

AGENDA

Meeting: Strategic Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 15 July 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	Wednesday 15.07.2015	9.30am	Council Chamber, 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 Ian West
Cllr Mary Douglas	Cllr Jerry Wickham
Cllr Dennis Drewett	Cllr Graham Wright
Cllr George Jeans	Cllr Magnus Macdonald

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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 7 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 17 June 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 8 July 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 **14/10556/FUL - Land at west side of B3092, Mapperton Hill, Mere, BA12 6LH - Change of use of land to 1 No. Romani Gypsy pitch & associated works including 1 No. mobile home, 1 No. touring caravan, 1 No. septic tank, stables, hard standing, new access and keeping of horses (Pages 11 - 88)**

A report by the Case Officer is attached.

- 7 **14/04756/FUL - Land at Salisbury Retail Park, London Road, Bishopdown, Salisbury, SP1 3YX: Site 1 - Full Application for Class A1 foodstore with associated petrol filling station and car parking, access and landscape works. Site 2 - Outline application (all matters reserved) for provision of public open space/play area (ClassD2), incorporating a pedestrian and cycle link between Green Lane and London Road (Pages 89 - 128)**

A report by the Case Officer is attached.

- 8 **14/11919/OUT - Land off A365, Shurnhold, Melksham - Outline application with all matters reserved except for access, for demolition of existing structures and construction of up to 263 dwellings with access open space, landscaping and associated works (Pages 129 - 152)**

A report by the Case Officer is attached.

9 **Date of the Next Meeting**

- (1) At its last meeting, this Committee agreed to reserve Wednesday 29 July 2015 at 10.30am for an additional meeting of the Committee if required, bearing in mind the number of outstanding applications that might need a decision before the next scheduled meeting of the Committee on 23 September 2015.

This meeting is no longer needed but an additional meeting is required in mid September, ideally in the week commencing Monday 14 September 2015, to consider army basing applications. Having spoken with the Chairman and the Vice-Chairman, it is proposed that this meeting take place on Wednesday 16 September 2015, starting at 10.30am. Members are asked to consider this suggestion.

- (2) To note that the next scheduled meeting of the Committee is due to be

held on Wednesday 23 September 2015, at County Hall, Trowbridge, starting at 10.30am.

10 **Urgent Items**

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

PART II

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

None

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STRATEGIC PLANNING COMMITTEE

DRAFT MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 17 JUNE 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 Stewart Dobson, Cllr Charles Howard, Cllr David Jenkins, Cllr Bill Moss, Cllr Christopher Newbury and Cllr Fred Westmoreland

Also Present:

Cllr Alan Hill

42 Apologies for Absence

There were no apologies for absence.

43 Minutes of the Previous Meeting

Resolved:

To confirm and sign the minutes of the previous meeting held on 13 May 2015.

44 Declarations of Interest

Cllr Glenis Ansell declared a non-pecuniary interest as she was a member of the Air Quality Working Group of Calne Area Board.

45 Chairman's Announcements

There were no Chairman's announcements.

46 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. 47 below.

47 **14/09744/WCM - Lower Compton Waste Management Facility, Lower Compton, Calne, SN11 8RB - Retain and extend existing Materials Recycling Facility including transfer activities, screening bund and ancillary activities and development**

The following people spoke against the proposal:

Professor Peter Alberry, a local resident
Mr Steve Izatt, representing Wiltshire Waste Alliance
Mr Lamb, a local resident
Cllr Kate Morley, Vice-Chairman of Calne Without Parish Council
Cllr Peter Szczesiak, Chairman of Compton Bassett Parish Council

The following person spoke in favour of the proposal:

Mr Michael Hill, Chief Executive of Hills Waste Solutions Ltd, the Applicant.

The Committee received a presentation from the Case Officer which set out the main issues in respect of the application. She explained that the proposed development was to retain and expand a strategic waste management facility and was recommending that planning permission be granted subject to conditions.

A site inspection had taken place the previous day which had been attended by Cllrs Andrew Davis, Tony Trotman, Glenis Ansell, Trevor Carbin, Stewart Dobson, Charles Howard, David Jenkins, Christopher Newbury, Fred Westmoreland and Alan Hill as the local Member, in which the Case Officer had explained the proposals.

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 during which

Members then received a presentation from Cllr Alan Hill, the local Member, in which he explained his objections to the proposal and reasons why he considered the application should be refused.

A debate followed, where a motion was moved and seconded to refuse the application contrary to the officer recommendation. The motion was discussed, during which it was highlighted the proposal was for permanent retention of the facility and concerns raised about site location, traffic levels and air quality in Calne.

Prior to a vote on the motion, the Case Officer and Minerals and Waste Team Leader provided comment on some of the points that had been raised during the discussion. This included a reiteration of the main conclusions drawn from

the Officer report. The Area Development Manager reminded the Committee of the need to identify clear planning reasons for refusal of the application.

After discussion during which the Committee noted the information given in the presentation from the local Member and the legal representations which had been sent to them direct the previous day by Mr Gregory Jones QC, instructed by Wiltshire Waste Alliance,

Resolved:

To refuse planning permission for the following reasons:-

- 1. The development proposal conflicts with Core Policy 55 (Air Quality) of the Wiltshire Core Strategy.**
- 2. The development proposal conflicts with Core Policy 60 (Sustainable Transport), Core Policy 61 (Transport and New Development) and Core Policy 65 (Movement of Goods) of the Wiltshire Core Strategy.**
- 3. The Environmental Statement accompanying the planning application is flawed in terms of the approach taken to the no-project baseline scenario, the transport assessment and the air quality assessment.**

48 Date of the Next Meeting

Resolved:

- (1) To note that the next scheduled meeting of this Committee was due to be held on Wednesday 15 July 2015, at County Hall, Trowbridge, starting at 10.30am.**
- (2) To hold a site visit to land at west of B3092, Mapperton Hill, Mere on Monday 13 July 2015, meeting on site at 10.30am.**
- (3) To reserve Wednesday 29 July 2015 at 10.30am for an additional meeting of the Committee if required, bearing in mind the number of outstanding applications that might need a decision before the next scheduled meeting of the Committee on 23 September 2015.**

49 Urgent Items

There were no urgent items of business.

(Duration of meeting: 10.30 am - 12.50 pm)

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

REPORT FOR THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	15 th July 2015
Application Number	14/10556/FUL
Site Address	Land at west side of B3092 Mapperton Hill Mere Wiltshire BA12 6LH
Proposal	Change of use of land to 1 No. Romani Gypsy pitch & associated works including 1 No. mobile home, 1 No. day room, 1 No. touring caravan, 1 No. septic tank, stables, hard standing, new access, and keeping of horses.
Applicant	Mr M. Doe
Town/Parish Council	MERE
Ward	MERE
Grid Ref	380459 130726
Type of application	Full Planning
Case Officer	Warren Simmonds

Officer's Supplementary Note

The application was previously considered by Members at the Strategic Committee meeting of 11th March 2015 when the application was put before Committee with an officer recommendation of approval, subject to Conditions.

The Committee resolved to DEFER determination of the application in order to seek further information from the Drainage Engineer on the practicalities of drainage of the site and to request that copies of the Planning Inspector's decision regarding a similar application at Alderbury be provided.

The application was further considered by Members at the Strategic Committee Meeting of 13th May, following the submission of additional technical drainage information from the applicant. The application was put before Committee with an officer recommendation of approval, subject to Conditions. During the discussion the following points were raised and it was agreed that they needed clarification:

1. The size and maximum capacity (in terms of bedrooms and the number of people occupying) of the proposed mobile home and proposed touring caravan.
2. Whilst the percolation test results already submitted were acceptable to determine the required size of the foul drainage soakaway (dependant on the levels of occupancy) it did not really dispel the issues with the stormwater disposal raised by the objectors, particularly given the wealth of photographic information provided showing standing water on the site. Based on this it was considered that a further permeability test but to BRE 365 was required at the proposed stormwater soakaway location (different to the proposed foul soakaway location) to confirm that the site did actually drain in relation to storm water and also conform to size, to be shown on a plan.
3. The provision of a plan showing the location of permeability testing undertaken and correctly sized soakaway (based on the maximum occupancy) plus location (at moment just a small circle on site layout with no other information) and the size of the septic tank, with soakaway construction detail.
4. Information in relation to how “foul drainage “ would be provided to the proposed stables, where muck would be stored etc. and would it be separate from human system or combined?
5. The existence of a pond in the northern corner of the site was raised – as appearing on OS maps in date range 1908 to 1933 and 1952 to 1992 – the pond was not shown on the existing site survey but Members indicated that it did exist. The applicant needed to confirm or otherwise the existence of the pond (the proposed site layout drawing did indicate the existence of a small pond in the top northeast corner but smaller than indicated on the OS maps).
6. The EA surface water flood risk map for 1 in 200 event did show some surface flooding within part of the site but the 1 in 30 risk did not show any risk (as previously highlighted in the Drainage Engineer’s responses) – thus the location of any soakaway for foul/storm would need to be located away from this highlighted area and consideration of site access location should also take this into account, details to be provided on a location plan.
7. The need for actual evidence as to the status of the applicant as a gypsy and traveller meeting the definition as set out within PPTS – this might be a statutory declaration by the applicant and/or information which confirmed the applicant’s gypsy status (evidence that he travelled – photographs, statements from family, etc.) and the circumstances of any ‘bricks and mortar’ property he is alleged by a third party to own.

The Committee resolved to DEFER consideration of the application pending the holding of a site inspection on a date to be agreed and the provision of further information from the applicant as detailed above. A summary of the provided further information follows:

Summary of additional information submitted in support of the application

1. Size and maximum capacity of proposed mobile home – No information has been submitted by the applicant. However, it is considered that a standard single static mobile home could provide sleeping accommodation for 6 to 8 persons.

2. Permeability test data – the following additional information has been provided by the applicant:

“A test hole 1m wide x 1.5m long and 2.5m deep was excavated, and tests performed based on BRE365 standard by filling the hole rapidly to 75% full and timing the water evacuation down to 25% several times over two days. Due to the geological make up of the land the soil infiltration rate worked out at an average 142 minutes.

Based on this fact and calculating the total surface area of impermeable building surface area to be approximately 180 square meters, the required storm drain capacity needs to be 1.5m wide x 24m long and 2.5m deep and filled with rubble and lined with geotextile to resist the ingress of silt.

The above has been worked out based on rainfall data of the local area for the last 5 years.

Our client has also been recommended to install water capture tanks from the guttering of each building to also increase the storm water management of the buildings, as well as putting forward a case for increasing the surface area and depth of the pool in the lowest point of his land to benefit from a land drainage point of view as well as assist with Highways drainage.”

3. Location plan showing locations of testing sites for permeability testing, location and size of septic tank and soakaway constructional details – No information has been provided.

4. Details of foul water drainage for proposed stables – No information provided.

5. Clarification of the existence of a pond within the site – No information provided.

6. Location of proposed soakaways – No additional information provided.

7. Additional evidence of the Gypsy and Traveller status of the applicant, and the circumstances of any ‘bricks and mortar’ property he may own – The applicant has provided a statement from Maggie Smith-Bendell BEM, a Liaison Officer for the Romany Gypsy Council:

“Re Mr Matthew Doe--Thank you for contacting me concerning Mr Doe--

I am pleased to say --that yes i can confirm his Gypsy Status--this family has been known to me since i my self was a child--not only did we travel in the horse and wagon days with the Doe's- but my dads brother married one of Doe women --and i well remember the Doe menfolk-horse breeders as was my family--Morris Doe was then like a king of the horse fairs--so yes i do know of this family--

Mr Matthew Doe contacted me about two years a go--asking advice, because he was seeking land on which to build a private site--hence i am glad he was successful -

Mr Matthew Doe finds it very difficult to keep his family tradition by breeding and selling horses--simply because he has no settled base--one can not travel the roads with a group of live stock-and tow a trailer [caravan] not knowing where he will end up-hence no horses

but he does attend all our Gypsy horse fairs--selling items of our bygone days--old black cooking pots-cast iron kettles and pans--these items are found now adays at car boots-and farm auctions-

these items have made a huge come back over the past few years--it seems every Gypsy needs to own them--hence an easy sell-

once purchased at the car boot--they are cleaned and black leaded and taken to the fairs-

Mr doe with his family will spend at least three months of the year doing the fair runs--while living in his touring caravan-

Fairs such as--

Kenilworth-----April 20th

Stow May 14th

Wickham May 20th

Derham May 24th

Appleby- June 4th till 10th

Henley-in -Arden July 4th

Lee Gap- August 24th

Barnet Setember 4th

Latter Lee-----September 17th

Stow-----October

Bridgwater--September 29th

When not at fairs Mr Doe does landscape gardening -

Mr doe has been seeking a piece of land for a long time--hence he has my support on this application

staying on other family private sites is difficult--and the old laybye and grass verges brings the police force down on you-

there is little doubt we have a shortage of-affordable-suitable land available--but here we have a piece of land in Mr Doe's ownership--and its very much available--

please contact me if you need additional information”

In respect of bricks and mortar property ownership, the agent representing the applicant has provided the following statement:

“The title deed does not prove that the applicant owns a property. This is the forwarding address that he uses for his post. Most Gypsies and Travellers have to use a friend or relation's address in order to receive post and this is the case here”.

The agent for the application has previously submitted additional information/confirmation in respect of the status of the applicant as a person of gypsy and traveller status. He confirms the applicant is a gypsy who meets the definition of gypsies and travellers as set out within the DCLG document Planning Policy for Traveller Sites; he does not reside in a 'bricks and mortar' house and has not ceased to travel. He has family on a Gypsy and Traveller site in Swindon.

Summary of further Highways Officer comments

Members previously requested further clarification from the Highways officer that the methodology used in assessing the application in terms of Highway safety was appropriate. The Highway Development Control Manager has provided the following additional comment:

“The two sets of standards for visibility contained in Design Manual for Roads and Bridges (DMRB) and Manual for Streets 2 (MfS2) are based on different braking characteristics for vehicles. The standards in DMRB were set in the 1960s and have not been revised since. Those in MfS2 reflect that braking characteristics of vehicles have improved since that time and thus the calculations use a higher rate of retardation. The braking rate used is still much lower than would be required for an emergency braking situation.

The appeal decision for Hill Billy Acre has been referred to. Although there is some discussion about the relevance of the two sets of standards, in this case the standards from DMRB were achievable so that the discussion was somewhat academic. The application of standards is ultimately a matter for professional judgement taking account of circumstance at a location. There is no suggestion that the application of the MfS2 standards would give an unsafe access/junction. Indeed, no published standards would ever result in an unsafe situation.

In the case of this application a condition was requested requiring alterations to the hedge between the proposed site entrance and the site boundary. Taken together with the existing highway verge this would improve visibility at the access. Detailed measurements have been taken on site and these have shown that, with the alterations to the hedge, visibility splays of 153m to the south and 105m to the north can be achieved. That to the south is very close to the standard laid down in DMRB and any refusal to relax that standard by that small amount would not be defensible. The standard to the north, although not meeting the DMRB standard does meet the standard in MfS2. Furthermore traffic approaching from the north will generally be on the far side of the road.

*It is not unusual where a recommendation has been given for refusal for this to be reviewed to ascertain whether the standards applied could be defended in the event of an appeal. NPPF makes it clear that applications should not be refused on highway grounds unless the effect on the highway network is **severe**. In this case it was concluded that, as the visibility to the north complies with the standards in MfS2, the effect on the highway network is not severe.*

In view of the above it is my professional opinion that a refusal of the application on highway grounds would be very difficult to defend”.

Update in respect of Gypsy and Traveller Accommodation Assessment

The adopted Core Strategy in CP47 provides that there is a need for 37 pitches in the South Housing Market Area between 2011-16. So far only 4 pitches have been delivered against that requirement since 2011 which leaves a net requirement of 33.

The recently published 2014 Gypsy and Traveller Accommodation Assessment (GTAA) provides a much lower requirement of 1 pitch for the South HMA between 2014 and 2019. However that requirement has not been met yet.

In the opinion of the Senior Planning Policy Officer, the difference in pitch requirements is mainly due to the following reasons:

- The GTAA is based on traveller site visits and interviews with residents and is therefore more up to date than the Topic Paper 16 figures underpinning the Core Strategy (including amendments made during the examination in public)
- ORS who conducted the study applied a lower household formation rate based on national evidence and the demographics recorded at local sites

The GTAA will form the evidence base for the emerging Gypsy and Traveller DPD and inform the review of the Wiltshire Core Strategy. However the GTAA figures have not yet been tested through the plan preparation process and are therefore only a material consideration in the planning process. Also, para.10 in the PPTS provides that even where there is no identified need (under-provision) and applications come forward, sites should nevertheless be determined against locational criteria (i.e. CP47).

