces appropriate local character and a 'sense of place';
- h) Legible, direct and clear footpath and cycleway linkages with adjoining built development and PRow network;
- i) Incorporation of the use of natural stone within boundary treatments and dwellings where they would offer the greatest public amenity function and design value; and
- j) Sustainable landscape maintenance and management arrangements.

**15      INFORMATIVE TO APPLICANT:**

For the avoidance of doubt, drawing reference 13/052/100 (Indicative Masterplan) does not form part of the formal planning application hereby approved. Its content is for illustrative purposes only and is subject to change in respect of scale, layout, external appearance and landscaping at the reserved matters stage.

**16      INFORMATIVE TO APPLICANT:**

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

**17 INFORMATIVE TO APPLICANT:**

**This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].**

**18 INFORMATIVE TO APPLICANT:**

**The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.**

**If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.**

**1b 13/05388/FUL - 30 Stone Lane, Lydiard Millicent, Swindon**

Angelo Papa, Chris Wannell and Simon Chambers spoke in support of the application.

The officer introduced the report which recommended that planning permission be REFUSED.

He explained that the application was to convert an existing property into a self-contained four bedroom dwelling. Permission was originally granted to construct a building for equine use, a larger building than that permitted was constructed and retrospective permission was granted.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that refusal was recommended due to the proposal's poor design and cramped, close relationship with the dwelling it was originally intended to serve. It was also confirmed that the building had been used for equine use for over two years and was located in open country-side.

Members of the public then addressed the Committee as detailed above.

The local member Cllr Groom spoke in support of the application. She noted the lack of local objection, the need for housing in the area and that the building's design was consistent with the adjacent house.

In the debate that followed concern was expressed that the development could set a precedent for the future conversion of other agricultural buildings. The Committee also discussed the benefit of converting the redundant building to meet local housing needs and the benefit of demolishing the garage. NPPF paragraph 55 was noted as was the proposal's poor design which did not enhance the immediate setting.

**It was resolved to:**

**REFUSE planning permission for the following reasons:**

**By reason of the proposal's poor design and cramped, close relationship with the dwelling it was originally intended to serve, the development would have an unacceptable impact on residential amenity and would not present an enhancement of the immediate setting. Accordingly, it is considered that the proposed development conflicts with the principles in the National Planning Policy Framework relating to the re-use of redundant buildings and Policy C3 of the adopted North Wiltshire Local Plan 2011.**

**1c N/13/00958/S73A - Oaksey Park, Lowfield Farm, Oaksey.**

Simon Chambers spoke in support of the application.

Cllr Martin Davies spoke in objection to the application.

The officer introduced the report which recommended that planning permission be delegated to the Area Development Manager to grant subject to the signing of a s106 agreement and conditions.

He explained that the application concerned a number of holiday let properties which had been granted planning permission on appeal and which were adjacent to a nine-hole golf course and supporting club house facility. A number of these properties had been sold as holiday lets. Planning permission existed for another phase of building which had not yet begun.

The application concerned eight of the units on the site. It sought to remove the conditions which restricted their use to holiday lets, allowing them to be used as residential properties. An independent advisor had confirmed that in their current form, the units were unviable as holiday lets. The units had been marketed at a heavily discounted price but had not sold. He confirmed that conditions one and two required re-wording.

The Committee then had the opportunity to ask technical questions of officers and it was confirmed that the application would not affect the open space on the site and that the site consisted of a mixture two and three

properties.

Members of the public then addressed the Committee as detailed above.

The local member Cllr Berry highlighted the challenge the Committee faced, seeking to ensure that a local business did not fail, whilst also ensuring that the site was suitable for residential properties. He noted the difficulty of considering the application in isolation from the site as a whole.

A motion to delegate to the Area Development Manager to grant planning permission subject to the signing of a s106 agreement and subject to conditions was moved and seconded.

In the debate that followed the Committee discussed other holiday lets in the area and the lack of local amenities. The Committee noted that planning permission existed for the final phase of development, but that work had not yet begun. Concern was expressed that the application if granted could set a precedent for others to seek to vary the restrictive conditions on their properties. The lack of private open space was discussed as was the difficulty of considering one element of a development in isolation.

The motion was voted on and lost.

A motion to refuse planning permission was moved and seconded. In the debate that followed the Committee noted insufficient detail of a number of elements of the application including private amenity space, s106 agreement and details of the provision of council services including waste. Following advice from the legal officer, the motion was withdrawn.

**Resolved:**

**To defer the application to allow officers to gather more information.**

24 **Urgent Items**

There were no urgent items.

(Duration of meeting: 8.45 am)

The Officer who has produced these minutes is Eleanor Slack, of Democratic Services, direct line 01225 718255, e-mail [eleanor.slack@wiltshire.gov.uk](mailto:eleanor.slack@wiltshire.gov.uk)

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**Wiltshire Council**

**Northern Area Planning Committee**

**12 March 2014**

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## INDEX OF APPLICATIONS ON 12/03/2014

	<b>APPLICATION NO.</b>	<b>SITE LOCATION</b>	<b>DEVELOPMENT</b>	<b>RECOMMENDATION</b>
7a	N/13/00958/S73A	Oaksey Park Lowfield farm Oaksey Wiltshire	Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)	Delegated to Area Development Manager
7b	13/05989/FUL	Land opposite 21 Greenhill Wootton Bassett Wiltshire SN4 8EH	Erection of a New Dwelling After Removal of Existing Building	Refusal
7c	13/06430/OUT	Hunting Villa Farm Hunts Mill Road Royal Wootton Bassett Swindon SN4 7FS	Dwelling in Association with Equestrian Enterprise	Refusal

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## **REPORT TO THE NORTH AREA HUB PLANNING COMMITTEE**

<b>Date of Meeting</b>	<b>2<sup>nd</sup> April 2014</b>
<b>Application Number</b>	N/13/00958/S73A
<b>Site Address</b>	Oaksey Park Lowfield farm Oaksey Wiltshire
<b>Proposal</b>	Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)
<b>Applicant</b>	Oaksey Park Ltd
<b>Town/Parish Council</b>	OAKSEY
<b>Grid Ref</b>	399464 194156
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Lee Burman/Brian Taylor

### **Reason for the application being considered by Committee**

The application has been called in for Committee consideration by Councillor Chuck Berry to allow assessment of the principle and sustainability of the development and implication for other similar proposals and facilities.

The application was deferred at the meeting of 12<sup>th</sup> March to enable Officers to seek additional information and provide additional comment. The main body of the report remains as presented on 12<sup>th</sup> March, with an additional section headed 'Further comments to Meeting of 2<sup>nd</sup> April' added immediately prior to the 'Recommendation'. The Officers conclusions and recommendations remain unchanged.

### **1. Purpose of Report**

To recommend that authority be delegated to the Area Development Manager to grant planning permission subject to the signing of a Section 106 agreement.

### **2. Report Summary**

The main issues in the consideration of this application are:-

the viability of the existing units of accommodation with the currently attached conditions restricting the scope and nature of the residential use and occupancy i.e. as Holiday let accommodation linked to the adjacent Golf Course;

And whether or not the properties have been marketed appropriately and at valuations reflecting the restrictive occupancy conditions;

The principles of the development proposal.

