

AGENDA

Meeting: Strategic Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 11 February 2015
Time: 10.30 am

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

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

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Briefing Arrangements:	Date	Time	Place
PARTY SPOKESMEN	Monday 9 February	3.30pm	Kennet Room, County Hall

Membership:

Cllr Andrew Davis (Chairman)	Cllr Charles Howard
Cllr Tony Trotman (Vice Chairman)	Cllr David Jenkins
Cllr Glenis Ansell	Cllr Bill Moss
Cllr Trevor Carbin	Cllr Christopher Newbury
Cllr Terry Chivers	Cllr Fred Westmoreland
Cllr Stewart Dobson	

Substitutes:

Cllr Ernie Clark	Cllr Paul Oatway
Cllr Brian Dalton	Cllr James Sheppard
Cllr Bill Douglas	Cllr Nick Watts
Cllr Mary Douglas	Cllr Ian West
Cllr Dennis Drewett	Cllr Jerry Wickham
Cllr George Jeans	Cllr Graham Wright

PART I

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

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 8*)

To approve and sign as a correct record the minutes of the meeting held on 21 January 2015.

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 Chair.

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 10.20am 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 (acting on behalf of the Corporate Director) no later than 5pm on **Wednesday 4 February 2015**. 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 **14/05997/FUL - Former Autechnique Site, London Road, Salisbury, SP1 3HN - Demolition of existing buildings and erection of Class A1 foodstore (1,585 sq.m. gross) and associated access, decked car parking and landscaping and additional Park and Ride parking for ALDI Stores Ltd. (Pages 9 - 42)**

A report by the Case Officer is attached.

- 7 **14/10797/FUL - Greenacres Mobile Park, Semington, Trowbridge, BA14 6HL - Change of use of agricultural land to create 7 additional Gypsy and Traveller pitches with associated ancillary development (Pages 43 - 58)**

A report by the Case Officer is attached.

- 8 **14/11256/VAR - The Poplars Residential Park, Poplar Tree Lane, Southwick, BA14 9NB - Variation of Condition 1 of planning permission W/12/00537/FUL to state the site shall not be occupied by any persons other than gypsies and travellers (Pages 59 - 90)**

A report by the Case Officer is attached.

- 9 **Date of the Next Meeting**

To note that the next meeting is scheduled to be held on Wednesday 11 March 2015 at County Hall, Trowbridge, starting at 10.30am.

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

STRATEGIC PLANNING COMMITTEE

DRAFT MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 21 JANUARY 2015 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Andrew Davis (Chairman), Cllr Tony Trotman (Vice Chairman), Cllr Glenis Ansell, Cllr Trevor Carbin, Cllr Terry Chivers, Cllr Charles Howard, Cllr David Jenkins, Cllr Bill Moss, Cllr Christopher Newbury, Cllr Fred Westmoreland and Cllr Jerry Wickham (Substitute)

Also Present:

Cllr Roy While

1 Apologies for Absence

An apology for absence was received from Cllr Stewart Dobson, who was substituted by Cllr Jerry Wickham.

2 Minutes of the Previous Meeting

Resolved:

To approve and sign as a correct record the minutes of the previous meeting held on 10 December 2014.

3 Declarations of Interest

Cllr Terry Chivers declared a non-pecuniary interest in Minute No. 6 below as he was a member of Melksham Without Parish Council. He stated that he would speak and vote on the application with an open mind.

4 Chairman's Announcements

There were no Chairman's announcements.

5 Public Participation and Councillors' Questions

There were no questions received from members of the Council.

Members of the public addressed the Committee as set out in Minute No. 6 below.

6 **14/07526/OUT - Land East of Semington Road, Melksham, SN12 6DP - Erection of up to 150 dwellings with access, new village hall and areas of open space**

The following person spoke against the proposal:

Mr Martin Haffendon, a local resident

The following people spoke in support of the proposal:

Mr Mike Robinson, the agent

Cllr John Glover, representing Melksham Without Parish Council

The Committee received a presentation by the Area Development Manager and the Case Officer which set out the main issues in respect of the application. The report was introduced which recommended that planning permission be refused.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Members then heard the views of Cllr Roy While, the local Member, who while generally supporting the application, recognised the issues it raised with the Core Strategy. He recognised that there were other outstanding applications for housing development within the parish of Melksham Without.

During discussion Members expressed concern about the site being located outside the limits of development in the Melksham area as set out in the Wiltshire Core Strategy as adopted by Council the previous day.

Resolved:

To refuse planning permission for the following reasons:

1. The site is located outside of the limits of development defined for Melksham in Core Policy 2 of the Wiltshire Core Strategy. It lies outside of the existing built area of the 'small village' that Berryfield is defined as in Core Policies 2 and 15 of the Wiltshire Core Strategy (where development is limited to infill only). The proposal would therefore conflict with Core Policy 2 of the Wiltshire Core Strategy.

2. The site is located in an area of open countryside that plays an important role in the landscape of physically and visually separating the

settlements of Melksham and Berryfield. The siting and construction of the proposed development would fail to respect this important function resulting in a detrimental and unacceptable change in landscape character urbanising the area between the settlements of Melksham and Berryfield and resulting in their physical and visual coalescence. The proposal would therefore conflict with policies CP1, CP15 and CP51 of the Wiltshire Core Strategy.

3. The proposal conflicts with the Delivery Strategy set out in Policy CP2 of the Wiltshire Core strategy, which seeks to properly plan for sustainable development of housing sites in Wiltshire to deliver the identified needs in the Community Areas through a Site Allocations DPD and/or a Neighbourhood Plan, a strategy supported by both the Wiltshire Core Strategy Inspector, and the Secretary of State in his appeal decision at Park Lane, Malmesbury. The site has not been brought forward through this process and the adverse impacts identified in reasons 1 and 2 above reinforce the need for the delivery strategy required by policy CP 2 as the properly planned method of establishing the most sustainable sites for meeting the housing needs of Melksham.

7 **Date of the Next Meeting**

Resolved:

To note that the next meeting was due to be held on Wednesday 11 February 2015 at County Hall, Trowbridge, starting at 10.30am.

(Duration of meeting: 10.30 - 11.20 am)

The Officer who has produced these minutes is Roger Bishton, of Democratic & Members' Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

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

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REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	11 th February 2015
Application Number	14/05997/FUL
Site Address	Former Autechnique Site, London Road, Salisbury, SP1 3HN
Proposal	Demolition of existing buildings and erection of Class A1 foodstore (1,585 sq.m. gross) with associated access, decked car parking and landscaping, and additional Park and Ride parking.
Applicant	ALDI Stores Ltd
Town/Parish Council	LAVERSTOCK
Ward	LAVERSTOCK, FORD AND OLD SARUM
Grid Ref	415635 131506
Type of application	Full Planning
Case Officer	Becky Jones

Reason for the application being considered by Committee

1. Purpose of Report

The application raises strategic issues for the Council, relating to disposal of land in its ownership. The Park and Ride site which forms part of the application site is owned by Wiltshire Council. The Autechnique site lies to the south west and is currently being sold by the Receiver. Aldi wish to acquire about 0.25 acres of the Park and Ride site which at this point, is well below road level. The difference in levels has offered Aldi the opportunity to create a flying deck over the top of the Park and Ride to provide 90 car parking spaces for the food store. It is also proposed to increase the extent of park and ride car under to new deck to create an additional 48 spaces after completion.

This matter was considered by the Cabinet Capital Assets Committee on 23rd July 2014 and the Parking Services team raised no objection to the proposal. It was resolved that the Committee would delegate authority to officers to dispose of this part of the Park and Ride site at London Road, so long as there is no *permanent* loss of parking spaces.

Members are invited to consider the impact of the proposed foodstore on the vitality and viability of the city centre and future investment, the scale and design of the development, visual and landscape impacts, the impact on car parking, the park and ride site and the strategic road network. The impact of the proposed Aldi store in comparison with two other current superstore applications by Asda and Sainsburys are also examined in the report.

2. Report Summary

To consider the above application and the recommendation of the Area Development Manager that planning permission should be APPROVED subject to conditions and a suitable S106 legal agreement.

3. Site Description and Context

The site is situated towards the southern edge of Bishopdown and is accessed from London Road, which is the main route to the city centre from the north. The site is located on a strip of land bounded by the London Road to the west and the railway to the east. It sits in an elevated position above the railway line and the river valley. The application site is the former Autechnique site which was used as a car showroom, and extends to about 0.4 hectares with the additional area over the park and ride being 0.2 hectares. The site has remained vacant for some time and consists of a number of derelict buildings. The main car showroom buildings are constructed from steel with glazing. Low metal rails demarcate the site boundary with London Road. Brick retaining walls and a close board fence separate the site from the park and ride to the north. A retaining wall continues round the north east corner and a portion of the east boundary, supporting the existing buildings which are close to the edge of the site. A 1.8m high chain link fence marks the edge of the site beyond the retaining wall and to the south.

The London Road streetscape is defined by a wide grassed strip with shrub planting to the east and a substantial hedge to the west. Mature trees lie to the west of London Road in front of the houses. Housing consists of buff and red brick buildings and cream/white rendered buildings. Some bungalows are faced in brick with render panels.

The Park and Ride site is about 2.5m lower than the main road, screened by planting. The context to the east is formed by the railway and the river valley beyond and housing at the edge of Laverstock can be seen in the distance.

The area immediately to the north is occupied by the Council's park and ride facility. To the south, the site shares a boundary with the garden of a single storey bungalow. Other dwellings and the residential area of Bishopdown lie to the south. The village of Laverstock lies about 2 miles east of the site, beyond the River Bourne. To the south west is Salisbury Crematorium (a listed building). To the north of the park and ride along the London Road is a BP petrol station with an M&S Simply Food and a care centre and leisure facility lie opposite this site. Further to the north is a used car sales lot and BMW dealer which mark the edge of the built up area of Salisbury.

The site sits on the crest of a gradient from where London Road flattens out. There is a fall across the site from front to back of about 3-4 metres. A storey difference can be seen from the park and ride site, with the Aldi site approximately 2.5m higher than the north corner of the park and ride site.

4.Planning History

The site has been derelict for a number of years, and as a result, there is no recent planning history related to the site. Other earlier history is listed below:

82/0587 - Demolition of bungalow & garage & erection of one boat showroom (Sect. 52 rev. order 76/244) AC 18.01.83

89/1740 - Enclose existing canopy area to provide additional showroom A 15.11.89

Various 1989 applications relating to provision of showroom and advertisements.

93/1691 Construction of new car showroom following demolition of existing buildings and alteration to existing access.

02/289 - New building for parts store. New building for secure parking and vehicle preparation. Extend parking area adjacent to showroom. AC 08/04/02

S/2002/289 New buildings for parts store, secure parking, vehicle preparation, extend parking area.

Notwithstanding the above planning history related to the specific site, Members should also be aware that the impact of this application needs to be considered in combination with other major applications for retail and other uses in the area, of which the following are considered of most relevant:

14/03690/FUL – Sainsburys, Southampton Road, Salisbury (currently undetermined)

14/04756/FUL - Asda, Land at Salisbury Retail Park, London Road. (Currently undetermined)

And also the following retail developments approved in recent years:

S/2012/1808 – Dolphin Industrial Park, Southampton Road, Salisbury. Bulky goods retail units plus new car park

S/2009/1943 – Hampton Park 2 – Full planning permission allowed on appeal for 500 dwellings, vehicular access onto Pearce Way, and a Country Park.

S/2007/1460 – ASDA London Road site – Bulky goods retail units and car park

S/2008/0550 – Lidl, Southampton Road, Salisbury. New retail store and car park

S/2010/1274 Tesco, London Road, Amesbury. New retail store and car park

S/2007/1616 – Lidl, Amesbury. New retail store and car park

5. The Proposal

The proposal seeks planning permission for a change of use from sui generis car sales to provide a Use Class A1 Aldi discount foodstore with 90 customer parking spaces. The store would be sited parallel to London Road, with car parking alongside. The proposed net sales area would be 1140 sqm and the gross external area of the store is 1585 sqm.

Given the topography, the narrowness of the site and a mains sewer to the south west (with an easement reducing the developable area) it is proposed to divide the site into two, with the store located to the south of the site parallel to London Road and the parking to the north, with a centralised site entrance accessed at the level of London Road. As the site is small for a store and car park, it is proposed to create a car deck to over sail the park and ride. This would create the 90 spaces for Aldi, and would extend the park and ride under the site to create an *additional* 48 parking spaces for the park and ride. 4 disabled user bays are provided for Aldi, along with eight parent and child spaces and 10 cycle spaces.

The site and parking deck is located as far back from the road as possible to enable provision of a cycle and footpath along the London Road frontage and to reinstate planting. The proposed cycle path would start at the park and ride, continue along the Aldi site and join up with the existing cycle path and footpath on Cheverell Avenue connecting to Laverstock. Aldi would deliver and contribute towards this facility.

A pedestrian crossing would also be provided connecting the site with Seth Ward Drive. The scheme also includes a localised road widening scheme to provide a right hand turn lane into the store.

Stairs have been proposed to the north of the store to link Aldi with the park and ride beneath to enable linked trips to the city centre. Trolleys would be secured in the storage area by a coin operated system.

A scheme of landscaping is also proposed along London Road and the realigned road section. Low level planting is included at the front of the store, adjacent to a footpath. A number of low quality trees are proposed for removal.

The application did not require an Environmental Impact Assessment, but has been submitted together with a variety of reports, including:

- Design and access statement
- Noise Assessment Report
- Arboricultural Impact Assessment and Tree Protection Plan
- Transport Statement and Travel Plan
- Ecological Appraisal
- Historic Environment Appraisal
- Rating of Industrial Noise Affecting Mixed Industrial and Residential Areas.
- Waste Management Plan
- Drainage Strategy
- Geo Environmental Assessment
- (Flood Risk Assessment not required for operational development less than 1 hectare – site is 0.62 ha)

6. Planning Policy

NPPF– Given the scale of this application, much of this guidance is relevant to this application. The most relevant sections and policies are referred to throughout the following report.

Wiltshire Core Strategy adopted 20th January 2015. The most relevant policies of this document are as follows:

- CP 21 – Maltings and central car park
- CP41 – Sustainable construction
- CP36 – Economic regeneration
- CP38 – Retail and leisure
- CP50-52 –Landscape infrastructure and ecology
- CP57 – Design and amenity
- CP58 – Conservation of the historic environment
- CP61 Transport and Development
- CP69 – River Avon SAC

7. Summary of consultation responses

WC Highways – The right turn lane should prevent traffic turning right from holding up flows in London Road. Easy access can be secured by the sustainable footway/cycleway between the park and ride and Cheverell Avenue. Agree with the conclusions of the Travel Plan, therefore no objection subject to a legal agreement to secure the financial contribution towards the footway/cyclepath and conditions to secure: the right turn lane, crossing points, access into the site, turning, parking and servicing areas.

WC Public Protection – On the basis that the equipment is installed in accordance with the noise assessment, there are no comments to make in respect of plant or machinery. No

objections subject to conditions relating to control of external lighting, restrict hours for deliveries and collections, restrict hours of use by the public and access to the car park, restrict hours for construction and demolition. No further comments relating to ground contamination.

WC Ecology – Risk for European protected species is low. Condition to safeguard against pollution from potential contamination would be sufficient to protect groundwater and the River Avon SAC. No objection subject to condition to control risk to birds and reptiles.

WC Design Team – Objection. See Appendix 2. In summary:

- 1) Width of planting strip is inadequate along London Road and requires substantial height wall of quality appearance to mitigate the loss of hedge and screen the proposed car park/hardstanding. The painted concrete wall and railings would appear incongruous and of poor quality.
- 2) West corner glazing should be full expanse of the door to relieve this being the back end of the building and turning its back on the London Road approach.
- 3) Object to timber close board fence proposed across the gap between the building and the boundary with the fir trees. Will obscure the flint faced wall and appears too domestic and incongruous in character. Would prefer a metal railed fence so flint wall can be seen.

WC Economic Development – Proposal accords with some of the stated priorities set out in the Enterprise Wiltshire's Strategic Economic Plan for Wiltshire and could help deliver local employment opportunities. Support, subject to demonstration that there are no job losses from existing retail centres.

WC Parking Services. No objection on basis of report submitted to Cabinet Capital Assets Committee on 23rd July 2014, subject to there being no permanent loss of parking spaces. (Officer note: 48 additional spaces would be created for park and ride use).

WC Landscape – none received

WC Archaeology – No objection

WC Spatial Policy - As the NPPF forms a material consideration, the retail appraisal that is being undertaken separately will determine if a retail material consideration indicates that this proposal is appropriate in respect to retail policy. Responses from other council and statutory consultees should be considered and recommended conditions attached to any approval.

Highways Agency – Direction of Non Approval Withdrawn. It is considered that the proposal is likely to have minimal impact on the strategic road network, as the site is likely to intercept trips from the north which would otherwise travel on the SRN to reach the city centre.

Environment Agency – No objection subject to a condition relating to contamination being imposed, to protect controlled waters from pollution.

Network Rail – None received

8. Publicity

City Council – objection. Whilst the City Council would welcome the redevelopment of the site and the Aldi scheme is good, there is concern that the A30 London Road access is entirely insufficient.

Laverstock and Ford Parish Council Objection. The access onto London Road is unacceptable. Turning right on exit and turning right on entry will create problems. An alternative access should be sought through the Park and Ride.

Salisbury Area Greenspace Partnership – Objection on the following general grounds: Too few landscape details, not enough integration of development into the street scene and wider landscape, and no attempt to contribute to local green infrastructure, improve wildlife connectivity or improve the landscape setting for Salisbury.

Salisbury Civic Society – Object to lack of landscape details and lack of integration of the development into the street scene and wider landscape in accordance with the NPPF. Loss of trees and hedgerows.

64 letters of support for the scheme, on grounds of better choice for shoppers and competition between stores, improved access to shops for residents in this part of the city, remove eyesore and develop derelict site, employment opportunities created.

10 letters of objection, on general grounds of: Loss of trees and hedges, cyclepath not safe due to gradients, pedestrian safety, noise disturbance at night, unattended car park at night, traffic impact on London Road, potential for gridlock and accidents, object to cyclepath entering the top of Cheverell Avenue close to bungalows, visual impact, unsustainable, impermeable surfaces, damage to landscape setting, transport statement does not take account of Riverdown Park housing development or Asda, impact on Maltings development, retail study does not identify sufficient capacity for large store (just 554sqm to 2020), impact of non food items.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle of development and planning policy

The National Planning Policy Framework (NPPF) indicates clearly that: *“14. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **decision-taking** this means:*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*

At paragraph 111, the NPPF also indicates that:

“111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high

environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.”

Core Policy 36 (Economic Regeneration) of the Wiltshire Core Strategy supports regeneration opportunities and aims to maximise the re-use of previously developed land. The provision of economic development on previously developed land will therefore be supported. The policy indicates that:

“Regeneration of brownfield sites will be supported in the Principal Settlements, Market Towns and Local Service Centres where the proposed uses help to deliver the overall strategy for that settlement, as identified in Core Policy 1 (Settlement Strategy) and in any future community-led plans, including Neighbourhood Plans, and/or enhance the vitality and viability of the town centre by introducing a range of active uses that complement the existing town centre.”

The application site is the former Autechnique site which was used as a car showroom, and extends to about 0.4 hectares. The site has remained vacant for some time and consists of a number of derelict buildings. The site is therefore regarded as brownfield previously developed land. The principle of the development of the land is therefore considered to be acceptable in planning policy principle terms, subject to consideration of the detailed impacts. These impacts are considered below.

Other retail applications and developments: The impacts of this current retail application (for ALDI), needs to be assessed in the context of at least two current applications for retail development (see planning history section of this report for more details). Firstly, a separate application for an ASDA store has been submitted only a few hundred metres north of the ALDI site, on land at Salisbury Retail Park. (application 4/04756/FUL refers). The cumulative impact of this store and the Aldi store in retail terms on the city centre retailing strategy needs to be considered, as does the joint impact of both on traffic congestion along London Road and the surrounding highway network.

Similarly, an application by Sainsbury’s for a retail store on Southampton Road in Salisbury has also been submitted (application 14/03690/FUL refers). The cumulative impacts of this scheme, together with the Aldi and ASDA schemes on the city centre retail environment and the highway system also needs to be considered.

The following report considers these cumulative impacts, as well as those resulting from recently consented retail schemes in the immediate area of the sites concerned.