Officer's additional comments

Subsequent to the Committee's deferrals of the application on 11th March 2015 and 13th May 2015, additional information has been compiled as set out above. Whilst not all of the requested information in respect of drainage has been submitted, it is considered the outstanding information can reasonably and adequately be requested, approved and controlled by Conditions.

Officers are content that the applicant has been demonstrated to be of gypsy and traveller status, meeting the definition of gypsies and travellers as set out within the DCLG document Planning Policy for Traveller Sites.

The additional information provided/compiled does not lead officers to change their previous recommendation that the application be APPROVED, subject to the revised list of Conditions set out below.

Reason for the application being considered by Strategic Planning Committee

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector, when reporting on the Wiltshire Core Strategy, expressed concern about whether the Council's approach towards gypsies and travellers was consistent with national policy. National policy requires Council's to plan positively for traveller sites. In its response to the Inspector's concerns, the Council has committed to considering planning applications for new traveller sites as a strategic issue rather than a local issue. This proposal would increase the number of pitches available for travellers and is therefore before the Strategic Committee.

Whilst the Core Strategy has now been adopted new traveller sites will remain as a strategic issue rather than a local issue until the Gypsy and Traveller DPD currently being worked on is adopted.

The officer reports and attachments circulated to the March and May meetings are attached.

Recommendation

That the application be APPROVED, 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:

Drawing number 1464/04 dated November 2014, as deposited with the local planning authority on 28.11.14, and

Drawing number 1464/02A dated November 2014, as deposited with the local planning authority on 28.11.14, and

Drawing number 1464/03A dated November 2014, as deposited with the local planning authority on 28.11.14.

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.

REASON: To restrict the occupation of the site, the residential use of which is only acceptable on the grounds of local and national planning policy specific to persons of gypsy and traveller status.

4. No more than one caravan (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time and used for residential purposes. In addition no more than 1 other caravan comprising a touring caravan or traditional showman or gypsy wagon shall be accommodated on the site.

REASON: To control the numbers of caravans on the site, in the interests of amenity and Highway safety.

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

REASON: In the interests of amenity and Highway safety.

6. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centreline of the access, extending to each corner of the site frontage. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 1.0 metre above the level of the adjacent carriageway.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

8. The gradient of the access shall not at any point be steeper than 1 in 15 for a distance of five metres from its junction with the public highway.

Reason: In the interests of highway safety.

9. Any gates to close the access shall be set back a minimum distance of 4.5 metres from the carriageway edge and made to open inwards (away from the highway) only.

Reason: In the interests of highway safety.

10. No development shall commence on site until a scheme for the discharge of foul water from the site (including full detailed drawings of system and calculations using actual proposed residency numbers with location of soakaway system to be different from any stormwater system soakaway) has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

11. The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

12. No development shall commence on site until a scheme for the discharge of surface water from the whole site (including full detailed drawings of system, results of permeability testing at the soakaway location and calculations to support the drawings - location of soakaway system to be different from any foul water system soakaway), has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

13. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

INFORMATIVE:

There will be a need to obtain formal Land Drainage Consent for any proposed outfall to a water course, or changes to the water course (including any piping or diversion) to cover any permanent and/or temporary works prior to construction of any stormwater drainage works on site as required under the Land Drainage Act 1991. Please note that obtaining of planning permission does not remove the need to obtain LDC before starting any works relating to the water course.

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REPORT FOR THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	11 March 2015
Application Number	14/10556/FUL
Site Address	Land at west side of B3092 Mapperton Hill Mere Wiltshire BA12 6LH
Proposal	Change of use of land to 1 No. Romani Gypsy pitch & associated works including 1 No. mobile home, 1 No. day room, 1 No. touring caravan, 1 No. septic tank, stables, hard standing, new access, and keeping of horses.
Applicant	Mr M. Doe
Town/Parish Council	MERE
Ward	MERE
Grid Ref	380459 130726
Type of application	Full Planning
Case Officer	Warren Simmonds

Reason for the application being considered by Committee

The application was called-in by Local Member Cllr George Jeans on grounds of visual impact on the surrounding area and the sustainability of the proposal given its location within the countryside.

1. Purpose of Report

To consider the application and to recommend to Members of the Strategic Planning Committee that the application should be APPROVED, subject to Conditions.

2. Report Summary

The main issues in the consideration of this application are as follows:

- I. The principle of the proposed development in the light of relevant local and national planning policy and guidance
- II. Current levels of provision of gypsy and traveller pitches within the South Wiltshire Housing Management Area
- III. Scale, design & materials and impact on the character of the surrounding landscape
- IV. Drainage/flooding

- V. Highway considerations
- VI. Neighbour amenity considerations

The application has generated a total of 68 representations from the third parties, as follows:

- 1 representation in support of the proposed development;
- 66 representations objecting on grounds including Highway safety, site is too remote from services and facilities, difficulties in respect of refuse collection, flooding, impact on the landscape, development in the countryside, land not suitable for keeping of horses, not in accordance with policy, impact on amenity
- 1 representation making other comments.

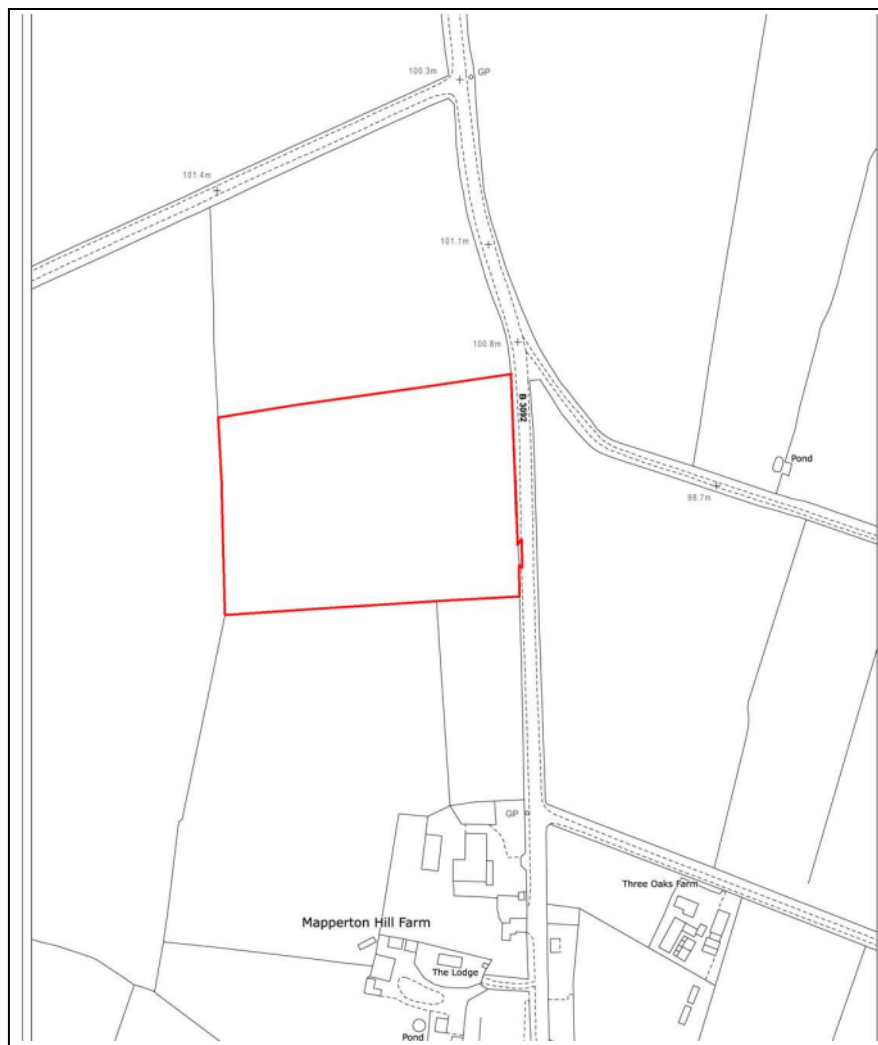
Mere parish council object on grounds of Highway safety, flooding and drainage, visual intrusion, loss of amenity and issues in respect of refuse collection.

Zeals parish council does not support the application, citing grounds including landscape impact, Highway safety and flooding.

Gillingham Town council raised no objections, subject to Conditions.

3. Site Description

The application site consists of an approximately rectangular parcel of agricultural land of approximately 1.9 hectares. The eastern boundary of the application site is bounded by the B3092 (Mapperton Hill) from which the land is currently served by an access.



The Wiltshire Core Strategy (WCS) was adopted on 20.01.15. Core policy 47 (Meeting the needs of Gypsies and Travellers) is relevant to this application. Also relevant are core policies CP57 and saved SDLP policy C6.

National Planning Policy

Planning Policy for Traveller Sites (PPTS) (DCLG, March 2012)

National Planning Policy Framework (NPPF) (DCLG, March 2012)

National Planning Policy Guidance (NPPG) (DCLG, March 2014)

7. Summary of consultation responses

Spatial Planning – There is an identified need for additional traveller pitches in this location which is a significant material consideration weighing in favour of this application. However, the case officer would need to be satisfied that the criteria of WCS CP47 are met, specifically in terms of the appropriateness of the proposal to the scale and character of its surroundings; impact on the landscape; and access, before this proposal can be supported.

WC Highways – No Highway objection, subject to Conditions

WC Drainage – Support, subject to Conditions

Public Protection – No adverse comments, advice re septic tank/sewage

Landscape Officer – No response received

Environment Agency – No response received

Mere parish council – Object on grounds of Highway safety, flooding and drainage, visual amenity and difficulties in respect of refuse collection from the site

Zeals parish council – Does not support the application on grounds including visual impact, the site is within the countryside, Highway safety, flooding and public health concerns

Gillingham Town Council – No objections, subject to Conditions

North Dorset District Council – No response received

Dorset County Council – No response received

8. Publicity

The application was publicised by site notice, neighbour notification and on the Councils website.

The application has generated a total of 68 representations from the third parties, as follows:

- 1 representation in support of the proposed development;
- 66 representations objecting on grounds including Highway safety, site is too remote from services and facilities, difficulties in respect of refuse collection, flooding, impact on the landscape, development in the countryside, land not suitable for keeping of horses, not in accordance with policy, impact on amenity
- 1 representation making other comments.

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 The principle of the proposed development in the light of relevant local and national planning policy and guidance

The Wiltshire Core Strategy (WCS) is the adopted local plan (adopted January 2015). Core Policy CP47 (Meeting the needs of Gypsies and Travellers) of the WCS deals with making provision for gypsies and travellers and is the primary local plan policy relevant to this application. National policy in the Planning Policy for Traveller Sites (PPTS) and National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) are also applicable.

WCS CP47 states:

Core Policy 47: Meeting the needs of Gypsies and Travellers

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 the following general criteria they will be considered favourably:

- 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.

WCS CP47 (v) requires that sites are 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.

Whilst the site is not within Mere itself, it is approximately 1.3 miles to the south of the centre of Mere (The Square), and is approximately 2.6 miles to the north of Gillingham. Whilst feasibly this could be walked, the B3092 is not pedestrian friendly and it is likely that most trips to Mere or Gillingham would be made by motor vehicle.

Mere is classified as a Local Service Centre in the WCS and provides a good level of “everyday” retail and services to the surrounding area, including a primary school and doctors surgery. In these respects it is considered that the location would broadly satisfy the relevant criteria of WCS CP47(v).

CP47 Criterion (viii) states that development should be appropriate to the scale and character of its surroundings and existing nearby settlements. The policy goes further in requiring under criterion (vi) that the development 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. These issues are further discussed at items 9.6 and 9.3 respectively (below).

CP47 (ix) requires that sites should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology. The application site is an agricultural field within a non-designated (other than locally) landscape. The site is not within a designated Area of Special Archaeological Significance and it is not considered the proposed development would result in undue impacts in terms of river quality or biodiversity.

In addition, CP47 (ii) requires that the site is served by a safe and convenient vehicular and pedestrian access. Highway considerations are discussed at 9.5 (below). Paragraph 32 in the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

CP47 (iii) also requires that the site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.

Taking into consideration the circumstances specific to the application, and the consultation responses of Statutory Consultees, it is considered on balance that the proposed development is accordant with relevant local and national policy and guidance, and is acceptable in principle.

9.2 Current levels of provision of gypsy and traveller pitches within the South Wiltshire Housing Management Area

In terms of overall need the council’s latest position for the South Wiltshire Housing Market Area is that for the period 2011-16, an additional 37 pitches are required; the council’s latest monitoring data shows that as of December 2014, the residual requirement is 33 pitches. This is set out in the supporting text to WCS Core Policy 47, and the addendum to Topic Paper 16 which contains the evidence underpinning the policy.

However, the Council is currently undertaking 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. The study has a base date of July 2014 and will cover the period 2014 – 2029, but is not yet available to inform or provide additional information relevant to this application.

Therefore, based on the available evidence at the time of writing, there is currently a significant need for pitches in South Wiltshire, equating to a requirement of additional 33 pitches by 2016.

9.3 Scale, design & materials and impact on the character of the surrounding landscape

The application site constitutes an agricultural field within the countryside and designated Special Landscape Area (a non-national designation).

The application proposes the use of the land as a single pitch for person(s) of Gypsy and Traveller status, to include the provision on the land of 1 x mobile home, 1 x single storey day room measuring approximately 6m by 5m (of brickwork construction under a simple clay tiled pitched roof), 1 x touring caravan, 1 x septic tank, a single storey stable block of timber construction (measuring approximately 15m by 4m) and the construction of a new access to the site (the existing access to be stopped up and local hedgerow varieties planted to infill the gap).

The proposed buildings, structures and works are of relatively single storey form and consequently of low overall height. The materials proposed are considered generally appropriate to the rural surroundings. The presence of the buildings and structures would be relatively well screened and mitigated by existing field boundary treatments consisting of mature hedgerows and trees, and it is considered the proposed development would not be unduly visually prominent within, or unduly affect the existing character of the surrounding landscape.

9.4 Drainage/flooding

CP47 criterion (i) requires that there should be no significant barrier to development in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable. Whilst the site is within Flood Zone 1 (low risk of flooding), it is within an area susceptible to ground water flooding (as submitted photographs from December 2014 show standing water at the eastern end of the site).

However, the Council's Drainage Officer has been consulted on the application and supports the application, subject to Conditions in respect of the agreement of a scheme of foul water from the site, and a scheme for the discharge of surface water from the site. The Drainage Officer also advises that an informative should be added to any approval given, to convey that there will be a need to obtain formal Land Drainage Consent for any proposed outfall to a water course, or change to the water course (including any piping or diversion) to cover any permanent and/or temporary works prior to construction of any storm water drainage works on site as required under the Land Drainage Act 1991.

On the basis that the Council's Drainage Officer supports the application subject to Conditions, it is considered the proposed development can be suitably drained in accordance with the requirements of CP47.

9.5 Highway considerations

The Highways officer has visited the site and raises no Highway objection to the proposed development, subject to Conditions in respect of the provision of appropriate visibility splays, consolidation and grading of the new access, and that any gates are set back and open inwards.

9.6 Neighbour amenity considerations

WCS CP47 (vii) requires that adequate levels of privacy should be provided for occupiers. As this proposal is only for one pitch, and the site is immediately surrounded by open fields, it is considered that this criterion is satisfied.

The residences of both Mapperton Hill Farm and Three Oaks Farm are located within close proximity to the site to the south and south-east respectively. As the proposal is for one pitch, and the proposed building and structures are each of single storey form it is reasonable to assume that the proposed development is not of such a scale as to result in harm to the amenity of the neighbouring properties.

By reason of the distance between the application site and the closest neighbouring dwellings to the south (at Mapperton Hill Farm and Three Oaks Farm), and by reason of the existing natural screening to the south of the application site (provided by hedgerows and trees along the field boundaries), it is considered the proposed development would not result in undue impacts on the amenity of neighbouring occupiers.

10. S106 contributions

None relevant to the proposed development.

11. Conclusion

The proposed development is considered accordant with relevant local plan policy, national policy and national policy guidance insofar as it would make provision for a single pitch for persons of Gypsy and Traveller status within a locality where there is currently a significant under-provision of Gypsy and Traveller accommodation, without undue adverse impacts in terms of amenity, Highway safety, environmental or other relevant considerations.

The proposed development is thereby considered accordant with local plan policies CP47 & CP57 of the adopted Wiltshire Core Strategy, saved local plan policy C6, and the aims and objectives of the national planning policy and guidance set out within the NPPF, NPPG and DCLG publication 'Planning Policy for traveller Sites'.

RECOMMENDATION

It is recommended the application be APPROVED, 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:

Drawing number 1464/04 dated November 2014, as deposited with the local planning authority on 28.11.14, and

Drawing number 1464/02A dated November 2014, as deposited with the local planning authority on 28.11.14, and

Drawing number 1464/03A dated November 2014, as deposited with the local planning authority on 28.11.14.