### 3. Site Description

The site is located within the open countryside to the east of the village of Oaksey. The application relates to a development of 25 semi detached and detached structures located adjacent a 9 hole golf course and its supporting clubhouse facility. The structures are modern in design two storey buildings built utilising render and timber with substantive glazing elements. The structures are surrounded by shared amenity spaces with new planting separating the properties from the golf course. The structures are residential in character but occupancy is restricted to holiday lets. Similarly there is established mature planting to the northern boundary separating the site and its access road from adjoin open countryside. The properties have ancillary group parking areas and the access road to the site runs from Wick Road, adjacent the golf course itself though the golf course car park and past the clubhouse facility. The land rises to the west and in the direction of the villages and adjacent unmaintained scrub land is situated against the western boundary of the site, albeit this land benefits from an extant consent for a final phase of the development which is as yet unbuilt.

### 4. Planning History

89/03470/F	Change of Use to residential holiday and staff accommodation of agricultural buildings. Reconstruction of Guest Lounge. Alts To Access and Driveway. Approved
02/01841/FUL	Erection Of 18 No 2 & 3 Bed Holiday Lodges And 1 No Bunkhouse With Covered Parking (1 No Space/Lodge) And Implement Shed, Workshop, Office And Reception Area And Associated Access Approved
03/02072/S73A	Variation of conditions attached to 89/03470/F (Condition 5) and 02/01841/FUL (Condition 7) Appeal allowed conditions varied
10/03612/S73A	Variation of Condition 7 of 02/01841/FUL & 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy Relates to units: 3, 5, 6, 8 and 10 - 19 inclusive. Approved
11/02036	Variation of Condition 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy (Original Variation of Condition 7 of 02/01841/FUL) Relates to unit 2. Approved
12/00034	Variation of Condition 1 of APP/J3910/A/04/1145607 - Relating to Residential Occupancy (Original Variation of Condition 7 of 02/01841/FUL).Relates to unit 4. Approved.

The above is a summary list of the historic applications at the site that are relevant and pertinent to the current proposals. It is not intended to be a definitive list of every single application at this site as this site history is very extensive and a great many of the applications are of no direct relevance. The applications and decisions referred to above are discussed in further detail below.

## **5. The Proposal**

The application proposes the removal of conditions 8, 9 & 10 of Planning permission 10/03612/S73A and variation of condition 7 of 02/01841/FUL and Condition 1 attached to appeal decision APP/J3910/A04/1145607 – Relating to residential occupancy. The conditions are as follows:-

10/03612/S73A

8 Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Use Classes (Amendment) Order 2005 (or any Order revoking and re-enacting those Orders, with or without modification), the building(s) hereby permitted shall be used for holiday accommodation only and for no other purpose.

REASON :- This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

9 The building(s) hereby permitted shall not be occupied as a persons' sole or main place or residence.

REASON:- This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

10 The owners / operators of the site shall maintain an up-to-date register of the names of all owners / occupiers of individual units identified in red upon drawing No. JC/001/2 and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

REASON:- This site is in a position where the Local Planning Authority, having

regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

POLICY: C3 of the adopted North Wiltshire Local Plan 2011, RLT9 of the Wiltshire and Swindon Structure Plan 2016 and the Good Practice Guide on Planning for Tourism

02/01841/FUL

7. The development shall be used only as holiday accommodation and no person shall be in occupation for more than 42 days in any calendar year.

Reason: To ensure that the development is not used as permanent accommodation or as dwellings.

APP/J3910/A04/1145607

1. The buildings shall not be occupied other than for holiday accommodation, and shall not be occupied from 6 January to 5 February inclusive in any year, and shall at no time be used for permanent residential accommodation.

The proposal in the original application related to the 20 remaining units of the site that had not already been sold to private ownership with the relevant restrictive conditions attached. This application and the description of development was varied by the applicant as follows:-

*Removal of Conditions 8, 9 and 10 imposed on application reference 10/03612/S73A which varied condition No 7 of 02/01841/FUL and appeal APP/J3910/A/04/1145607, allowing the unrestricted residential occupancy of units 12 to 19 (8 in total)*

It is this revised proposal – removal of the restrictive conditions on 8 units that is now before the Council.

## **6. Planning Policy**

National Planning Policy Framework

North Wiltshire Local Plan 2016

C2 Community Infrastructure

C3 Development Control

CF3 Provision of Open Space

Wiltshire Core Strategy Submission Draft

It should be noted that there are no specific policies in any adopted planning policy document that directly address the variation or removal of planning conditions restricting residential occupancy to holiday accommodation use to allow unfettered residential use.

## **7. Consultations**

The Council instructed a firm of Chartered Surveyors to assess the Market Viability Report submitted with the application. This process and the response received is referred to in greater detail below.

The Council extended the consultation period to allow for representations to be submitted following the receipt by the Council of the independent assessment of the viability report. Whilst the report was not published the conclusions were referenced by the case officer in discussions with consultees such as the Parish Council.

Highways Officers raised no objections to the proposals.

Education Officers have identified a requirement for secondary school place provision arising from the development.

Environment Services (Open Spaces) has identified a requirement for children's playspace provision arising from the development.

Waste Team has identified a requirement for provision of waste collection facilities.

Oaksey Parish Council has objected to the application in respect of:

- The site is an inappropriate location for residential use, poor access, in the open countryside outside the defined village
- The development is out of scale with the landscape
- There is no evidence of housing need in the village
- The proposal makes no provision for "development gain" to contribute to the local community
- Issues of business viability are the result of other factors than the local property market including the business operator and the financing of the development
- A different operator is likely to succeed and transform the business potential
- The property market at the time of the review has been distorted by the recession and the business being in receivership
- The implementation of the existing holiday let conditions has poor suggesting lack of compliance – Wiltshire council has started enforcement proceedings
- A Neighbourhood Plan for Oaksey is under preparation consent for residential would render proposals for housing in the village redundant

Subsequent to the revision of the description of development a further 21 day period of consultation was undertaken. All parties were notified of the revised application.

Education officers have confirmed that the revised proposals generate a requirement for Secondary School places and a financial contribution is sought in this regard.

Environmental Services (Open Spaces) identified that the 8 units alone did not generate an open space requirement that could be met through on site provision and that given the site location off site financial contributions to enhanced provisions for children's play space elsewhere could not be justified. However should the remaining 12 units also be the subject of proposals to remove restrictive occupancy conditions the on-site playspace provision requirement would be justified.

## **8. Publicity**

The application has been advertised by press advert, site notice and through neighbour notification.

29 letters of objection have been received from local residents raising concerns in respect of:

- The Holiday Let units are a viable business operation under the right management;
- The Holiday Let units were permitted designed and constructed in relation to standards inappropriate to permanent residential accommodation;
- The original property purchase was not conducted on a sound basis
- The Oaksey Park facility only has two competitors (Windrush Lakes and Spring Lake, these facilities are run successfully and are viable
- The locality has a greater range of offer for tourism than referenced in the submitted reports
- The current facility is poorly maintained and the lack of finance available for full maintenance should not be a sound reason for removing the holiday let restrictions
- The marketing of the properties and demand has been affected by the poor quality maintenance at the site
- Inadequate parking provision and traffic generation
- Inadequate design
- Inadequate services for the residential use of the site e.g. waste, schools
- Inadequate consultation with existing owners at the site
- All properties at the site should be included in the decision/application
- Inconsistencies within the submitted supporting financial information
- The site is an inappropriate location for residential use, poor access, in the open countryside outside the defined village
- The development is out of scale with the landscape
- There is no evidence of housing need in the village
- Housing need in the village is for affordable housing
- The independent report commissioned by the Council should be made publicly available
- Sets a precedent across Wiltshire