Hampton Park development

This is of some relevance to this report as the planning application related to 500 dwellings has very recently been the subject of a major Public Inquiry appeal. The Secretary of State approved the scheme in September 2011. As part of the consideration of this application, the 2009 appeal decision approving a retail park was taken into consideration. In particular, the transport assessment and EIA took into account the retail approval and its impacts. As a result, it is considered that the cumulative impacts of both the residential and the retail schemes would have been fully considered. The housing is now being built out. As a result, the impacts of this significant development have been considered in conjunction with this retail application, particularly with respect to highway impacts.

9.2 Retail impact on city centre and Maltings/Central Car Park scheme

Aldi's function is as a supermarket that can act as either a weekly food shop destination or a top up shopping convenience store. Stores also contribute to the overall range and choice of convenience facilities within their catchments by providing a discount foodstore as a further element of choice. Aldi stores are modest scale supermarkets, providing a limited product range. The total product range is considerably limited in comparison with other grocery stores and supermarkets. As a result, Aldi do not stock numerous types of one product but one line of a given product range. The limited selection includes pre packed seasonal fruit and vegetables, tinned, bottled and pre packed goods, frozen and chilled goods, beers, wines and spirits, pre packed bread and cakes, and a limited range of non food household items. Aldi sell only a limited range of branded goods. Local and regional sourcing of products is an important element in the range. The format does not include cigarettes or lottery tickets and does not include a specialist butcher, fishmonger, delicatessen or chemist. Aldi therefore believe that they generate a propensity for linked trips and associated spin off trade, to complement existing traders. Non food floorspace amounts to about 20% for weekly specials.

In terms of National Policy, the NPPF indicates the following:

“23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- *recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;*
- *define a network and hierarchy of centres that is resilient to anticipated future economic changes;*
- *define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;*
- *promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;*
- *retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;*
- *allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;*
- *allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;*
- *set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;*
- *recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and*
- *where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.”*

Paragraph 24 of the NPPF continues:

“24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.”

Paragraph 26 & 27 of the NPPF state:

“26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”

The previous Salisbury District Local Plan and the South Wiltshire Core Strategy have now been replaced by the Wiltshire Core Strategy. Policy 38 of the WCS and its supporting text seeks to enhance the vitality and viability of the town centres in Wiltshire through policies promoting the regeneration of central areas and delivery of new growth at settlements to support the vitality of centres. There is a challenge to ensure that the larger towns of Wiltshire, particularly the Principal Settlements of Chippenham, Salisbury and Trowbridge, strengthen their roles as shopping destinations to reduce the ‘leakage’ of trade to other larger competing centres such as Bath, Swindon and Southampton. The policy states that:

“All proposals for retail or leisure uses on sites not within a town centre in excess of 200 sq metres gross floorspace, including extension of existing units, must be accompanied by an impact assessment which meets the requirement of national guidance and established best practice, and demonstrates that the proposal will not harm the vitality or viability of any nearby centres. All such proposals must also comply with the sequential approach, as set out in national guidance, to ensure that development is on the most central site available.”

More specifically, the WCS also contains reference to the redevelopment of the Maltings and Central Car Park Site within Salisbury City Centre, in policy CP21. The WCS indicates that the strategy promotes the sensitive regeneration of a mixed-use retail led development on the Maltings and Central Car Park. Not only is the site sequentially preferable, but it also offers an excellent opportunity large enough to deliver the level of retail development needed for the city within a central location. Its proximity to the existing city centre means it can

complement the existing centre rather than compete with it. This will help contribute towards the continued viability and vibrancy of the whole of Salisbury city centre and should incorporate an element of residential, office and leisure uses. It is important that the development on the Maltings and Central Car Park does not result in a decline of specialist, independent and other retailing elsewhere in the primary and secondary shopping areas. Comprehensive redevelopment of the area will therefore incorporate other regeneration projects.

The impact of any development along London Road or Southampton Road (including Sainsbury's, Aldi and Asda) on this proposed development of the Maltings and central car park must be considered. The situation regarding the Maltings and Central Car park site has continued to mature, with ongoing discussions between the owners of the site and the Council. A draft master plan has been drawn up, which was the subject of public consultation in 2013. As a result, the issue retains significant weight.

A detailed retail study by Turley has been submitted with the application, which assesses the likely impacts of the scheme, including the impact of the scheme in conjunction with other consented retail schemes. The Turley report offers the following conclusions:

- *“The sequential assessment has confirmed that there are no alternative sites within appropriate centres that are suitable or available for the development proposed. There are no other sites within sequentially preferable locations elsewhere that should be considered appropriate. On this basis we consider that it has been demonstrated that the application proposals comply with the sequential test.*
- *The scale of development falls below the threshold for (retail) impact assessment (2,500sq m) identified at paragraph 26 of the National Planning Policy Framework (NPPF). However, it is above the locally set 200 sq m threshold in the adopted Wiltshire Core Strategy. On this basis a ‘proportionate retail impact assessment’ has been undertaken based principally on published information. We have assessed the impact of the ALDI proposal having regard to the key national policy considerations set out at paragraph 26 of the NPPF and we draw the following conclusions:*
 - i) *Impacts associated with the proposal in the design year (2019) are low and represent no threat to the vitality and viability of Salisbury or any other centre. The bulk of the proposal’s impact will fall on out of centre destinations, which are afforded no policy protection.*
 - ii) *The proposal represents no threat to investment on the basis of the impact and expenditure analysis. We conclude that the proposal, if permitted, will not act to deter investment in Salisbury. The main committed or planned investment within the local area is The Maltings Central Car Park site in the City Centre. This site is identified as providing the only real opportunity to strengthen the City Centre’s role as a sub-regional shopping centre in line with the aspirations of the Council. New retail floorspace created within The Maltings Central Car Park site is intended to focus on the comparison goods sector. This scheme therefore significantly differs to that being proposed by ALDI and importantly will not be undermined by the proposal.”*

Given the location and planning status of the Aldi site, (and in line with the Sainsbury's and Asda applications), there is a need to assess whether the proposed development passes the sequential approach to site selection and assess the level of impact on town centre investment and town centre vitality and viability. The Council commissioned an assessment of the applicant's retail report, undertaken by GVA. This report drew the following conclusions:

“Sequential Approach to Site Selection: whilst there has been some flexibility shown in terms of the size of the net sales area of the store, GVA do not feel that Aldi have shown sufficient flexibility in its approach to the sequential test, and further information is required in relation to flexibility over scale and format. Nevertheless, GVA have considered vacant units in the city centre, the MCCP site, brown Street and Salt Lane car parks, London Road and the Old Manor Hospital.

It is agreed that none of the city centre vacant sites are of a size which can accommodate a foodstore, even with reasonable flexibility, so these are dismissed. Further consideration of the Old Manor Hospital site is needed, given the smaller scale of the Aldi proposal and the fact that it is significantly closer to the city centre than the application site. If the Council wished to continue to promote the area for a mix of residential, healthcare and employment uses, then it could be dismissed. The sites are also being marketed and are currently under offer, which may make the site unviable.”

The two car parks are being promoted by Wiltshire Council for mixed uses and therefore, could be dismissed on this basis.

The MCCP site offers a sequentially preferable site for the Asda and Sainsbury’s applications. However, given the different scale and format of the of the Aldi proposal, a separate analysis of the MCCP site is required.

Policy CP21 of the WCS proposes the redevelopment of the MCCP site to include a redeveloped convenience store. This would therefore be in the form of a redeveloped or extended Sainsburys store and GVA have concluded that this represents a sequentially preferable large supermarket opportunity for the Salisbury Gateway and ASDA supermarket proposals. The ALDI proposal is however for a materially different type of retail store. It is substantially smaller than the existing Sainsburys store at the MCCP site and is likely to be materially different to a foodstore/supermarket which would be delivered as part of any redevelopment scheme. Therefore, whilst GVA hold the view that the MCCP is potentially available to accommodate a foodstore, it is unlikely to be suitable for the type and scale of store being proposed by ALDI.

Finally, Asda’s London Road site has been considered. The relative accessibility and connectivity of the Aldi and Asda sites in relation to the city centre have been considered by GVA and it is concluded that neither site should be preferred over the other.

Therefore, subject to the Council concluding that the mix of acceptable land uses on the Old Manor Hospital site will not include a foodstore, then it is considered that the Aldi application passes the sequential approach to site selection set out in para 24 of the NPPF.

Impact on Town Centre Vitality and Viability: GVA have compared the result of the Turley analysis submitted by Aldi, using the 2010 household survey data, with their own analysis, using more recent data submitted for the Salisbury Gateway application. Bringing convenience and comparison goods together, GVA estimate that the store would have a 0.4% impact on the city centre, rising to 1.9% when the impact of commitments is taken into account. In conclusion, whilst the Aldi store would have a negative impact on the health of the city centre, it is not large enough to cause a significant adverse impact. This conclusion takes account of the turnover of the proposed Aldi and the range of its products, the

likelihood that it would compete with other large foodstores and the relatively modest diversion of trade from the city centre for convenience and comparison goods.

The lack of a significant adverse impact on the city centre indicates that there is not a presumption in favour of refusal based on para 27 of the NPPF. In order to control the impact of the proposed store and ensure that it remains at worst *adverse* rather than *significantly adverse*, it is recommended that there are controls on the operation of the store. These could include the number of product lines which can be sold, along with the exclusion of counters such as delicatessen, butcher, bakery, fish and meat.

Impact on Town Centre Investment: It is not considered that the impact of the Aldi and the level of competition that it poses to the city centre would be a decisive factor in the future plans for the MCCP (Maltings) site. In conclusion, GVA have reached the conclusion that the Aldi application should not be resisted by the Council in relation to the impact on city centre investment.

Aldi have responded to the GVA report points relating to flexibility of format and the Old Manor Hospital:

“The Old Manor Hospital site is considered within Section 5 of the Retail Assessment submitted with ALDI’s planning application. It is noted that the site lies some 800 metres to the west of the City Centre and is therefore considered ‘out-of-centre’ in retail policy terms. It is not, therefore, sequentially preferable when compared with the application site, and given the co-location of the ALDI proposal adjacent to an existing Park & Ride facility, Old Manor Hospital is considered inferior in accessibility terms.

The future development potential of the Hospital site has been considered over the past fifteen years. The 2000 Development Brief for the site (prepared by the NHS and Salisbury District Council) highlighted its potential future use for health-care facilities, residential development and possibly employment uses. Saved Policy E6 of the District Local Plan identifies the site for mixed-use development, comprising office, the retention of health-care facilities and key-worker housing. There has never been any policy support for the development of a retail food store on this site.

Notwithstanding the above, in October 2014 the site was acquired for development by the Quantum Group, with a clear expectation that it will principally be developed for close-care accommodation in line with the above. Any retail floorspace is only likely to represent a small-scale convenience unit-style accommodation that would not be appropriate for ALDI. The principal (Wilton Road) site is not, therefore, available or suitable for a comparable food store development. The only part of the site that might be available is the ‘Former Laundry’ site to the south, which lacks commercial prominence and would be severely compromised in terms of access and servicing. Notwithstanding the policy considerations summarised above, the site is not, therefore, considered to represent a suitable, viable or available alternative and should not be considered sequentially preferable.

ALDI Flexibility Regarding Scale and Format: *The approach taken to the sequential assessment with specific regard to ALDI’s flexibility is also set out in Section 5 of the submitted Retail Assessment. Paragraph 5.12 of that assessment sets out that the trading*

format of a discount food store is critical to the success of the business. Although ALDI currently operates smaller stores than that proposed within this application, these all represent historic developments and the Company is currently involved in a programme of extensions across its store portfolio.

As stated in the submitted Assessment, ALDI's optimum food store size is 1,254sqm net. Where sites and locations necessitate a smaller store (as in this case), ALDI will consider 1,140sqm net or (in exceptional circumstances) 1,125sqm net stores. In this case, exhibiting further flexibility with regard to scale, the development of a 1,125sqm net store has no bearing on the conclusions of the sequential assessment – none of the alternative sites considered would be capable of accommodating a 1,125sqm net store.

ALDI has recently opened smaller convenience-style stores (e.g. in High Street locations and with no designated car parking) but these are only within Metropolitan areas (principally within the M25) and the Company will not consider this format for the Salisbury area.

In response to the specific requirements of the London Road site, ALDI has brought forward a bespoke design solution (whilst maintaining the sales area required by its business model), which responds both to the site's topography and the design expectations set out by Council Officers. ALDI has, therefore, exhibited significant flexibility with regard to the format and design of the store to bring forward the development of a prominent and under-used site. Further flexibility with regard to format or scale is not considered appropriate in this case and, in any event, would not lead to alternative sites in sequentially preferable locations becoming suitable or available for ALDI's development."

Retail Conclusions: GVA in their report considered all three schemes together and concluded that in contrast with the Asda and Sainsbury's applications, the proposed Aldi store would have a much smaller impact upon the health and financial performance of the city centre and planned investment. Whilst there will be an adverse impact on the financial performance of the centre, the levels of financial impact would be small and are not likely to fundamentally affect the levels of vitality and viability within the centre. It is recommended that the Council places controls over the store, to ensure that impacts are adverse, rather than significantly adverse.

GVA conclude that Aldi would meet the provisions of the sequential test, provided that part of the Old Manor Hospital is not to be promoted for retail uses. Officers are satisfied that the Old Manor site does not represent a suitable, viable or available alternative and is not considered to be sequentially preferable to the application site for Aldi's purposes. All other potential alternatives (including the MCCP) are not suitable to accommodate a food store of the type, scale or format proposed by Aldi.

On the basis that the levels of financial impact would be small and are not likely to fundamentally affect the levels of vitality and viability within the centre, it is reasonable to conclude that the development would not result in the loss of jobs from existing retail centres. The proposal would therefore accord with some of the stated priorities set out in the Enterprise Wiltshire's Strategic Economic Plan for Wiltshire and could help deliver local employment opportunities.

In conclusion, the proposal would comply with Wiltshire Core Strategy policy CP21, CP36, CP38 and the guidance in the NPPF in paragraphs 23-27.

9.3 Impact on highway systems around the site

Several third party objections including Salisbury City Council and Laverstock Parish Council have been received relating to the impact of this proposed development on the highway system around the site, particularly on the already busy London Road route. Objections to the proposed right turn lane have also been received.

The NPPF indicates at paragraph 23 that:

“32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- safe and suitable access to the site can be achieved for all people; and*
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

At paragraph 75, the NPPF also states that:

“75. Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

Core Policy 61 (Transport and New Development) of the WCS indicates that:

“New development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.

As part of a required transport assessment, the following must be demonstrated:

i. That consideration has been given to the needs of all transport users (where relevant) according to the following hierarchy.

- a. Visually impaired and other disabled people*
- b. Pedestrians*
- c. Cyclists.*
- d. Public transport.*
- e. Goods vehicles.*
- f. Powered two-wheelers.*
- g. Private cars.*

ii. That the proposal is capable of being served by safe access to the highway network

iii. That fit for purpose and safe loading/unloading facilities can be provided where these are required as part of the normal functioning of the development.

Where appropriate, contributions will be sought towards sustainable transport improvements and travel plans will be required to encourage the use of sustainable transport alternatives and more sustainable freight movements.”

A detailed Transport Statement and a Transport Plan were submitted with the application. This was subsequently amended following comments from the Highways Agency. The applicant's report concludes that the following impacts are likely:

- It has been demonstrated that the proposed development will have a negligible impact on the overall operation of London Road in terms of traffic capacity of the proposed site access. The site access junction is expected to operate well within capacity.
- Given the assessment was based on gross (rather than net) trips from the development, together with the proposed developer-funded enhancements to the pedestrian and cycle infrastructure in the local area, this may further encourage customers of the site to travel by foot, cycle or public transport such that the potential impact of the Aldi store will be reduced and perhaps even be less than daily link flow variation on London Road. As there is a measurable customer catchment local to the site, which in turn will be well served by footways, road crossings and cycle routes, it is envisaged that a store in this location will attract a significant number of walk/cycle-in customers.
- Anticipated 1.51 car occupancy level with only 67% of all trips being made by car.
- As there is also excellent access to public transport, it is expected that the above tabulated figures will, in terms of single car occupancy, be worst-case and that a store in this location will be more sustainable than an average discount food store. Based on the data and analysis presented in this report, the following conclusions are drawn:
 - Consistent with local policy, the site access has been designed to provide safe and efficient access for all modes;
 - The development proposes adequate car parking for all elements of the development proposal as well as 10 secure, covered and illuminated cycle parking spaces for the discount food store.
 - In addition the site supports safe access and turning of service vehicles;
 - The site includes for a staff Travel Plan, Servicing Strategy and a Transport Implementation Strategy associated with the discount food store application;
 - The report has considered the potential vehicle generating characteristics of the site demonstrated that an Aldi store in this location when compared to the extant use would generate a comparable volume of traffic during the AM peak, more traffic during the PM peak, equating to less than 1 per minute and more traffic during the whole day. Such a level of impact is considered to be unnoticeable.
 - As the site is vacant, as a separate exercise the gross development traffic has been considered (no discounting for the extant permitted use) and the greatest impact on any one approach along London Road at the site access during either the AM or PM peak period would be 35 vehicles or about one every other minute.
 - A capacity assessment has been undertaken of the site access junction. This demonstrates no capacity issues with traffic queues of up to 2 vehicles on any approach.
 - On the basis of the above, further analysis in to the impact that the proposed development might have on the local highway network is considered to be unnecessary.
 - The location, prevailing adjacent transport provisions and proposed site sustainable transport initiatives, would ensure that this site delivers a reasonably high level of multi-modal transport sustainability that will actively encourage a reduction both in the need to travel and in particular the need to travel by car.
 - Based on these conclusions the impact of the development proposals on the surrounding transportation network should be considered acceptable and sustainable.

Based on the above report and discussions with the applicants, the Highways Agency has now withdrawn its Direction of Non – Approval for the application. Having considered the additional information, the Agency is content that the development will not cause significant impact on the strategic road network. Similarly, the HA has now also withdraw a similar Direction for the Asda application. As a result, it is considered that it would now be difficult to refuse the application on the basis of the impact of the Aldi application on the A36 trunk road system or its junction with London Road.

With regards the impact of the scheme on London Road and the surrounding highway systems within residential areas, the Council's own highways officer has critically assessed the scheme. He has considered the Transport Statement and agrees with the conclusions. A right turn lane is proposed which should prevent traffic that is turning right into the store from holding up flows on London Road. This needs to be provided before the store is brought into use.

In order to ensure easy access to the store by sustainable a footway /cycleway link will be required between the "Park & Ride" bus stop and Cheverell Avenue. This has been agreed with the applicant and can be secured by means of a legal agreement. Therefore, subject to a legal agreement to secure the financial contribution towards the footway/cycleway outlined above, there is no highway objection to this application. Two conditions are proposed, relating to provision of the right turn lane and provision of the servicing, parking and turning areas.

Additional Parking for Park and Ride

The proposed flying deck over the top of the Park and Ride would provide 90 car parking spaces for the food store. It is also proposed to increase the extent of park and ride car under to new deck to create an additional 48 spaces for the park and ride facility, after completion. This would increase the sustainable credentials of the scheme in accordance with Policy CP60-66.

Access to the site via the footpath/cyclepath to Cheverell Avenue

As part of the numerous third party and other consultee comments received, many have welcomed the proposed pedestrian and cycle access to be created along London Road into the site. However, a couple of residents have requested that the link is via an existing footpath into the residential area and not Cheverell Avenue. In officers opinion, the provision of a link would be sensible in sustainability terms, creating an easy non –car way of access the site, which may encourage more people from the adjacent housing to leave their cars at home, and shop more sustainably. The Highways officer has raised no objection to the link, and it is considered that the Cheverell Avenue route provides the most sensible option for the path.

9.4 Design and impact on surrounding landscape and area

The site is located in a prominent location adjacent to the main A30 London Road. The site, and therefore any development on the site, will therefore be visible to users of the adjacent

highway system, which acts as one of the main arterial and gateway roads serving the city centre and surrounding hinterland.

On design and landscape matters, paragraph 58 of the NPPF indicates that:

“58.Planning policies and decisions should aim to ensure that developments:

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
- *are visually attractive as a result of good architecture and appropriate landscaping.”*

Paragraphs 64 & 65 of the NPPF go onto to state that:

“64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

65. Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).”

Core Policy 57 of the WCS indicates that a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire.

Core Policy 51 (landscape) relates to landscape impact, and indicates that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. Proposals should be informed by and sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment(s) and any other relevant assessments and studies. In particular, proposals will need to demonstrate that landscape character have been conserved and where possible enhanced through sensitive design, landscape mitigation and enhancement measures.