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.

REASON: To restrict the occupation of the site, the residential use of which is only acceptable on the grounds of local and national planning policy specific to persons of gypsy and traveller status.

4. No more than one caravan (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time and used for residential purposes. In addition no more than 1 other caravan comprising a touring caravan or traditional showman or gypsy wagon shall be accommodated on the site.

REASON: To control the numbers of caravans on the site, in the interests of amenity and Highway safety.

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

REASON: In the interests of amenity and Highway safety.

6. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centreline of the access, extending to each corner of the site frontage. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 1.0 metre above the level of the adjacent carriageway.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

8. The gradient of the access shall not at any point be steeper than 1 in 15 for a distance of five metres from its junction with the public highway.

Reason: In the interests of highway safety.

9. Any gates to close the access shall be set back a minimum distance of 4.5 metres from the carriageway edge and made to open inwards (away from the highway) only.

Reason: In the interests of highway safety.

10. No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

11. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway and formal land drainage consent approval where works are required to ditches/water courses), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

INFORMATIVE:

There will be a need to obtain formal Land Drainage Consent for any proposed outfall to a water course, or changes to the water course (including any piping or diversion) to cover any permanent and/or temporary works prior to construction of any stormwater drainage works on site as required under the Land Drainage Act 1991. Please note that obtaining of planning permission does not remove the need to obtain LDC before starting any works relating to the water course.

REPORT FOR THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	13 th May 2015
Application Number	14/10556/FUL
Site Address	Land at west side of B3092 Mapperton Hill Mere Wiltshire BA12 6LH
Proposal	Change of use of land to 1 No. Romani Gypsy pitch & associated works including 1 No. mobile home, 1 No. day room, 1 No. touring caravan, 1 No. septic tank, stables, hard standing, new access, and keeping of horses.
Applicant	Mr M. Doe
Town/Parish Council	MERE
Ward	MERE
Grid Ref	380459 130726
Type of application	Full Planning
Case Officer	Warren Simmonds

Officer's Supplementary Note

The application was previously considered by Members at the Strategic Committee meeting of 11th March 2015 when the application was put before Committee with an officer recommendation of approval, subject to Conditions.

The Committee resolved to DEFER determination of the application in order to seek further information from the Drainage Engineer on the practicalities of drainage of the site and to request that copies of the Planning Inspector's decision regarding a similar application at Alderbury be provided.

Additional information submitted in support of the application:

(i) The status of the applicant as a gypsy and traveller

The agent for the application has subsequently submitted additional information/confirmation in respect of the status of the applicant as a person of gypsy and traveller status. He confirms the applicant is a gypsy who meets the definition of gypsies and travellers as set out within the DCLG document Planning Policy for Traveller Sites; he does not reside in a

'bricks and mortar' house and has not ceased to travel. He has family on a Gypsy and Traveller site in Swindon.

(ii) Percolation Testing data for the application site

The applicant has submitted Percolation Test data for the application site (attached to this report as appendix A). The Council's Drainage Engineer has assessed the submitted percolation test data and provided the following response:

Comments:

- I can accept the percolation figures although they are nearer to the higher end of the limit range – assuming they were taken at proposal soakaway locations – no plan of where they were taken or any plan showing the required system – could look for a condition to cover this issue*
- Please confirm that unit is only for 2 persons as that is what is shown in calculations – may need a planning condition to limit site to 2 persons as more persons will require a bigger soakaway system than shown in calculations*

Further Highways Officer comments

Members requested further clarification from the Highways officer that the methodology used in assessing the application in terms of Highway safety was appropriate. The Highway Development Control Manager has provided the following additional comment:

“The two sets of standards for visibility contained in Design Manual for Roads and Bridges (DMRB) and Manual for Streets 2 (MfS2) are based on different braking characteristics for vehicles. The standards in DMRB were set in the 1960s and have not been revised since. Those in MfS2 reflect that braking characteristics of vehicles have improved since that time and thus the calculations use a higher rate of retardation. The braking rate used is still much lower than would be required for an emergency braking situation.

The appeal decision for Hill Billy Acre has been referred to. Although there is some discussion about the relevance of the two sets of standards, in this case the standards from DMRB were achievable so that the discussion was somewhat academic. The application of standards is ultimately a matter for professional judgement taking account of circumstance at a location. There is no suggestion that the application of the MfS2 standards would give an unsafe access/junction. Indeed, no published standards would ever result in an unsafe situation.

In the case of this application a condition was requested requiring alterations to the hedge between the proposed site entrance and the site boundary. Taken together with the existing highway verge this would improve visibility at the access. Detailed measurements have been taken on site and these have shown that, with the alterations to the hedge, visibility splays of 153m to the south and 105m to the north can be achieved. That to the south is very close to the standard laid down in DMRB and any refusal to relax that standard by that small amount would not be defensible. The standard to the north, although not meeting the DMRB standard does meet the standard in MfS2. Furthermore traffic approaching from the north will generally be on the far side of the road.

*It is not unusual where a recommendation has been given for refusal for this to be reviewed to ascertain whether the standards applied could be defended in the event of an appeal. NPPF makes it clear that applications should not be refused on highway grounds unless the effect on the highway network is **severe**. In this case it was concluded that, as the visibility to the north complies with the standards in MfS2, the effect on the highway network is not severe.*

In view of the above it is my professional opinion that a refusal of the application on highway grounds would be very difficult to defend”.

Officer's additional comments

Subsequent to the Committee's deferral of the application on 11th March 2015, the requested additional information has been compiled:

- The applicant has confirmed the applicant is of gypsy and traveller status and has not ceased to travel.
- The applicant has provided the requested percolation test data, on which the Council's Drainage Engineer has been re-consulted (response above)
- The Highways Development Control manager has confirmed and reiterated the proposed development would be acceptable in Highway safety terms, subject to the Conditions previously recommended

The additional information provided/compiled does not lead officers to change their previous recommendation that the application be APPROVED, subject to the Conditions set out within the original report.

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector, when reporting on the Wiltshire Core Strategy, expressed concern about whether the Council's approach towards gypsies and travellers was consistent with national policy. National policy requires Council's to plan positively for traveller sites. In its response to the Inspector's concerns, the Council has committed to considering planning applications for new traveller sites as a strategic issue rather than a local issue. This proposal would increase the number of pitches available for travellers and is therefore before the Strategic Committee.

Whilst the Core Strategy has now been adopted new traveller sites will remain as a strategic issue rather than a local issue until the Gypsy and Traveller DPD currently being worked on is adopted.

The original officer report and suggested Conditions are hereby attached.

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PERCOLATION TEST RESULTS

Applicant name: MR MATTHEW DOE

Site address: LAND ON THE WEST SIDE OF B3095, MAPPERTON HILL,
MERE, WARMINSTER, BA12 6LH

Building Regulation application number: 14/10556/FUL

STAGE 1 – Calculation of the average time for the water to soakaway and calculation of the Vp

	Hole 1	Hole 2	Hole 3	Total Time (Seconds)
Time taken in seconds for the water level to drop from 75% full to 25% full (225mm to 75mm)	10500	10020	11160	31680

Total time (seconds)	Average time				
31680	÷	3	=	10560	÷ 150 = 70.4 Vp

STAGE 2 - Calculation of the area of the drainage trench required (M²)

Potential number of occupants*	Percolation test result (Vp)				
2	X	70.4	=	140.8	X 0.25 = 35.2 M ²

* Potential number of occupants – this number must represent the number of people who **could** occupy the dwelling. For instance, where it is proposed that 3 people will occupy a dwelling which has 4 bedrooms each of which is of sufficient size to accommodate a double bed or two single beds the potential occupancy will be 8.

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Appeal Decision

Hearing opened on 1 February 2012

Site visits made on 1 and 2 February and 10 May 2012

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 20 June 2012

Appeal Ref: APP/Y3940/A/11/2159865

Hillbilly Acre, Southampton Road, Clarendon, Salisbury, Wiltshire, SP5 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Cooper against the decision of Wiltshire Council.
 - The application Ref S/2011/708/FULL, dated 18 March 2011, was refused by notice dated 9 August 2011.
 - The development proposed is described as 'eight mobile units to be sited, 3 existing, 5 new'.
 - The hearing was conducted over four days, 1-2 February and 9-10 May 2012.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the hearing applications for costs were made by the Council and by Alderbury & Clarendon Residents Group (ACRG) against the appellant. These applications are the subject of separate Decisions.

Procedural matters

3. On the application form the location of Hillbilly Acre is given as Clarendon, Salisbury. The site is on Southampton Road, and I have identified it accordingly in the appeal details above.
4. The proposal is for a gypsy site, which the site plan shows divided into four pitches. There was no dispute between the Council, the appellant and ACRG that it would be reasonable to expect a touring caravan to be accommodated on each pitch, in addition to the mobile homes. The decision notice refers to alterations to the access, boundary treatments, parking areas and associated landscaping; and the appeal form includes associated ancillary development in the description of the proposal. A certain amount of operational development has taken place at the site, and there was discussion at the hearing as to whether any aspects were properly considered as part of the appeal proposal, as distinct from being provided in connection with agricultural use of the land.
5. Having regard to the plan of development at the appeal site prepared by the Council¹, it was agreed that the proposal is more clearly described as the change of use to a gypsy site, the siting of eight mobile homes and four touring caravans, alterations to the access, additional hardstanding on pitches 3 and 4,

¹ Appendix B in Document L1.

and fencing on the frontage of pitch 4. I have considered the appeal on this basis. A number of caravans are already on the site, the hardstanding has been formed and the fencing erected: the access alterations refer to work which would be undertaken to secure improvements at the junction with Southampton Road. The use of the description of development agreed at the hearing does not indicate that any other operational development on the site is necessarily lawful. It is open to the appellant to apply for a lawful development certificate in this regard, and this is not a matter for the current appeal.

6. A planning obligation in the form of a unilateral undertaking was submitted by the appellant. The obligation concerns a financial contribution towards public open space and children's play equipment in the locality.
7. The second reason for refusal refers, amongst other matters, to the designation of the land to the south-west of the appeal site as an area of high ecological value and to the nearby River Avon as a site of special scientific interest (SSSI) and a special area of conservation (SAC). However, the objection to the proposal is not made on nature conservation grounds, and at the hearing the Council confirmed that it was not pursuing a nature conservation objection.

Main Issues

8. I consider that the main issues in this appeal are:
 - (i) Whether the proposal would be consistent with policies applicable to gypsy site provision.
 - (ii) The effect of the proposal on the setting of the adjacent listed buildings.
 - (iii) The effect of the proposal on the character and appearance of the area.
 - (iv) The effect of the proposal on highway safety at the access to the site from Southampton Road.
 - (v) Whether any harm arising from the proposal would be outweighed by other considerations.

Background

9. The appeal site was purchased by the appellant's father in 1971, and has subsequently been inherited by the appellant, his sister and two brothers. It has been used by the family for a range of agricultural activities, including the growing of flowers, Christmas trees and fruit. In 1989, a personal permission for the stationing of a mobile home for a temporary period until 8 February 1990 was granted to the appellant. More recently, planning permission was refused for the siting of a caravan in 2001, proposals to construct a dwelling were refused in 2002 and 2008, the earlier of which was also dismissed on appeal. A previous proposal for a gypsy site was withdrawn last year.
10. The appellant, his sister and brothers have lived on the site intermittently over the years. The site is subdivided into four pitches, and although there is at least one caravan on each pitch, only pitch 3 is currently occupied: the appellant, his wife and one of his daughters have lived there since 2010.

Planning policies

11. When the hearing opened in February 2012, national policy on gypsy and traveller sites was contained in ODPM Circular 01/2006. Subsequently the Government published *Planning policy for traveller sites* (PPTS), which replaced Circular 01/2006 from 27 March. On the same date the *National Planning Policy Framework* (the Framework) came into effect, replacing a series of planning policy guidance notes and statements, including PPS5 – Planning for the Historic Environment and PPG13 – Transport. During the adjournment, the main parties and ACRG were asked to address these policy developments, and they were the subject of discussion when the hearing resumed in May.
12. In South Wiltshire, the Development Plan comprises Regional Planning Guidance for the South West (the Regional Strategy – RS), the South Wiltshire Core Strategy, and the saved policies of the Salisbury District Local Plan. The Localism Act provides for the revocation of regional strategies. The effect of revocation has been subject to environmental assessment, on which consultation has taken place, but revocation orders have yet to be laid before Parliament. For the time being, therefore, the RS remains part of the Development Plan and carries weight accordingly. However, the main parties and ACRG agreed that the RS contains no policies of relevance to the appeal.
13. The South Wiltshire Core Strategy was adopted in February 2012. On its adoption, the Core Strategy replaced certain policies of the Local Plan, and, within the South area, the policies of the Wiltshire & Swindon Structure Plan 2016. Policy H34 of the Local Plan and Policy DP15 of the Structure Plan, both concerning proposals for gypsy sites, were amongst those replaced, and the only policy currently in the Development Plan which is concerned with gypsy sites is Core Policy 4 of the South Wiltshire Core Strategy.
14. The Proposed Changes to the draft revised RS include Policy GT1, which sets out requirements for gypsy and traveller pitch provision by then local authority area. The intended abolition of regional strategies will remove the system of pitch targets specified at regional level. Local planning authorities will be expected to make their own assessment of need, and Policy B of the PPTS provides that they should set pitch targets which address the likely accommodation needs of travellers, working collaboratively with neighbouring local planning authorities. In these circumstances, the draft revised RS is unlikely to progress further, and this lessens the weight carried by Policy GT1.
15. The Council is also preparing the Wiltshire Core Strategy, covering the whole of the county. This emerging Core Strategy was approved for pre-submission consultation in February this year, and it is expected to be submitted to the Secretary of State in July. It also contains a gypsy site policy, Core Policy 47, but this is the subject of representations, and at this stage it carries only limited weight.
16. Work has commenced on a Gypsy and Traveller Sites Allocations Development Plan Document (DPD). The Issues and General Approach Consultation Document, which includes a site selection methodology, was published in 2010, but preparation was halted following the Government's announcement that it intended to replace Circular 01/2006. I heard that, following the publication of the PPTS, and clarification of national policy, the Council intends to recommence work on the DPD. The DPD is at a relatively early stage in its

preparation, and as yet there are no details available of possible site allocations.

Reasons

Policies applicable to gypsy site provision

17. Core Policy 4 of the South Wiltshire Core Strategy has been adopted recently, and although it pre-dates the PPTS, it is broadly consistent with current national policy on gypsy site provision. As an up-to-date Development Plan policy, it is the starting point for consideration of the proposal against policies applicable to gypsy site provision. The first part of the policy sets out requirements for additional pitch provision. It then lists a series of criteria against which proposals should be assessed. Sites should be located within or close to a settlement as defined by the Sustainable Settlement Strategy. The nearest settlement is Alderbury, which the Council identified as a sustainable settlement². I heard that within Alderbury are two public houses, two shops (one of which contains a post office), a primary school and a village hall, and I consider that it provides a good range of local facilities and services. The north-western end of Alderbury is about 1.3km from the appeal site, and it is about 2km to the centre: these distances are not too great to cover on foot.
18. I have also taken into account the site selection methodology in the emerging Gypsy and Traveller Site Allocations DPD, although at this relatively early stage in its preparation its content carries only limited weight. The draft methodology includes various references to distances: ideally a site should be within a safe walking distance of 1.2km from a centre providing local facilities and services, although there are references to maximum distances of 0.8km from a bus stop, primary school, health facilities and a food shop. Elsewhere it explains that areas for search should initially cover 1km from key facilities of a doctor, school and food shop, but, that in the absence of suitable sites within 1km, sites up to 2km away could be considered. The site is about 2km from the centre of Alderbury, and there is a bus service along Southampton Road, with stops outside the appeal site, which provides access to Alderbury and also to Salisbury where a greater range of facilities and services are available. In these circumstances, I consider that Hillbilly Acre is close to a sustainable settlement, and that the proposal satisfies the first criterion in Core Policy 4.
19. The appeal site is of sufficient size to provide adequate facilities for parking, storage, play and residential amenity, and to ensure adequate levels of privacy for the occupiers. The only commercial activity intended is the continuation of the growing of Christmas trees and other plants, and each of the pitches includes space for this purpose.
20. The site is close to the River Avon: it rises up from the adjacent land by the river to Southampton Road, and the intended positions of the mobile homes are away from the lower south-west boundary. The majority of the site is within flood zone 1, where the risk of flooding is low, and the Environment Agency has raised no objection to the proposal, subject to conditions specifying floor levels and approval of a surface water drainage scheme. With these safeguards, the proposal would not be constrained by flooding.