Following the revision to the description of development a further 21 day period of consultation was undertaken including press notices, neighbour notifications and notifications to all parties having made representations on the original application proposals. Since that time four representations have been received raising objections to the proposed removal of the conditions. Separate correspondence has also been forward to the case officer from a further interested party. The representations identify that:-

- The revised proposals are not supported additional supporting documentation to explain and justify the revised scheme proposals
- Consultations with interested parties including the owners of the 5 properties already sold at the site have been inadequate
- If the restrictive conditions are removed on these properties that should also apply to the 5 properties already sold to private ownership
- The Council has commissioned its own assessment of the submitted viability report and this assessment should be made available to interested parties for review and comment
- Parking demand at the site is increasing indicating increased occupancy periods
- The submitted viability assessment is inadequate and does not demonstrate that the properties are unviable as holiday let units
- The site is a unsustainable location contrary to adopted policies for unrestricted residential development and the properties should remain as holiday lets as originally permitted



## **9. Planning Considerations**

### **Background**

The following assessment of the application is on the basis of the removal of restrictive conditions relating to 8 properties at the site. This position has arisen as consequence of confusion in the independent assessment of the marketing and viability of original scheme proposals commissioned by the Council. The original instruction issued related to the 20 units however following liaison with the applicant, site meetings and provision of marketing and financial information by the applicant the independent surveyors understood that the proposal related to 8 units only. Their report was provided on that basis. Officers identified this confusion when preparing a report to Committee on the original scheme proposals. Further consultation with the independent surveyors assessing the proposals was undertaken and a revised report relating to the whole 20 units was prepared and submitted. This report concluded that the business as a going concern i.e. sold as a single entity was unviable. The assessment however also concluded that insufficient marketing for the whole 20 units had been undertaken and further marketing was therefore required to demonstrate that there was no viable demand for all 20 units with the restrictive conditions as separate individual properties.

As is discussed in more detail below the earlier version of the report relating to 8 units also concluded that the business as going concern/single entity was not viable; also that the 8 individual units had been adequately marketed at reduced market valuations reflective of the restrictive conditions and that there was no proceedable interest in these properties.

The applicant was made aware of the findings of the independent assessor of both reports and subsequently revised the scheme proposals to relate to the relevant 8 properties only. The independent assessor has subsequently resubmitted this original report in respect of the revised scheme proposals.

### **Principle**

The principle of residential development in this location is not available for consideration as part of this application. The proposal is merely a variation and removal of conditions restricting occupancy of 8 holiday let accommodation units that are already built. The proposal is not for the erection of new residential development and as such the principle of a residential development in this location and the sustainability of such a development proposal is not available for consideration. The issue for assessment is specific to this site and this development in that the application asserts that the development is not a viable concern, that it has been marketed at reasonable valuation and there is no interest in it as a going concern. Further that the individual properties have been marketed at reduced valuations to reflect the restrictive occupancy conditions attached and that no proceedable interest has been identified. These matters are discussed in detail below but the relevant issue here is that these are material circumstances that are specific to this site only. These types of financial considerations are solely material to each individual site and the form and type of development that has been constructed and the circumstances relevant to the locality will inform such matters and will vary from site to site. As such they do not define any standard or establish any form of precedent that must be adhered to and which would restrict the determination of other such proposals on other sites. Other such holiday let facilities in other locations would need to be assessed on their own individual merits and site circumstances. It is also important to note in this context that the current

financial climate is a relevant material factor. This is referenced further below but it should be noted that the economy has worsened considerably since the initial permissions were granted and development took place. These are changed material circumstances in this instance which may not always be prevalent during the future. This is specifically relevant here in respect of the availability of financing from banks for purchase of such restrictive occupancy properties and the viability of fairly small scale holiday let accommodation facilities.

Furthermore the Council in determining any application is duty bound to act reasonably and determine the applications that are submitted on the basis of relevant material considerations and circumstances. As such it is not appropriate or acceptable for any Local Planning Authority to determine an application on the basis of what may possibly happen in the future or what their position may have been with respect to a theoretical situation i.e. a wholly new proposal for residential development. The Council's decision must be defensible and justifiable in the event of an appeal. Refusal on the grounds that a new residential development would be unsustainable in this location would not meet this test.

In terms of the residential conditions that would result from an unrestricted residential occupancy arrangement it is considered that the site layout affords a reasonable level of residential amenity. It is certainly not considered to be the case that the arrangement is so sub-standard in terms of the amenities of future occupants that all other material considerations are overridden and consent should be refused. It will however be necessary to remove certain permitted development rights by condition to ensure control over this situation.

The Parish Council has previously objected that work taking place on the Neighbourhood Plan for Oaksey in respect of housing will be rendered redundant by approval of this application. This application is not a proposal for new residential development and cannot be assessed in those terms. The Wiltshire Core Strategy and the strategy for housing policies in Neighbourhood Plans (Policy CP2 is relevant) are framed as approximate requirements and clearly envisage that Neighbourhood Plans have the scope to propose additional housing over the minimum requirements identified. The Core Strategy Examination Inspector has also published an initial letter to the Council dated 2/12/13 which sets out his assessment that the housing requirement should be increased. As such the position is subject to amendment and work is ongoing. The preparation and evolution of Neighbourhood Plans is a part of that process. The Parish Council also refers to Wiltshire Council Enforcement Action in respect of breaches of the Holiday Let conditions. There are two investigations underway and no formal action taken. One relates to the use of units 1 and 9 both of which have been sold separately and are not the subject of this application. The second investigation relates to the failure to maintain a guest register. It is not considered that this matter is so significant as to affect the consideration of this application in and of itself. Indeed it has yet to be demonstrated that this is in fact the case.

### **History & Conditions**

In this instance the site history demonstrates that the Council has sought to ensure as far as it was able that the development would not lead to an unfettered residential development in this location, whilst also being supportive of a business venture that also provided leisure facilities within the local community. To this end permissions were issued but with restrictive conditions in place e.g.

N.89.3470.F

*5 Each holiday unit (numbered 1-6 on the plans hereby approved) shall only be occupied by any single party for a period not exceeding 3 calendar months in any one period of 12 calendar months.*

*Reason: To restrict the use of the units to holiday accommodation. The site lies in an area where new dwellings are not normally permitted.*

N/02/01841/FUL

*7 The development shall only be used as holiday accommodation and no person shall be in occupation for more than 42 days in any calendar year.*

*Reason: To ensure that the development is not used as permanent accommodation or as dwellings.*

These conditions were the subject of a subsequent application for variation to reduce the level of restriction and extend the period of use which was also refused by the Council. This decision was appealed and that appeal was allowed resulting in the following condition be applied:-

*The buildings shall not be occupied other than for holiday accommodation, and shall not be occupied from 6 January to 5 February inclusive in any year, and shall at no time be used for permanent residential accommodation.*

This condition was then also subject of four separate applications for variation of the terms as it related to separate units at the site all of which were approved. The applications also sought to vary condition 7 attached to 02/01841/FUL.

These resulted in conditions 8, 9 and 10 as referenced in section 5 above. Condition 8 is of specific relevance in this regard as restricts the use to holiday accommodation but places no time limit in this regard.

Whilst this approach to the site could be viewed as an attempt to progressively remove restrictions it could also be argued that both parties have sought to achieve a balanced approach to the occupation of the site and to apply conditions that maximise the possibility for the facility to be used as originally intended – holiday accommodation. The ongoing change to the terms of the restriction being evidence of the need to have greater flexibility in the terms of the holiday use to maximise the desirability of the location and broaden the market sector. Effectively representing an effort by the applicants and owner of the site to maintain a viable business. The fact is that the original conditions applied were deemed to be unreasonably restrictive by an Inspector considering the matter and the appeal against that restrictive approach was allowed. The Council has subsequently sought to maintain its support for the holiday accommodation business. That earlier appeal decision remains a material planning consideration and is of increasing relevance given the changed economic circumstances and the submitted market viability appraisal.