The scheme itself envisages a large prominent supermarket building, visible from London Road, and from across the Laverstock area to the east given its elevated nature. Its southern elevation would be readily visible from properties adjacent the site to the south. Discussions about the design and external appearance of the building have taken place with the case

officer and the Council's Urban Designer. The Design officer has raised an objection to the scheme, on three general grounds relating to the following:

- 1) Width of planting strip is inadequate along London Road and requires substantial height wall of quality appearance to mitigate the loss of hedge and screen the proposed car park/hardstanding. The painted concrete wall and railings would appear incongruous and of poor quality.
- 2) West corner glazing should be full expanse of the door to relieve this being the back end of the building and turning its back on the London Road approach.
- 3) Object to timber close board fence proposed across the gap between the building and the boundary with the fir trees. Will obscure the flint faced wall and appears too domestic and incongruous in character. Would prefer a metal railed fence so flint wall can be seen.

Officers have liaised with the applicants and received amended plans, which overcome some of the issues raised. Whilst the Design officer remains somewhat unhappy about elements of the design approach, overall, officers considered that the building can be acceptable in this context, subject to suitable landscaping and materials being provided (and particular on the basis of other positive issues outlined below). Furthermore, whilst the architectural design may not be to everyone's taste, it is an important material consideration that the scheme would bring a derelict brownfield site back into practical use. The current buildings are in a poor state of dereliction and the site is overgrown.

In officers opinion, the proposed scheme submitted offers several design features:

- The site has been described as one of the main entrances to the city centre, occupying a prominent position on London Road. The design acknowledges this and the Council's desire to provide a quality building that is sensitive to its context. In response, the height of the building to the street frontage and the shop frontage has been reduced as much as possible, with a step in the main roof levels.
- The building would be single storey with a stepped level flat roof behind a parapet detail. The main entrance faces north into the car park, and has a cantilevered modern canopy.
- The general height of the store would be 5.7m with a reduced section of about 5m wrapping round two sides of the building, creating a low impact building. The ridge height of the neighbouring properties are of a similar height and the store would not obstruct views across the valley from the properties of Seth Ward Drive. In comparison, the store is slightly lower in height than those of the existing buildings.
- The existing Cypress trees along the south west boundary along with the proposed planting would provide a natural buffer between the store and the neighbouring property.
- Although the car park deck sits above the existing park and ride site, it would not be a dissimilar level to London Road. External lighting would be on 6m high poles.
- Consideration has also been given to the impact of the store on the valley and views from Laverstock. The store is no greater in height than the existing buildings and the

east facing elevation would be constructed from brick, helping it to blend into its setting and with the residential properties behind it. There is also an extensive natural screen of trees to the railway line, which means that the impact should be minimal when viewed from the east.

- It would be clad in red brick, with flint panels to break up the mass of the store and provide interest. The servicing areas would be clad in brick. The store entrance on the north elevation would have full height glazing (within anthracite aluminium walls), wrapping round the corner to the north west elevation. Ribbon windows are proposed on the north west and southern elevations.

The Council's Landscape officer has not made any comments regarding the scheme.

Trees and new landscaping

The landscaping along London Road near the site comprises a grass strip with shrub planting along the east and a substantial hedge to the west. Due to the proposed road widening, the hedge to the west would have to be realigned and reinstated where necessary.

It is proposed to plant a hedge along the front of the car park which would provide the necessary screening and continuity with the park and ride planting. Low level planting is proposed to the front of the Aldi store adjacent to the footpath and wrapping round to the eastern corner of the site. 14 grade C trees are proposed for removal within the Aldi and park and ride sites to facilitate the development, but the trees have been identified as low quality trees. One group of trees and two sections of hedgerow would be removed, along with one grade U tree. Other trees would be retained and protected. Bedding plants would include a variety of ornamental shrubs to provide interest throughout the year, and also some wildlife value.

Consequently, whilst the current visual appearance of the site will be transformed, the mature hedge along London Road would be reinstated after the road widening takes place. Other new landscaping will, in time, soften the new development. This current scheme is therefore considered to be an improvement in landscape terms compared to the current derelict appearance of the site. A refusal on the basis of the landscape impact of the scheme or the loss of the existing green character of the site may therefore be difficult to support, particularly without an objection from the Council's Landscape officer.

9.5 Sustainable design issues

Paragraph 96 of the NPPF indicates that:

96. In determining planning applications, local planning authorities should expect new development to:

- *comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.*

Core Policy 41 of the Wiltshire Core Strategy indicates that for major, non residential development:

Climate change adaptation: New development,will be encouraged to incorporate design measures to reduce energy demand. Development will be well insulated and designed to take advantage of natural light and heat from the sun and use natural air movement for ventilation, whilst maximising cooling in the summer.

Sustainable construction: All non-residential development will be required to achieve the relevant BREEAM “Very Good” standards , rising to the relevant BREEAM “Excellent” standards from 20192.

(inter-alia)

Renewable and low-carbon energy

All proposals for major development will be required to submit a Sustainable Energy Strategy alongside the planning application outlining the low-carbon strategy for the proposal.

In all cases, including those listed above, proposals relating to historic buildings, Listed Buildings and buildings within Conservation Areas and World Heritage Sites should ensure that appropriate sensitive approaches and materials are used. Safeguarding of the significance of heritage assets should be in accordance with appropriate national policy and established best practice1.

In all cases the impact of these requirements on the viability of development will be taken into consideration.

The design and access statement sets out the energy, waste, water, noise and pollution initiatives that are incorporated within the scheme. This includes installation of photovoltaic panels on the roof to reduce its carbon footprint.

Policy 41 of the WCS indicates that non residential development should achieve an energy rating of BREEAM very good or equivalent. A condition has been imposed below related to this matter.

8.6 Archaeology and heritage assets

The site is not located close to any significant cultural assets (Old Sarum SAM and Figsbury Ring SAM are some distance away to the north east and west). The site is also previously developed, brownfield land. For these reasons, the proposal is unlikely to result in disturbance to archaeology. The archaeologist considers that there are no historic environment records in or in the near vicinity of the site. It is possible that the lack of archaeological finds might be due to a lack of previous archaeological work in this area. However, on the evidence available at present, it is considered unlikely that significant archaeological remains would be disturbed by the proposed development and so there are no further comments.

However, the site does lie opposite the Salisbury Crematorium, which is Grade II listed and a Grade II Registered Park and Garden.

“131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- the desirability of new development making a positive contribution to local character and distinctiveness.*

134. *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*”

Core policy 57 & 58 of the WCS reflect the above advice.

It is considered that in improving the appearance of the site, the development would make a positive contribution to the local character of the area, and therefore improve the setting of the listed Crematorium, to the benefit of local character and distinctiveness.

9.7 Ecology and biodiversity

Whilst the site does not include any protected trees, part of the River Avon SSSI/SAC is located close to the site (the river system) in the valley below, about 80m from the development and separated by the railway line.

Paragraph 118 of the NPPF indicates clearly that:

“118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged; planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and*
- *the following wildlife sites should be given the same protection as European sites:*
 - *potential Special Protection Areas and possible Special Areas of Conservation;*
 - *listed or proposed Ramsar sites, and*
 - *sites identified or required as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.*”

Core Policy 69 (Protection of the River Avon SAC) of the WCS also covers similar issues, and indicates that:

“In order to avoid and reduce potential environmental effects on the River Avon SAC, development will need to incorporate measures during construction and operation to avoid and prevent pollution and mitigate potential disturbance effects; appropriate measures may include consideration of suitable buffer zones along watercourses, habitat enhancements and river access management measures. All development within 20m of the river banks

should submit a Construction Management Plan to the Local Planning Authority to ensure measures proposed during construction are satisfactory.

Where additional sewage discharges to a STW cannot be accommodated without measures to offset phosphate loading, development will be required to undertake proportionate measures (which may include contributions towards those measures identified in the Nutrient Management Plan) to demonstrate that the proposals would have no adverse effects upon the SAC.”

Similarly, Core Policy 50 (Biodiversity and geodiversity) of the WCS indicates that:

“Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term. Where it has been demonstrated that such features cannot be retained, removal or damage shall only be acceptable in circumstances where the anticipated ecological impacts have been mitigated as far as possible and appropriate compensatory measures can be secured to ensure no net loss of the local biodiversity resource, and secure the integrity of local ecological networks and provision of ecosystem services.

All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.....all development should seek opportunities to enhance biodiversity. Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services Such enhancement measures will contribute to the objectives and targets of the Biodiversity Action Plan (BAP) or River Basin/Catchment Management Plan, particularly through landscape scale projects, and be relevant to the local landscape character.

Local sitesSustainable development will avoid direct and indirect impacts upon local sites through sensitive site location and layout, and by maintaining sufficient buffers and ecological connectivity with the wider environment. Damage or disturbance to local sites will generally be unacceptable, other than in exceptional circumstances where it has been demonstrated that such impacts:

- i. Cannot reasonably be avoided*
- ii. Are reduced as far as possible*
- iii. Are outweighed by other planning considerations in the public interest and*
- iv. Where appropriate compensation measures can be secured through planning obligations or agreements.*

Development proposals affecting local sites must make a reasonable contribution to their favourable management in the long-term.”

The ecologist has considered the reports accompanying the application, which include a Bat Report (RSK, July 2014) with surveys in May (daytime), June (dusk) and July (dawn) 2014 and an Ecological Appraisal (RSK, June 2014). Together these demonstrate that risks for European protected species (bats and great crested newts) are low. There were no signs that badger are using the site, although they can be expected to travel along the railway line just outside. Conditions off site are suitable for reptiles and these can be expected to access the site given that there is suitable habitat for refuges and basking across parts of the site. Birds may using the buildings and vegetation on site for breeding.

It is noted that the Environment Agency has recommended a condition to safeguard against the risks of pollution from potential contamination on site and this is considered by the ecologist to be sufficient to protect the groundwater and therefore the River Avon SAC.

A condition requiring a construction method statement is recommended to control risks to breeding birds and reptiles during the construction phase of the development.

9.8 Noise and general impact on amenity

The application site is located very close existing residential properties, including those located on the western side of London Road and to the south in Cheverell Avenue. Potential for noise and disturbance has been raised by only a couple of the 74 responses received. These related to matters that already form part of the proposals, such as closing off or controlling access to the car park at night to prevent disturbance and the potential for noise from machinery. Clearly, given the previous use of the site for car sales, neighbours would have become used to some activity being associated with the site.

In terms of national policy, paragraph 123 of the NPPF states that:

“123. Planning policies and decisions should aim to:

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
- *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
- *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”*

In terms of local policy, CP57 of the WCS is reiterated in full elsewhere in this report, and indicates that the aim of local policy is to protect residential amenity at point 7:

“vii. Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)”

Core Policy 55 (air quality) of the Wiltshire Core Strategy indicates that:

“Development proposals which by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality, will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity. Mitigation measures should demonstrate how they will make a positive contribution to the aims of the Air Quality Strategy for Wiltshire and where relevant, the Wiltshire Air Quality Action Plan. Mitigation may include:

- i. Landscaping, bunding or separation to increase distance from highways and junctions*

- ii. Possible traffic management or highway improvements to be agreed with the local authority*
- iii. Abatement technology and incorporating site layout / separation and other conditions in site planning*
- iv. Traffic routing, site management, site layout and phasing, and*
- v. Where appropriate, contributions will be sought toward the mitigation of the impact a development may have on levels of air pollutants.”*

The applicants have submitted an environmental noise survey/noise impact assessment. It is not anticipated that there would be any significant odours from the proposed building or plant, as it would not include a bakery or restaurant. The Council's public protection officer has considered the likely impacts of the development in terms of disturbance to neighbouring amenities. On the basis that the equipment installed in accordance with the information submitted in the noise assessment, there are no objections, subject to suitably conditions being imposed. There are also no additional comments regarding contaminated land. The conditions required relate to:

- Submission of a scheme for external lighting to meet the criteria for Environmental Zone E3 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. External lighting shall be turned off at all times when the store is not open to the public.
- Controlling hours of construction and demolition,
- Control of hours of deliveries and opening hours to the public.
- The car park to be made inaccessible to public vehicles at night
- Prevention of on-site cooking or baking shall take place until a scheme of works for the control and dispersal of atmospheric conditions is submitted and approved.

90 Cheverell Avenue is the closest dwelling to the site. It is a bungalow with a triangular shaped rear garden which adjoins the south boundary of the site. An existing line of fir trees currently separates the site from this property, and it is proposed to retain these trees, after trimming back to the boundary. A 1.8m high close boarded fence would also be provided along this boundary. The south west elevation of the proposed store would include some high level ribbon windows. However, these would not introduce any overlooking into this property, given that they would be mostly screened by the line of existing cypresses. The rear windows of the bungalow would see an expanse of brick wall, set back from the boundary, and extending about 5.7m in height from the existing ground level. There would be no public access at this part of the site.

Some refrigeration plant would be sited around the corner from the boundary with the bungalow, on the south east elevation. The impact of this plant has been assessed by the public protection officer through the accompanying noise report and is considered to be acceptable.

It is acknowledged that the establishment of a large supermarket and associated car park on this site is likely to result in a change to the amenities currently experienced by residents of housing close to the site. Levels of traffic noise and general disturbance will increase significantly when compared to the current vacant condition of the land. However, given that the site has been previously used for car sales, the proposed foodstore use is unlikely to cause significantly more harm provided the suggested conditions are imposed and adhered to.

Light pollution

Paragraph 125 of the NPPF indicates that:

“125. By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

The scheme inherently involves the provision of suitable lighting and columns to light the associated car parking, servicing, and circulation areas, as is common with such developments. The development therefore has the potential to increase lighting pollution in this area, compared to the current use of the site. The public protection officer has recommended a condition to enable the LPA to control this aspect of the development and ensure that it is switched off by timer, an hour before and after trading ceases.

9.9 Flooding and drainage matters

The site lies within Flood Zone 1 and in an elevated location with no known flooding problems. The NPPF clearly indicates that:

“99.New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.”

The applicant has submitted a drainage strategy which proposes a Sustainable Urban Drainage System to ensure that there is no increased risk of flooding as a result of the development. An attenuation tank is proposed to limit the discharge rate to no greater than the existing site discharge rate. The Environment Agency has not objected to this application and recommended a condition requiring submission of a contamination risk assessment, to protect controlled water on the above basis. This condition was supported by the Council's ecology and contamination officers.

9.10 Section 106 Contributions

The desirability of ensuring easy access to the store by a sustainable footway/cycleway link has been recognised by Aldi and transportation officers. The path would link the park and ride bus stop with Cheverell Avenue, with continuation along existing routes to Laverstock. The applicant has indicated willingness to enter into a S106 Agreement to provide the section of path across the Aldi frontage, and contribute towards the provision and completion of the remaining sections.

10. Conclusion

The proposed Aldi foodstore would redevelop a brownfield site on London Road, which was previously used for car sales. The development is acceptable in principle as the Wiltshire Core Strategy would support the regeneration of brownfield sites in the principal settlements. The retail impacts of the development have been considered by the Council's consultants GVA, along with the impact of two other current superstore proposals by Asda (London Road and Sainsburys (Southampton Road)).

GVA considered the impact of all three schemes together and they concluded that in comparison with the Asda and Sainsbury's applications, the proposed Aldi store would have a much smaller impact upon the health and financial performance of the city centre and planned investment. Whilst there will be an adverse impact on the financial performance of the centre, the levels of financial impact would be small and are not likely to fundamentally affect the levels of vitality and viability within the centre. It is recommended that the Council places controls over the store, to ensure that impacts are adverse, rather than significantly adverse. GVA conclude that Aldi would meet the provisions of the sequential test, provided that part of the Old Manor Hospital is not to be promoted for retail uses. Officers are satisfied that the Old Manor site does not represent a suitable, viable or available alternative and is not considered to be sequentially preferable to the application site for Aldi's purposes.

The Council's highways officer and the Highways Agency consider that that the development will not cause significant impact on the strategic road network. Consequently, the HA has withdrawn its non determination Directions for the Aldi and Asda application. A right turn lane is proposed which should prevent traffic that is turning right into the store from holding up flows on London Road. This needs to be provided before the store is brought into use.

In order to ensure easy access to the store by sustainable a footway /cycleway link will be required between the "Park & Ride" bus stop and Cheverell Avenue. This has been agreed with the applicant and can be secured by means of a legal agreement.

The design officer has raised some concerns regarding three aspects of the design of the scheme.

However, the overall impact of the development on the wider landscape is considered to be acceptable, and is likely to result in a significant visual enhancement of the site and its surroundings at this important gateway to the city.

There are some local objections to the development but these can either be dealt with by suitable condition (eg preventing use of the car park at night) and these are not considered to be significant enough to warrant refusal (particularly given the lack of objection from the public protection officers) on the grounds of undue or unacceptable disturbance to residential amenities. It is acknowledged that the establishment of a large supermarket and associated car park on this site is likely to result in a change to the amenities currently experienced by residents of housing close to the site. Levels of traffic noise and general disturbance will increase significantly when compared to the current vacant condition of the land. However, given that the site has been previously used for car sales, the proposed foodstore use is

unlikely to cause significantly more harm provided the suggested conditions are imposed and adhered to.

The impact of the development on interests relating to ecology, sustainability, archaeology, heritage assets, ecology and biodiversity, noise, flooding and drainage have all been considered, and no objection is raised subject to suitable conditions being imposed.

In conclusion, subject to suitable conditions and a legal agreement to secure various highway mitigation works, the proposal is considered acceptable.

Should Members be minded to Approve this application, under the terms of the 2009 Consultation Direction (paras 5.1.(ii) and 2 (d)) issued by Central Government, as the retail scheme is within 1km of the extant planning permission S/2012/0905, the LPA will have to consult the Secretary of State prior to issuing any decision. Officers request delegated powers to undertake such a consultation.

RECOMMENDATION: SUBJECT TO:

- i) Should Members be minded to approve, the application be referred to the Secretary of State and delegated back to the LPA for determination, and**
- ii) A S106 LEGAL AGREEMENT BEING ENTERED INTO WITH RESPECT TO THE PROVISION OF THE FOLLOWING HIGHWAY RELATED MEASURES:**
 - A financial contribution for and the provision of a footway/cycleway link that is required between the “Park & Ride” bus stop and Cheverell Avenue**

THEN APPROVE: subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (WA1)

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

2. The development shall be implemented in accordance with the schedule of materials listed in the approved schedule on plan ref 110591 P(1) 06 received 18th June 2014.

No development shall commence on site until sample wall panels for the flint rubble block and the red facing brickwork for the walls, not less than 1 metre square, have been constructed on site, inspected and approved in writing by the Local Planning Authority. The panels shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved samples.

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

3. No development shall take place until large scale (1:10) details of the windows / doors / entrance canopies have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that the architectural details of the scheme are of an acceptable quality.

4. The development shall be operated in accordance with approved scheme for the storage and control of customer trolleys. The coin operated scheme and shopping trolley storage shall be maintained in working condition for customer use thereafter.

REASON: To limit the impact of the development on adjacent residential amenity and to prevent the removal of shopping trolleys by customers from the car park area.

5. Before the development hereby approved commences a scheme of external lighting, including the measures to be taken to minimise sky glow, glare and light trespass, shall be submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall be designed so as to meet the criteria for Environmental Zone E3 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. The approved scheme shall be implemented before the development is first brought into use and shall be maintained in effective working order at all times thereafter.

REASON: To limit the impact of the development on adjacent residential amenity

6. External lighting shall be turned off at all times when the store is not open to the public, with the exception of one hour before store opening time and one hour after store closure.

REASON: To limit the impact of the development on adjacent residential amenity, and to enable safe access and egress by staff.

7. (i) No deliveries shall be made to or collections made from the development hereby approved except between the hours of 06:00am and 22:00pm Monday to Saturday and 07:00am and 17:00pm on Sundays.

(ii) There shall be no use of reverse beepers on delivery or collection vehicles between 06:00am and 07:00am Monday to Saturday and between 07:00am and 09:00am on Sundays. All deliveries between these approved hours shall be direct via the loading and unloading dock shown on the approved plans.

REASON: To limit the impact of the development on adjacent residential amenity and prevent undue disturbance

8. The retail unit hereby permitted shall not be open to the public except between the hours of 08:00am to 22:00pm on Monday to Saturday, 09:00am to 18:00pm on Sunday & Public Holidays.

REASON: To limit the impact of the development on residential amenity

9. The Aldi customer car park shall be made inaccessible to public vehicles between the hours of 23:00pm and 07:00am on any day of the week.

REASON: To limit the impact of the development on residential amenity and prevent undue disturbance by vehicles at night.

10. No on-site cooking or baking shall take place until a scheme of works for the control and dispersal of atmospheric conditions (in particular emissions from the cooking or baking of food) has been submitted and approved in writing by the LPA. The approved scheme shall be implemented before any on-site cooking or baking takes place and shall be maintained in effective working condition at all times thereafter.