² The inset map for Alderbury (Document O4b) includes Whaddon which is adjacent to the south-east, and references were made at the hearing to facilities and services in the overall settlement area.

21. Core Policy 4 requires that gypsy sites should not have the potential for adverse effects on river quality, biodiversity or archaeology. There is nothing before me to indicate that the proposal would have an adverse effect on any matters of archaeological interest. The adjacent land to the south-west, and the River Avon, is designated as an area of high ecological value on the Local Plan Proposals Map (Document O4a). This area includes Clarendon Meadows County Wildlife Site (CWS), which extends along the strip of land between the site and the river, and the River Avon itself is both an SSSI and an SAC. ACRG referred to the environmental significance of this area, and expressed concern about the effect of activities on the appeal site on the designated area. Reference is made to the presence of scrap metal and building materials, and to use of the site for car breaking, with the prospect of contaminants migrating towards the river. None of these alleged activities relates to the appeal proposal, but the appellant had no objection to a condition restricting commercial use on the site to agriculture, and preventing the stationing of more than one commercial vehicle over 3.5 tonnes on each pitch. Moreover there are other procedures to follow to address concerns about pollution and contamination.
22. The Council's Principal Ecologist has advised that occasional unobtrusive access would be unlikely to lead to a decline in the value of the CWS³, and I find no conflict with Policy C11 of the Local Plan which seeks to safeguard county wildlife sites. She explains that the SAC is important for six features: Atlantic salmon, sea lamprey, brook lamprey, bullhead, water crowfoot vegetation, and Desmoulin's whorl snail. The latter species occurs on emergent vegetation on and near the banks of the river, whilst the others all occur in the river channel. As the development is outside the SAC, there should be no direct impact, and she considers that it is too far away to cause an impact through light pollution, vibration or noise. Surface water would drain to a soakaway, and there should be no risk of runoff to the SAC. Given the assessment in relation to the SAC, the Principal Ecologist has not raised an objection in respect of the SSSI. She explained that potential contaminants and pollution from employment activities could have a harmful impact, and suggested a condition to prevent employment use. Subject to the imposition of conditions restricting commercial activities and vehicles, I do not consider that the quality of the River Avon or biodiversity in the vicinity of the site would be adversely affected or that the national recognised designations of the SSI and the SAC would be compromised.
23. Although it is intended that three of the pitches would accommodate extended families, this would not be a large scale proposal. In addition to the two adjacent houses, there are a number of other dwellings in the vicinity on Southampton Road and Shute End Road, and I do not consider that the proposal would be inappropriate having regard to the scale of the nearby community and settlement.
24. The remaining criterion of Core Policy 4 requires that development should be appropriate to the scale and character of the surroundings: I consider this and the effect on the adjacent listed buildings (another nationally recognised designation) elsewhere.

³ The Principal Ecologist did not appear at the hearing. Her assessment is contained in a memorandum submitted during the adjournment, Appendix A in Document L1.

25. I turn now to Core Policy 47 of the emerging Wiltshire Core Strategy. I have addressed requirements concerning flooding, internal space for parking and residential amenity, and proximity to settlements in relation to adopted Core Policy 4, and there is no conflict in respect of these matters. There is nothing before me to indicate that the site cannot be provided with appropriate services, that it is close to any hazardous land or installation, or that it suffers from poor ground conditions. A hydrogeological report, submitted with the application, does not point to any drainage problems on the land, and the Environment Agency has not expressed a contrary view. Criteria (ii) and (v) are concerned respectively with the safety and convenience of the access and the impact on the landscape, and I consider these matters elsewhere.
26. Some concerns have been expressed by local residents about the effect of the use of Hillbilly Acre on the living conditions of existing residents,. The site is situated between two residential properties, Belmont House and St Marie's Grange, and a third, Alderbury Holt is on the opposite side of the road. Both Belmont House and Alderbury Holt are positioned well away from the appeal site. The house at St Marie's Grange is relatively close to the south-east boundary, and the occupier expressed concern about noise. However, the proposal is for a residential use, and the appellant has agreed that commercial activities should be limited to agricultural work, which has been undertaken lawfully at the site for some time. In these circumstances, I do not anticipate that the use of the site as intended should unacceptably worsen the living conditions of nearby residents.
27. In the PPTS, Policy H (at paragraph 23) explains that new traveller sites should be strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. The policy, therefore, contemplates the prospect of sites coming forward in open countryside close to settlements, and in assessing the proposal against Core Policy 4 of the South Wiltshire Core Strategy, I have found that it is in such a location. Paragraph 23 also makes it clear that proposals should not dominate the nearest settled community, and that they should not place undue pressure on local infrastructure. The former test forms part of Core Policy 4, and there would be no conflict in this regard. There is no detailed evidence that infrastructure problems would arise as a result of the proposal.
28. Policy B (at paragraph 11) sets out a series of requirements for local traveller site policies. Although this forms part of the plan-making section of the PPTS, the considerations are also of relevance to assessing proposals which come forward separately from a DPD. Several of the criteria reflect matters covered in Core Policies 4 and 47. Given that the scale of the proposal would not be inappropriate in relation to the nearby residential development and that there should be no unacceptable effect on the living conditions of neighbours, I consider that it should enable peaceful and integrated co-existence with the local community. The presence of a settled base avoids the need for long-distance travelling and facilitates access to health and education services. The site would continue to be used for growing a variety of plants, enabling occupants to live and carry out some work from the same location, consistent with criterion (h). I have already referred to concerns about contamination and pollution from activities on the site (above, para 21). There is nothing before me to indicate that there would be any adverse environmental effects in respect of matters such as noise and air quality in the vicinity, or that the

health and well-being of travellers would be adversely affected by living on the site.

29. I consider the effect of the proposal in respect of the site access, and its effect on its surroundings and the adjacent listed buildings under other issues. These matters apart, I conclude that the proposal would be consistent with the provisions of Core Policy 4 of the South Wiltshire Core Strategy, Core Policy 47 of the emerging Wiltshire Core Strategy, and Policies B and H of the PPTS.

The adjacent listed buildings

30. Policy CN5 of the Local Plan explains that development outside the curtilage of a listed building should only be permitted where there is no harm to the character or setting of the building concerned. The Framework includes specific provisions concerning designated heritage assets. Paragraph 132 explains that substantial harm to a grade II listed building should be exceptional and in the case of a grade I listed building, wholly exceptional.
31. Immediately to the south-east of the site is St Marie's Grange. This impressive three-storey house was designed by the Victorian architect ANW Pugin as his own home. At the east corner is a bell tower with a conical turret, and a square tower rises above the main roof on the north-east side of the building⁴. The important south-west elevation faces towards the River Avon: there is an angled ground floor bay on the western corner and a two-storey bay to the chapel, with a central three storey element projecting forward between these features. Garden areas extend to the river, from which the house is set back in an elevated and imposing position. The stables and carriage house which is adjacent to the boundary with the appeal site, and the garden walls of St Marie's Grange are listed separately as grade II buildings. St Marie's Grange is a particularly significant building, because of its historical association with Pugin, the quality of its design, and its position in a predominantly open setting above the River Avon.
32. Belmont House is on the other side of the appeal site, set back from the boundary beyond an extensive garden area. It is close to Southampton Road, where the main entrance is set forward in a central bay with an arched and corniced doorcase and a pediment above. The garden area falls away in the direction of the river, above which extends the wide south-west elevation of the house with a series of sash windows and a bay at the right hand corner. The listing description refers to the importance of several internal features, including painted ceilings and grand marble fireplaces. Internal and external features contribute to the significance of Belmont House, together with its open setting.
33. The four pitches at Hillbilly Acre would each extend back from the internal drive adjacent to Southampton Road to the lower south-west boundary. The site plan shows the mobile homes generally positioned on the upper part of the pitches, and given the sloping nature of the site and the position of the drive, I anticipate that touring caravans and vehicles would also be parked on this part of the site. Caravans and vehicles would extend across the upper part of the site, where the additional hardstandings have been formed, and in line with the position of the adjacent listed buildings. Irrespective of whether other

⁴ The listing descriptions of St Marie's Grange and Belmont House are at Appendix VI to the Council's original statement. Photographs of the listed buildings are in Document O2.

structures, hardstandings and the access drive are considered to be lawful, the establishment of the four pitches would fundamentally alter the character of the upper part of the site, giving it a more developed appearance. I consider that the spread of development and the amount of caravans, vehicles and associated domestic paraphernalia would detract from the open setting of both listed buildings. The extent of tree cover around Hillbilly Acre and hedging on the frontage restricts views into and across the site, but it nevertheless forms part of the surroundings within which these listed buildings are experienced. Given the significance of the grade I listed building and its proximity to the appeal site, I conclude that the proposal would cause substantial harm to the setting of St Marie's Grange. As a grade II listed building, Belmont House is less sensitive, and extensive garden areas at that property would remain between it and the appeal site. However the gypsy site would encroach into the landscape to the south-east, and I conclude that this would cause significant harm to the setting of Belmont House. Accordingly the proposal would conflict with Policy CN5 of the Local Plan, and, as it would compromise a nationally recognised designation, it would also conflict with Core Policy 4 of the South Wiltshire Core Strategy.

Character and appearance

34. The appeal site lies within the landscape setting of Salisbury, where Policy C7 of the Local Plan restricts new development to prevent detriment to the visual quality of the landscape. There is substantial tree cover along this stretch of Southampton Road, interspersed with a number of dwellings. For some considerable time, the site has been used by the appellant and members of his family for growing various plants. This agricultural activity is consistent with the rural character of the area.
35. The proposal for four pitches, with 12 caravans, would intensify activity and development on the site. Whilst journeys to work at the site would be eliminated if pitches were established there, the use of Hillbilly Acre as a base for four family groups would generate other trips which are not work-related. In considering the effect on the adjacent listed buildings, I have found that the establishment of the four pitches would fundamentally alter the character of the upper part of the site, giving it a more developed appearance (above, para 33).
36. There is tree cover around the site, and I have no reason to expect that the establishment of the pitches would threaten the overall level of tree cover on the site itself or that trees on adjoining land are likely to be removed. Indeed an email from one of the trustees responsible for the land between the site and the River Avon, explains that there is no intention to thin the belt of trees there (Document A1). The tree cover prevents extensive views of the site, but the presence of some caravans already at Hillbilly Acre is apparent in certain views from the public footpath on the opposite side of the river and through gaps in the trees, hedging and fencing along the frontage. Although these views are restricted, the presence of development within the gap between St Marie's Grange and Belmont House would be apparent. This would erode the character of the landscape on the east side of the River Avon, to the detriment of the landscape setting of Salisbury. The appellant had no objection to a condition requiring additional planting and approval of the boundary treatment on the site frontage. This would enable the harsh fence at pitch No 4 to be replaced

or screened, although it would take some time for additional planting of appropriate species to provide effective screening from the road.

37. I conclude that the appeal proposal would cause significant damage to the character and appearance of the area. It would conflict with Policy C7 of the Local Plan which seeks to safeguard the landscape setting of Salisbury, and with criteria in Core Policy 4 of the South Wiltshire Core Strategy and Core Policy 47 of the emerging Wiltshire Core Strategy, which respectively require that proposals are appropriate to the scale and character of their surroundings, and would not have an unacceptable impact on the character and appearance of the landscape.

Highway safety

38. Southampton Road provides a route towards Salisbury to the north, and to the south-east of the appeal site it provides access to Alderbury and Whaddon before joining the A36. In addition to carrying local traffic, I heard that it is on occasions used by drivers as an alternative to the nearby section of the A36. The stretch of this road past the appeal site is subject to the national speed limit of 60mph. Traffic counts undertaken on behalf of the appellant record two-way am peak flows of between 376 and 423 vehicles past the site, and between 411 and 466 vehicles in the pm peak⁵. Off-peak weekday flows, counted from 1000 to 1100 hours, varied between 261 and 286 vehicles. Daily two-way weekday flows during the week were between 4401 and 4711 vehicles. Over the survey period, overall 85th percentile speeds of 55mph were measured in the southbound direction and 58.2mph northbound as vehicles descend the hill from Alderbury.
39. ACRG queried the length of the survey period, and the validity of the data for 15 March due to a traffic incident on the A36 and on several days when fog was present. However the weather records submitted show limited periods when fog was present during the survey period, with this weather condition only occurring in one peak hour, and traffic levels and speeds were not markedly different on 15 March from the other weekdays. The survey covers weekdays and the weekend, and no traffic data was submitted by any other party. I am satisfied that the appellant's survey is appropriately taken into account in assessing the highway implications of the proposal.
40. The appellant's highway consultant calculated that the use of Hillbilly Acre as a gypsy site would generate 28-40 vehicles per day, based on each pitch resulting in an equivalent number of trips to a conventional dwelling. In my experience this approach is generally accepted as appropriate. However, if the site were occupied as intended, with extended families on pitches Nos 3 and 4, I anticipate that the actual number of trips generated could be somewhat higher. In any event, the level of vehicle movements to and from the site would be modest compared with that on Southampton Road⁶.
41. Access to the site is taken directly from Southampton Road, towards the north-western end of the frontage. The Council had assessed visibility here with reference to TD 42/95 of the Design Manual for Roads and Bridges (DMRB),

⁵ The appellant's highway survey information is included in Mr Baker's statement, Document A9.

⁶ The existing traffic flows on Southampton Road will include those from the appeal site, where pitch 3 is already occupied and to which members of the appellant's family travel in connection with their work. Removal of the additional traffic flows from the residential use of pitch 3 from the traffic flow recorded on Southampton Road and of the journeys to work from the number of trips generated by pitches 1, 2 and 4 would not materially alter the effect of the proposal on traffic flow.

and, on this basis, ACRG had also applied the standards in TD 42/95. The appellant, on the other hand, argued that TD 41/95 was more appropriate. DMRB provides design standards for trunk roads, whilst Manual for Streets 2 explores where the design principles for residential streets can be extended to other roads. It recommends that, where speeds are above 40mph for significant periods of the day, the use of DMRB parameters for stooping sight distances is recommended. Given the recorded 85th percentile speeds of 55mph and 58mph (above, para 38), I agree with the main parties and ACRG that it is appropriate to use the DMRB in this case and not MfS2. As to which part of the DMRB is relevant, TD 41/95 explains that it applies to a range of situations up to developments where the level of traffic using the access would not exceed 500 vehicles per day. Above this threshold, TD 42/95 may apply. The scale of the proposal clearly points to the use of TD 41/95.

42. Based on the recorded speeds, TD 41/95 indicates that the visibility splay at the access should have a y distance of 176m along Southampton Road to the north-west and of 189m to the south-east. In the case of a lightly-used access, the usual x distance along the minor road may be reduced from 4.5m to 2.4m. A cul-de-sac of six dwellings is given as an example of such a situation, and the appeal proposal would be a comparable level of development. Where conditions are particularly difficult, the x distance may be further reduced to 2m, and the appellant's highway consultant suggested that, given the radii at the access and the slope down to the internal drives to the north and south, this was an appropriate standard to use. I do not share this view. It was agreed that at an x distance of 2m, vehicles waiting to exit from the site would project beyond the access. Southampton Road is well-used, and on each of my visits, I observed traffic moving freely. In these circumstances, I do not consider that the x distance should be reduced below 2.4m.
43. The extent of visibility was assessed as part of the site visits⁷. To the south-east, there is slight encroachment from vegetation on the site frontage, but I am satisfied that vehicles approaching from this direction would be seen throughout a 189m splay. Moreover, the boundary treatment could be repositioned, and a condition requiring access improvements could secure full compliance with the standard. To the north-west, however, visibility is restricted by the position of boundary treatment to 63m, and even when the splay is measured to a point 1m in from the carriageway edge, the length of the y distance only increases to 89m. These distances represent a considerable shortfall against the 176m splay which recorded speeds indicate to be appropriate, and given the proximity of the access to the boundary with Belmont House, the scope for improving visibility in this direction is limited. Southampton Road carries fast moving traffic, and I consider that the restricted visibility to the north-west would pose a serious threat to highway safety. It was argued on behalf of the appellant that, given the parallel alignment of the internal drive, drivers turning left out of the site from pitches 2-4 would be likely to position their vehicles at an angle to the carriageway. This would place them closer to the carriageway and slightly further north, increasing visibility in this direction. The corollary of approaching the road in this way is that it would make it more difficult for drivers to look to the right for traffic approaching from the south-east. For this reason I do not consider that it is an

⁷ Measurements were agreed at site visits on 2 February and 10 May 2012. The appellant's highway consultant was not appointed until after the February session of the hearing, and I explained that the measurements taken at the May site visit, which he attended, would supersede those taken previously.

appropriate approach, and it was acknowledged that there is no provision in the standard for assessing visibility in this way.