It is also important to note that the applicant has discharged several of the other conditions relevant to the site and that should consent be granted these could not be reimposed.

## **Market Viability Appraisal**

The applicant has submitted a Market Viability Report prepared by Strutt and Parker Chartered Surveyors. The report was prepared in behalf of administrators Price Waterhouse Cooper after Oaksey Park Limited was forced into administration. The purpose of the report as per the Instruction to Strutt and Parker was to assess the viability of and market for the Holiday Accommodation and the market for and viability of an alternative unfettered residential use for the site. In respect of the Holiday Accommodation the report concludes that:-

- Trading at a loss for the last three years
- Hosesons have pulled out as commercially unviable.
- Price Waterhouse Cooper state that holiday use is also unviable with no foreseeable prospect of future growth.
- Strong competition, particularly from Cotswold Water Park

On this basis it concludes that the use is commercially unviable.

With respect to a use as unfettered residential accommodation the report identifies that this is a good long term investment with steady demand and that it would be commercially viable.

The Council sought independent assessment of this submitted Market Viability report. This report has not been published as it contains commercially sensitive and personal financial information. This approach has been disputed by several interested parties and local residents. A great deal of such information and assessments submitted with a wide range of planning applications throughout the country are treated in this manner. This is not unusual and is indeed a quite common occurrence, examples include the change of use of public houses to residential and their related viability reports and assessments. The submitted market viability report of the applicant has been made publicly available for review and comment however and a number of objectors have made their submissions in that regard as summarised above and in further detail below.

Initially the Case Officer sought the input of the Council's Estates Department but it was identified that the issues at hand, including valuations of and the market for Holiday let accommodation, were areas of specialist knowledge and expertise which was not available within the Council. As the case officer sought independent specialist assessment on behalf of the Council and instructed a private firm of Chartered Surveyors – Chesterton Humberts. The instruction was specifically to assess the applicant's submitted market viability report and to consider whether or not this was reasonable and sound in respect of the removal of conditions for the 20 units. As noted above subsequent discussions between the applicants surveyors' and Chesterton Humberts resulted in some confusion and a partial assessment relating the marketing of individual units (8 in total was completed). In so doing Chesterton Humberts considered both the viability of disposal of the 20 units as a going concern; also the viability of the sale of 8 individual units with the relevant restrictive conditions in place. This assessment also considered the marketing that took place and the valuations placed on the 8 units.

In undertaking the initial assessment Chesterton Humberts sought and received additional detailed information as to the marketing process and results that had taken place from the applicant.

The resubmitted independent assessment undertaken on behalf of the Council concludes that:-

- the marketing was reasonable and appropriate in relation to the 8 properties that are the subject of the current application;
- the valuations placed on the units individually was reasonable and appropriate (subject to caveat discussed below);
- the development as a whole going concern is unviable given the offer available and competition in the locality;
- the 8 units cannot be sold individually with the restrictive conditions in place as finance is not available from the banks.

With respect to the operation as whole no offers were identified in the recent marketing process. With respect to the sale of individual units offers were initially received however when these were investigated for progression it became apparent that the individuals making the offers could not obtain financing from their banks and as such were not “proceedable”.

Chesterton Humberts in their report do identify that with respect to the marketing and viability appraisal of the facility as a whole going concern the associated costs were significant. Indeed these incorporated the management and running costs associated with financing the purchase of the facility. The assessment was therefore undertaken on the basis of a reduction in these administrative costs with a significant discounting of the initial purchase prices. The report identifies that even with this discounting in place and with a reasonable level of overheads attached to the business acceptable levels of profitability were not available and as such the business as a whole going concern could not be considered as viable. Chesterton Humberts have stated that should the properties be offered to third parties at nil or close to nil value i.e. very heavily discounted/subsidised then a viable operation may be achievable. This has been a suggestion of some of the Third party objectors. However it is considered wholly unreasonable to require any landowner or business to dispose of assets at nil value merely to seek to maintain an established land use, which then may or may not prove to be viable in the longer term for a different operator/owner. It is not considered that such an approach, refusal of the application on this basis, would be defensible and justifiable in an appeal situation.

It should also be noted that a third party (a local resident who has previously investigated purchase of the facility) made representations to the Council regarding viability and available financial information. They have made submissions of their own in this regard and these were forwarded to Chesterton Humberts for review and consideration. Specifically Chesterton Humberts were asked to consider whether the further information affected their assessment in any way and altered their submitted assessment. Chesterton Humberts clearly stated that the information did not change or alter their assessment.

It must be made absolutely clear that Chesterton Humberts are a firm of Chartered Surveyors and as such they were instructed to examine the marketing information and viability matters only. Chesterton Humberts were not instructed to consider wider issues such as the principles of residential development in this location or indeed comment on the determination of the application in any way. This is the responsibility of the case officer and as noted the merits or otherwise of residential development in this location are not available for consideration as part of this application in any event.

## **S106**

The application proposal would result in unrestricted residential use of the site and in all likelihood the sale of properties individually and thereby creating a new permanent residential community in this location. The current ly revised application relates to 8 units only but there is a potential for 12 further units to be similarly considered should the applicant choose to market those properties and propose the removal of conditions afterward. Certainly the evidence before the Council (the terms of the original application) indicates that this is the intention of the applicant. As such consideration of the impact of the new residential community on existing services and infrastructure in the context of the Council's adopted policies C2 and CF3 of the NWLP in a two phase approach has been undertaken. As identified in the Consultations section above Open Space, Education and Waste Collection requirements have been identified as necessary requirement arising from this development. In making the assessment of need consideration has been given to the Council's adopted policies supporting assessment information and the location of the site outside a defined settlement. On this basis the following requirements are considered to be necessary and justifiable:-

### **Education**

In relation to the 8 units that are the subject of the current application 2 secondary school places are generated that cannot be accommodated within existing facilities. 2 primary school places are generated but can be accommodated within existing infrastructure. Existing secondary school capacity can be enhanced and so a financial contribution of £38,310 for secondary infrastructure is required based on current school place cost multipliers.

### **Open Spaces**

The site lies adjacent a golf course and is within the open countryside but is not well related to major centres of population and existing public open space provision. Given the site circumstances and scale of residential accommodation that would result it is considered that on site provision of a children's Local Equipped Area for Play (LAP) is necessary and justifiable in relation to the 20 units originally proposed but no provision either on site or in terms of financial contributions could be justified in relation solely to the 8 units. This position can be addressed by the inclusion of a trigger for on site provision of play space (in a specific location and form to be agreed with the Council) should the second phase of 12 units ever be subject of a planning permission for removal of the restrictive occupancy conditions. Officers recommend that this would be most effectively maintained through a private management company arrangement and again this can be achieved by covenants for agreement of terms in a S106 agreement.

### **Waste Facilities**

Officers identified a requirement for waste collection facilities (wheelie bins) and seek a financial contribution for provision for each of the twenty dwellings equating to £2,420. The applicant has however identified that there is already existing provision of such facilities at the site. As such it is agreed that further financial contributions are not justifiable in this respect.