REASON: In the interests of neighbouring amenities.

11. The development shall be carried out in full accordance with the internal layout of the retail unit shown on the plans hereby permitted. There shall be no subdivision of any of the unit or any additional internal floor space created (including any insertion of mezzanine floors) not covered by this permission.

REASON: In order to limit the impact of the development on the vitality and viability of Salisbury city centre, including the planned Maltings and Central Car Park development, and surrounding small scale neighbourhood retail shops.

12. No development shall take place until a scheme of landscaping for the site, including planting around the proposed cycle/footway along the south west boundary, the screening of the concrete wall on the west boundary of the decked car park, and replacement hedge planting for the west side of the realigned London Road section has been submitted to and approved in writing by the Local Planning Authority, including times of planting, species and size, and a long term maintenance scheme. The landscaping shall be carried out and maintained in accordance with the approved scheme.

REASON: To limit the impact of the development on visual and residential amenity and the surrounding natural habitat.

13. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. (WC2)

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

14. No construction or demolition work shall take place on Sundays or Bank Holidays or outside the hours of 07:30am to 18:00pm on Monday to Friday and 08:00am to 13:00 pm on Saturdays.

REASON: To limit the impact of the development on residential amenity

15. No development shall take place until a scheme for the discharge of surface water from the buildings, car parks, realigned section of London Road and new footway/cycleway

hereby permitted has been submitted to and approved in writing by the Local Planning Authority and the drainage scheme shall be carried out and retained in accordance with the approved details. The scheme submitted shall limit surface water run-off and shall involve safe management and on-site storage of surface water in excess of the design capacity of the drainage system.

REASON: To limit the impact of the scheme on the drainage system and surrounding natural habitats.

16. No development shall commence until full details of the right turn lane on the A30 road and associated vehicular access (including the pedestrian crossing and road realignment in accordance with the approved plans) have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first brought into use until that right turn lane and access (including the pedestrian crossing and road realignment) has been completed in accordance with the approved details.

REASON: In the interests of highway safety.

17. No part of the development hereby permitted shall be first brought into use until the servicing area, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

18. Before development commences, a Construction Method Statement shall be submitted to the local planning authority for written approval. The method statement shall provide details of the measures that will be implemented during the construction phase to prevent any harm or injury to protected species (namely reptiles and breeding birds). Development shall be carried out in full accordance with the method statement).

Reason: To control risks to birds and reptiles during construction

19. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority, shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

iii) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and

identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters from pollution.

20. The development hereby permitted shall achieve a BREEAM (Building Research Establish Environment Assessment Method) rating of 'very good'. No unit shall be occupied until the post-construction state assessment and subsequent BREEAM Certificate certifying that 'very good' status has been achieved has been issued.

REASON: In order to produce a scheme with a high level of sustainable design

21. The development hereby permitted shall be carried out in accordance with the following approved plans listed in schedule. (WM14)

Site Location Plan 110591P(1)01 June 2014 received 18/6/14
Block Plan 110591P(1)11 June 2014 received 18/6/14
Site Plan Aldi Level 110591P(1)03B April 2014 received 18/6/14
Site Plan Park and Ride Level 110591P(1)04A April 2014 received 18/6/14
Proposed Site Sections 110591P(1)10 May 2014 received 18/6/14
Proposed Street Elevations 110591P(0)08A June 2014 received 27/1/15
Proposed Store Elevations 110591P(1)07A June 2014 received 27/1/15
Proposed Roof Plan 110591P(1)06 June 2014 received 18/6/14
Proposed Floor Plan 110591P(1)05 June 2014 received 18/6/14
Transport Statement by Entran, June 2014 received 18th June 2014 and updated by response to GCC highways comments received 17/11/14.
Ecological Appraisal and Interim Bat Report by RSK June 2014, received 18/6/14
Historic Environment Appraisal by RSK June 2014 received 18/6/14
Arboricultural Impact Assessment and Tree Protection Plan by BoSky Trees, 17th June 2014, received 18/6/14
Noise Assessment (Rating of Industrial Noise affecting Mixed Industrial and Residential Areas) by KR Associates 17th June 2014, received 18/6/14
Design and Access Statement Kendall Kingscott received 18/6/14
Drainage Strategy by Craddy Pitchers Davidson received 18/6/2014
Drainage Layout Aldi Level 9573-0050B received 18/6/2014
Drainage Layout Park and Ride Level 9573-0051B received 18/6/2014
Site Waste Management Plan 5th June 2014, received 18/6/14
Planning Statement, Turley June 2014, received 18/6/14
Geo environmental Assessment Report, Brownfield Solutions ltd 2014, received 18/6/14
Retail Assessment, Turley June 2014, received 18/6/14

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

22. The site shall be used by a discount food supermarket operator and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). The following services shall not be operated from the land:

- i) Butcher, fresh fish, bakery, delicatessen or cheese counters
- ii) Hot food
- iii) Banking facilities
- iv) Dispensing pharmacy
- v). Dry cleaning or post office services
- vi). Photographic shop or booth
- vii) Cafe restaurant
- viii) Sales of cigarettes or tobacco

No more than 20% of the net sales floor space shall be used for the sale of non food comparison goods.


REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposals to change the range and types of goods sold from the premises having regard to the circumstances of the case and the impact on the vitality and viability of the city centre.

Appendix 1 CCAC Minutes 23rd July 2014

86. Park and Ride, London Road, Salisbury

Report by Service Director, Transformation

Supporting documents:

- [Item no 7 - Park and Ride, London Road, Salisbury report](#)  PDF 58 KB
- [Otem no. 7 - Park and ride Appendix 1 - plan](#)  PDF 104 KB

Minutes:

Cllr Toby Sturgis, Cabinet member for Strategic Planning, Development Management, Strategic Housing, Property and Waste introduced the report which requested that authority be delegated to the Service Director for Transformation in consultation with the Cabinet Member for Strategic Planning, Development Management, Strategic Housing, Property and Waste, to dispose of part of the Park and Ride site at London Road, Salisbury, so long as there is no permanent loss of parking spaces.

The Committee heard that further discussions had taken place which suggested the Council acquired additional land, and then sold this with the flying freehold, thereby creating 40 to 50 extra parking spaces at no extra cost to Wiltshire Council.

A question on improving the footpath in front of the proposed building allowing it to be used by pupils and parents from Laverstock School resulted in confirmation of a cycle path being created, which would allow this. Local members had confirmed their agreement with this.

Resolved:

That the Committee delegates authority to the Service Director for Transformation in consultation with the Cabinet Member for Strategic Planning, Development Management, Strategic Housing, Property and Waste, to dispose of part of the Park and Ride site at London Road, Salisbury, so long as there is no permanent loss of parking spaces.



REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	11 February 2015
Application Number	14/10797/FUL
Site Address	Greenacres Mobile Park, Semington, Trowbridge, BA14 6HL
Proposal	Change of use of agricultural land to create 7 additional Gypsy and Traveller pitches with associated ancillary development.
Applicant	Mr P Ward
Parish Council	SEMINGTON
Ward	SUMMERHAM AND SEEND
Grid Ref	390172 160112
Type of application	Full Planning
Case Officer	James Taylor

Reason for the application being considered by Committee

This application has been called in by Cllr Seed, the Division Member for the following reasons:

- Scale of development;
- Visual impact upon the surrounding area;
- Relationship to adjoining properties;
- Design – bulk, height, general appearance;
- Environmental/highway impact;
- Car parking (use); and
- Inappropriate development in the countryside and in excess of recognised traveller needs and entitlement.

1. Purpose of Report

To assess the merits of the proposal and to recommend that planning permission be granted subject to conditions.

2. Report Summary

Semington Parish Council objects to the proposal and circa 13 letters of objection have been received.

The traveller status of the applicants has been satisfied and there is a demonstrable need for further accommodation. The Council has recently published a Gypsy & Traveller Accommodation Assessment (GTAA) which provides an estimate of pitch need in Wiltshire

and will be part of the evidence base that underpins the forthcoming Traveller DPD. The GTAA identifies that up to 2019 the Council has an outstanding need for traveller pitches in this housing market area. Furthermore the issue of need has been dutifully considered by Inspectors on a number of recent traveller planning appeals and the Council's assessment of need has been repeatedly criticised.

The proposals have been assessed against the newly adopted policies of the development plan which is now formed by the Wiltshire Core Strategy and some saved policies of the West Wiltshire District Plan 1st Alteration (2004); and central to this application is Core Policy 47. At a national level the Planning Policy for Traveller Sites and National Planning Policy Framework form other material considerations. Whilst the local objections have been duly considered, officer's report that the site is acceptable as the proposals would give rise to no significant harm to planning interests.

3. Site Description

The application site measures approximately 0.6 hectares and is located to the east of the West Wiltshire Crematorium and to the west of an existing traveller site of 3 pitches which is to the south west of the A350/A361 junction. The application area has an approved use as paddock with access to the existing traveller site occupied by the applicant's family.

The site is relatively flat and there are established landscaped boundaries to the application site. The boundary to the existing traveller site to the east is a low close boarded fence; otherwise landscaping on the boundaries is 'soft'.

The site is located outside of any planning constraints or designations in the open countryside with the nearest settlement being Semington to the north-west. There are a number of public rights of way in the vicinity; in particular one runs within the site on its western boundary with the crematorium. Access is existing onto the primary road network of the A361.

4. Planning History

07/03870/FUL - Change of use to private caravan site for three pitches, eight caravans for single extended family with associated works (hardstanding, drainage, fencing and utility buildings) and associated keeping of horses, for occupation by travellers (part retrospective) – Temporary permission on 31.07.2008

W/11/01206/FUL - Change of use to small private gypsy and travellers site for three pitches for eight caravans and associated ancillary works and development (including hard standing blocks, drainage etc) and associated keeping of horses – Refused on 15.06.2011 but appeal allowed with costs awarded against the Council on 24.02.2012

W/12/02148/FUL - Construction of an ancillary day room – Permission on 16.05.2013

14/04110/FUL - Retrospective application for construction of an ancillary day room (previous application W/12/02148/FUL) - Permission on 05/06/2014

5. The Proposal

This application is for the creation of 7 new traveller 'pitches' on land immediately to the west of an existing lawful traveller site where 3 pitches are provided for.

The existing three 'pitches' have approval for 8 caravans and the associated keeping of horses on the application site. They have an approved access through the current application site onto the A361.

Of the proposed seven new pitches, the plans show that each would have a mobile home, a touring caravan and a dayroom; however only 3 of the potential 7 dayrooms are proposed at this time. The three proposed dayrooms would be single storey rendered structures with low profile concrete tile roofs. The footprint of the buildings would be 5 metres by 9.6 metres and contain a kitchen/seating area, store and a bathroom. They would be no greater than 4 metres in height. Each site would have its own dedicated cesspit and hard standing for parking of at least 2 vehicles.

Access to the site would be via the established access to 'Greenacres' which is directly onto the A361.

The proposals also detail the erection of a 6 metre thick, 1.5 metre high landscaped bund extending along the west boundary and around the entrance. Outside the new western bund there would be a landscaped area and 2m high close boarded fence to maintain the existing right of way and then the substantial retention of the landscaping at the boundary with the West Wiltshire Crematorium. Inside the new western bund a 2 metre high fence would be erected. The pitches shall be divided by a 2 metre high fence also. The existing service road will remain through the site and serve the existing traveller pitches as well as the new ones proposed.

6. Planning Policy

Local context:

The Wiltshire Core Strategy (WCS) was adopted at a special council meeting on January 20th 2015 and as such, it can be afforded 'Full Weight' in planning terms. The following WCS policies are relevant:

CP1: Settlement Strategy; CP2: Delivery Strategy; CP3: Infrastructure Requirements; CP47: Meeting the needs of Gypsies and Travellers; CP51: Landscape; CP57: Ensuring high quality design and place-shaping; CP60: Sustainable Transport; CP61: Transport and development; and CP67: Flood Risk.

Appendix D saved policies of the West Wiltshire District Plan 1st Alteration (2004) also have full weight, of which policy U1a: Foul Water Disposal is relevant.

National Context:

The National Planning Policy Framework (NPPF) acts as a principal material consideration in the determination of planning applications. It introduces the presumption in favour of sustainable development at paragraph 14 as a 'golden thread' running through plan making and decision taking. The NPPF is clear in stating that *'planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'*. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Paragraph 17 of the NPPF sets out the core planning principles and paragraphs 18-219 constitute what sustainable development means in practice. Paragraph 32 is also critical in terms of asserting that local planning authorities should only refuse applications on transport/highway safety grounds where *"the residual cumulative impacts of development are severe"*.

The Planning Policy for Traveller Sites (PPTS) acts as a principal material consideration in the determination of proposals for traveller sites. It needs to be considered in conjunction with the NPPF. At paragraph 3 it summarises that *the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.* Policy H sets out a framework for the determination of traveller proposals and reiterates that the law requires planning applications to be determined in accordance with the development plan unless material circumstances indicate otherwise. These may include the NPPF, PPTS and sustainable development considerations.

Planning Practice Guidance (PPG) is also a material consideration.

7. Summary of consultation responses

Semington Parish Council: Object:

"The proposed development will compromise highway safety – there will be significantly increased traffic moving on/off site and there will be disruption to the flow of existing traffic along the busy A361.

It is inappropriate development immediately next to the western boundary of the West Wiltshire Crematorium and will result in a loss of privacy, peace for quiet reflection and dignity.

It represents overdevelopment and will result in a loss of open countryside.

The Appeal Decision in relation to the existing site (Ref. APP/Y3940/A/11/2156159 dated 24/2/12) clearly stated (at Para 17) that no development should take place on the site proposed in this application and Condition 5 stated 'Pitches shall not be formed, nor caravan sited on land other than the eastern part of the site identified for this purpose.....'. To approve this application would overturn the Inspector's decision."

Wessex Water: No objection.

Wiltshire Council Drainage: No objection.

Wiltshire Council Ecology: No objection:

Wiltshire Council Education: No objection:

Wiltshire Council Environmental health: No objection.

Wiltshire Council Highways: No objection.

Wiltshire Council Housing: No objection.

Wiltshire Council Spatial Plans: No objection.

Wiltshire Council rights of way: No objection to revised plans.

8. Publicity

The application was advertised by neighbour letters, a site notice and a Wiltshire Times advert. This resulted in circa 13 objections which may be summarised as follows:

- No need for development / too many travellers already / Already a cramped and overpopulated site;
- Village already overwhelmed;
- Impact on the character of Semington;

- Impact on the open countryside / probably green belt / area looking like a large caravan park;
- Impact on the crematorium and its memorial grounds; a place for peace and tranquillity;
- Impact on crime rates / anti-social behaviour in area;
- Impact on highway safety and pedestrian
- Site for affordable housing to allow local children to move back to village;
- Application is contrary to assurances provided by the applicant on the original application;
- Application is contrary to the conditions imposed by the planning Inspector who approved the original development restricting use on this land and preventing caravans on this land;
- Exacerbates disproportionate allocation of such sites through Wiltshire, compounding concentration within north and west Wiltshire;
- Unsustainable location;
- Applicants have no regard for planning procedure;
- Gross overdevelopment;
- Dayrooms, parking touring caravans next to statics and providing parking spaces all facilitates more accommodation than stated;
- Concern over water supply, drainage and refuse;
- The extended family have lived on site since 2011;
- Impact on protected species; and
- The Cremation Act 1902 requires a 200m gap between residential property and any new crematoria

9. Planning Considerations

9.1 Principle of development.

Proposals need to be determined in accordance with the development plan unless other material circumstances indicate otherwise. The relevant policy of the development plan is Core Policy 47 (CP47) of the WCS and this states that

“Proposals for new Gypsy and Traveller pitches or Travelling Showpeople plots/yards will only be granted where there is no conflict with other planning policies and where no barrier to development exists. New development should be situated in sustainable locations, with preference generally given to previously developed land or a vacant or derelict site in need of renewal. Where proposals satisfy.... general criteria they will be considered favourably.”

The general criteria are detailed as being:

- No significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable*
- It is served by a safe and convenient vehicular and pedestrian access. The proposal should not result in significant hazard to other road users*
- The site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.*
- The site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas*
- It is located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.*

- vi. *It will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings.*
- vii. *Adequate levels of privacy should be provided for occupiers*
- viii. *Development of the site should be appropriate to the scale and character of its surroundings and existing nearby settlements, and*
- ix. *The site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology.*

As such, subject to those detailed criteria, the proposals are considered to comply with the development plan policy in principle.

Furthermore the NPPF is a material consideration so far as its policies are relevant to detailed matters and the provision of sustainable development. It is silent on the principle of traveller proposals. The PPTS is generally permissive to traveller development subject to detailed considerations and the provision of sustainable development. Policy H of the PPTS details that proposals should be assessed with a presumption in favour of sustainable development..... it sets out *relevant matters* for consideration and emphasises that:

“Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”

The relevant matters are detailed as being:

- *the existing level of local provision and need for sites*
- *the availability (or lack) of alternative accommodation for the applicants*
- *other personal circumstances of the applicant*
- *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- *that they should determine applications for sites from any travellers and not just those with local connections*

As such, subject to those relevant matters, the proposals are considered to comply with the national planning policy in principle.

9.2 Status of applicant.

The applicant and their family are currently residing on the existing adjacent site of Greenacres Mobile Park which is lawfully intended to be 3 pitches. Most of the prospective occupiers of the 7 additional pitches proposed here are living at Greenacres already ‘doubling-up’ and even ‘trebling-up’ on the approved pitches. One occupant is understood to be living in “bricks and mortar” but has health reasons to move back with their family if they had their own pitch. The applicant and his family are considered to satisfy the definition of a traveller as set out in national policy and have been occupying a traveller site in accordance with the condition that restricts occupation to those meeting the definition of a traveller.

Moreover, planning permission, unless expressly made personal, runs with the land and not the applicant. A condition can be imposed to ensure that the Council retains effective control so that any future occupiers satisfy the definition of a traveller as set out in the PPTS.

9.3 Need.

The Council's spatial planning officer has raised no objection to these proposals and set out in detail but succinctly the current position in terms of need which indicates based on the most contemporaneous evidence that there is a residual requirement for 11 pitches in the period 2014-2019 within the north and west Wiltshire housing market area; and identifies that the applicant's family are already living at the site where 3 households should be residing there are actually currently 9 households.

The spatial plans officer has commented and advised as follows:

"...the Council has undertaken a full 2014 Gypsy and Traveller Accommodation Assessment (GTAA) to update the evidence underpinning the Core Strategy; to inform its review post adoption; and the development of the Gypsy and Traveller DPD which will allocate sites to meet that accommodation need."

It is noted also that the Core Strategy Inspector endorsed the council's approach to traveller planning and states in para. 128 of his report that *"until such time as the intended DPD is complete and to ensure flexibility, the pitch requirements are best considered as minimums. This would be prudent and would introduce flexibility within the plan which would aid the effectiveness of its delivery."*

The spatial plans officer goes on to advise (just before the Core Strategy was formally adopted) that *"the 2014 GTAA was undertaken by independent research consultants Opinion Research Services in spring 2014. The final report was published on 16 January 2015. It sets out the overall need for new traveller pitches and showpeople plots in Wiltshire for the period 2014-29. This evidence forms a cornerstone of the emerging DPD and will inform the immediate review of Core Policy 47 of the WCS post adoption. The conclusions of the GTAA have yet to be tested through the Gypsy and Traveller DPD process but it nevertheless forms a material consideration in determining this application."*

"For the North and West Housing Market Area the GTAA established a net requirement of 68 pitches for 2014-29. For the first five years of the GTAA period (2014-19), 21 pitches are required."

"The GTAA takes into account the oversupply from the Core Policy 47 period 2011-16 by effectively establishing a residual requirement..... Since July 2014 (the base date of the GTAA), 10 pitches have been permitted in the North and West HMA which leaves a residual requirement of 11 pitches for 2014-19. Core Policy 47 of the Wiltshire Core Strategy remains the adopted policy but this additional information is a consideration in the determination of this application."

Whilst this provides the most contemporaneous evidence base on the issue of need it is acknowledged that it has not been tested. However your officers would advise that the previous evidence relating to traveller need was substantially criticised by the Core Strategy Inspector who stated that need figures had to be treated as minimums until any DPD was adopted. This was to introduce flexibility that reflected the questionable evidence underpinning need. Indeed in numerous recent case decisions regarding traveller proposals it was considered that need was substantially underestimated in Wiltshire. Based on those Inspector opinions, the Core Strategy Inspector's comments and the most contemporaneous evidence (albeit untested) it is concluded that there is outstanding need.