44. Forward visibility between vehicles turning into the site and following drivers, and between drivers turning right into the site and approaching vehicles has been assessed by the appellant's consultant. I agree that in these situations, where both vehicles are in the carriageway of Southampton Road, adequate levels of visibility would be achieved.
45. From the bellmouth of the access, drives lead into pitch No 1 and separately to pitches Nos 2-4. This area is wide enough for two cars to pass, but with a depth of 8.55m it would be difficult to accommodate a vehicle towing a caravan and another vehicle. There is a passing place at the head of the drive to pitches 2-4, but if a vehicle towing a caravan were leaving the site, it would not be easy to make use of this facility. TD 41/95 seeks a dwell area of at least 10m adjacent to the carriageway⁸. Whilst this dimension exists onto both drives, it may not be of sufficient length to accommodate a vehicle towing a caravan. Because of the alignment of the access drives, it would also be impractical for towing combinations to leave pitch No 1 and head north, and to enter the site to pitches Nos 2-4 without crossing the centre line on Southampton Road. Avoiding such manoeuvres would necessitate detours to the usual direction of travel. I appreciate that the trips involving towing combinations are only likely to occur on a limited number of occasions; however the constrained nature of the site access for manoeuvres involving such traffic reinforces my concern about highway safety.
46. My attention was drawn to a recent planning permission for formation of a second access to Belmont House: this is just beyond the boundary with the appeal site and has restricted visibility. Whilst I heard that there had been an occasion when this access was used by several vehicles associated with a filming event at the property, as a second access to a single dwelling, I would expect its use to be significantly less than that resulting from the appeal proposal. Moreover it represented an improvement on the original access where visibility was restricted by the tall boundary wall. The circumstances at Belmont House are not comparable to those at the appeal site, and the planning permission for a new access does not provide support for the appeal proposal.
47. I conclude that the appeal proposal would pose a serious threat to highway safety at the access from Southampton Road. In consequence it would fail to satisfy criterion (ii) of Core Policy 47 in the emerging Wiltshire Core Strategy.

Other considerations

The general need for gypsy and traveller accommodation

48. The need for gypsy and traveller accommodation is assessed in relation to four sub-areas of the County. It is common ground between the appellant and the Council that there is a general need for additional pitch provision in the South area where the appeal site is situated. Topic Paper 16, prepared as part of the emerging Wiltshire Core Strategy, updated the assessment of need from that included in the draft RS, which had specified the provision of 18 pitches in the former Salisbury District⁹ during the period 2006-2011. This historic level of

⁸ For development greater than a single dwelling.

⁹ The South area of the County covers the former Salisbury District.

need is included in Core Policy 4 of the South Wiltshire Core Strategy. Table 10 of the topic paper identifies requirements for 33 pitches in South Wiltshire for 2011-2016 and for a further 17 pitches in the subsequent five-year period to 2021. These figures are carried forward into Core Policy 47 of the emerging Wiltshire Core Strategy.

49. Table 6.1 of the Wiltshire Core Strategy Pre-Submission Document records the provision of a single pitch in the South area over the period 2006-2011, compared with the figure of 18 sought in the RS, and the main parties agreed that in consequence the figures for 2011-2016 in Topic Paper 16 included an immediate need for 17 pitches. The Council argued that there was the prospect of immediate need being met, at least in part, by the regularisation of unauthorised sites, and I note that reference is made to this approach in the topic paper. Whilst there was a suggestion that 10 or 11 pitches could be looked at as part of this approach, there is no certainty about the number of pitches which may come forward in this way. I find that there is an immediate need for gypsy and traveller accommodation, the level of which provides significant weight in support of the appeal proposal.

Policy provision for gypsy and traveller accommodation

50. Topic Paper 16 refers to a good supply of authorised sites in South Wiltshire, 73 pitches being recorded in 2011. Nonetheless there is a recognised need for accommodation, which has not been addressed by superseded Local Plan and Structure Plan policies¹⁰, or more recently the gypsy site policies in the two core strategies. Planning permission has only been granted for one additional pitch since 2006, compared with a requirement specified for the period up to 2011 of 18 pitches. The Council is preparing a DPD to identify sites, but this remains at a relatively early stage, having only recently been brought out of abeyance, and at present it is uncertain when sites would come forward for occupation through this process. I consider that the policy position in Wiltshire concerning the provision of gypsy and traveller sites adds important weight to the need for accommodation.

Gypsy status

51. It is intended that the site would be occupied by the appellant and members of his wider family as follows:
- Pitch 1 – Allen Cooper (brother of the appellant), his wife Fiona, and an adult son Andrew.
 - Pitch 2 – Edward Cooper (brother of the appellant), his wife Samantha, and their son and daughter.
 - Pitch 3 – David Cooper (the appellant), his wife Alana, an adult daughter Chloe, a second adult daughter Lorna with her partner, Jamie Whitehouse, and their son.
 - Pitch 4 – Jennifer Willett (sister of the appellant), her partner George Wells, an adult daughter Rebecca Willett with her two sons, and Matilda Cooper (mother of the appellant).
52. The appellant and his brothers have travelled widely with their families, seeking casual agricultural work, selling flowers and strawberries grown on the appeal

¹⁰ Policy H34 of the Local Plan and Policy DP15 of the Structure Plan.

site, and dealing in Christmas trees (some of which are grown on the site) amongst other activities. Mrs Willett has made wreaths and travelled to sell them, and Mr Wells has carried out tree work, hedge cutting, and fencing. The appellant explained that farm work had become more difficult to find in England, and for several years up to 2010 he had sought this type of work in France and Spain. He still travels away, for about 2-3 months in the year. I heard that Mr Edward Cooper and Mr Wells were not working at present, and reference was made to various health problems. In addition, Edward Cooper has two children of school age. The appellant's mother is elderly and in poor health. The definition in Annex 1 of the PPTS includes persons of nomadic habit of life who have ceased to travel on the grounds of health needs on the grounds of their own or their family's or dependants' educational or health needs or old age. On the information before me I consider that the appellant and his wife, his brothers and their wives, his sister and her partner, his mother, and Edward Cooper's children are gypsies for the purposes of planning policy.

53. The partner of the appellant's elder daughter is not from a traveller background and has not travelled to seek work. He has a full-time job, and it was acknowledged that he did not have gypsy status. Both of the appellant's daughters are also in employment: Lorna does cleaning work through an agency and Chloe works as a personal assistant. Depending on the circumstances, periods of paid employment may not result in the loss of gypsy status. However in these cases the only reference to work-related travelling as adults is when Lorna and Chloe have done so to help their parents, and there is no indication that the extent and pattern of travelling is consistent with a nomadic habit of life. The situation concerning Rebecca Willett and Andrew Cooper is similar. Rebecca Willett has a part-time job in child care, and travels sometimes with her mother and Mr Wells. Whilst schooling was given as a reason for travelling being limited, her paid job was also put forward in this regard, and the information before me does not indicate that Rebecca Willett has a nomadic habit of life. Andrew Cooper has a full-time job in a factory in Salisbury: his travelling is limited to going to fairs at weekends to work as a tattooist. None of these intended occupants appeared at the hearing, and the limited indirect information about them is insufficient to support a finding that they and their children are gypsies for the purpose of planning policy.

Personal need

54. I heard that the appellant and his family have lived in a variety of accommodation, including flats, houses, mobile home parks and gypsy sites. He referred to instances of awkwardness from neighbours when he occupied conventional housing which he attributed to his gypsy ethnicity. Whilst I do not underestimate the upset which can be caused by unneighbourly behaviour, the only specific instance Mr Cooper recalled was that of parking by other people outside his house. He explained that a reason for his frequent moves was that he was a restless person, and two years ago he moved onto the appeal site. He also referred to investigating numerous places for a site, but some were too expensive, and he reported instances where there was no co-operation with enquiries when it was realised that land was sought for a gypsy site. I note also that the appellant has put the site forward for inclusion in the emerging DPD. The information before me does not amount to evidence of a systematic search having been undertaken. Nevertheless, the appellant his wife and younger daughter have nowhere else to live at the present time.

Their need for accommodation is significant, although that of his daughter carries somewhat less weight in terms of the appeal proposal, given my finding concerning gypsy status.

55. All of the other intended occupants of Hillbilly Acre have conventional housing. The appellant's elder daughter and her partner have a second floor flat in Old Sarum. They are making efforts to obtain better conventional housing, and if they are successful they would not move onto the appeal site. Having regard also to my finding on gypsy status, I give little weight to their expressed need to live on the appeal site.
56. Turning to the prospective occupants of pitch No 1, it was acknowledged that Allen Cooper owned a house in Salisbury. Allen Cooper did not appear at the hearing, but in his statement he explains that he finds it difficult to live in houses, due to anti-social behaviour from neighbours, citing theft and abuse (Document A7). I note, however, that the title document indicates that he and his wife acquired their house 19 years ago (Document RG10), and whilst a house may not be his preferred form of accommodation consistent with his Romany background, he and his family have lived in one for a prolonged period of time. Moreover the only specific reference made to other accommodation sought concerned a bungalow with land where a mobile home could be sited. Given the gypsy status of Allen and Fiona Cooper, I attach some weight to their personal need for accommodation on a gypsy site. There is no specific evidence before me on this matter concerning their son, and, given his lack of gypsy status, his personal need to live on the appeal site carries little weight.
57. Edward Cooper and his family have a two-bedroom flat which they have occupied for over six years, but which is too small given the age and gender of the children. Mr Cooper referred to prejudice and unpleasantness from neighbours, and I do not doubt that a gypsy site would provide a more appropriate form of accommodation for the family. I note, though, that he declined an offer of a pitch on a public site. Whilst there were references in general terms to the unsuitability of public sites, no specific problems were identified. No other enquiries for accommodation had been made. I attach some weight to the family's need for accommodation on a gypsy site, in view of their status.
58. Finally I turn to the intended occupants of pitch No 4. Mrs Willett and Mr Wells live at Fairfield Road in Salisbury, where Mrs Willett has had a house since 1993. Mrs Willett explained that she had taken the house to ensure her children were not taken into care in the absence of other accommodation. There is no evidence of a systematic search for a gypsy site, but, as with Allen Cooper and Edward Cooper, I attach some weight to the couple's need for accommodation on a gypsy site, in view of their status. Mrs Cooper Senior has lived in a bungalow in Salisbury for about 12 years, but for the same reason concerning gypsy status I also attach some weight to personal need in her case. Rebecca Willett has a two-bedroom flat: her mother acknowledged that a house would meet her accommodation needs, and, given her lack of gypsy status, I attach little weight to her personal need to live on the appeal site.

Alternative sites

59. I have referred above (para 49) to the Council's suggestion that there was the prospect of immediate general need being met, at least in part, by the regularisation of unauthorised sites. However, not only is there no certainty

about the number of pitches which may come forward in this way, but I anticipate that any such sites would have existing occupants, and they would not, therefore, provide an alternative to the appeal site. There is no specific evidence that any suitable alternative sites are available at the present time, and the Council was unaware of any vacancies on public pitches. The lack of alternative accommodation adds further weight to the personal need of the appellant and his brothers, sister and mother. However, where there is little personal need for accommodation on the appeal site, I do not consider that this circumstance alters the position to any significant degree.

Personal circumstances

60. The availability of a settled base facilitates access to healthcare facilities, and is of importance to all intended occupants of the appeal site. Additionally, a range of medical conditions were referred to at the hearing. Allen Cooper has heart problems and diabetes, and Fiona Cooper has problems with her legs. Edward Cooper also has diabetes, and he has problems with blood pressure and dizziness: both his children have asthma. The appellant has diabetes and high blood pressure, and his wife suffers from fibromyalgia, depression and migraine. His daughter Lorna has a back problem, her partner Jamie Whitehouse has diabetes, and their son is gluten intolerant. Both Mrs Willett and Mr Wells have diabetes: Mr Wells also has osteoporosis, rheumatoid arthritis, and high blood pressure, and is receiving treatment for an accident to his toes. Rebecca Willett has heart palpitations and chest pains, and I heard that Mrs Cooper Senior suffers from a number of conditions, including heart problems and high blood pressure. She cannot move around unaided. The only documentary evidence concerning health matters is a letter about Mrs Alana Cooper from her doctor (Document A4).
61. Only indirect verbal information was provided about several of the intended occupants of the site, and the appellant's agent acknowledged that she had no instructions concerning health matters in respect of certain individuals. The evidence is general in nature, but a key consideration appears to be the importance of regular hospital and doctor's appointments. Insofar as Mrs Cooper Senior is concerned, it was argued that the family needed to be able to provide her with care throughout the day, but there is no evidence that she is unable to receive the assistance she requires in her present home. Most of the prospective occupants of Hillbilly Acre are able to access healthcare facilities from their existing housing, and, on the information before me, living on the appeal site would confer no additional benefit in this respect. The importance of maintaining access to healthcare facilities does, however provide additional important weight to the personal need of the appellant and his wife, and his daughter Chloe.
62. There would be five children living on the site: four attend school and the youngest is at nursery. All of the children are in families which live in permanent housing, and from the details given at the hearing their existing accommodation would appear to be more conveniently located than Hillbilly Acre for the schools and nursery they use. Although advanced as an argument in support of the appeal proposal, the appellant's agent acknowledged that there would be no advantage in educational terms in occupation of the appeal site. I agree: this matter carries no weight in support of the proposal.
63. It was argued that it was part of the families' tradition to be together. Whilst they are all based in the Salisbury area, those that travel regularly do not all

travel away together. Moreover they are able to continue to use the appeal site for the agricultural activities of growing plants, and this provides an opportunity for them to spend time together as a larger group. I consider that the wish of the families to live on the appeal site together represents their preference rather than being a factor of importance for their wellbeing. It adds no significant weight to support for the proposals.

The planning obligation

64. Paragraph 204 of the Framework reiterates the statutory tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010, and it specifies that obligations should only be sought where, amongst other matters, they are necessary to make the development acceptable in planning terms. The planning obligation would provide for a payment of £10,634.40 towards the provision or enhancing of public open space and play equipment in the locality. Policy R2 of the Local Plan requires provision to be made for open space as part of residential developments, and the justification explains that in the case of smaller sites contributions may be made towards off-site facilities. The Council confirmed that the amount provided by the obligation would meet its requirement for open space. However, whilst the use of standard formulae can be useful in giving greater certainty about the likely level of contributions sought, it is still necessary to consider the impact of the particular development concerned.
65. My attention was drawn to a recent proposal for a single dwelling in Alderbury which was dismissed on appeal due to the absence of a means of securing a financial contribution to public open space (Document L8). The full details of this case are not before me, and whilst the Parish Council has identified several projects in the locality on which Policy R2 monies could be spent, no specific information has been submitted to indicate whether general comments in the Local Plan about limited recreational facilities and little amenity space in the smaller settlements apply to Alderbury and Clarendon. I am not satisfied that the available evidence justifies the need for the contribution in the planning obligation. Consequently the first statutory test is not met, and I have not taken the obligation into account in determining the appeal.

Conclusions

66. The proposal for a gypsy site at Hillbilly Acre would cause substantial harm to the setting of the grade I listed building of St Marie's Grange and significant harm to the setting of the grade II listed building of Belmont House. In addition, I have found that it would be significantly damaging to the character and appearance of the area and that it would pose a serious threat to highway safety at the access from Southampton Road. For these reasons, there would be conflict with certain aspects of policies concerned with gypsy site provision, although in other respects the proposal would comply with these policies.
67. The general need for gypsy sites in South Wiltshire provides significant weight in support of the proposal, and the policy position which has not addressed that need is a further important consideration. The personal need for of the appellant and his wife for accommodation on a gypsy site is significant, but that of the daughter who lives with them carries somewhat less weight, given my findings on status. Other intended occupants of the site have accommodation in conventional housing. This is not in line with the gypsy status of the appellant's brothers, sister and mother, and I attach some weight

to their personal need for accommodation on a gypsy site. The lack of alternative gypsy site accommodation adds further weight to personal need in these cases. However, I attach little weight to the personal need of the younger adults who live elsewhere, given their lack of gypsy status and indications as to the suitability of conventional housing. Personal circumstances provide important weight to supplement the personal needs of the appellant, his wife and resident daughter, but otherwise provide no significant support for the proposal. The appeal site is situated between two listed buildings and would have a substandard direct access to Southampton Road. The extent of the harm caused by the proposal would clearly outweigh both the considerations relating to a gypsy site in general and the varied personal needs and circumstances of the intended occupants.