These requirements have been identified and discussed with the applicant who has agreed to address matters through the preparation of a Section 106 agreement, in this instance a Unilateral Undertaking is proposed. A draft has been submitted for agreement but this has only just been received at the time of writing the report and legal review of the terms and conditions is required. As such the recommendation is to

delegate authority to the Area Development Manager to grant consent subject to the finalisation of this agreement.

#### **Phase 4 of the Development/Extant Permission**

It should be noted that a final phase of development of holiday let units at the site remains unimplemented and is not covered by the current application proposals to remove restrictive occupancy conditions. The consent remains extant given the implementation of earlier phases and related works. An application to discharge conditions relevant conditions has been submitted. Officers were concerned that this indicated some level of intent on the part of the applicant which would therefore undermine the assertions as to viability and demand for the existing units that are the subject of this application. Officer sought Legal advice as to what if any action could be taken with respect to the consideration of the discharge of conditions and possibility of voiding the permission of the final phase of development. The advice received is that if the details are acceptable it would be unreasonable to withhold formal discharge of conditions and such an approach would not be justifiable or defensible..

With regard to the invalidation of the original permission with respect to the phase 4 development legal advice is that once a planning permission is granted it will continue in force. Where partially implemented it remains extant. In certain circumstances the grant of subsequent applications may make it impossible to complete implementation of the original consent, for example where the uses permitted are incompatible or there are physical constraints to the implementation of the two different permissions. Given the facts of this case in terms of the form and layout of the site and the remaining consented phase of development and given the compatible nature of the uses that would be permitted (holiday lets and residential units) the Legal team do not consider that there is an issue of incompatibility that would invalidate the phase 4 consent.

Should the phase 4 consent be implemented and then an application to vary or remove conditions be submitted on the grounds of viability the site history and in particular the position with regard to the current application and any future second phase application relating to the 12 units not covered herewith would be material considerations. It is officers' opinion that it would be impossible to justify the erection of the phase 4 units and then apply shortly thereafter for removal of conditions on the grounds of viability. It would be apparent to all parties that the investment should not have taken place because the units were known to be unviable.

The applicant has verbally commented that there is no intent to proceed with implementation of this phase 4 and that the purpose of discharging conditions relates to the valuation of the property as whole in relation to current financing arrangements.

#### **10. Conclusion**

It is considered that it has been satisfactorily demonstrates that the existing development of 20 holiday let units is not viable as a going concern and that adequate marketing of the facility at a reasonable valuation has been undertaken. Similarly it is considered that following appropriate and acceptable marketing there is no evidence of proceedable interest in 8 of the individual units with the restrictive conditions applied. There is verifiable evidence that the current business is operating at a loss and even taking into account significant level of discounting that a reasonable and appropriate level of profit cannot be achieved. The Council has sought and received independent assessment of this position. Consequently it is considered that the case has been made to justify removal of the restrictive occupancy conditions subject to the necessary

consequent service and infrastructure requirements being addressed through a S106 agreement.

## **11. Further comments to Meeting of 2<sup>nd</sup> April**

At the Northern Area Planning Committee on 12<sup>th</sup> March 2014 Members resolved to defer making a decision to allow officers to seek further information and address a number of concerns that members raised. The main areas of concern that were identified were:

- Residential amenity, the provision for private amenity space for the units and impact this may have on the appearance of the development
- Details of the proposed legal agreement and contributions sought.
- Impact on Wiltshire Council provided services, in particular Waste collection
- Details of access to the highway
- Interpretation of paragraph 55 of the National Planning Policy Framework.

### *Residential amenity*

This matter was addressed in the report to the 12<sup>th</sup> March NAPC. Under the 'Principle of development' heading the report noted:

"In terms of the residential conditions that would result from an unrestricted residential occupancy arrangement it is considered that the site layout affords a reasonable level of residential amenity. It is certainly not considered to be the case that the arrangement is so sub-standard in terms of the amenities of future occupants that all other material considerations are overridden and consent should be refused. It will however be necessary to remove certain permitted development rights by condition to ensure control over this situation."

Officers have reviewed the existing site layout. Whilst probably not the type of layout that would have been favoured for unrestricted residential occupation, it does afford acceptable levels of privacy and avoids overlooking. Clearly the layout does not provide private areas of garden or sitting out space, but these issues could be addressed with the introduction of fences or other boundary treatments. Any additional fencing will require permission if the proposed conditions are approved and this would give the Council the opportunity to consider what impact these would have on the appearance of the development or the wider landscape.

### *Details of proposed legal agreement*

The details of the proposed contributions and restrictions to be sought are set out in the Officers report under the 'S106' heading. This detailed that a contribution of £38,310 was being sought for education. In terms of public open space there is no contribution being sought at this stage, however should the remaining units be subject to a similar application (to remove the restrictive conditions) this could trigger a contribution:



“the inclusion of a trigger for on site provision of play space (in a specific location and form to be agreed with the Council) should the second phase of 12 units ever be subject of a planning permission for removal of the restrictive occupancy conditions.”

#### *Impact on waste collection*

This matter was also addressed in the report to the NAPC on 12<sup>th</sup> March under “S106”:

“Officers identified a requirement for waste collection facilities (wheelie bins) and seek a financial contribution for provision for each of the twenty dwellings equating to £2,420. The applicant has however identified that there is already existing provision of such facilities at the site. As such it is agreed that further financial contributions are not justifiable in this respect.”

The units are existing and could be occupied year round, albeit by ‘holiday makers’ rather than permanent residents. Both types of occupiers will create waste and this will need to be collected. The impact on waste collection at the site will be little different should the restrictive conditions be lifted.

#### *Details on Highways access*

Officers indicated at the NAPC Meeting on 12<sup>th</sup> March that access was afforded to the site via two points of access. However, whilst an access does exist from Wick Road to the east of the site this is not generally used. The principle point of access is via the main ‘golf course’ access to the south of the site.

The highways team has confirmed that they have no objection to the proposals. As with the comments on waste collection above the difference between traffic generated by the units with the restrictive conditions applied and an unrestricted residential unit is very minor. The access to the site is considered acceptable to serve the golf course plus the existing units and the, as yet to be implemented, phase iv units. Officers consider that it would be difficult to argue that the removal of the restrictive conditions would result in significantly more traffic using the access or that use of the existing access would become a danger to highway safety.

#### *NPPF*

Paragraph 55 of the NPPF seeks to restrict isolated homes in the countryside. This reflects long established policies at both national and local level that only allows for new homes where there is an agricultural justification, reuse/conversion of existing buildings or where a ‘truly outstanding’ design is proposed. However, this application is not for new build units or conversions and the application is not for the change of use of the buildings. In this case the Council is considering removing conditions that restrict the use of an existing group of residential properties. It is not considered that paragraph 55 is particularly pertinent to this proposal. A refusal based on the requirements of paragraph 55 would be difficult to justify.

For clarity Paragraph 55 states:

“To promote sustainable development in rural areas, housing should be located

where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
  - be truly outstanding or innovative, helping to raise standards of design
  - more generally in rural areas;
  - reflect the highest standards in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characteristics of the local area.”

### *Conclusion*

Having considered the matters that members raised in relation to this application Officers consider that the recommendation originally presented to the NAPC meeting on 12<sup>th</sup> March remains appropriate.

## **RECOMMENDATION**

That authority be delegated to the Area Development Manager to grant Planning Permission subject to the conditions listed below and the completion of a section 106 agreement to address education and open space service infrastructure requirements.