9.4 Availability of alternative accommodation for the applicants.

It has been established that there is not an adequate land supply and therefore this generates a level of need.

There are no known suitable sites in the locality that have planning permission, are vacant and meet the needs of the applicants. This is a material consideration in assessing this proposal.

9.5 Other personal circumstances of the applicant.

The application is submitted by Mr P Ward. It is understood that the pitches would all be occupied by the wider family of the applicant. Within the family group there are known educational needs with 4 children identified as being of school age. A further 6 children of pre-school age have been identified. A settled base will help those children of school age receive education. Furthermore the benefits of having a settled base are well established, also including access to medical facilities.

Whilst this, in particular the education requirements, will place a pressure on the local infrastructure, it is not considered to be any more significant than a small number of younger families moving into the settled community in place of residents whose children have grown up and moved on. It is not considered to represent any “*undue pressure*” within the PPTS meaning. Furthermore education colleagues have raised no objection and detailed that the catchment primary school of St. George’s is a 3 class school i.e. 90 places, all in permanent accommodation. There were 66 pupils on roll at the January 2014 census and current forecasts peak at 70 pupils in 2017/18. The proposals would therefore arguably help support the local facilities of the village which show ample capacity for additional pupil numbers.

9.6 Impact on the local community.

It has to be agreed that this proposal represents a further intensification in the level of traveller provision on this junction of the A361 and A350. There has been objection on the basis that this would dominate the parish of Semington. However your officers do not share this view.

The proposal would increase the number of pitches in this immediate vicinity (A361/A350 roundabout) from 9 to 16 across three sites. Across Wiltshire there are a number of locations where a considerably greater number of traveller pitches are approved and do not dominate the local community. However each case needs to be assessed on its own merits. The proposals are located outside of the village, have a nominal impact on the appearance of the area and would not of themselves or cumulatively dominate or harm the settled community. There are over 500 houses in Semington village and in total the number of pitches in this location would be 16; a very small number in comparison to Semington parish’s population.

It is concluded that the proposals would be appropriate to the scale and character of the site’s surroundings and existing nearby settlements and therefore satisfy criteria viii) of CP47.

9.7 Sustainability and accessibility to services.

The site is located outside of any defined town or village policy limits. Local and national policy makes provision however for traveller development to be located in the countryside. It has to be acknowledged that the site has been deemed acceptable in sustainability terms by Inspectors on the previous appeals at the adjacent site and at the other two sites in the vicinity that are physically further from Semington village and separated by more roads.

As recently as October 2014 an Inspector found a site further to the east across the A350 to be a reasonably sustainable location for such development with reasonable accessibility to

services. Whilst they acknowledged that most trips are likely to be by private car that did not necessarily mean that an application was not sustainable within the PPTS's meaning.

Whilst each case is assessed on its own merits in light of this decision and the striking similarities on this issue then the site must be considered to be sustainable within the PPTS meaning.

Criteria v) of CP47 has been satisfied in this regard as Semington provides for primary education requirements; and a number of larger settlements are nearby and accessible which provide for secondary education needs and general medical facilities.

Furthermore the Council's highway officers raise no objection.

9.8 Flooding / drainage / infrastructure.

The application site lies within flood zone 1, the lowest probability of fluvial flood risk and there are no rivers in proximity. The proposals involve an urbanising of an agricultural field and as such there is some limited potential to exacerbate surface water discharge. However given that the site is relatively flat and that large areas will be retained with permeable surfaces then this is not a significant concern. No flood risk is posed to or from this proposal. However it is considered prudent to condition the final details as this is a clay area.

In terms of foul water disposal, it is noted that circa 38,000 litre subterranean cesspools are proposed for each of the 7 pitches and these will be emptied as necessary. This is the same approach as agreed on the adjacent Greenacres site; it is understood that this work has been completed and it is also understood that no issues are resulting. As such the foul drainage solution is acceptable.

Equally a condition regarding the final foul disposal is also considered prudent as limited details have been provided and this can ensure adequate provision is made on site to limit potential pollution problems and offers some flexibility for all parties at a future date.

Wiltshire Council's Drainage officers have raised no principle objection and can be consulted further on any discharge of conditions application.

The adjacent site of Greenacres has water supply, power supply and waste collection arrangements. As such these are not areas of concern and demonstrate that the site can be adequately provided for in terms of infrastructure.

Criterion i), iii) and ix) of CP47 has been satisfied in this regard.

9.9 Impact on the rural scene and landscape.

The proposals will result in a change to the character of the site which is currently open and laid to grass as paddock. There will be an urbanising affect and severance from the fencing proposed very much akin to that on the adjacent Greenacres Mobile Park and very typical of a traveller site. However the landscape is such that the site is not widely visible from distant views, and any impact would be limited to the immediate area and this would be largely screened by the landscaping details which include a landscaped bund. There would remain only glimpsed views of development over the bund and/or through the site entrance or from the public footpath. The purpose of landscaping is not to make development disappear but rather to mitigate its impact; the proposed landscaping would achieve this.

Whilst the proposals would encroach into a paddock; the paddock is not part of a wider rural landscape, as it has the existing traveller site to the east; the Crematorium to the west and

the A361 and A350 to the north and south-east. To the south is open countryside, however there is a well-established native hedge on this boundary which would be retained.

It should be emphasised that the site is not subject to any particular landscape designations (it is not Green Belt or within an area of outstanding natural beauty) and as such criterion vi) and ix) of CP47 are satisfied in this regard.

9.10 Residential amenity.

The proposals would not impact on the reasonable amenities of any existing neighbouring property. There are 3 other traveller pitches immediately to the east which form part of the applicant's control and would be unaffected in any event. There are no residential properties of the settled community in proximity and other traveller accommodation belonging to other families are separated by landscaping and major roads.

The West Wiltshire crematorium is located immediately to the west of the application site and it is noted that the operators of this facility have raised objection. Their concerns have been given very careful consideration and additional landscaping has been agreed to try and take every reasonable opportunity to mitigate the impact of the proposed development and also address the alleged impact of the existing 3 pitch development of Greenacres and dog fouling.

The Inspector that approved the Greenacres development on a permanent basis did assess the impact of those 3 pitches on the crematorium and its memorial grounds and stated:

"16. The Council is concerned that the normal activities associated with a gypsy and traveller site, such as barking dogs, would be an unwelcome source of disturbance to mourners at the crematorium. However, although the appeal site adjoins the grounds of the crematorium the main building upon them is well removed from the boundary with the appeal site in a well landscaped setting. A substantial landscaping strip within the crematorium grounds runs alongside the boundary with the appeal site.

17. Furthermore, the current occupation of the appeal site, and the area shown on the application plans for the continued provision of pitches and the siting of caravans, is limited to its eastern end. As such it is well removed from western boundary of the site with the crematorium. The imposition of a planning condition in the event of the appeal being allowed could ensure that this would remain the case.

18. Given the above I consider that the day to day residential occupation of the appeal site by gypsy or traveller families should cause no undue disturbance to those using the crematorium. There is, moreover, no evidence that barking dogs are a particular problem on gypsy sites or that they have been on this site. As recognised in Circular 01/2006 noise and disturbance can sometimes arise from the movement of vehicles to and from such sites. However, given the limited size of the site, and the background noise of traffic adjoining road, such movements should not impact unduly on those seeking peace and quiet at the crematorium. Allegations by the Council that concerns had been raised in the past concerning anti-social behaviour on the site were not supported by substantial evidence."

As a result of these considerations the Inspector imposed the follow condition:

"5) Pitches shall not be formed, nor caravans sited, on land other than the eastern part of the site identified for this purpose on the submitted 1:500 scale plan identified and marked as plan B. Other than the access road shown on plan B there shall be no hardstanding other than in the areas identified in plans B and C for the formation of pitches and the siting of caravans."

The proposals would bring residential occupation closer to the boundary with the crematorium and thus bring any associated activity and noise closer to the memorial grounds and crematorium. However the crematorium itself remains some distance from the site boundary, the landscaping within the crematorium and at the boundary remains substantial and indeed would be very substantially added to with a continuous close boarded fence provided to keep dogs off the crematorium site, and a 4 metre thick, 1.5 metre high landscaped bund provided. Given the Inspector's considerations at paragraphs 16-18 of their report and the landscaping mitigation proposed it is assessed that the proposals would have a neutral impact on the amenity of the crematorium and overcome any reason to have imposed condition 5 on the original decision.

Environmental health officers have raised no objection.

The site is spacious and provides for reasonable amenity of future occupiers and play space within each pitch. The proposals would provide for reasonable privacy even though it is acknowledged to be a proposal for a family site.

As such the proposals accord with criterion iv), vi) and vii) of CP47 in these regards.

9.11 Highway safety

The access has been in existence for a number of years and has good visibility in both directions. The site provides space for vehicles to turn safely and conveniently and adequate parking provision. It is not considered that there are any highway safety concerns with the proposal and clearly no severe impact within the meaning of paragraph 32 of the NPPF.

There is no evidence to suggest that the existing access is or would result in any disruption to the flow of traffic on this busy A-road as alleged by Semington Parish Council.

Wiltshire Council's highway officers have raised no objection. Criterion ii) and iv) of CP47 have been satisfied in this regard as indeed has paragraph 32 of the NPPF. There are no reasonable grounds for refusal on highway safety.

9.12 Other material considerations

The application site has a history of agricultural use and has been in use as a paddock for a number of years. It is not considered to have any potential hazardous substance issues. The proximity to the crematorium has been considered and whether this would be a suitable location for residential property. Environmental health officers have considered this matter and have had regard to the 1902 Act referenced by the crematorium operators. Colleagues have no objection noting that this imposes restrictions on the siting of new crematorium to existing housing, but not vice-versa. Your planning officers would agree with their assessment.

The site has no national or international designations and there are no known archaeological or ecological interests that would be affected by the development proposals. Ecology was not raised as substantive issue either by the Council's officers, Council's committee or Planning Inspectors when considering the development of the adjacent Greenacres pitches. The Council's ecologist has raised no objection but does suggest enhancement and precautionary measures which can be addressed by informatives. The site is not near any river and would not affect river quality and in any event it has acceptable drainage solutions.

The public consultation process raised the idea of making this a site for affordable housing. This is not what is being proposed and it is necessary to assess the merits of the application as it stands. There is no planning policy to require affordable housing provision on this site.

It has been alleged that the proposal would increase anti-social behaviour and crime rates. No evidence has been provided to substantiate this suggestion.

10. Conclusion (The Planning Balance)

The proposals accord with Core Policy 47 of the Wiltshire Core Strategy and its *general criteria*. The proposals accord with the government's policies of the National Planning Policy Framework and represent a sustainable form of development. The proposals accord with the government's policies in the Planning Policy for Traveller Sites and its *relevant matters*. There is a need for the development as identified within the contemporaneous evidence base (GTAA) published as recently as January 2015 and that will be used to inform the Development Plan Document for Traveller Sites. The Council's earlier evidence base has been substantively criticised by the Core Strategy Inspector and by other Planning Inspectors in recent case decisions. The applicants meet the definition of travellers as set out in the PPTS and their personal circumstances are such that they have a need for access to education and health care facilities and a settled base. The proposals would not cause any significant harm to any planning interests, including the operation of the adjacent West Wiltshire Crematorium and its memorial grounds and highway safety. Whilst the local objection has been noted and given very careful consideration it is concluded that the application must be recommended for permission and there is no reasonable reason to conclude otherwise.

RECOMMENDATION

Grant planning permission subject to the following conditions:

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

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

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

TP01, TP02, TP03 (Rev D), TP04 and TP05.

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

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for traveller sites (DCLG, 2012).

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

4. There shall be no more than 7 pitches on the site and on each of the pitches no more than 2 caravans shall be stationed at any time and of these, only 1 caravan on each pitch shall be a static caravan, all as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

REASON: In order to define the terms of this permission.

5. No commercial activities shall take place on the land, including the storage of materials.

REASON: In order to define the terms of this permission, protect the rural scene and character of the countryside, and protect the amenities of the area and neighbour uses.

6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

REASON: In order to define the terms of this permission and protect the rural scene and character of the countryside.

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

- a) location and current canopy spread of all existing trees and hedgerows on the land;
- b) full details of any to be retained, together with measures for their protection in the course of development;
- c) a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- d) finished levels and contours;
- e) means of enclosure;
- f) car park layouts;
- g) other vehicle and pedestrian access and circulation areas;
- h) all hard and soft surfacing materials;
- i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, etc);
- j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

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

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

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

9. No development shall commence on site until a scheme for the discharge of foul and surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. No pitch shall be first occupied until it has been provided with its agreed surface water drainage and its agreed foul drainage.

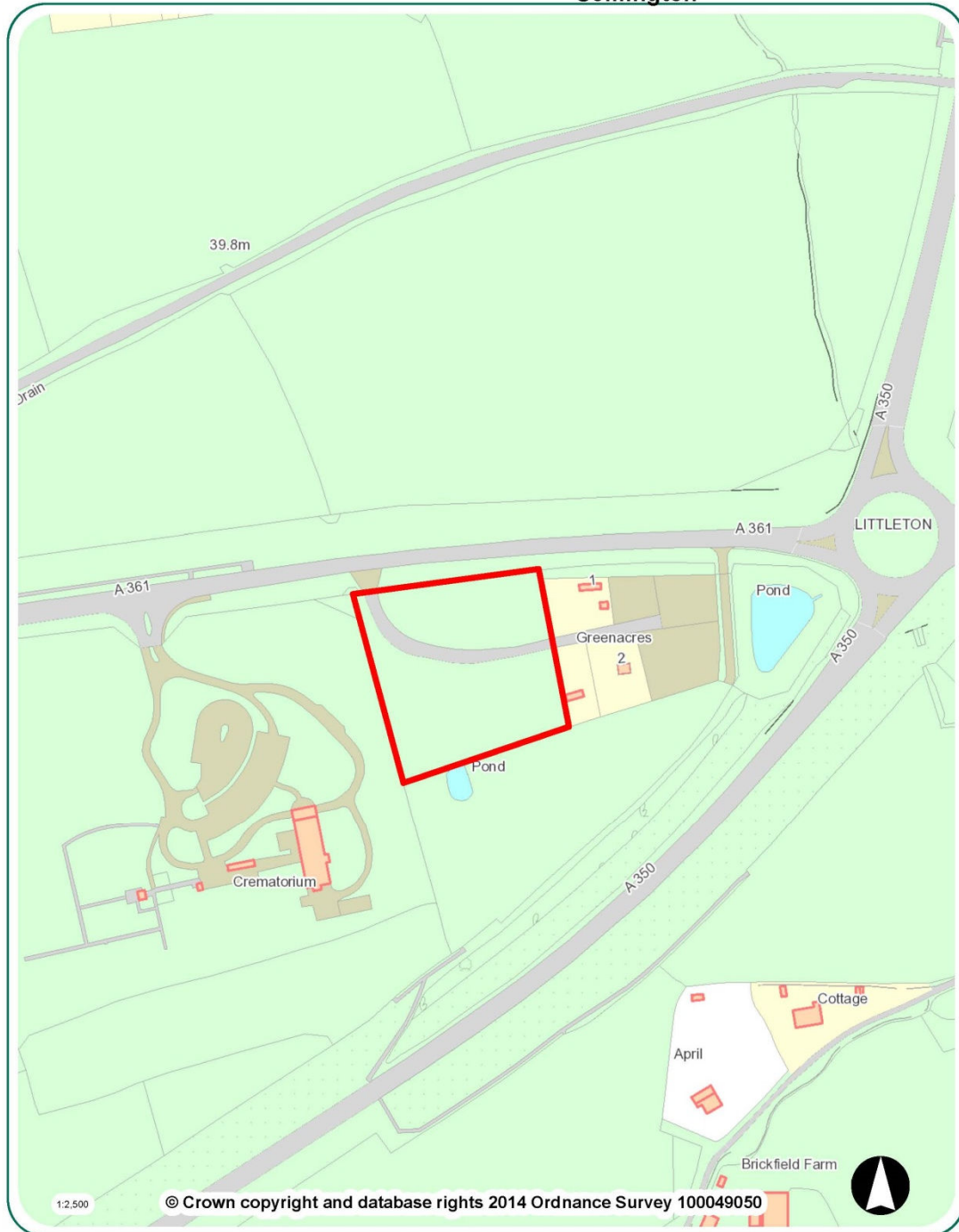
REASON: To ensure that the development can be adequately drained and in the interests of preventing pollution.

INFORMATIVE:

The developer is advised that there is a low risk that great crested newts, reptiles or nesting birds could occur on the application site. Great crested newts, all reptiles and nesting birds are legally protected and planning permission does not provide a defence against prosecution. In order to minimise the risk of amphibians/reptiles occurring on the site, the developer is advised to clear the site and areas of long grass in a sympathetic manner during the autumn (September/October) or spring months (April-May) and to maintain the grassland at a short height to make it unsuitable for reptiles/amphibians until the construction works commence. Clearance of scrub should be carried out outside the bird breeding season (March to August inclusive) or where this is not possible, preceded by a check for active nests by a competent ecologist. If reptiles or nesting birds are found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or a Council Ecologist. If great crested newts are found, all works should stop immediately and Natural England contacted for advice on any special precautions before continuing (including the need for a derogation licence). Please see the council's website for further information: <http://www.wiltshire.gov.uk/planninganddevelopment/biodiversityanddevelopment.htm> or Natural England's website <http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/faq.aspx> or <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

INFORMATIVE:

The developer is encouraged, in order to provide ecological enhancement, to increase the number of tree/shrub species to a minimum of 5 native and locally characteristic species on any final bund planting details.



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REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	11 February 2015
Application Number	14/11256/VAR
Site Address	The Poplars Residential Park, Poplar Tree Lane, Southwick BA14 9NB
Proposal	Variation of Condition 1 of planning permission W/12/00537/FUL to state the site shall not be occupied by any persons other than gypsies and travellers
Applicant	Mr L Cash
Parish Council	SOUTHWICK
Ward	SOUTHWICK
Grid Ref	382273 154598
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Prickett for consideration since the Parish Council object to the removal of the family-specific condition attached to the approval given by the Inspector on earlier appeal. The application is before the Strategic Committee as it would, if approved, increase the number of pitches available for travellers.

1. Purpose of Report

To assess the merits of the proposal and to recommend that planning permission be granted for the variation of the occupancy condition to allow the site to be occupied by any gypsy or traveller(s).

2. Report Summary

The key issue to consider is allowing the use for general traveller occupation of the site in terms of applicable policy criteria and the related delivery of Gypsy and Traveller sites under the adopted Core Strategy.

Neighbourhood Responses: 4 letters of objection were received.

Southwick Parish Council - Objects to the proposals for the reasons cited within section 7 below.

3. Site Description

The application site is a rectangular parcel of land situated on the north-western side of Frome Road to the east of the junction with Poplar Tree Lane. The land falls in the open countryside without any special statutory designation, some 1.2km from Southwick Village Policy Limits. Access to the site is off of Poplar Tree Lane, approximately 50m from the intersection between the Lane and the A361 Trowbridge to Frome road.

4. Planning History

The applications that relate to the use of the site for gypsy and traveller purposes are set out below.

W/12/00537/FUL: Erection of mobile home, utility dayroom and siting of one touring caravan: Refused, but granted permission on appeal: 08.03.2013

W/13/00722/FUL: Extension of hardstanding: Permission 25.04.2014

14/07284/FUL: Change of use of agricultural land to extend an existing Gypsy and Traveller site to accommodate two additional pitches and associated landscaping. Erection of two additional day rooms and retrospective permission for entrance gate and walls: Refused 24.10.2014

5. The Proposal

The application is for a variation of condition 2 of the permission granted under Appeal for Application W/12/00537/FUL to allow for general Gypsy and Traveller use. The current condition reads as follows:

2. The occupation of the site hereby permitted shall be carried on only by the Mr Laurence (Lawrence) Cash and Mrs Theresa Cash and their resident dependants. Should the land cease to be occupied by these persons the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

If permission were to be granted, this would be replaced by the condition set out as No. 1 in the recommendation below and reads as follows:

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to Planning Policy for Traveller Sites (DCLG 2012).

No other changes are proposed to the development on site.