68. I have also considered the possibility of a temporary permission. Whilst paragraph 25 of the PPTS makes it clear that the absence of a five year supply of deliverable sites should be a significant material consideration when considering proposals for a temporary permission, this policy only applies to applications made from next year. On behalf of the appellant, it was argued that a temporary permission for five years for the existing three site occupants would be appropriate to provide them with sufficient time to find alternative accommodation. The Council and ACRG suggested shorter periods of three years and one year respectively. Whilst use of the appeal site for a temporary period by some or all of the intended occupants would be less harmful than on a permanent basis, I consider that that harm would nonetheless be so great, that it would not be outweighed by the considerations which support the proposal.
69. In considering this proposal, I have taken into account the human rights of the appellant and his relatives¹¹. Dismissal of the appeal would result in the loss of the home of himself, his wife and his daughter Chloe. In addition it would prevent the other intended occupants (with the exception of Jamie Whitehouse who is not from a Romany background) living on their land in accordance with their traditions. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights. However this interference must be weighed against the wider public interest. For the reasons given above, I consider that the impact on the setting of the adjacent listed buildings, the character and appearance of the area, and on highway safety would be extremely harmful. Taking into account all material considerations, I am satisfied that the legitimate aims of safeguarding the setting of the listed buildings, the character and appearance of the area, and highway safety can only be adequately safeguarded by dismissal of the appeal. The protection of the public interest cannot be achieved by means which are less interfering of the rights of the prospective occupants, and this would not constitute an unacceptable interference with their rights. Dismissal of the appeal is necessary and proportionate, and it would not result in a violation of the human rights of the appellant and his relatives.

¹¹ In the grounds of appeal, reference was made to Article 14 of the European Convention on Human Rights, which is concerned with freedom from discrimination. However this argument was not pursued at the hearing.

70. None of the suggested conditions would overcome my objection to the appeal proposal. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Richard Clegg

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Miss S Green	South West Law Ltd.
Mr D Cooper	Appellant.
Mr M Baker BSc CEng MICE FILT FCIT Euring	Director, Mark Baker Consulting Ltd.
Mrs J Willett	Prospective occupant of the appeal site.
Mr E Cooper	Prospective occupant of the appeal site.
Mr G Wells	Prospective occupant of the appeal site.
Mrs A Cooper	Wife of the appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr D R Pearce BSc FRICS	Director, Land Development and Planning Consultants.
Miss C Gibson	Core Strategy Manager, Wiltshire Council.
Mr A Madge	Team Leader, Development Management Southern Team, Wiltshire Council.
Councillor R Britton	Member of the Southern Area Planning Committee, Wiltshire Council.

FOR ALDERBURY AND CLARENDON RESIDENTS GROUP:

Ms J Ferguson	Consultant Solicitor, Wilsons Solicitors LLP.
Mr I Cole	Local resident.
Mrs E Cole	Local resident.
Mrs G Higgins	Local resident.
Mr C Horwood	Local resident.
Mr D Sargent	Local resident.
Mr P Viant	Local resident.
Mr G Watt	Local resident.

THE APPELLANT'S DOCUMENTS

A1	Email dated 20 January 2012 from a Clarendon Grange Trustee to Miss Green concerning land to the south-west of the appeal site.
A2	Bundle of appeal decisions concerning proposals for gypsy sites.
A3	Notes of judgement in <i>Maidstone BC v Secretary of State for the Environment and Dunn</i> .
A4	Letter dated 17 November 2011 from Harcourt Medical Centre to Miss Green concerning Mrs A Cooper ¹² .
A5	Letter dated 22 February 2010 from the Council to Relph Ross Partnership concerning structures on the appeal site.
A6	Pedlar's certificate for Mrs Willett.
A7	Allen Cooper's statement.
A8	Planning permission and plans for access at Belmont House, Southampton Road.
A9	Mr Baker's statement.
A10	Appendices to the response to supplementary statements from the

¹² The letter refers to Mrs A Courtney: Mrs Courtney is the same person as Mrs Cooper.

- Council and ACRG.
- A11 List of intended occupants of appeal site¹³.
- A12 Planning obligation concerning contribution towards public open space and children's play equipment.

THE LPA'S DOCUMENTS

- L1 Appendices to the Council's supplementary statement.
- L2 Schedules of gypsy sites and encampments in Wiltshire – 2011.
- L3a-b List of structures on appeal site and accompanying plan.
- L4 Plan of nature conservation designations in the vicinity of the appeal site.
- L5 Schedule of saved Local Plan policies.
- L6 List of suggested conditions.
- L7 Letter dated 14 July 2011 from Alderbury PC concerning funding for recreation facilities.
- L8 Appeal decision concerning a new dwelling on Lights Lane, Alderbury.

ALDERBURY AND CLARENDON RESIDENTS GROUP'S DOCUMENTS

- RG1 Extracts from TD 42/95 – Geometric design of major/ minor priority junctions.
- RG2 Letter dated 26 October 2009 from the Council to Relph Ross partnership concerning a proposed building at the appeal site.
- RG3 Letter dated 23 May 2001 from Clarendon Park PC to Salisbury DC concerning a planning application for a caravan at the appeal site.
- RG4 Environment Agency documents concerning waste.
- RG5 County Surveyors Guidance Note – Road Materials Containing Tar.
- RG6 Appendices to Ms Ferguson's letter dated 11 April 2012.
- RG7 Notes of judgement in Ewen Developments Ltd v Secretary of State for the Environment and North Norfolk DC.
- RG8 Judgement in Murfitt v Secretary of State for the Environment and Another.
- RG9 Appendices to Ms Ferguson's letter dated 2 May 2012.
- RG10 Official copy of register of title for 5 Fairfield Road, Salisbury.
- RG11 Judgement in Medhurst v Secretary of State for Communities & Local Government.
- RG12 Extracts from TD 41/95 – Vehicular access to all purpose trunk roads.

OTHER DOCUMENTS

- O1a-l Bundle of photographs of the appeal site.
- O2 Photographs of Belmont House.
- O3 Photographs of St Marie's Grange.
- O4a-b Extract from Local Plan Proposals Map and Alderbury Inset.
- O5a-c Report, Highways consultation response and plan concerning planning application for access at Belmont House.
- O6 Extracts from the Structure Plan.
- O7 Extracts from the Local Plan.
- O8 Extract from Local Development Scheme.
- O9 Extracts from Gypsy and Traveller Site Allocations DPD Issues and General Approach Consultation Document.

¹³ The list was updated verbally at the hearing by the appellant and other intended occupants.

- O10 Plan showing listed buildings adjacent to the appeal site.
- O11 Policy GT1 of the Draft Revised RS (Proposed Changes).

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Appeal Decisions

Hearing and site visit held on 9 May 2013

by D. E. Morden MRTPI

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

Decision date: 10 February 2014

Appeal A: APP/Y3940/C/12/2186940 – Notice A

Land at Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 92 below.

Appeal B: APP/Y3940/C/12/2186944 – Notice B

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 93 below.

Appeal C: APP/Y3940/C/12/2186945 – Notice B

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 93 below.

Appeal D: APP/Y3940/C/12/2186946 – Notice B

Land at Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: Enforcement Notice withdrawn – no further action to be taken on this appeal.

Appeal E: APP/Y3940/C/12/2186949 – Notice C

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 94 below.

Appeal F: APP/Y3940/C/12/2186950 – Notice C

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 94 below.

Appeal G: APP/Y3940/C/12/2186951 – Notice D

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 95 below.

Appeal H: APP/Y3940/C/12/2186952 – Notice D

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 95 below.

Application for costs

1. At the Hearing an application for costs was made by Wiltshire Council against the appellants. This application is the subject of a separate Decision.

Procedural Matters

A. The Notices – Corrections, Variations and the Grounds of appeal

2. The parties had used a different lettering system for the appeals which took into account a withdrawn Notice and appeals against it which were no longer before me. I have used the letters I used at the Hearing which are as set out in Appendix 1 to this decision. Various amendments were made to the four Notices and to the grounds of appeal both before and during the Hearing and these are set out below together with other corrections and variations that I stated were necessary.
3. All four Notices, in the majority of their requirements, start with the word 'permanently' before the detail of the requirement is set out. The use of this word is both unnecessary and inappropriate having regard to the provisions of Section 181 of the Act, which states that compliance with an enforcement notice shall not discharge the notice. I shall vary the Notices accordingly using the powers available to me.
4. The appellants queried the inclusion of agriculture as one of the uses in the mixed use alleged to be taking place on each site (Notice A – Appeal A and Notice D – Appeals G and H) particularly regarding Hillbilly Acre. The Council stated that to its knowledge things were grown in the polytunnel on that site. The Council also stated that the lawful use of the land was agriculture and to a degree it was irrelevant as the use land for agriculture did not involve development. Any buildings necessary for any agricultural use of the land would, however, require permission due to the small size of each site. In my view there is no need to delete agricultural use from the description on that basis.

Notice A – Appeal A

5. The Council wrote to Mr Cooper on 20 December 2012 confirming that it had amended the allegation in paragraph 3 of the Notice (and consequently the requirements). The letter confirmed that references to 'areas of hard surfacing, polytunnel and partly constructed building' were deleted from the allegation. These three matters were similarly deleted from the requirements at 5(f). Also at 5(f) 'toy' was replaced by 'storage' so that the requirements matched the allegation relating to the shed. Finally requirements (h) and (i) were deleted. I shall correct and vary the Notice accordingly and deal with the appeals as they relate to the Notice as corrected.
6. The allegation refers to a material change of use of the land and includes some operations which are described as integral to the change of use as well as storage of a caravan incidental to the use. Incidental uses should not be described as part of the breach and the reference to the touring caravan should be deleted. The operational development from what I saw on site is not an integral part of the change of use. It should simply be described as operational development with the notice corrected to refer to both types of development and the relevant period amended to include both four years and 10 years. I will make those corrections to the Notice and any consequent variations.

7. The requirements in Notice A included at 5(e) the 'removal of the former lorry bodies' from the Land. This matter was not included in the allegation and it was agreed I should delete it from the requirements.
8. Appeals were originally lodged on grounds (a), (d), (f) and (g). The ground (d) appeal was concerned with the partly constructed building; ground (f) with elements (e), (f) and (h) of the requirements and ground (g) was about a matter of timing the appellant arguing compliance with the Notice as issued was impractical; some actions would have to wait until others had taken place before they could be implemented so more than one time period was needed.
9. As the partly constructed building was removed from the allegation, the ground (d) and (g) appeals were withdrawn. At the Hearing the appellant's representative confirmed that the ground (f) appeal was concerned with the removal of the lorry bodies. I am deleting the reference to removing lorry bodies from the requirements, and the appeal on ground (f) was withdrawn on that basis.

Notice B – Appeals B, C and D

10. The Council handed in a copy of a letter it had written to the appellants on 29 November 2012 confirming that it had amended the Notice. It stated that 'The effect of the substituted plan is to exclude the land known as Hillbilly Acre from the requirements of the Enforcement Notice.' As the substituted plan no longer included Hillbilly Acre within the red line area it completely withdrew the Notice in so far as it related to Hillbilly Acre. I shall, therefore, take no further action on Appeal D and I will correct the Notice to reflect the different area of land that it now includes (Appeal D is referenced APP/Y940/C/2186946 and is the appeal no longer to be determined).
11. Appeals were originally lodged on grounds (d), (f) and (g). The ground (d) appeal was only concerned with the fence at Hillbilly Acre and that site was removed from the Notice enabling the ground (d) appeal to be withdrawn. The appellant suggested a minor rewording of the requirements so that all that was needed was just to remove the fence and return the land to its previous condition; the appeal would be withdrawn on the basis of this variation to the requirements. I will deal with this shortly under the ground (f) appeal as the change was agreed by the Council and there would be no Notice to deal with at all if I treat the ground (f) appeals on appeals B and C as withdrawn. The appeals on ground (g) were also not pursued at the Hearing.

Notice C - Appeals E and F

12. Requirement (a) referred to five buildings being marked as 1-5 on the Notice Plan. The numbers 1-5 were not on the plan attached to the case file but were on the plan attached to the copy of the Notice in Mr Pearce's Appendix 1. For the sake of clarity I will attach a plan to this decision that has the buildings marked as 1-5 on it.
13. Appeals were originally lodged on grounds (a), (d) and (f). On grounds (a) and (d) the appellant confirmed that only three buildings remained (1 (the tractor shed), 4 (a shed) and 5 (the greenhouse)) to be considered. On ground (f) the only matters for consideration were requirements (c) and (d) which demanded the reinstatement of the land formerly occupied by the buildings to its position before any development took place, i.e., to match the contours and profiles of the immediately adjacent land and also the re-seeding of those areas.

Notice D – Appeals G and H

14. Notice D concerns the residential caravan use at Sunhill as well as the storage of caravans and some operational development. The appellant in paragraph 1.12 of the representations acknowledged that there was a small timber dayroom butted up against the caravan on that plot which the Council had missed off the enforcement notice as the site had not been revisited after the May 2012 appeal site inspection.
15. The parties agreed that there would be no injustice if the structure was added to those that should be removed if the appeal failed; the case had been argued on the basis that it had been included. To do that I would also need to add it into the allegation and as the parties were in agreement on the matter I shall do so.
16. This notice had the same problem in describing the allegation that Notice A had; it described the operational development as an integral part of the use but on site it did not appear to me to be so. The operational development should simply be described as that and the Notice corrected to refer to both types of development and the relevant period amended to include both four years and 10 years. I will make the necessary corrections.
17. Appeals were originally lodged on grounds (a), (d), (f) and (g). The appeal on ground (d) which had been for the hard surfacing and retaining walls was not pursued at the Hearing. The ground (f) appeal was on element (f) of the requirements (removing the septic tank).

B. Appeals remaining to be determined and grounds of appeal summary

18. Appeals A, B, C, E, F, G and H therefore remain to be determined in some shape or form after the corrections/variations set out above. The appellant also withdrew various grounds of appeal; some before the Hearing opened and others during the course of the Hearing. What remains to be determined is set out in the list below:
 - (a) Appeal A (Notice A); ground (a) and the deemed application. Ground (a) concerns all elements of the corrected description.
 - (b) Appeals B and C (Notice B); ground (f). These are duplicates (one in the name of each occupant). The appeals on Ground (f) are only concerned with element (c) of the requirements – the planting after the removal of the fence and a variation was agreed by the Council.
 - (c) Appeals E and F (Notice C); grounds (a), (d) and (f). These are also duplicates and only one has paid the fee to get the ground (a) appeal and deemed application considered. The ground (a) and (d) appeals concerned all elements of the allegation as corrected; the ground (f) appeal was only in respect of requirements (c) and (d) – re-contouring the land and re-seeding
 - (d) Appeals G and H (Notice D); grounds (a), (f) and (g). These are also duplicate appeals and only one has paid the fee to get the ground (a) appeal and deemed application considered. The ground (a) appeal concerned all elements of the allegation as corrected. The ground (f) appeal was only made regarding the requirement that sought the removal of the septic tank.

Background/History

19. The appeal sites form approximately the southern half of a much larger, roughly rectangular, site that was purchased by Mr D Cooper's father in 1971 and has subsequently been inherited by Mr Cooper, his sister and two brothers. It has been used by the family for a range of agricultural activities, including the growing of flowers, Christmas trees and fruit. In 1989, a personal permission for the stationing of a mobile home for a temporary period until 8 February 1990 was granted. More recently, planning permission was refused for the siting of a caravan (in 2001); proposals to construct a dwelling were refused in 2002 and 2008, the earlier of which was also dismissed on appeal. A previous proposal for a gypsy site was withdrawn in 2011.
20. Mr Cooper, his sister and brothers have lived intermittently on the land over the years. The land is divided into four sites and these appeals concern the two southernmost areas (3. Hillbilly Acre and 4. Sunhill). The Council issued Notices on all four sites but there were no appeals lodged on the other two. Once those notices have been complied with there will be agriculture and recreation use on one and an agricultural use on the other.

The appeal on Ground (d) – Appeals E and F

21. The appeal on this ground relates to a tractor shed, a greenhouse and another small shed (about 3.7m by 2.5m) used as a potting shed located on Sunhill and marked on the Notice Plan as buildings 1, 4, and 5. The appellants admitted that documentary evidence regarding the erection of these structures was limited and even though the Council was asked if it had any photographs of the site from visits between 2005 and 2009, it confirmed that there had been very few visits in that period and there were no photographs.
22. Interested persons confirmed that it was not really possible to see into the site from the highway and they relied on aerial photographs. There were photographs of the tractor shed under construction in August 2008 and others taken in mid 2009 which showed it completed. The Council questioned whether it was the same building but from what I saw on site and from the various photographs produced I am satisfied that it is the same building. It was claimed that the other buildings were older than the tractor shed but there was no documentary evidence put forward regarding any of these buildings that could help show when they were constructed.
23. Both sides accepted that they were there in August 2009 as there are photographs that show that but the Notice was issued on 2 October 2012 and to succeed on ground (d) it was necessary to show that the buildings were there and substantially completed before 2 October 2008. There were no sworn statements produced by anyone who lived at the site but I cannot agree with the appellants' view that it would not be proportionate to get such sworn statements. When there is no documentary evidence to support what is being claimed sworn statements would certainly add weight to an appellant's case.
24. There was much anecdotal evidence from the appellants concerning activities that had taken place on the site and that the buildings needed to have been completed to enable that to happen but there was uncertainty about dates. The appellants placed great weight on the document produced by the Council at the Inquiry in 2012 (for the same development and also some adjoining land) setting down which buildings it thought were lawful. It did not however state that the buildings the subject of this Notice were lawful and indeed it was

only an opinion based on a visual check on site and a basic search of old records.