### Conditions

1 The development hereby permitted shall be carried out in accordance with the documents (including plans) incorporated into this decision, previously and subsequently approved pursuant to this decision (including details contained within letters dated 16th January 2004, 13th February 2004 and 22nd February 2004 from Nick Stickland Architect and their enclosures and a letter dated 16th February 2004 from Rationel Windows and Doors and its enclosure relating to hard and soft landscaping, external stonework and materials, external lighting and foul drainage), unless otherwise approved in writing by the local planning authority. Site Location Plan, Site Access Plan, Site Plan 09/04/2013. site layout plan Ref 958/10 date stamped 01/08/2013

REASON: To ensure that the development is implemented in accordance with this decision in the interests of public amenity.

2 The approved landscaping scheme (details set out in a letter dated 13th February 2004 from Nick Stickland Architect plus enclosures) shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any

tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of visual amenity in accordance with policy C3 of the North Wiltshire Local Plan 2011.

3 Notwithstanding the provision of the Town and Country Planning General Development Order no fences, walls or other means of enclosure other than those shown on the approved plans shall be erected anywhere on site.

REASON: To ensure that the open areas of the site remain in communal use.

4 The area between the nearside carriageway edge and lines drawn between a point 2.4 metres back from the carriageway edge along the centre line of the access and points on the carriageway edge 160m back from and on both sides of the centre line of the access shall be kept clear of obstruction to visibility at and above a height of 900mm above the nearside carriageway level and maintained free of obstruction at all times.

REASON: In the interests of highway safety in accordance with policy C3 of the North Wiltshire Local Plan 2011.

5 The development hereby permitted shall be served solely from the access shown in drawing c310/1.

REASON: In the interests of highway safety in accordance with policy C3 of the North Wiltshire Local Plan 2011.

6 The workshop / estate yard shall be used only for purposes ancillary to the golf course.

REASON: To prevent an inappropriate independent use.

7. The development hereby permitted relates solely to units 12 – 19 Inclusive as shown on site layout plan Ref 958/10 date stamped 01/08/2013.

REASON: To clarify the extent of the permission.

8. 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), no buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.

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

9. 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), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the roofslope(s) of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

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), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

**INFORMATIVES:**

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990.

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

**Background Documents Used in the preparation of this Report:**

- Application Documentation including Strutt and Parker Market Viability Report and Additional Supporting Information
- Chesterton Humberts Assessment of the Market Viability Report



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## REPORT TO THE AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	2 April 2014
<b>Application Number</b>	13/05989/FUL
<b>Site Address</b>	Land opposite 21 Greenhill Wootton Bassett Wiltshire SN4 8EH
<b>Proposal</b>	Erection of a New Dwelling After Removal of Existing Building
<b>Applicant</b>	Mr S Patnaik
<b>Town/Parish Council</b>	LYDIARD MILLICENT
<b>Ward</b>	WOOTTON BASSETT EAST
<b>Grid Ref</b>	406803 186209
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Charmian Burkey

### Reason for the application being considered by Committee

The application has been called to Committee by Cllr Groom to consider where the site can be described as an exception site.

### 1. Purpose of Report

To present a case for refusal of the application.

### 2. Report Summary

The application is for the removal of the existing buildings to be replaced by a dwelling with double garage. The site lies within the open countryside within the cluster of houses known as Greenhill. No case has been put forward to justify the application on agricultural, forestry or other rural based need. The proposal is therefore contrary to well established and recognised policy to restrict new housing in the countryside and is contrary to policies C3 and H4 of North Wiltshire Local Plan 2011 and advice in section 11 of the National Planning policy Framework 2012.

### 3. Site Description

The site is currently overgrown and disused, although clearly a former farmyard. There is a poor quality dutch barnlike structure and several other smaller buildings on the site together with some covered over spoil.

The land to the south east is in the same ownership and is of similar description. There are a row of cottages further to the south and properties opposite. In general terms the dwellings are very loose knit with significant spaces in between.

Greenhill itself is a no through road which merely serves the dwellings along it. In places it is single track in width.

#### **4. Planning History**

There is no relevant planning history.

#### **5. The Proposal**

The proposal is to remove the buildings that are currently on site and to build a stone cottage with rooms in the roof to provide 3 bedrooms. The proposal has a modern barnlike entrance feature to the front – north elevation. The garage would be sited towards the rear of the site. The access will be via the existing access. A barn to the south east of the dwelling will be retained, but falls outside the ownership of the applicant.

#### **6. Planning Policy**

Policies C3 and H4 of the North Wiltshire Local Plan 2011.  
Section 6 of the National Planning Policy Framework 2012 on Delivering a wide choice of high quality homes.

#### **7. Consultations**

Lydiard Millicent Parish Council has made the following comments:

The Parish Council would like to support this application. They would wish to see the applicant placing drainage adjacent to the road either ditched or piped.

There is a long term issue along Greenhill whereby many of the original ditches have been filled in. This has led to water cascading down the road when it rains, into the turning circle and often gardens at the bottom of the road. Much deliberation has been given to this issue, and no long term solution has been found. Therefore all new building work needs to help resolve the current issue by installing necessary drainage. They would like confirmation of the boundaries to this application, and the ownership of all the land and buildings to be demolished. It appears on the plans as though some of the land and buildings on this application does not belong to the applicant. (ATL – there is indeed a single building between the site and the other land that falls within the applicant's ownership, which will remain) The overall reaction to this application is that it will remove an eyesore from Lydiard Green.

Highways object/raise concerns on the following grounds:

The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport is contrary to key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. I also have the following concerns that need to be addressed:

I have concern relating to the access, I will require a drawing that demonstrates a visibility splay of 2.4m x 25m. During my site visit I note that there is overgrown vegetation from the hedgerow in relation to the access.

☐

I also have concern relating to parking and turning demonstrated on drawing LPC.33493.13.02, the scale does not appear to work at 1:200/A3. I require this clarified.

☐

It needs to be clarified what is happening with the barn and how this is legally accessed and for what purpose it can be used.



Ecology's comments are awaited.

## **8. Publicity**

The application has generated 12 letters of objection for the following reasons:

- The proposal is out of keeping with the area.
- It would set a precedent.
- Lead to loss of wildlife.
- Lead to sporadic development.
- Contrary to the principles of sustainability.
- Increase in traffic.
- Not within the definition of brown field sites.
- Increase in potential run-off.

2 letters of support have been received.

The applicant has responded to concerns expressing the problems of fly tipping and anti social behaviour that has occurred at the site.; his desire to clear the site and create a family home; the dereliction and safety issues with the current buildings; the cost of clearing the site; the potential use of local materials and labour; sustainable heating and construction systems.

## **9. Planning Considerations**

The proposal is a site within open countryside where there is a long established presumption against residential development unless there is a justification for an essential need for a presence for agriculture, forestry or other rural based business. No such case has been put forward by the applicant.

The site is currently overgrown and unused, but this is not an unusual scenario in the Wiltshire countryside and certainly not one which can be used to justify a new residential property.

The issue of fly tipping and anti social behaviour is a private matter and again not one that can be used to justify granting planning permission for a new dwelling. Again it is a scenario that could be too often repeated.

The site lies away from amenities and services and would thus be in an unsustainable location being heavily dependent on the private car for means of access.