6. Planning Policy

Wiltshire Core Strategy

Core Policies 1 & 2 Settlement and Delivery Strategies

Core Policy C47: Meeting the needs of Gypsies and Travellers - read in conjunction with the Wiltshire Gypsy and Traveller Accommodation Assessment (GTAA)

National guidance

National Planning Policy Framework, 2012

Planning Policy for Traveller Sites: (PPfTS) DCLG, March 2012

Planning Practice Guidance

The Government's stated aim in the PPfTS, 2012 is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

7. Consultations

Southwick Parish Council

The parish advises that at the appeal hearing, the Planning Inspector decided that, based on the evidence presented, the personal needs of the Cash family were so great that permission was granted in their sole favour. This permission should not be extended to all gypsies and travellers.

Wiltshire Council Highways

The Officer notes that the proposed change of condition would not result in additional pitches and so no significant highway impact would result; therefore there are no highway objections to raise.

Wiltshire Council Spatial Planning

The Officer notes that Section 38(6) of the Planning & Compulsory Purchase Act, 2004 (as amended) and Section 70(2) of the Town & Country Planning Act 1990 (as amended) prescribe that planning applications are determined in accordance with the provisions of the development plan unless material considerations dictate otherwise. The application relates only to the planning merits (or otherwise) of removing the condition associated with the permitted use of the site. "As such, it can be argued that the provisions of the development plan are not necessarily invoked through the consideration of this application, as there are no proposed material changes to the scope and form of the existing permitted development."

The effect of removing the condition would be to allow for general use of the site by members of the Gypsy and Traveller community, rather than just the named parties. The proposal has no bearing on the physical impact of what has been permitted and it is only a matter of judgement if the condition goes beyond what is necessary in order to control the permitted use of the site.

8. Publicity

The following is a summary of the objections received:

- Discussions with applicant's son confirm family "all desperately wanted to live on the site together. Inference was that having lost so much on another site refusal everything now depended on this site;
- Appears changes to the planning are now for a business proposition, to rent out pitches, which will create more massive and disruptive issues. Object to the variation of condition;
- Site history leads to the perception that the owners wish to develop the site rather than live there themselves;
- Error in section 7 of form, site is visual from public road;
- At no stage does covering letter comment on why this change is needed;
- Reason for the appeal being granted was to allow the owners the opportunity to create a stable home environment for themselves and their dependants. No case or reason has been made for the change.
- Vital that all the documents relating to this appeal are considered;
- Appeal case was based on the accommodation needs of the family;

- Application is ". Latest episode in a series of actions by the Applicant designed to extend and intensify the use of land in his ownership";
- Less than two years since permission was granted on appeal, when applicant agreed with the terms under which consent would be granted;
- Site has been occupied contrary to the condition;
- even during the appeal hearing itself "...the applicant was observed, shortly prior to the Inspector's site visit, loading several adult males..." and removing them "...apparently in a blatant act of subterfuge.";
- In 2014 Applicant attempted to have his land approved for use as a Proposed Certificated Camp site through the Caravanning & Camping Club without success;
- Committee subsequently refused application 14/07284/FUL for tripling of size/number of occupants;
- Proposals suggest representations made to the Appeal hearing that development of this site was "...an exercise in property speculation, and the Applicant is merely a developer with no long or even medium term aim to occupy as his original application claimed."
- No indication of how condition is to be changed or is intention to remove it in entirety which is wholly unacceptable;
- If intention is to enable the Applicant to continue to share the currently permitted site with immediate family who may not be dependant, then this should be stated.
- Failure to suggest an alternative clause implies existing consent would no longer be limited to those with gypsy status.
- Incomplete reference in supporting document to previous report on application 14/07284/FUL. approval was only acceptable in principle subject to appropriate conditions which included Condition 1;
- Applicant's personal circumstances carried great weight in the Inspector's decision;
- After 15 unsuccessful years searching for an appropriate site "...I am incredulous that the Applicant now seems to have found another site to move on to.";
- Agent states that "personal use condition was offered up at appeal by the appellant's agent without any authorisation from his clients" but this was not the case. Agent consulted fully with Mr & Mrs Cash;
- Application relates is Condition 1. Over the last two years since the appeal Applicant, or others occupying the site, "... have persistently remained in breach, not only of Condition 1, but also of Condition 2 limiting the number of caravans to 3 and Condition 4 relating to a prohibition on the burning materials on open ground and of commercial activities and storage of materials on the site. Furthermore, the removal of the hardstanding material required by the Appeal decision at Para. 70, whilst commenced, was not completed and now even more hard surfacing material has been deposited in the field. These breaches must be remedied also."

9. Planning Considerations

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise

Planning application W/12/00537/FUL was considered under the West Wiltshire District Plan in particular including policy CF12 (Gypsy Caravan Sites) read in conjunction with the NPPF; The Planning Policy for Traveller Sites (2012) and the then emerging Core Strategy.

The Core Strategy has in the interim been adopted, and policy CF12 of the former district plan is no longer relevant.

The use of the land as a gypsy/traveller site has been established by virtue of the Inspector's decision, albeit that he decided at the time to impose a condition to the effect that the permission should apply only to Mr & Mrs Cash and dependant family members, giving

weight inter alia to their personal circumstances. The current application proposes amending the condition to allow for general traveller use. No other changes are proposed.

With specific regard to the “5 Tests” for Planning conditions under Government Planning Practice Guidance (6 March 2014) it is inter alia stated that:

- A condition must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms; and
- If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity.

As noted by the Spatial Planning Officer the proposal has no implications in terms of the additional physical impact of the change of use and development that has already been permitted. The key consideration is therefore whether or not the site is suited to general gypsy/traveller use irrespective of any special circumstances that apply to the current occupants.

In considering the Parish and neighbour objection to varying the condition, it should be noted that the Planning Policy for Traveller Sites (2012) Par 21 states that applications for traveller sites should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF. In the Wiltshire Core Strategy, Core Policy 47 (Meeting the needs of Gypsies and Travellers) now has relevance, replacing the old WWDP CF12 (Gypsy Caravan Sites). The locational criteria that apply to Gypsy and Traveller sites under CP47 are:

- i. No significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable*
- ii. It is served by a safe and convenient vehicular and pedestrian access. The proposal should not result in significant hazard to other road users*
- iii. The site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.*
- iv. The site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas*
- v. It is located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.*
- vi. It will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings.*
- vii. Adequate levels of privacy should be provided for occupiers*
- viii. Development of the site should be appropriate to the scale and character of its surroundings and existing nearby settlements, and*
- ix. The site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology.*

These criteria are broadly similar to the Criteria that previously applied under WWDP Policy CF12, viz:

A Potential nuisance to adjoining land uses, in particular, residential areas;

B Encroachment into open countryside;

C The needs and safety of future occupants & their children;

D Highway safety, access, pedestrian safety, the impact of traffic on local roads & access to public transport;

E Availability and adequacy of infrastructure e.g. electricity, drinking water, sewerage or on-site treatment or storage of effluent;

- F The proximity of local services and facilities e.g. shops, refuse collection, hospitals, medical services & schools;*
- G The need to protect the best and most versatile agricultural land;*
- H Potential flood risk and any unacceptable increased flood risk to other riparian owners arising from the development.*

The Inspector, in coming to his decision, cumulatively considered the policy criteria as well as the personal circumstances of the applicants and concluded inter alia that: “...the development has not and would not, if it continued, cause material harm to the rural landscape or highway safety, subject to the imposition of appropriate conditions. On this basis I conclude that the development would not infringe any of the development plan policies of relevance, with the exception of Policy C1 of the DP, which I have found to now be inconsistent with the national advice on gypsy and traveller sites contained in the PPTS.” (Note: These were the old WWDP Policies, and Policy C1 related to development in the Open Countryside and did not include Gypsy and Traveller sites in allowable forms of development. The Inspector found this to be inconsistent with National Policy, which does allow for such sites outside of the confines of Development Limits.)

Thus, whilst acknowledging that the Inspector’s decision gave significant weight at the time to the personal circumstances of the applicants and that that was a contributory factor towards the appeal decision, the site which accommodates 1 pitch in a locality which the Inspector found to be in accordance with policy criteria, is considered to be acceptable when evaluated under Core Policy 47. The Condition specifically restricting the use to named persons is therefore not needed to make the development acceptable in planning terms, where varying it to provide for general traveller use would not have any new material impact in terms of the location or surrounds.

With regard to the provision of Gypsy and Traveller pitches, the Spatial Planning team has reached a point where a new Gypsy and Traveller Accommodation Assessment (GTAA) has been prepared in accordance with the commitment in the Wiltshire Core Strategy. This will guide pitch requirements in Core Policy 47 to be included in the yet-to-be-prepared Gypsy and Traveller Development Plan Document. The GTAA covers a 15 year period 2014-2029. and concludes that overall there is a requirement for 90 traveller pitches between 2014 and 2029; and 7 additional plots for travelling showpeople. The Gypsy and Traveller DPD will allocate sites for travellers but is still under preparation. As matters stand therefore no adopted policy taking into account the GTAA findings is in place. The Core Strategy however remains the starting point in determining new proposals and the requirements included in Core Policy 47 remain relevant. However, the GTAA is recognised as new data that is a material consideration in determining planning applications for traveller sites.

The GTAA further states that the estimated extra provision that is required now and for the plan period to 2029 in the **North and West HMA** (within which this site falls) will be 68 additional pitches to address the needs of all identifiable households. This includes the existing households on unauthorised sites, sites with temporary planning permission, concealed households and growth in household numbers due to new household formation. Broken down into 5-year estimates, **the additional pitch requirement for 2014-19 is 21. As 10 pitches have been permitted since July 2014, the residual requirement in the HMA is for 11 pitches.**

Thus, whilst the proposed variation of condition does not imply the provision of any additional pitch, it would free up a site for general occupation in a locality where the principle of the use has been found to be acceptable.

In order to secure the site for Gypsy and traveller use it is noted that Planning Practice Guidance states, with regard to conditions, that:

“Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.”

Given that occupation of the site outside of development limits would conform with one of those exceptional circumstances, i.e. a gypsy/traveller site, it is considered that the condition would be appropriately varied to permit occupation only by gypsy and/or travellers:

“The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: to Planning Policy for Traveller Sites 2012.”

With regard to other neighbour objections, the majority relate to the site history, allegations about motives behind the historical and current proposals on site and issues with the actual use of the site. It is acknowledged that the Inspector gave significant weight as part of his deliberations to the particular issues facing the family and that these, combined with other policy considerations, including lack of sites, led to the permission. However, other matters such as the personal motivation for the purchase or development of the site or indeed whether or not the applicant has managed to make alternative arrangements are not planning policy issues.

Any permission granted would constitute a new decision regarding the use/development of the site. Where the appeal application W/12/00537/FUL has been partially implemented development would be confined to the details approved for that scheme. Any variation from those details would require separate planning permission. However certain conditions relating to caravan numbers, restricting certain activities on site and highway safety would need to be re-stated.

10. Conclusion

Whilst noting the parish and neighbour comments received on the Inspector’s decision, it is considered that the site nevertheless accords with Development Plan policy particularly in relation to locational criteria that apply, and that the variation of the condition would contribute towards the general supply of gypsy/traveller site to meet the identified residual 2014-’19 need for 11 additional pitches in the North and West HMA.

RECOMMENDATION

Permission subject to the following conditions:

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to Planning Policy for Traveller Sites (DCLG 2012).

REASON: Planning permission has only been granted on the basis of provision of a site for occupation by members of the gypsy/traveller community.

- 2 No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall

be a static caravan) shall be stationed on the land at any time.

REASON: In order to define the terms of this permission and avoid proliferation of caravans at the site.

- 3 No commercial activities shall take place on the land, including the storage of materials, and no burning of materials shall take place on open ground.

REASON: In order to define the terms of the permission and in the interests of neighbouring amenity and the protection of the rural scene.

- 4 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

REASON: To prevent the stationing of commercial vehicles on site and to safeguard the appearance of the countryside and the living conditions of those residing in the locality.

- 5 The visibility splay of 215m at the Poplar Tree Lane and A361 Frome Road junction in a north-easterly direction at a setback distance of 2.4m from the carriageway edge measured along on the centreline of Poplar Tree Lane shall be maintained free from obstruction over a height of 0.9m above the level of the carriageway.

REASON: In the interests of highway safety.

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

Site Location Plan received on 9 December 2014.

and in accordance with site layout and development details approved under Application reference W/12/00537/FUL granted on Appeal on 8 March 2013 and the related discharge of conditions.

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

Appendix 1 – Original appeal decision granting planning permission for the use of the land as a traveller site



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Appeal Decisions

Hearing held on 4 and 5 December 2012

Associated site visit made on 4 December 2012

by N P Freeman BA (Hons) DipTP MRTPI DMS

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

Decision date: 8 March 2013

Appeals A & B: APP/Y3940/C/12/2178840 & 2178841 Land at Poplar Tree Lane, Southwick, Wiltshire, BA14 9NB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 by Mrs Theresa Cash and Mr Laurence (or Lawrence) Cash against an enforcement notice issued by Wiltshire Council.
- The Council's reference is SPH/W/12/00136/ENF.
- The notice was issued on 15 June 2012.
- The breach of planning control as alleged in the notice is: "Without planning permission, the mixed use of the land for equestrian use and for the stationing of caravans used for residential purposes and; operational development carried out as an integral part of the change of use, comprising an extended hardstanding."
- The requirements of the notice are:
 - a) Permanently cease to use the Land for the stationing of residential caravans; and
 - b) Permanently cease the residential occupation of all caravans on the Land; and
 - c) Permanently remove all caravans occupied for residential purposes from the Land; and
 - d) Permanently remove residential furniture and paraphernalia from the Land; and
 - e) Permanently remove the extended hardstanding from the Land, i.e. all of the hardstanding apart from that labelled 'hardstanding' and 'turning area' on the drawing entitled 'proposed site layout' dated January 2011, a copy of which is attached to this Notice; and
 - f) Permanently remove all of the demolition materials arising from step (e) from the Land; and
 - g) Reinstate the area of the extended hardstanding to its former contours and profiles, i.e. to match the contours and profiles of the Land immediately adjacent; and
 - h) Seed the area of the extended hardstanding with grass seed.
- The period for compliance with the requirements is 1 year from the date the notice takes effect in respect of requirements a) to g). For requirement h) the period is before 31 March 2014 or before the end of the next planting season following the end of the period for compliance with steps (a) – (f) above whichever date is the later.
- Appeal A (2178840) is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period in respect of Appeal B (2178841), the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered. Consequently, this appeal is proceeding under ground (g) only.

Summary of Decisions: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below. No decision on Appeal B is necessary.

Appeal C: APP/Y3940/A/12/2178838 Land at the junction of Frome Road and Poplar Tree Lane, Southwick, Wiltshire, BA14 9NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 by Mrs Theresa Cash against the decision of Wiltshire Council to refuse to grant planning permission.
- The application Ref. No. W/12/00537/FUL, dated 16 March 2012, was refused by notice dated 30 May 2012.
- The development proposed is one mobile home, one touring caravan – for nomadic use – and one utility dayroom.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below.

Procedural and preliminary matters

1. The Council have pointed out that the wording of the notice for the compliance period in respect of requirement (h) is in error; it should refer to steps a) to g) and not a) to f). I consider that this error can be corrected using the powers conveyed by s176(1)(a) without causing any injustice to the Council or the appellant should the notice be upheld.
2. The plan accompanying the enforcement notice relates to a rectangular-shaped parcel of land (about 0.57 hectares in area), on the north-western side of Frome Road to the east of the junction with Poplar Tree Lane. This land comprises two fields of roughly the same size separated by a hedgerow. The location plan supporting the planning application shows the site as being a smaller part the land targeted by the notice, adjacent to Poplar Tree Lane. Some of the land targeted by the notice beyond is outlined in blue indicating that it is within the appellant's ownership.
3. There are currently 3 touring caravans on the s78 appeal site which are occupied by Mr and Mrs Cash and their children. The Council served a Stop Notice on 30 November 2012 to prevent the stationing of more than 3 caravans and any enlargement of the hardstanding already created. The appellants' desire is to keep 3 caravans – replacing one touring caravan with a static type as shown on the plan that accompanied the application. As the planning application was only submitted for 2 caravans this is the nature of the s78 appeal proposal for consideration. However, the deemed application on the s174 appeal flows from the wording of the allegation which refers to the stationing of caravans. Should permission be granted for this it would enable any number of caravans to be stationed on the land subject to any conditions that were imposed. The appellants were agreeable to a limitation to 3 caravans sited on the land the subject of the s78 appeal and to their location being the subject of the submission of further details.
4. There is a timber building located on the western side of the s78 appeal site. This building benefits from a planning permission granted on 17 October 2011 (Ref. No. W/11/00895/FUL) for the change of use of the land to equestrian and the erection of a stable block and associated ancillary development. Mr Cash said that it was his intention to use the building as stables and graze his 3 horses on the adjacent land but he had not done so at present and they are presently kept on land near Weston-Super-Mare. I inspected the building and the majority has been converted into a dayroom (fitted kitchen, dining and living area) with a separate bathroom/wash room for the appellant family. The remainder of the floorspace comprises 2 'boxes' one of which was vacant, the other used for the storage of domestic items. The appellants stated that should permission be granted for a new dayroom building the existing timber building would revert to stables.

Ground (a) and s78 appeal

Main Issues

5. The Council have accepted the claim made by the appellants that they are gypsies by status, satisfying the definition contained in Annex 1: Glossary of the CLG's Planning Policy for Traveller Sites (PPTS) – March 2012. From the information before me, including the responses given by the appellants at the hearing to questions concerning their background, culture and lifestyle and other earlier appeal decisions involving the Cash family where their gypsy status was accepted, I am satisfied that this is the case. On this basis the policy regime applying to gypsies and travellers is engaged.
6. With this in mind I consider that the main issues to consider are as follows:
 - 1) The principle of the development in this countryside location and its impact on the rural landscape and surroundings;
 - 2) The effect on highway safety in terms of visibility at road junctions and pedestrian movement to and from the appeal site;
 - 3) The general need for and supply of gypsy sites in the area;
 - 4) The accommodation needs of the Mr & Mrs Cash and their children and whether they have access to any suitable and available alternatives;
 - 5) The personal circumstances of the Cash family - health and education.

Reasons

The principle of development in the countryside

7. The Council cite one policy in this respect which they say is breached in the reasons for refusing planning permission and issuing the enforcement notice. This is 'saved' Policy C1 of the West Wiltshire District Plan (DP) 1st Alteration 2004 which states that development in the open countryside will not be permitted other than for certain specified forms of development, which does not include gypsy and traveller sites. I appreciate that this is a saved policy but I consider that in effect it is placing a moratorium on permitting any new gypsy sites in the open countryside.
8. The national policy guidance for such development contained in the PPTS is that rural or semi-rural settings may be acceptable subject to scale (para. 12) but that there should be a strict limit on new traveller site development in open countryside (para. 23). Given the recent emergence of the national policy guidance I consider that this is to be preferred where there are inconsistencies with Policy C1. Consequently, I do not accept that the lack of compliance with Policy C1 is in itself a sound reason for opposing the development. This is borne out by the fact that a substantial number of traveller sites have been permitted in the countryside, both by the Council¹ and on appeal, since this policy came into effect in 2004.
9. The Council in their statement also refer to other policies which they say are relevant although they were not mentioned in the reasons for refusal or the issuing the notice. Policy CF12 of the DP relates to gypsy caravan site

¹ Permissions granted by the West Wiltshire DC – the predecessor authority – and Wiltshire Council the present unitary authority

proposals setting out a list of criteria to be considered including encroachment into the countryside. The policy goes on to list those locations where such development will not be permitted but these are designated areas such as the Green Belt and not general countryside, as is the case with the appeal sites. Policies H17 and H19 of the DP are concerned with new dwellings and village policy limits and have no direct bearing.

10. The Council also refer to saved Policies DP1 and DP15 from the Wiltshire & Swindon Structure Plan (SP) adopted in April 2006. Policy DP1 of this plan promotes sustainable development and Policy DP15 sets out tests to be applied to accommodation for gypsies, stating that suitable sites may be found both within and outside settlements.
11. Core Policy (CP) 47 of the emerging Wiltshire Core Strategy (CS)² is a detailed policy concerning gypsy and traveller development, which carries limited weight at this time. It contains a table showing the proposed requirements for pitch provision which I will come back to below. The policy goes on to state that such development needs to comply with other plan policies, be in a sustainable location and that there is a preference for using previously developed land or vacant/derelict sites in need of renewal. There then follows a list of criteria to be satisfied which include those regarding impact on the character and appearance of the landscape and the scale of the development, having regard to the surroundings. Again, it is clear that there is no bar imposed by this policy on gypsy sites being located in the countryside.
12. Having set out the policy context, I turn to consider the actual impact of the development. The land in question is outside any settlement boundary in open countryside. Nevertheless, it is only a short distance from the village of Southwick, which contains a number of local services and on a regular bus route along the A361 Frome Road. It is about 2 miles from the centre of Trowbridge, a large town with a comprehensive range of shops, services and schools. On this basis I find that the land is not in an unsustainable location, distant from services.
13. The land (both appeal sites) is flat with mature hedgerows running along the boundaries with the Frome Road and Poplar Tree Lane which provide a significant level of screening, even in winter (as I observed) when not in leaf. The caravans on the site can be glimpsed through the hedges but they are not dominant or intrusive features in the landscape. Moreover, they are seen in the context of the existing permitted timber stable building, which provides additional screening from Poplar Tree Lane, and another partly constructed building (which I understand is stabling) on land in separate ownership immediately to the north.
14. I have had regard to the concerns raised in relation to the dayroom which having a proposed footprint of 8m x 8m and a height approaching 5m would be a significant new building in the countryside. The appellants indicated a willingness to consider a reduction in the size and height of this building and this could be addressed by a planning condition. Subject to such a control, I consider that it should be possible to design a dayroom of more modest proportions which could be screened from most public vantage points by the existing hedges.