25. Interested persons also pointed out that whilst the aerial photographs that they had seen were not the best to try to find anything, it was generally not easy to tell if there was a building in a particular location or not and no great weight could be given to any claims that the photographs showed buildings.
26. I acknowledge that the Council did not have any good contrary evidence to that produced by the appellants but even they admitted that they had little to help show that the buildings the subject of an appeal were there at the relevant date. Taking all these factors into account I conclude, on the balance of probability, that there is insufficient evidence to allow these appeals and accordingly I shall dismiss them.

Policy Framework

27. Since the previous appeal decision, the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) have both been published (27 March 2012). One year later (27 March 2013) the Framework took on greater significance, paragraph 215 setting out that the weight to be attributed to policies in existing plans became dependent upon their degree of consistency with the policies in the Framework.
28. The Development Plan comprises the South Wiltshire Core Strategy (SWCS), and the saved policies of the Salisbury District Local Plan (SDLP). The SWCS was adopted in February 2012 and replaced certain policies of the SDLP and the only current policy in the Development Plan which is concerned with gypsy sites is Core Policy 4 of the SWCS; it is broadly consistent with national policy as set out in the PPTS. The saved policies of the SDLP relevant to these appeals are CN5 dealing with development affecting the setting of listed buildings; C7 dealing with the protection of the landscape setting of Salisbury and G2 which is concerned with highway safety.
29. The Council is also preparing the Wiltshire Core Strategy (WCS), covering the whole of the county. This emerging Core Strategy was approved for pre-submission consultation in February 2012, and it was submitted to the Secretary of State in July 2012. The examination opened in May 2013 and ran until July 2013 but the process is still on going. It contains a gypsy site policy, Core Policy 47, but this is the subject of ongoing representations, and at this stage it carries only limited weight.
30. Work commenced on a Gypsy and Traveller Sites Allocations Development Plan Document (DPD) but preparation was halted following the Government's announcement that it intended to replace Circular 01/2006. Following the publication of the PPTS (which superseded 01/2006), and clarification of national policy, the Council intends to recommence work on the DPD but as it is necessary for the DPD to have regard to the WCS, work on it is on hold until the WCS is adopted.

The appeals on Ground (a) and the deemed applications for planning permission – Appeals A, E and G

Main Issues

31. The parties agreed that the main issues in these appeals were the same as had been considered in the appeal in February 2012 (when permission was sought

for the use of some of the two appeal sites plus two more sites on the adjoining land). Those issues were set out by the previous inspector as follows;

- (i) Whether the proposal would be consistent with policies applicable to gypsy site provision.
- (ii) The effect of the proposal on the setting of the adjacent listed buildings.
- (iii) The effect of the proposal on the character and appearance of the area.
- (iv) The effect of the proposal on highway safety at the access to the site from Southampton Road.

32. He also had a fifth issue which was set out as 'whether any harm arising from the proposal would be outweighed by other material considerations' but the parties agreed that was not an issue as such but a means of carrying out the balancing exercise having considered all the issues. Finally the three appeals on the two sites need to be considered against the issues separately as well as considering their cumulative impact. Whilst the occupants are related, the two uses are basically the same and the access is shared, they are two separate planning units, there are some different structures on the two sites, separate enforcement notices have been issued recognising that fact and there are three separate appeals even though they were heard together.

Reasoning

Appeal A (Notice A) – Hillbilly Acre: stationing of caravan for residential use; storage of a caravan; construction of timber decking and a storage shed.

33. Dealing with the first main issue, there was little discussion on this in relation to either appeal. The Council referred to the 2012 appeal decision on the larger site and accepted a number of conclusions reached by the last inspector and that they were the same for both change of use appeals. In summary it conceded that there was an immediate need for gypsy and traveller accommodation; the uncertainty of the identification of sites through a DPD added weight to the need for accommodation; the appellants were all gypsies and Mr D Cooper had a significant need for accommodation; there was no evidence of a systematic search for gypsy sites; Mrs Willett had a permanent house although some weight had to be attached to her need for accommodation on a gypsy site as she was a gypsy; there was a lack of alternative accommodation on established gypsy sites.
34. The Council also stated that so far as it was concerned, there had been no material change in circumstances since the 2012 appeal decision that meant the conclusions needed exploring again. There were obviously going to be further delays in producing the DPD as the WCS had still not completed its process to adoption.
35. The inspector in 2012 examined the proposal (for eight caravans plus four touring caravans on the much larger site) against core policy 4 of the SWCS and found that the development satisfied four of the six criteria in the policy. Those concerning compromising a nationally recognised designation and the development's effect on the appearance and character are dealt with in the next two main issues.
36. He also considered the development against emerging core policy 47 of the WCS. Three of the five criteria were satisfied but highway safety and the impact on the landscape are considered in the main issues that follow. Policy H in the PPTS deals with Decision-taking and at paragraph 23 it states that new traveller sites in open countryside should be strictly limited. Sites that are

approved should not dominate the nearest settled community or put undue pressure on the local infrastructure. The development is not contrary to these last two criteria.

37. I agree with the previous inspector that some of the criteria in the relevant policies are satisfied but the development is contrary to other provisions in core policy 4 of the SWCS, core policy 47 of the WCS and policy H of the PPTS; other criteria are discussed below in considering the other main issues. I acknowledge that he was dealing with a more intensive scheme on an area of land about four times the size of the land constituting this appeal.
38. Looking at the second main issue, the Grade I listed building to the south east of the site (St Marie's Grange), is an impressive three-storey house was designed by the Victorian architect ANW Pugin as his own home. The important south-west elevation faces towards the River Avon and garden areas extend to the river, from which the house is set back in an elevated and imposing position. The stables and carriage house which is adjacent to the boundary with the appeal site, and the garden walls of St Marie's Grange are listed separately as grade II buildings. St Marie's Grange is a particularly significant building, because of its historical association with Pugin, the quality of its design, and its position in a predominantly open setting above the River Avon.
39. Belmont House (a Grade II listed building) is on the other side, to the north west of the appeal sites, set back from the boundary beyond an extensive garden area. It is close to Southampton Road, where the main entrance is set forward in a central bay with an arched and corniced door case and a pediment above. The wide south-west elevation of the house with a series of sash windows and a bay at the right hand corner. The listing description refers to the importance of several internal features, including painted ceilings and grand marble fireplaces. Internal and external features contribute to the significance of Belmont House, together with its open setting.
40. Policy CN5 of the Local Plan explains that development outside the curtilage of a listed building should only be permitted where there is no harm to the character or setting of the building concerned. The Framework includes specific provisions concerning designated heritage assets. Paragraph 132 explains that substantial harm to a grade II listed building should be exceptional and in the case of a grade I listed building, wholly exceptional.
41. The appeal site is close to St Marie's Grange, the separately listed wall forming the boundary between the listed building and the adjoining Sunhill. The caravan is sited on the upper level of the land and in line with St Marie's Grange (in relation to the road and the frontage). The caravan and the other structures on site seriously detract from the long standing open setting of the two listed buildings. In my view the development, due to its proximity to the grade I listed building St Marie's Grange causes substantial harm to its setting and should not be allowed to remain here any longer than necessary.
42. Belmont House is a grade II listed building and is less sensitive than St Marie's Grange. I acknowledge that there is quite a distance between the dwelling and the appeal site but the site would encroach into the landscape to the south east of the property and cause significant harm to its setting. I conclude on this issue that the development therefore conflicts with Policy CN5 of the Local Plan and, through compromising a nationally recognised designated building; it would also conflict with core policy 4 of the SWCS.

43. Turning to the third main issue and the question of the character and appearance of the area generally, the appeal site lies within the landscape setting of Salisbury, where Policy C7 of the Local Plan restricts new development to prevent detriment to the visual quality of the landscape. There is fairly substantial tree cover along this stretch of Southampton Road, which is interspersed with a number of dwellings.
44. There is reasonable tree cover around the appeal site and in the nearby area, the land on the other side of Southampton Road is well wooded, and it is unlikely in my view that the formal establishment of this pitch (or both pitches) would threaten the overall level of tree cover or that trees on adjoining land are likely to be removed. The tree cover prevents extensive views of the site but the presence of a caravan is apparent in certain views from the public footpath on the opposite side of the river and through gaps in the trees, hedging and fencing along the frontage.
45. What is also apparent is that the caravan is partially filling up a historic well established gap between two listed buildings. The presence of the development erodes the character of the landscape on the east side of the River Avon at this point to the detriment of the landscape setting of Salisbury.
46. I conclude on this issue, therefore, that the development materially harms the character and appearance of the area. As such it conflicts with Policy C7 of the SDLP which seeks to safeguard the landscape setting of Salisbury and with criteria in Core Policy 4 of the SWCS and Core Policy 47 of the emerging WCS, which respectively require that developments are appropriate to the scale and character of their surroundings, and do not have an unacceptable impact on the character and appearance of the landscape.
47. Looking finally at highway matters and the effect on road safety, particularly along Southampton Road, the inspector in the last decision determined that the access was substandard and the material harm to road safety was sufficient to justify dismissing the appeal (at that time for development on four sites). The appellant accepted that the access was sub standard in its configuration and that the other issue was visibility to the north west for vehicles exiting the site.
48. The appellant argued that the previous inspector's decision was based on a much higher level of traffic generation than the current cases would produce. There were no extended families nor were there any children on the site to generate journey to school trips. The appellant also argued that the site was on the edge of Salisbury, that there was a good bus route into town so there was the option of using public transport rather than private motor vehicles for journeys.
49. Using public transport does not get around the fact that the access is substandard both in terms of sight lines and turning in radii. Accessing the site by vehicles cannot be eliminated nor can it be prohibited, there will always be visitors and deliveries even if the occupants keep their own journeys to a minimum.
50. Vehicles approaching from the south east have to carry out a U-turn to gain access to the site and there is insufficient width to allow for a car to do this safely. It would either have to go on to the wrong side of the access track in which case it could meet an oncoming vehicle exiting the site or on to the wrong side of Southampton Road in which case it would create a hazard to vehicles travelling along that carriageway.

51. Considerable time was spent at the 2012 Inquiry including hearing evidence from highway experts and examining the sight lines available at the site. No evidence was put before me to say that anything had changed regarding traffic levels or speeds, or that different criteria should be used. Sight lines were again measured on site and the visibility to the north west whilst measured at approximately 85m along the nearside at 2.4m back from the carriageway in the centre of the access was slightly better than the 63m measured in 2012 (natural hedgerows that line the nearside of the carriageway may have been cut back a bit compared to how they were then) that is still less than half the distance it should be (agreed last time as 176m) for a lightly trafficked access on to this type of road carrying the level of traffic that it does and at the speeds that it does.
52. I acknowledge that there would be less traffic movements than there was in the appeal determined in 2012 (as that concerned both these appeal sites and two more). However, that does not eliminate the highway safety problems caused by severely inadequate sight lines and site access radii even if it reduces the likelihood of incidents occurring.
53. Although that reduces the weight to give to that objection (compared to that attached to it in 2012) I consider that there is still material harm to highway safety as what can be achieved is well below the requirement. I conclude that the development fails to satisfy criterion (ii) of Core policy 47 of the emerging WCS and conflicts with criterion (i) of policy G2 of the SDLP.

Appeal G (Notice D) – Sunhill: stationing of caravan for residential use; storage of caravans; construction of a dayroom, hard surfacing, retaining walls, materially altering the landform and installation of a septic tank.

54. The same arguments were made on behalf of both appellants at the Hearing on the issues and the Council made the same objections to this development although it stated, in respect of the second main issue that this one had a greater impact on the adjoining grade I listed building. Sunhill is sited immediately adjacent to St Marie's Grange and I agree that the development on the site therefore has an even greater impact on the setting of the grade I listed building than the development on Hillbilly Acre does.
55. Clearly it has less of an impact on the setting of Belmont House which is a grade II listed building but in my view it causes significant harm to the setting of St Marie's Grange for the same reasons I set out when dealing with the appeal on Hillbilly Acre. I conclude on the first issue that the development therefore conflicts with Policy CN5 of the SLDP and through compromising a nationally recognised designated building; it would also conflict with core policy 4 of the SWCS.
56. On the third main issue, there are more buildings and structures on the plot at Sunhill than on Hillbilly Acre and it has a more harmful effect on the character and appearance of the area than that other property. In the circumstances I conclude that this development would conflict with the objectives of the relevant policies (as set out in paragraph 46 above) just as the development on Hillbilly Acre does.
57. Turning to the highway safety issue, the objections have already been set out in paragraphs 47 to 53 above and this development, as acknowledged by the appellant, would have virtually the same unacceptable impact on highway

safety as the development on Hillbilly Acre. In these circumstances I conclude that the development would materially harm road safety.

Appeal E (Notice C) – Sunhill: erection of a shed, greenhouse, toy shed, wood shed and tractor shed.

58. This appeal is made on the basis that the appellant wants to continue with a smallholding/agricultural type use if the appeal for the residential caravan is dismissed. The toy shed and older wood shed were removed before the Hearing as they were in a poor state of repair and the ground (a) appeal is for the greenhouse, the tractor shed and the potting shed (buildings 1, 4 and 5 as set out on the Corrected Plan B). The buildings are used in connection with that agricultural use. The appellant would remove them, however, if it meant the application for the residential caravan was not refused.
59. At the opening, the appellants submitted that agriculture should be deleted from the allegation as there was little agricultural use on either plot although spring flowering plants and strawberries were propagated for sale on Sunhill. There was no evidence, however, of the level of agricultural use that took place or what the income was from the produce. As argued by the Council, there needs to be some justification for buildings associated with any agricultural use on this site bearing in mind its location, its very limited size and the objections raised. There was no evidence put forward to justify the erection of any buildings in connection with the now claimed agricultural use on the site.
60. In these circumstances I conclude that there is no justification for allowing the buildings to remain. They add to the out of character built form on Sunhill materially harming both the setting of the adjoining grade I listed building and also the character and appearance of the area and landscape setting of Salisbury.

Cumulative impact

61. I have concluded when looking at the three developments individually that their separate impacts are materially harmful and are unacceptable. In these circumstances the cumulative impact must also be considered unacceptable as it will be the result of an addition of all the harm already found when looking at the three appeals separately. In these circumstances the appeals on ground (a) must fail unless there are other material considerations that clearly outweigh the harm identified.

Other material considerations

Gypsy status

62. There was no dispute that all the appellants were gypsies. Mr David Cooper and his wife Alana live at Hillbilly Acre with their eldest daughter Chloe (who was 19 at the date of the Hearing). Mr George Wells lives at Sunhill. Mr Cooper's sister (Mrs Jennifer Willett) does not stay with him but currently lives in permanent accommodation; she has a council house that she is trying to swap with her daughter's flat. Mr Wells cannot stay in permanent housing.

Need for sites

63. The parties agreed that there was a need for accommodation generally in this part of the district. The inspector in 2012 agreed there was an immediate need for 17 pitches. It was claimed by the Council that much of that need would be

met by regularising some unauthorised sites but the appellants claimed this was not an appropriate way forward and there was uncertainty about how many pitches would get permission to stay where they were. There was no evidence that any planning permissions had been granted since the appeal in early 2012 and in my view this high level of need adds considerable weight in support of each of the appellants' cases.

Policy provision

64. At the time of the 2012 inquiry, planning permission had only been granted for one additional pitch since 2006 when there had been a requirement specified for the period up to 2011 of 18 pitches. The Council was preparing a DPD to identify sites but admitted this had been put on hold and was awaiting the adoption of the WCS. The lack of provision in the immediate future and the agreed need for pitches adds weight to the appellants' arguments that there is an unsatisfied need for sites in the area.

Alternative sites

65. There was no evidence put before me of any alternative sites (either public or private) that either of the appellants could go to should these appeals be dismissed. The lack of alternative sites adds weight to the personal needs of the appellants to remain here.

Personal Circumstances

66. There are no children and therefore no educational needs that have to be considered in either of these appeals. There were, however, a number of health issues affecting the occupants and the three older occupants all attended Harcourt Medical Centre regularly. Mr Wells has type 2 diabetes (diagnosed in 2004) for which he regularly attends hospital for treatment. He also requires regular eye check ups due to the diabetes and is on medication for gout and blood pressure. He also has peripheral vascular disease and other problems with his hip and back. Mr and Mrs Cooper also have health problems. Mrs Cooper suffers from fibromyalgia, prolapsed lumbar discs and migraines. She has undergone spinal injections and remains under the care of the clinic. Mr Cooper suffers from severe stress and having had a road accident in 2011 has post whiplash syndrome and is still receiving treatment. I attach some weight to these personal circumstances of the appellants when looking at each of the appeals.