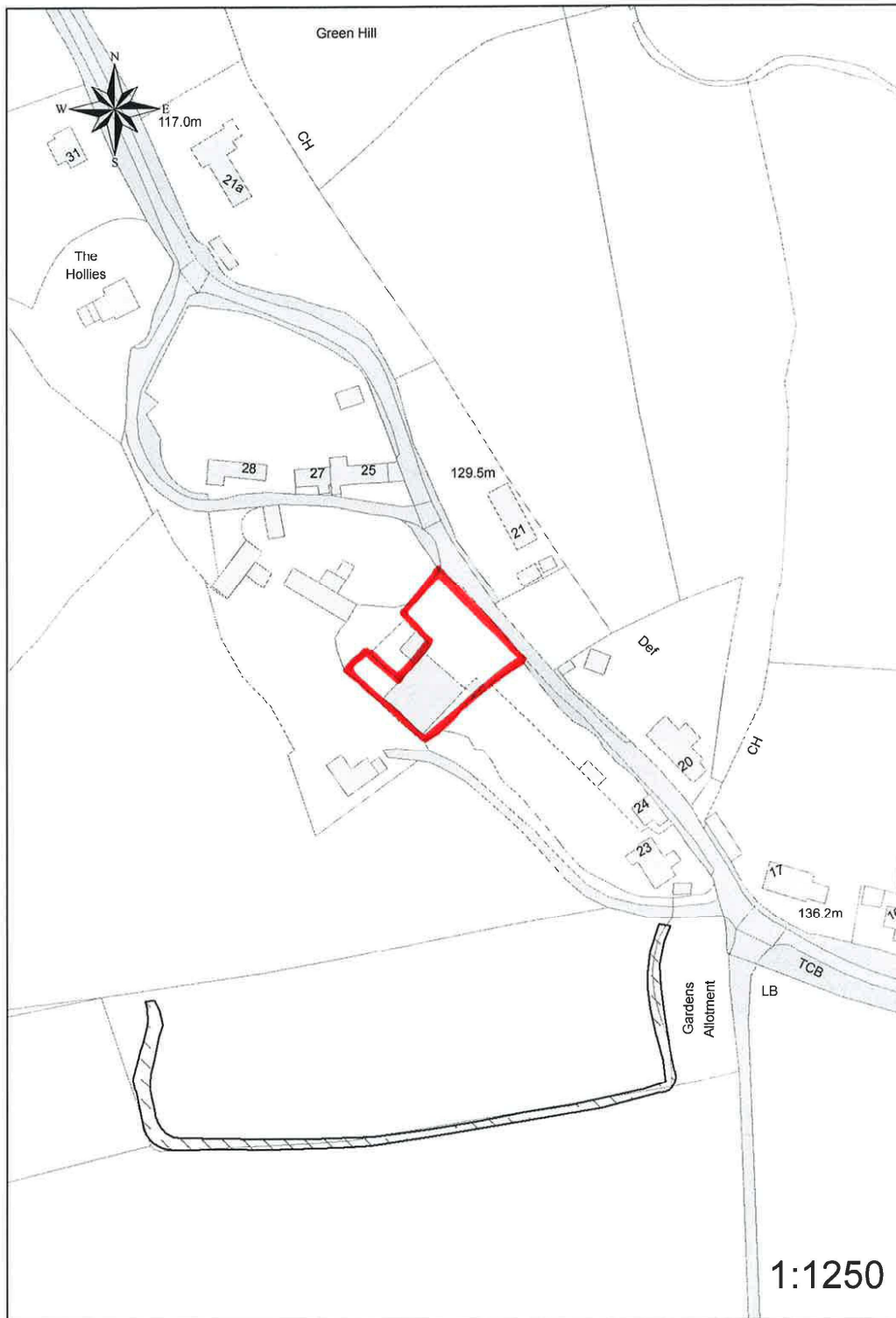
There is no justification for this new house in the countryside and the application is recommended for refusal

## **RECOMMENDATION**

Refusal for the following reasons:

- 1) The proposal is for a new dwelling in the countryside without special justification contrary to policies C3 and H4 of the North Wiltshire Local Plan 2011 and guidance given in 6 of The National Planning policy Framework 2012.
- 2) The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport is contrary to key aims of local and national

sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. It is therefore contrary to policy C3 and the tenor and guidance given in National Planning Policy Framework 2012.



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## REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	2 April 2014
<b>Application Number</b>	13/06430/OUT
<b>Site Address</b>	Hunting Villa Farm Hunts Mill Road Royal Wootton Bassett Swindon SN4 7FS
<b>Proposal</b>	Dwelling in Association with Equestrian Enterprise
<b>Applicant</b>	Mr Nick Hussey
<b>Town/Parish Council</b>	ROYAL WOOTTON BASSETT
<b>Ward</b>	WOOTTON BASSETT SOUTH
<b>Grid Ref</b>	405380 181653
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Charmian Burkey

### Reason for the application being considered by Committee

The application has been called to Planning Committee by Cllr Hurst to assess the principle and sustainability of the proposal.

### 1. Purpose of Report

To Recommend that the application be REFUSED.

### 2. Report Summary

The application is for a permanent dwelling to be occupied in connection with an equestrian breeding enterprise to be established on the land. It is not considered that there is sufficient justification for any dwelling on the land given the information provided and as a new business on the site, should such a justification be agreed in the future, a temporary dwelling only should be allowed to allow the business to prove itself.

Royal Wootton Bassett Town Council have raised no objections. There have been 8 letters of support.

### 3. Site Description

The site is largely open fields with a stable block granted under 09/01551/FUL for 6 stables which are sited to the east of the holding. There is the access track to properties beyond which separates the flatter land to the north, which lies within flood zone 2/3 from the gently rising ground to the south, which is partly paddock and partly where the dwelling is to be sited.

#### **4. Planning History**

93/00333/FUL – Use of land to site a mobile home for an agricultural worker – Refused

09/01551/FUL – Change of Use of Land to the keeping of horses and erection of stable block – permitted.

#### **5. The Proposal**

The proposal is in outline but for a permanent dwelling to serve the proposed equestrian business, although all matters (and therefore siting) is reserved for later approval.

#### **6. Planning Policy**

The relevant planning policies are C3 and H4 of the North Wiltshire Local Plan 2011 and guidance given in Section 7 of the National Planning Policy Framework 2012.

#### **7. Consultations**

Royal Wootton Bassett Town Council resolved not to object to this proposal .

Highways Officers: The site for the proposed dwelling is clearly in open countryside in policy terms and an objection on sustainability grounds would be appropriate if the agricultural need is not demonstrated. The available site is large enough to accommodate any necessary parking and turning arrangements.

There have been previous concerns about intensification of use of the access to A3102 (Old Park Farm) by larger, slow turning vehicles associated with equestrian use. However, the highway authority have been happy to accept an intensification of use subject to a restriction on the use of the stables in order to keep the number of movements in line with an accepted agricultural use. Some details are given as to the likely traffic generation of the current proposals. I am minded that a “stud” use is likely on balance to produce movements along the lines of an agricultural use.

Given the location of the proposal I am minded to raise an objection on the grounds of sustainability for the following reason:

The proposal, located remote from services, and being unlikely to be well served by public transport, is contrary to the key aims of both National and Local Planning Policies which aim to encourage sustainable development.

(The applicant has commented that they are not remote from services being served by the post office, refuse, BT, electricity, water etc. However in planning terms this is not what is meant by remote from services. In the planning context it is remote from shops, schools, doctors etc)

Technical Services Team do not require a contribution to Public Open Space as the site lies outside the threshold.

The County Archaeologist does not object.

The Council's agricultural consultant's report is available online, but states in his conclusion that: The existing business does not in my opinion present an essential need for a presence

at most times. No financial information has been supplied in relation to either the current or the proposed business.