² The CS is likely to be considered at an Examination in 2013 with a pre-hearing date set for mid January 2013. CP 47 has recently been modified following consultation but still remains in draft form at the present time

15. Taking these findings together, and having regard to the possibility of controlling other aspects of the development by condition, I am satisfied that the rural landscape has not and would not be materially harmed by the development. This stretch of countryside enjoys no specific protection as a landscape of national or local importance and I find that the nature of the development, limited to a family site with a maximum of 3 caravans, would be small in scale and would not dominate the nearest settled community.
16. There is an added point that part of land is already previously developed as a consequence of the permission granted for the stable building. Objectors question the integrity of the Cash family and the claims that horses will be kept and stabled on the land. It is true that they have not brought horses onto the land as yet but Mr Cash said he intended to do so and there is a condition attached to the planning permission which prevents the stables being used for any other purpose which could be enforced by the Council.
17. In terms of the policy context set out above, leaving aside Policy C1 of the DP, I conclude that there is no conflict with tests applying to the creation of gypsy sites in the countryside. As far as Policy C1 is concerned, I acknowledge that it remains part of the development plan. However, for the reasons explained above it is now out of step with the national policy on gypsy site proposals and the Council's own emerging policy, CP 47. I therefore consider that there are good reasons for concluding that other material considerations indicate that a departure from the strict wording of this policy is justified. I also find that the development would not harm the character or appearance of the landscape, subject to ensuring the removal of a substantial area of hardcore and rubble that has been spread on land to the east of the planning appeal site but within the enforcement notice land boundary. This appears to serve no legitimate purpose and it was accepted that there was no sound reason for its retention beyond the area sought for siting the caravans. On this basis I conclude that criteria vi. and viii. of CP47 of the CS would be satisfied.

Highway safety

18. I deal firstly with the dispute over whether the visibility standards achievable at the junction of Poplar Tree Lane and Frome Road and Poplar Tree Lane and the Bradford Road (B3109) are acceptable given the nature of the development envisaged. I have been provided with assessments from the highway authority and for the appellants. Mr Hannis for the Council indicated that, although his figures were somewhat lower than those of Mr Hurlstone, he was willing to accept the latter's. I appreciate that what is achievable in terms of visibility is dependent upon the time of year that the measurements are taken and the amount of vegetation that encroaches over the verges. Mr Hurlstone undertook his measurements at the end of July when hedgerow growth is likely to be at its height. Therefore, I consider the figures given are likely to be reasonably representative of the time of year when visibility is likely to be most restricted. Both parties accept that the forward visibility obtainable when approaching these junctions on the main roads is of an acceptable standard.
19. As regards the Frome Road junction, Poplar Tree Lane meets this road perpendicularly. The appeal site access is about 60m back from this junction. The sightlines (y distance) available along Frome Road to the edge of the nearside carriageway when surveyed by Mr Hurlstone, with a 2.4m set back (x distance), were 85m to the south-west and 82m to the north-east. It was evident on the site inspection that the distance achievable to the south-west

was now greater due to the cutting back of the hedgerow fronting the verge in that direction. At the Bradford Road junction with Poplar Tree Lane there is agreement amongst the highway engineers that the visibility sightline to the north-east is acceptable. To the south-west a measured figure of 88m is available to the nearside edge of the carriageway with a 2.4m (x) distance.

20. Before coming back to the figures it is necessary to address the difference of view on which standards and methodology to apply. Mr Hannis applies the Design Manual for Roads and Bridges (DMRB) (TD42/95) on the basis that the Council use this for 'A' roads carrying significant volumes of traffic. This contains a standard of 215m for the y distance (x distance of 2.4m) on roads with no restriction on the speed limit (de-restricted – 60 mph national speed limit) as is the case on Frome Road³. Mr Hurlstone argues that this is not appropriate as DMRB is stated as only being applicable to the design of new or improved junctions onto trunk roads. Instead he advocates the use of the guidance in Manual for Streets (MfS1 and MfS2) on the basis that this guidance is concerned with safe Stopping Sight Distances (SSD) on non-trunk roads rather than maintaining constant traffic speeds, which is the primary objective of DMRB.
21. There is no hard and fast answer to the question of which methodology should be used. It is a matter of fact that Frome Road and Bradford Road are not designated trunk roads so the application of DMRB standards is questionable and Paragraph 9.4.2 of MfS2 states that these standards should not be applied uncritically. Nevertheless, from the traffic survey information provided the average daily 2-way flow on Frome Road is about 11,000 vehicles which is considerable and comparable to flows on some trunk roads. The advice in MfS1 (page 5) is that it focuses on lightly-trafficked residential streets, but many of its key principles may be applicable to other types of street, for example high streets and lightly-trafficked lanes in rural areas. Frome Road is not a road of this nature but MfS2 published in September 2010 by the Chartered Institution of Highways and Transportation asserts that the key principles may be applied to busier streets and non-trunk roads and that MfS1 and 2 are the recommended starting point for any scheme affecting non-trunk roads.
22. If the DMRB standard of 215m sightlines for roads with speed limits of 60 mph is taken then the figures given in paragraph 19 above are well below this standard. However, the 215m distance is primarily to avoid vehicles having to brake or decelerate and not a distance needed to minimise the risk of collisions, a point accepted by the Council. Mr Hurlstone has carried out an assessment, using the accepted formula, of the worst case scenario of a Heavy Goods Vehicle HGV approaching a junction at 60 mph. This gives a distance of about 160m to stop if a 2 second reaction time is included. This is not an emergency braking situation but a safe stopping distance, applying the SSD rationale. This demonstrates that 215m is not required to meet safety concerns. For cars and lighter vehicles travelling at this speed the SSD would be lower still and likely to be around 100m which is not much above the achievable levels of visibility at both the Frome Road junction and the south-west facing sightline at the Bradford Road junction.

³ The 85th percentile speeds measured (Somerset County Council records) are around 57-58 mph on Frome Road and Bradford Road

23. There are other factors and considerations that need to be borne in mind. The first of these is the likely traffic generation from the appeal site. Mr Hurlstone has provided considerable detail of the likely daily movements based on the work requirements of the occupants, the need to get children to school⁴ and shopping/social trips. The estimated average of 6-12 daily movements predicted is in line with the Council's estimate of 8-10 trips per day. I would anticipate that most of these trips would use the Frome Road junction as this is the more direct route into Trowbridge and Southwick.
24. Mr Hurlstone has provided details of a traffic count undertaken on Poplar Tree Lane, south of the appeal site access, over a seven day period between the 6th and 12th of September 2012⁵. The average daily flow was 886 vehicles with a fairly even split between northbound and southbound movements and a relatively low number of HGVs recorded. The weekday average is 983 movements. In this context, I do not consider that the estimated 6-12 daily trips make any significant difference to the total amount of traffic using Poplar Tree Lane or negotiating the junctions at Frome Road and Bradford Road. I asked Mr Hannis what he considered would be a significant addition and he said a 5% increase. The actual estimate based on the average daily flow is less than 1.5% well below the level of significance he identified.
25. I am also mindful that the Council have permitted other forms of development using Poplar Tree Lane for access. The information provided shows that this is mainly in the nature of stabling and for equestrian uses but there is also permission for the change of use of a barn to Class B8 storage use for a scaffolding business, which I would anticipate could generate daily movements equivalent to those associated with the appeal site and involve large lorries. The highway authority raised no objection to this development in their consultation response of August 2009, subject to the imposition of conditions.
26. A second consideration is the accident records relating to the specific junctions of concern. Mr Hannis has supplied the details for the 5 year period (June 2007 to May 2012) and this reveals 2 accidents. One near the junction with Bradford Road concerned a vehicle travelling south-west towards the Poplar Tree Lane junction which inexplicably went out of control and ended up on its roof in the field on the opposite side of the road. Seemingly no other car was involved. The other concerned a car approaching from the north-east turning right into Poplar Tree Lane and another car approaching from the south-west which went out of control and ended up in a ditch. Neither of these accidents can be directly attributed to the claimed deficiencies in sightlines and appear to be more to do with drivers not taking due care.
27. Local residents also provided some anecdotal evidence of two more unrecorded accidents at the Frome Road junction. The details provided are limited but one resident witnessed the aftermath of one of these accidents on 11 October 2012 which led to a temporary road closure. The other in 2007 involved 3 cars with one ending up on its roof – but apparently the police were not called to the scene. I accept that only personal injury accidents are normally recorded and that other unreported accidents are likely to have occurred. However, if as is claimed the two junctions in question are hazardous or dangerous then, having regard to the significant daily traffic flows on the Frome and Bradford Roads, it would be expected that a higher number of accidents would have been

⁴ Five of the children are attending a school in Trowbridge and currently travel together in a taxi

⁵ As the appeal site was in use during this period the counts would include traffic movements of the occupants

recorded and that they would clearly concern turning movements to and from Poplar Tree Lane. From the details before me I conclude that the junctions have a reasonable safety record. This is borne out by the lack of any special advance warning signs on the approaches⁶.

28. A further factor to consider is the scope to improve and/or maintain the standard of visibility that is provided. As regards the Frome Road junction, the appellants have control over practically the whole of the frontage hedge in a north-easterly direction which could infringe on the 215m sightline. In this case it would be possible to impose a condition requiring this sightline to be maintained – a point agreed and accepted by the Council.
29. To the south-west the hedge is in the control of another landowner. However, it was evident on my visit that this hedge has recently been cut back and the visibility achievable within the adopted highway boundary at a 2.4m set back was considerable. Provided the hedge was maintained in this condition the sightline said to be required by the Council appears achievable. Should the vegetation overhanging the highway obscure visibility the highway authority has the legal power to serve a notice requiring the landowner on which the hedge is situated to cut it back or, in the event that the notice is not complied with, to carry out the work in default. I am aware that this places a burden on the highway authority in such situations and that the regime of verge/hedge cutting is only twice a year. However, this is not a situation where a solution does not exist if a sightline of 215m is considered to be essential.
30. For the Bradford Road junction it is only the sightline to the south-west that is of concern. Part of the 215m splay does encroach beyond the adopted highway boundary but not significantly and the Council could use the available powers to require the frontage vegetation to be cut back. Furthermore, the oncoming traffic from this direction is on the offside carriageway unless it is overtaking. Mr Hurlstone's assessed distance to the centre line of the oncoming traffic lane is 215m. Consequently, the DMRB standard would be achieved and if the Council are concerned about overtaking vehicles the trimming back of a short length of hedge (about 17m) would enable the splay sought to be provided to the nearside edge of the carriageway.
31. Bringing these findings together, I am satisfied having regard to the actual road conditions, the modest level of traffic generation likely to be associated with the appeal development, the accident levels recorded and the scope to provide and maintain 215m sightlines at the critical junctions, that no material harm would be caused to highway safety from vehicle movements associated with the appeal site.
32. I have borne in mind some concerns raised by local residents about the size of vehicles using Poplar Tree Lane (including large agricultural vehicles) and the possibility of meeting such vehicles head-on when turning into the lane from Frome Road and Bradford Road. However, the vehicle turning in and the one approaching the junction would both be travelling at slow speeds⁷ and the drivers should therefore be able to take safe account of the approaching vehicle. Poplar Tree Lane is also about 5m wide which Mr Hannis confirmed was of sufficient width to enable a car and a lorry to pass each other with care.

⁶ Standard junction road signs are displayed with warning signs for the possible presence of horse riders and 'SLOW' road markings to alert drivers

⁷ Vehicle speed survey information provided by Mr Hurlstone confirms this is so at the Frome Road junction

33. As far as the site access onto the lane is concerned, the highway authority are satisfied with the layout and configuration which includes a kerb radii to the south and an apron of hard-surfacing with gates set back almost 6m from the carriageway edge. In all these circumstances I do not consider that the site access is inherently unsafe and a condition attached to the planning permission for the stables requires specified visibility splays to be maintained.
34. Turning to the matter of pedestrian safety, there is no footway along Poplar Tree Lane or street lighting and the nearest pavement is about 120m to the north-east of the junction on the opposite side of Frome Road. Given the vehicle speeds recorded on Poplar Tree Lane in the vicinity of the appeal site and the straight alignment of the road, I do not consider that walking this short stretch to the junction would involve a significant level of risk. When reaching Frome Road, I consider it is likely that any pedestrian from the appeal site would normally turn towards Southwick, where some services are found, or the bus stop close to the junction. There is a verge on the appeal site side of the Frome Road which could be used to walk along – as is evident from one of Mr Hurlstone’s photographs – until reaching the point where the footway begins on the opposite side of the road. Given the alignment of the road I consider that even with vehicle speeds of up to 60 mph it would be possible to cross Frome road safely paying due care and attention.
35. I appreciate the situation is not ideal and there is a risk that a pedestrian walking along the verge could topple into the road if disturbed by the passing traffic travelling at speed. However, I would expect pedestrian movement from the appeal site to be limited and that car usage would be the norm for most daily movements. Furthermore, there is another field gate from the land in the appellants’ control which is much closer to the footway. This would avoid the need to walk along the verge for any significant distance.
36. With these points in mind, I find that the development would not give rise to serious risks to the safety of pedestrians. I have taken account of the number of children on the appeal site but I would not expect the younger ones to be walking on the roads unaccompanied by an adult.
37. Concluding on this issue, I am satisfied that subject to the imposition of certain planning conditions that the development of up to 3 caravans for the Cash family would not be harmful to highway or pedestrian safety and that the relevant requirements of Policy CF12 of the DP, DP15 of the SP and CP47 of the CS would be met. I have taken account of paragraph 32 of the National Planning Policy Framework (the ‘Framework’) which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This is not the case here.

Need for and supply of gypsy sites

38. Given my conclusions that there is a lack of material harm in terms of the two main issues addressed above, it is not necessary to establish whether there is an overriding need for gypsy sites or personal circumstances which weigh in favour of permitting the development. However, given the depth of evidence presented at the hearing on these matters I consider it appropriate to give them consideration as they may add weight to the arguments in favour of the development.

39. The situation on need is complicated by the fact that Wiltshire was broken down into separate local authorities, with need assessed for each authority area, but there is now one unitary authority for the whole of Wiltshire. The total need for Wiltshire that is identified by the Council is now broken down by apportionment to cover 3 geographical areas – North & West, South and East⁸, consistent with the areas used for Strategic Housing Market Assessment (HMA). I consider that this background creates considerable uncertainties in establishing what a robust figure for need should be.
40. As a starting point the Gypsy and Traveller Accommodation Assessment (GTAA) for Wiltshire was published in 2006. This gave a figure of need of 40 pitches for the period 2006-2011. However, this was discredited when the draft Regional Spatial Strategy (RSS) for the South West emerged in 2007 which increased the pitch requirement for that period on the basis that the GTAA contained various shortcomings. It is not necessary to list these as the Council accept this was the case as confirmed at paragraph 3.8 the Topic Paper (TP) 16: Gypsy and Travellers – Wiltshire CS Consultation Document January 2012⁹. The revised figure in the RSS for the period 2006-2011 was 85 pitches (Tables 3 & 4 of TP) and, by the use of an annualised growth rate of 3%, it was estimated as 93 pitches for the period 2006-2016.
41. The TP then goes on at Table 6 to set out a revised assessment of need for the period 2011-2016 of 88 pitches. This table refers to 44 pitches that are said to have been or will be provided¹⁰. This leaves a residual figure of 44 pitches. This figure is incorporated into the table in draft policy CP 47 with an apportionment of 9 pitches for North and West Wiltshire. The table also includes the assessed pitch requirements for the period 2016-2021 being 38 in total and 20 for the NW area.
42. I mindful of the criticisms of the appellant's agent that the figures are not robust as they are based on a 'light touch' assessment. Given the constraints that flow from local government re-organisation in Wiltshire, as described above, and the point made on page 17 of the TP concerning the advisability of undertaking new research to calculate local need¹¹, I agree that there are uncertainties about whether the figures identified are robust.
43. I have taken account of the points made at the hearing for the Council that some of the shortcomings identified in the GTAA have been addressed. However, I consider that there is a significant level of uncertainty as to whether the figures contained in CP 47 are a true reflection of need. This policy will be scrutinised as part of the CS Examination to assess its soundness and if the figures are accepted they will inform Site Allocations Development Plan Document (DPD) which the Council expect to be adopted around the end of 2014. It seems to me, therefore, that only when this has happened will it be become apparent whether the figures put forward are robust or whether further assessment is needed.

⁸ There previously appears to have been 4 areas – north, south, east and west

⁹ This document is described in the Introduction paragraph 1.1.3 as a 'light touch' review of the GTAA 2006

¹⁰ This includes Lodge Hill (2 pitches) and Thingley, Chippenham (8 pitches); the latter is a publically owned site which is to be refurbished and extended – a planning application for this has recently been submitted, grant aid has been secured and the Council expect the development to proceed in the late spring of 2013

¹¹ Alternative option 4: Recalculate local need "In the absence of concrete local data, it would be advisable to undertake new research to calculate local need for Gypsy and Traveller sites that responds to the criticisms of the previous GTAA."

44. The Council accept that when the planning application was determined in May 2012 there was a need for more pitches. Moreover, even if this were not the case, having regard to paragraphs 10 and 22 of the PPTS, this does not mean that no planning permissions for new pitches should be granted. I have also noted the comment of a fellow Inspector who in his decision dated 28 September 2012¹² permitting 6 gypsy pitches at Hullavington refers to the acknowledged general need for gypsy and traveller accommodation in Wiltshire.
45. I was presented with a number of tables/schedules at the hearing by the Council¹³. These seek to demonstrate that 20 new permanent pitches have been permitted since December 2011 in the NW area and that this meets the figure of 9 contained in CP 47 for that area for the period up to 2016. From the information provided, including the permission for 2 additional pitches at Framptons Farm, Sutton Benger, this figure appears to be accurate, although for the appellant it was argued that the 5 'new' pitches recently permitted at Four Oaks, Swindon would be at the expense of 4 transit pitches which presently occupy this land. The analysis does show that a number of pitches have been permitted both by the Council and on appeal over the last 12 months and they are likely to contribute towards meeting need.
46. Nevertheless, given my comments above about robustness, I have reservations about the claims of the Council that need at present and up to 2016 is met. Whilst 20 new pitches appear to have been permitted there is doubt in my mind as to whether there was outstanding need carried over from the period 2006-2011 which may not be reflected in the pitch requirement of 9. This low figure is also highly dependent on the argument that of the 88 pitches said to be needed in Wiltshire as a whole from 2011-2016 only 9 are required in the NW area. This seems questionable as this area has the highest concentration of private authorised gypsy sites in Wiltshire and household formation is therefore likely to be at its greatest.
47. I have also had regard to the latest Wiltshire gypsy count which was provided for January 2012. I accept that this is only a snapshot and not necessarily an accurate assessment of need. Nevertheless it reveals 43 unauthorised caravans on sites of which 29 are said to be tolerated. The planning permissions granted in 2012 may well help to reduce these figures but I would expect that a number of caravans will still remain on unauthorised sites.
48. Bringing these points together, and accepting that this is not an exact science, it is apparent that planning permissions have been granted over the last 12 months which will, if implemented, add to the stock of gypsy pitches in the NW area of Wiltshire. However, I am not convinced from what is before me that there is no general need and the fact that the appellants presently have no authorised site to reside on bears this out. From the figures presented the level of general need does not appear to be great but it is a factor which adds some weight to the arguments that planning permission should be granted.