## **8. Publicity**

8 Letters of support have been received including one from the applicants vet.

No letters of objection have been received.

## **9. Planning Considerations**

The applicant's business is the breeding and keeping of horses. There is currently one brood mare on site due to foal this spring together with a companion. The broodmare is well bred and it is anticipated that the foal will be a high quality thoroughbred. Whether the foal will be kept or sold will depend on its quality, but the identified intent is to break the foals in their third year to be sold on or transferred to racing.

The applicant plans to expand the current business so that between 2 and 3 mares will be foaled annually. The mares will either belong to the applicant or a third party on a contract arrangement. The express aim of the business is to attract high quality and value thoroughbred mares.

At capacity there will be 3 brood mares in foal; three foals at foot; three yearlings; 3 two year olds and three approaching three year olds to be moved on.

The applicant also proposes a barn (not part of this application) and to coppice willow for biomass fuel.

The proposal is that the business will provide full time employment for the applicant.

The proposal is for a detached dwelling for the applicant to live in with his family. The application is in outline with all matters reserved although an indicative plan has been supplied showing the dwelling in the south west part of the site. The dwelling would be a new house in the countryside and therefore need the special justification of essential need for someone to live at the site the whole time. The applicant argues that the essential need is generated for the supervision of high value equines and animal welfare and foaling.

The council's agricultural consultant acknowledges that the timing of foaling is often uncertain and neo natal foals require care and attention. It is recognised that owners may well be unwilling to allow their mares to be kept on site without full time supervision. However, that expectation follows from the owner's requirement rather than that of animal husbandry. In any event the requirement is only for one mare currently and will be for a maximum of 3.

It should be noted that no control can be imposed from a planning point of view about the quality/value of the horses kept at the site.

There is no express reference within the National Planning Policy Framework to an assessment of either an existing or proposed business which will operate with the rural dwelling. However, it seems critical that this is assessed as part of the essential need. If the business does not progress as anticipated to be profitable and viable, the authority could be left with a dwelling with no essential need.

There is no financial information with the application to demonstrate the trading position of the business, as it stands, nor any supplied in terms of the business proposal.

The application is therefore in simple terms an application for a dwelling to currently look after one broodmare, companion and foal with no information about how this might generate an income. In the longer term there will be young stock on the holding (mainly at grass) and 3 broodmares for foaling. As stated above the authority can have no control over the types and values of the horses.

## **10. Conclusion**

The application is therefore for a new dwelling in the countryside without sufficient justification and is thus contrary to policies C3 and H4 of the North Wiltshire Local Plan 2011 and guidance contained in section 6 of the National Planning Policy Framework 2012. With new businesses the application should be for a temporary dwelling (although the Council does not consider one could be justified with the information supplied), to allow the business plan to be implemented and profitability established.

Additionally, it is considered that without the required special justification the proposal is remote from services and is therefore unsustainable.

## **11. RECOMMENDATION:**

Refusal for the following reasons:

- 1) The application is for a new dwelling in the countryside without sufficient justification and is thus contrary to policies C3 and H4 of the North Wiltshire Local Plan 2011 and guidance contained in section 6 of the National Planning Policy Framework 2012.
- 2) The proposal, located remote from services, and being unlikely to be well served by public transport, is contrary to the key aims of both National and Local Planning Policies which aim to encourage sustainable development. It is therefore contrary to policies C3 of North Wiltshire local Plan 2011 and the advice and tenor the guidance given in the National Planning policy Framework 2012 on promoting sustainable development.

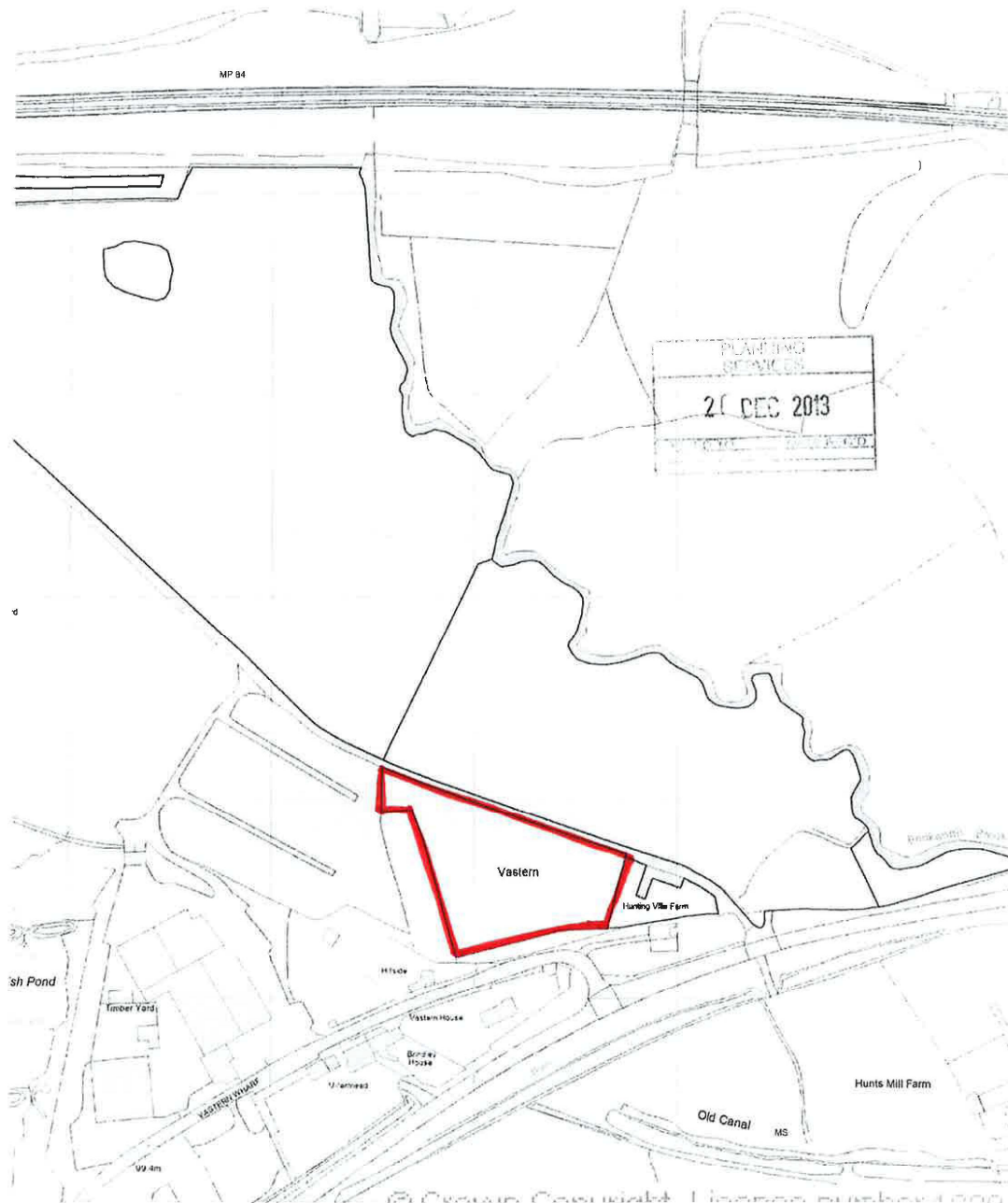


13/06430

Streetwise

Enabled by  
Ordnance  
Survey

HUNTING VILLA FARM SITE LOCATION PLAN  
AREA 36 HA  
SCALE 1:2500 on A3  
CENTRE COORDINATES: 405309, 181789



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