The accommodation needs of the Cash family

49. Mr and Mrs Cash explained the details of where they have been residing since around 2000. They said they lived on the public site at Thingley, Chippenham

¹² APP/Y3940/A/12/2173334 – Hearing held on 31 July 2012 – Rose Field, Hullavington, Wilts, SN16 0HW

¹³ By both Carolyn Gibson, Spatial Plans Officer and Cllr. Morland

from about 2000-2003 but that they were eventually 'forced off' by the English gypsies who did not want the Cashes (Irish gypsies) to remain living there. I am aware that there can be animosity between these different cultural groups which can lead to victimisation and violence.

50. I have been provided with copies of the Secretary of State's decision letters of 21 June 2005 and 13 November 2007 and the related Inspectors' Reports concerning appeals on land at Charmy Down near Bath in the Green Belt and an Area of Outstanding Natural Beauty¹⁴. These documents provide background information concerning the occupation of this land which, after various appeals, injunctions and challenges led to the Cash family and Mrs Cash's two sisters and families, who were also living there, having to vacate. Mrs Cash explained that the money invested in the purchase of this land¹⁵ was lost due to direct action being taken by Bath and North East Somerset Council under s.178 of the 1990 Act to ensure compliance with the requirements of an enforcement notice and the recovery of the costs of doing so. It is apparent that this is not a suitable or available alternative given the repeated failure to obtain planning permission to reside there, even on a temporary basis.
51. What I glean from reading these decisions is the following. Mrs Cash was born in Bristol. She and her sisters and their families were living together as a family group on the Thingley site having previously spent much of their lives travelling around the south west of England living on the roadside or pulling onto transit sites. The '2005' decision (para. 7.7 – Insp. report) makes reference to Mrs Cash's comments about suffering violence and abuse at Thingley, which led to the move to Charmy Down. This is consistent with the claims made at the hearing about the 'need' to move from Thingley because of threats. The '2007' decision contains similar background information but adds details (para. 64 of the Inspector's Report) concerning the Cash family living on a site in Gloucestershire from December 2006 to July 2007 owned by Mr Cash's sister who was away travelling during that period. It is said they had to move off when the sister returned and, having nowhere else to reside, and notwithstanding an injunction prohibiting their return, went back to Charmy Down.
52. The situation for the family since the vacation of Charmy Down is that they have pulled onto verges and transit sites in the West Country, resided briefly on the Semington site near Trowbridge and also lived on a pitch at Bonny Park, in the nearby village of Bratton. The latter is a lawful gypsy site with a number of pitches but I understand that the owner reclaimed the land and terminated a lease with the Council for some of the pitches with the occupants being required to leave over 2 years ago¹⁶. The Council argue that the intention is to reorganise and refurbish this gypsy site but I have nothing by way of evidence to indicate that the appellants will be able to return to live there once the refurbishment has taken place. Indeed Mrs Cash asserted that all the pitches are required for the owner's extended family. Moreover it does not represent a suitable and available alternative at present and I have no clear indication of when any refurbished pitches might be available.

¹⁴ Appendix 7 – Council's statement – '2005' and '2007' Decisions

¹⁵ Para 7.2 of Insp. Report on APP/F0114/A/04/1151875 refers to Mr Cash buying the land in May 2003

¹⁶ Ms Gibson said notice to quit was served on 21 September 2010 and that site has planning permission for 10 pitches

53. Since leaving the Bratton site the Cash family have travelled around, occupying a transit site at Westonzoyland near Bridgewater for periods of about 6-8 weeks at a time (this has now closed down) and other places they could 'pull off' before coming to the appeal site within the last year. I understand that the appeal land was purchased some time ago. A query was raised at the hearing about why the appellants did not move on sooner if they were genuinely in need of accommodation. It was explained by their agent that having regard to the very traumatic experience concerning Charmy Down, which caused considerable distress to the family and led to substantial financial loss, that they did not want move on unless they were left with absolutely no alternative. This seems to me to be a plausible explanation.
54. With this background in mind it does appear that the Cash family has a pressing and immediate need for accommodation and that there are no other suitable, available and affordable alternatives. Neither the Council nor any third party has provided clear evidence to refute this. Mrs Cash said that contact had been made with local estate agents but that they have been unable to assist. She also said that the Council's suggestion of visiting a public site near Salisbury to check availability when having to leave the Bratton site was taken up but it was apparent that the English gypsies occupying that site would not welcome them.
55. I will come on to consider the particular personal circumstances of the appellants below but as the family includes of a number of dependant children the need for a safe and settled base is a strong argument which weighs in favour of permission. This is evident from various court authorities which indicate that the health and welfare of gypsy children are important factors to bear in mind when conducting the balancing exercise, especially where the alternative is likely to be an unsatisfactory and dangerous roadside existence.
56. Bringing these points together, it is clear that the family has had a very difficult time over the past few years and faced considerable hardship. From what is before me it does not appear that Bath and North East Somerset Council offered any significant support when the family was forced to leave Charmy Down and that since then it has not been possible to secure a permanent lawful pitch with the level of security that is needed to ensure long-term occupation. These particular circumstances support the grant of planning permission.

Personal circumstances – health and education

57. The health needs and education arrangements for the children were described and discussed at the hearing. The most pressing and serious health need is that of son Paddy (aged 5) who was born with a heart defect which required open heart surgery when 2 weeks old. He has trouble breathing, needs daily doses of oxygen and is prone to infections. He is registered at the Bradford Road surgery in Trowbridge and attends most weeks for check-ups and to obtain medication. He also has to have regular consultations with a specialist at Bristol Children's Hospital. Daughter Marie-Ellen (aged 7) is a chronic asthmatic and needs medication during attacks. Grandson Milley, daughter of Eileen (aged 20), also suffers from asthma and she lives in a house in Corsham at present because of his condition. Mrs Cash said that Eileen and Milley visit the appeal site daily for meals but normally sleep at the house in Corsham. Mr Cash has a disability in his hand which inhibits his ability to work but he goes out and supervises his two older sons (Jerry and Laurence) who run the family's landscaping business.

58. In terms of education, the 5 youngest children are currently attending Longmeadow Primary School, in Trowbridge and of these Kathleen (aged 11) is seeking a place at St Augustine's Secondary School in Trowbridge. They all travel together to and from school by taxi which they are entitled to do as they live over 2 miles from the school.
59. I consider that the health needs of Paddy go beyond the general or routine. I accept that access to a doctor's surgery and a hospital – in this case the one in Bristol – is not necessarily dependent upon being able to stay on the appeal site. However, to be registered at a surgery and keep appointments at a hospital requires a settled base where contact can be made and to which correspondence can be sent. The analysis of alternative accommodation above suggests that there is a strong likelihood that should the appellants be required to vacate the appeal site they would end up living on the roadside or transit sites (as they have in the past) which I consider could be seriously detrimental to Paddy's health and possibly life-threatening. The asthmatic conditions of two other children are also material matters and are likely to be aggravated if a settled base cannot be secured.
60. As regards education, the opportunity for five of the children to attend the same school providing support for one another is further factor weighing in favour, given the notoriously low levels of educational achievement of gypsy children recorded in national surveys. I have not been presented with any evidence to show that these children have any particular learning difficulties or that the school they attend is the only one that could meet their educational needs. However, the stability provided by being able to reside on the appeal site enables regular attendance. The alternative, a roadside existence or constant moving from one location to another, would be likely to restrict or preclude attendance to the detriment of the children's education. Again these particular personal circumstances weigh in favour of permitting the development.

Overall conclusions

61. For the reasons set out above, I have found that the development has not and would not, if it continued, cause material harm to the rural landscape or highway safety, subject to the imposition of appropriate conditions. On this basis I conclude that the development would not infringe any of the development plan policies of relevance, with the exception of Policy C1 of the DP, which I have found to now be inconsistent with the national advice on gypsy and traveller sites contained in the PPTS. For this reason I consider that a departure from this policy is justified.
62. As regards the policy guidance in the PPTS this indicates at paragraph 22 that certain issues should be taken into account when considering applications for traveller sites. These include the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the applicants and their personal circumstances. I have done so above and find that the lack of clear evidence that the general need for traveller sites in Wiltshire is met in terms of a 5 year supply, the pressing accommodation needs of the Cash family and the health and education needs of some of the children are all factors which weigh I favour of the development. Taken together, I find that these factors are compelling and provide strong arguments for granting planning permission.

63. I have had regard to other matters raised by local residents, including those concerning drainage, bonfires and the possible intensification of use but consider that these matters can be satisfactorily addressed by the imposition of conditions. Some residents raised objections on the basis of the low water pressure in the area claiming that allowing the gypsy site to remain could make this worse. I have no evidence to show that the appellants' usage would make matters materially worse and there is no indication that the water authority raised objection on this basis at the time the planning application was under consideration.
64. In terms of the hardsurfacing that has been laid on the field outside the present caravan site (s78 appeal), the appellants appear to accept that this should be removed (see para. 17 above). This could be achieved by imposing a condition on the planning permission granted on the deemed application (s174 appeal) which makes it clear that this aspect of development is not permitted and has to be removed.
65. I have had regard to human rights of Mr and Mrs Cash and their children under Article 8 and Article 1 of the 1st Protocol of the European Convention on Human Rights (ECHR)¹⁷. These are respectively the right to respect for private and family life, which includes the home, and the protection of property. Upholding the enforcement notice would represent an infringement of these rights. These rights are not absolute but those which are circumscribed by the public interest, which has been held to include environmental considerations. In this case, having regard to my conclusions above and the particular circumstances, I find that requiring the family to leave the site would be a disproportionate measure having regard to their human rights.
66. Given these conclusions I intend to allow the s78 appeal and grant planning permission subject to conditions. I will also grant conditional planning permission for the development that flows from the deemed application under s174(a) regarding the breach alleged in notice. The notice will be quashed. On this basis the ground (g) arguments do not need to be addressed.

Planning conditions

67. The Council have provided a list of suggested conditions and these were discussed at the hearing. Given that the personal circumstances of the appellants and their family have been important determining factors in the consideration of these appeals I intend to impose a personal condition. This will apply Mr and Mrs Cash and their resident dependants. On this basis I do not consider that the standard condition concerning occupation by those with gypsy status needs to be imposed.
68. There was agreement that the number of caravans should be limited to 3 and I consider it is reasonable that one of these could be a larger static type, as illustrated on the drawing that supported the planning application. The permission granted on Appeal C will be for only 2 caravans as that is the nature of the proposal as described in the related planning application. I will attach a condition requiring the submission of further details using the 'model' form of wording which provides a back stop should agreement not be reached. This will cover the siting/layout of the caravans, the parking/turning/amenity areas, details of the proposed day room (Appeal C only) and lighting, boundary

¹⁷ Incorporated into the Human Rights Act 1998 (UK)

treatment, landscaping and drainage. I will make it clear that the requirement to submit and obtain approval from the Council for these details overrides any details shown on the submitted plans. These conditions are required in order to ensure that the visual and general amenities of the area are respected.

69. Other conditions preventing any commercial activities on the land and the burning of material in the open and restricting the size of vehicles parked there to a maximum weight of 3.5 tonnes are reasonable and necessary to safeguard the appearance of the countryside and the living conditions of those residing in the locality. I will also impose a condition concerning the provision and retention of a visibility sightline in a north-easterly direction at the junction of Poplar Tree Lane and Frome Road. This is reasonable in the interests of highway safety and is within the control of the appellants as they own the hedge fronting the highway in that direction.
70. On the matter of hardsurfacing, as I intend to quash the enforcement notice, I consider that a separate condition is required to address this and to ensure the removal of the hardsurfacing material deposited on the field (blue land) within the s174 land area. I will attach a plan indicating the approximate location of this material. I consider that 3 months would be a reasonable period to require removal of this material with restoration and re-seeding taking place in the next available planting season.
71. The wording of the conditions will vary in some respects between the decisions on Appeal A (s78) and Appeal C (s174) given that the differing nature of the development under consideration and the site/land areas identified.

Formal Decisions:

Appeal A: APP/Y3940/C/12/2178840

72. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the mixed use of the land at Poplar Tree Lane, Southwick, Wiltshire, BA14 9NB, as shown on the plan that accompanied the notice, for equestrian use and for the stationing of caravans used for residential purposes and for operational development carried out as an integral part of the change of use, comprising an extended hardstanding, subject to the following conditions and Plan A attached to this decision:
- 1) The occupation of the site hereby permitted shall be carried on only by the Mr Laurence (Lawrence) Cash and Mrs Theresa Cash and their resident dependants. Should the land cease to be occupied by these persons the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
 - 2) No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the land at any time and they shall only be sited in the positions approved by the local planning authority in accordance with Condition 3) below.

- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision, and notwithstanding what exists on the land at present, a 'site development scheme' for the internal layout of the site (including the siting of the caravans, hardstanding, parking and amenity areas), means of foul and surface water drainage of the site, external lighting, boundary treatment, landscaping (including details of species, plant sizes and proposed numbers and densities) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State;
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 4) No commercial activities shall take place on the land, including the storage of materials, and no burning of materials shall take place on open ground.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) Within one month of the date of this decision, a visibility splay of 215m (y distance) shall be provided at the Poplar Tree Lane and A361 Frome Road junction in a north-easterly direction at a set back distance of 2.4m (x distance) from the carriageway edge measured along on the centreline of Poplar Tree Lane. The splay shall thereafter be maintained free from obstruction over a height of 0.9m above the level of the carriageway.
- 7) Within 3 months of the date of this decision, the hardsurfacing (hardcore, rubble, bricks and tarmac) that has been deposited on the land in the approximate position between points X and Y on Plan A attached to this decision shall be permanently removed from the land. Following removal, the ground uncovered shall be restored to the contours and profile before the deposition took place and shall be re-seeded with grass in the next available planting season.

Appeal B: APP/Y3940/C/12/2178841

73. This appeal was only proceeding on ground (g). No decision is required as the enforcement notice is quashed following the decision on Appeal A.

Appeal C: APP/Y3940/A/12/2178838

74. The appeal is allowed and planning permission is granted for one mobile home, one touring caravan – for nomadic use – and one utility dayroom on land at the

junction of Frome Road and Poplar Tree Lane, Southwick, Wiltshire, BA14 9NB, as shown on site location plan that accompanied the application, in accordance with the terms of the application, Ref. No. W/12/00537/FUL, dated 16 March 2012, subject to the following conditions:

- 1) The occupation of the site hereby permitted shall be carried on only by the Mr Laurence (Lawrence) Cash and Mrs Theresa Cash and their resident dependants. Should the land cease to be occupied by these persons the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 2) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the land at any time and they shall only be sited in the positions approved by the local planning authority in accordance with Condition 3) below.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision, and notwithstanding the details shown on application Drawing # 3 and what exists on the land at present, a 'site development scheme' for the internal layout of the site (including the siting of the caravans, hardstanding, parking and amenity areas), design (location, size and facing materials) of the utility dayroom, means of foul and surface water drainage of the site, external lighting, boundary treatment, landscaping (including details of species, plant sizes and proposed numbers and densities) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State;
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 4) No commercial activities shall take place on the land, including the storage of materials, and no burning of materials shall take place on open ground.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) Within one month of the date of this decision, a visibility splay of 215m (y distance) shall be provided at the Poplar Tree Lane and A361 Frome Road junction in a north-easterly direction at a set back distance of 2.4m (x distance) from the carriageway edge measured along on the centreline of

Poplar Tree Lane. The splay shall thereafter be maintained free from obstruction over a height of 0.9m above the level of the carriageway.

N P Freeman

INSPECTOR



Plan A

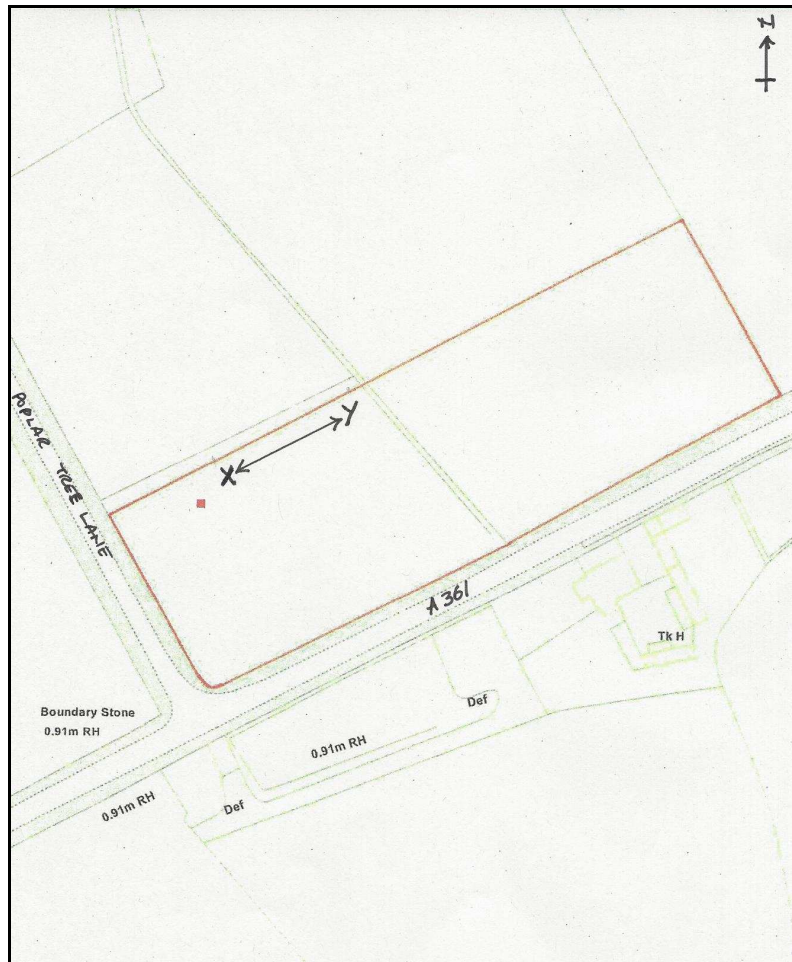
This is the plan referred to in my decision dated: 8 March 2013

by **N P Freeman BA(Hons) DipTP MRTPI DMS - Inspector**

Land at: Poplar Tree Lane, Southwick, Wiltshire, BA14 9NB

Reference: APP/Y3940/C/12/2178840

Not to Scale



APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch MA MRTPI	Planning Consultant
Mr J Hurlstone BSc(Hons) CMILT MCIHT	Managing Director – The Hurlstone Partnership
Mrs T Cash	Co-appellant
Mr L Cash	Co-appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Hawkins	Team Leader (Enforcement)
Mr M Kilmister	Area Team Leader (Planning)
Ms C Gibson	Spatial Plans Officer – Core Strategy Manager
Mr R Hannis	Highway Engineer

INTERESTED PERSONS:

Cllr F Morland	Ward Councillor - Wiltshire Council
Cllr S Jones	Southwick Parish Council
Mr P Harcourt MRICS	Chairman of the Southwick Villagers' Association and local resident
Mrs C Harcourt	Local resident
Mr G Davis	Local resident
Mr D Brown	Local resident
Mr M Duhig	Local resident
Mr P & Mrs J Jones	Local residents
Mrs A Bradley	Local resident
Mrs R Pride	Potential house purchaser
Mr D & Mrs G Beaumont	Local residents

DOCUMENTS SUBMITTED AT THE HEARING

- Doc 1 Council's letter of notification of the hearing, dated 19 November 2012, and list of persons notified.
- Doc 2 Stop Notice dated 30 November 2012 concerning the appeal site.
- Doc 3 Draft Core Policy 49 from the emerging Core Strategy for Wiltshire – latest version.
- Doc 4 Schedule of gypsy and traveller planning applications since 01/01/12 in North and West HMA and 3 related planning permissions (Cllr Morland).
- Doc 5 Schedules of gypsy and traveller pitches (Ms Gibson).
- Doc 6 South West Regional Assembly – GTAA Benchmarking Summary Report – January 2008.
- Doc 7 Gypsy and traveller count.
- Doc 8 Appeal Decision APP/Y3940/A/12/2173334 – dated 28/09/12 – Rose Field, Hullavington, Wilts, SN16 0HW.
- Doc 9 Council's schedule of additional conditions.
- Doc 10 *Moore v SSCLG & LB of Bromley [2012] EWHC 3192 (Admin)*.
- Doc 11 Copy of comments of Miss Ann Swift, a local resident, submitted to the Council on 27 April 2012.

PHOTOGRAPHS SUBMITTED AT THE HEARING

- P1 & P2 Photos of the appeal site taken on 30 November 2012 by Mr Harcourt.
- P3 – P5 Three photos of the appeal site taken on 27 July 2012 by Mr Hurlstone.
- AP1 Aerial photo of the appeal site said to be from June 2006 (Appellant).
- AP2 Aerial photo of the appeal site said to be from 2009 (Harcourt).