Balancing exercise

67. I have found in each appeal that the development causes substantial harm to the setting of the adjoining grade I listed building St Marie's Grange, and also significant harm to the grade II listed Belmont House. Further, I concluded that on all three appeals there would be significant harm to the character and appearance of the area and Salisbury's setting and an important open area of mainly wooded character between the two listed buildings and down to the river.
68. This results in conflict with various criteria in the relevant policies although there was also compliance with other aspects of those policies. Finally, in respect of the two appeals involving a change of use, there would be significant harm to highway safety on Southampton Road due to the extremely poor access/exit at the site entrance; it has inadequate sight to the left for those exiting the site and inadequate turning radii for those turning left into the site.

69. I attach significant weight to the general need for gypsy sites in the area, the fact that the situation is not currently being addressed by policy and also the lack of alternative sites. The personal circumstances of the appellants in each case also carry some weight although there is nothing unusual about their medical history which implies that they could not be treated at some alternative medical centre if they could not find a permanent site in this locality.
70. I attach substantial weight to all these objections and, whether looking at the three ground (a) appeals (and deemed applications for planning permission) individually or considering them cumulatively, I consider that these objections clearly outweigh both the considerations relating to gypsy sites in general and the particular circumstances of the two different appellants.

Other Matters

71. The appellants' representative raised the question of a temporary planning permission rather than a dismissal if the appeals were unsuccessful. She also submitted that bearing in mind that the sites taken together were much smaller than that considered by the previous inspector in 2012,, the imposition of conditions would mitigate the harm sufficiently to make the developments acceptable.
72. Dealing firstly with conditions, I acknowledge that improvements could be made to the radii at the entrance to the site (by removing some more of the wall) and that would reduce the highway objection to some extent. There is nothing that can be done about the highly inadequate sight line however as the land is outside the control of the appellants. It was also suggested that planting and along the boundary with St Marie's Grange could be undertaken but that would go against the open nature of the land around the property. Similarly re-siting the caravans and other structures on the site does not help, particularly on Sunhill where any siting would be unacceptably close to the listed building.
73. It was also suggested that the appellants were willing to remove various structures and things such as lorry bodies from their respective sites but they should be removed in any event; they are basically just dumped there, it is admitted they have not been used for anything for about 10 years in the case of the lorry bodies, and it is not really appropriate to offer that as some sort of improvement that could be gained through conditions if permission was granted for the development.
74. Turning to the question of a temporary permission the appellants argued that the effect of the developments would be short lived and the land could be restored once the temporary permissions had expired. In my view, whilst I acknowledge that there are no readily available alternative sites and that the DPD for future provision has been put on hold, I consider that the harm caused by these developments is such that temporary permissions should not be granted for these developments.
75. The Council raised the question of precedent and submitted that this was one of those rare cases where it was appropriate to do so. It can be a material consideration if there is a real likelihood of the decision being cited as justifying development on other land. In this case the Council argued that given the recent history of the immediately adjoining land to the north west and the fact that it is all in the ownership of the Mr Cooper's family, it is realistic to suggest

that the applications for residential caravans on the other two 'plots' will be resubmitted if these appeals are allowed.

76. It was submitted that the ability of the Council to refuse those applications and apply its policies to protect both the setting of its listed buildings and the landscape setting of Salisbury will be severely diminished. I agree that it would be extremely difficult for the Council to resist proposals on that adjoining land if these appeals are allowed and that adds weight to the objections I have already set out.
77. I have had regard to the human rights of the families in question in considering the arguments put forward. I recognise that dismissing these appeals would result in an interference with the appellants' home and family life. I have taken into consideration throughout my deliberations Article 8 of the European Convention of Human Rights which sets out the right to respect for private and family life and the home and a positive obligation to facilitate the gypsy/traveller way of life. It is a qualified right, however, requiring a balance between the rights of the individual and the wider community interest.
78. I have also taken fully into consideration Article 14 which prohibits discrimination and the duty under S71(1) of the Race Relations Act 1976 to have due regard to the need to eliminate unlawful discrimination and promote equality of opportunity and race relations between different racial groups. I have also had regard to the Public Sector Equality Duty set out in s149 of the Equality Act 2010 in considering all the arguments put forward by the parties in these appeals.
79. The harm the developments cause in terms of their detrimental effect on the environment is considerable. Those are matters which it is right to protect in the wider public interest and the legitimate aims of protecting that wider public interest can only be adequately safeguarded here by dismissing these appeals and removing these developments from the land.

Conclusion on the ground (a) appeals

80. I have considered whether conditions could be attached to a planning permission or whether a temporary permission could be granted but neither would overcome the strong objections I have found to these developments. For the reasons given above and having regard to all other matters raised I conclude that the appeals on ground (a) and the deemed planning applications should not succeed. The other material considerations are not of such weight that they justify granting permission to any of these developments and the appeals on ground (a) and the deemed applications for planning permission accordingly fail.

The appeals on Ground (f) – Appeals B, C, E, F, G and H

Appeals B and C (Notice B) – Sunhill: element (c) of the requirements as issued

81. On this ground the appellant stated that it was excessive to require further planting after the removal of the fence; the fence had just been erected behind existing planting none of which had been removed or damaged. The requirement should just be to restore the land to its previous condition. The Council agreed to this and I will vary the Notice accordingly. To that limited extent the appeals succeed.

Appeals E and F (Notice C) – Sunhill; elements (c) and (d) of the requirements as issued

82. On this ground the appellant argued that the Notice was not clear about what needs to be done to meet the requirement in (c) and as building 4 is located on a shared roadway which is all laid as hard standing it is not appropriate to seed that area. The tractor shed is built on bare earth and indeed none of the three structures has any foundations or footings.
83. The Council acknowledged that the three structures may have had minimal works undertaken in the form of footings or foundations so in that case there would be little to do once the structure had been removed. I consider that the Notice is clear and is basically requiring the land to be restored to its former condition. Even if there were no footings or foundations the ground under the structures will have been damaged and re-seeding will help restore it to its former condition. The Council had no objection to not re-seeding the land under building 4 and I shall vary the requirements accordingly. To that very limited extent the appeal on this ground succeeds.

Appeals G and H (Notice D) – Sunhill; element (f), removal of septic tank

84. The appellant argued that the lawful use of the land was accepted as agriculture and activities could take place there e.g., someone working there all day, that would require a septic tank to be provided. The Council stated that it considered the septic tank an integral part of the residential use on the site and it was usual in such circumstances to remove such associated/integral facilities from the land or from a building if the use was to cease. It was easy to argue that something ought to stay because it might be used in connection with some other use. If it proved essential a camping/chemical toilet could be provided.
85. An interested person at the Hearing also stated that it was not really an argument for keeping the septic tank to say that it might be used in connection with some other use that was not currently taking place; everyone could use the argument that it might be useful to have one in case it came in useful at some unknown point in the future for some as yet unknown use.
86. As stated by the Council in its representations, the Notice was issued to remedy the breach and failure to secure its removal would not achieve that purpose. In any event I agree with the point put forward by the Council that the tank is really an integral part of the residential use and should therefore be removed from the site. The appeal on this ground accordingly fails.

The appeals on Ground (g) – Appeals G and H

87. Whilst there was no ground (g) appeal on Notice C the Council agreed that the wording in paragraph 6d) contained extra words and made no sense. It was agreed that I should vary the requirement by deleting the superfluous words.

Appeals G and H (Notice D) – Hillbilly Acre;

88. The appeal on this ground was simply that Mr Wells was only being given six months to comply with the Notice requirement whereas Mr Cooper was being given 12 months. It was submitted that the six months period should be lengthened to 12 months. The Council stated that the reason for the difference was that Mr Wells lived in his caravan by himself but Mr Cooper had two dependants – his wife and adult daughter Chloe (who was 19 years old).

89. The Council also stated that it was far from certain that Mr Wells was actually living on the site at the time of the 2012 inquiry; he had denied living on the site at the time and stated that his home address was in Fairfield Road in Salisbury. The Council had been led to believe that he only came to Sunhill on an occasional basis as a respite during periods of ill health. It was accepted that he had subsequently advised the Council differently but in any event there is only him and his circumstances are different to Mr Cooper.
90. I acknowledge the arguments put forward by the Council but it was made clear in the representations at the Hearing that this site was Mr Wells' home and he could not live in a bricks and mortar home. The Council referred to other sites it owned but it admitted that there were no vacancies and it was not known if a space could be found for Mr Wells as there was also a waiting list of five applicants at the time of the Hearing for Council sites.
91. Whilst I understand that the Council is anxious to clear these sites it has to be taken into account that this is Mr Wells home, that it is accepted that there are no alternative sites and it will be some time before any policy document is produced that identifies where sites might be permitted. The alternative if Mr Wells has to move from here in those circumstances is illegal parking on some other land or at the roadside both of which are highly unsatisfactory alternatives. In my view it would be unreasonable to consider any period for compliance of less than 12 months bearing in mind that Mr Wells would be made homeless. I shall vary the requirement to that effect and to that very limited extent the appeal succeeds.

Overall conclusions

92. For the reasons given above and having regard to all other matters raised, I conclude that all seven appeals should be dismissed. I shall uphold the enforcement notices with corrections and variations.

Formal Decisions

Appeal A (Notice A): APP/Y3940/C/12/2186940

93. I direct that the enforcement notice is corrected as follows:-
- (a) by deleting the words in paragraph 3 entirely and substituting therefor paragraph 3 as set out in Appendix 3A attached to this decision
 - (b) by deleting paragraph 4a) entirely and substituting therefor the words as set out in paragraph 4(a) in Appendix 3A attached to this decision
- I also direct that the enforcement notice is varied as follows:-
- (a) by deleting the words in paragraph 5 and substituting therefor the words as set out in paragraph 5 in Appendix 3A attached to this decision
- Subject to these corrections and the variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals B and C (Notice B): APP/Y3940/C/12/2186944 and 2186945

94. I direct that the enforcement notice is corrected as follows:-
- (a) by deleting the words 'and Hillbilly Acre' in paragraph 2
 - (b) by deleting the words 'attached plan' in paragraph 2 and substituting therefor the words 'Corrected Plan A attached to this decision'

I also direct that the enforcement notice is varied as follows:-

- (a) by deleting the words in paragraph 5c) and substituting therefor the words as set out in paragraph 5(c) in Appendix 3B attached to this decision
- (b) by deleting the word 'permanently' in paragraphs 5a) and 5b)

Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Appeals E and F (Notice C): APP/Y3940/C/12/2186949 and 2186950

95. I direct that the enforcement notice is corrected as follows:-

- (a) by deleting the words 'attached plan' in paragraph 2 and substituting therefor the words 'Corrected Plan B attached to this decision'.
- (b) by adding the words 'which are shown numbered 1 – 5 on Corrected Plan B' at the end of paragraph 3

I also direct that the enforcement notice is varied as follows:-

- (a) by deleting the words 'which are shown at 1-5 on the attached plan' and substituting therefor the words 'which are shown numbered 1 – 5 on Corrected Plan B' at the end of paragraph 5a)
- (b) by deleting the word 'permanently' in paragraphs 5a) and 5b)
- (c) by deleting the words 'by the end of the or;' after the words 'effect or' in the first line of paragraph 6d)

Subject to these corrections and variations the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of Appeal E.

Appeals G and H (Notice D): APP/Y3940/C/12/2186951 and 2186952

96. I direct that the enforcement notice is corrected as follows:-

- (a) by deleting the words in paragraph 3 entirely and substituting therefor paragraph 3 as set out in Appendix 3D attached to this decision
- (b) by deleting paragraph 4a) entirely and substituting therefor the words as set out in paragraph 4(a) in Appendix 3D attached to this decision

I also direct that the enforcement notice is varied as follows:-

- (a) by deleting the words in paragraph 5d) and substituting therefor the words as set out in paragraph 5(d) in Appendix 3D attached to this decision
- (b) by deleting the word 'permanently' in paragraphs 5(a) to 5(d), 5(f) and (5g).

Subject to these corrections and variations the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of Appeal G.

D E Morden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms A Heine	Principal, Heine Planning Consultancy
BSc MSc MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Pearce	Principal, Land Development Planning
BSc FRICS	Consultants
Mr S Hawkins	Team Leader (Enforcement) Wiltshire Council
MA MRTPI	

INTERESTED PERSONS:

Mr G Watt	Local resident
Mrs G Higgins	Local resident
Mr I Cole	Local resident
Mr P Viant	Local resident

DOCUMENTS

- 1 Council's letter regarding Hearing arrangements
- 2 Letter from Council to appellant dated 29 November 2012
- 3 Letter from doctor regarding Mrs Alana Courtney dated 2 May 2013
- 4 Appeal decision APP/Y3940/C/12/2178840 & 2178841
- 5 Council's update regarding development plan
- 6 Copy of application for a bungalow at Avon View, Old Southampton Rd
- 7 Article from Country Life regarding St Marie's Grange
- 8 Statement and accompanying plans/photographs from Mr G Watt
- 9 Statement and accompanying photographs from Mr I Cole
- 10 Statement from Mr C Horwood
- 11 Statement from Mr D Sargent
- 12 Statement from Mr P Viant

PHOTOGRAPH

- 1 Photograph of site entrance submitted by appellant.

APPENDIX 1: APPEALS LODGED & ORIGINAL GROUNDS OF APPEAL MADE

Appeal A: APP/Y3940/C/12/2186940 – Notice A

Land at Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Cooper against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 3 October 2012.
 - The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to a mixed use for agriculture and for the stationing and residential occupation of a caravan and storage of a touring caravan incidental to such use; stationing and storage of a caravan and use for domestic storage together with; operational development undertaken as an integral part of the material change of use comprising construction of areas of hard surfacing, timber decking, a polytunnel, a storage shed and a partly constructed building.
 - The requirements of the notice are as follows: (a) permanently cease to occupy the land for residential purposes, (b) permanently remove the caravans stationed on the land, (c) permanently remove all domestic paraphernalia from the land, (d) permanently cease to use the land for domestic storage, (e) permanently remove the former lorry bodies from the land, (f) permanently demolish and remove the areas of hard surfacing, timber decking, polytunnel, toy shed, and partly constructed building, (g) permanently remove all of the demolition materials arising from step (f) from the land, (h) reinstate the area of the land formerly occupied by residential mobile homes and decking to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the land immediately adjacent and (i) seed the area of the land referred to in step (h) with grass seed.
 - The period for compliance with the requirements (a) to (h) inclusive is 1 year and for (i) 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) to (f) above, whichever date is the later.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B: APP/Y3940/C/12/2186944 – Notice B

Land at Hillbilly Acre and Sunhill, off Southampton Rd, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs J Willett against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 3 October 2012.
 - The breach of planning control as alleged in the notice is the erection of timber fencing on the land adjacent to the highway, exceeding one metre in height.
 - The requirements of the notice are as follows: (a) permanently demolish the timber fencing, (b) permanently remove all of the demolition materials arising from step (a) from the land and (c) after step (b), plant along the length of the frontage of the land with Southampton Road where the fencing has been removed with tree/hedge species to match the existing adjoining planting in terms of position, distance and species.
 - The period for compliance with requirements (a) and (b) is 1 month and for (c) it is one month from the date that the Notice takes effect or before the end of the planting season following the date that the Notice takes effect whichever date is the later (for the avoidance of doubt the planting season runs from 1 November to 31 March the following year).
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, 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.
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Appeal C: APP/Y3940/C/12/2186945 – Notice B

Land at Hillbilly Acre and Sunhill, off Southampton Rd, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr G Wells against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 3 October 2012.
 - The breach of planning control as alleged in the notice is the erection of timber fencing on the land adjacent to the highway, exceeding one metre in height.
 - The requirements of the notice are as follows: (a) permanently demolish the timber fencing, (b) permanently remove all of the demolition materials arising from step (a) from the land and (c) after step (b), plant along the length of the frontage of the land with Southampton Road where the fencing has been removed with tree/hedge species to match the existing adjoining planting in terms of position, distance and species.
 - The period for compliance with requirements (a) and (b) is 1 month and for (c) it is one month from the date that the Notice takes effect or before the end of the planting season following the date that the Notice takes effect whichever date is the later (for the avoidance of doubt the planting season runs from 1 November to 31 March the following year).
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, 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.
-

Appeal D: APP/Y3940/C/12/2186946 – Notice B

Land at Hillbilly Acre and Sunhill, off Southampton Rd, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Cooper against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 3 October 2012.
 - The breach of planning control as alleged in the notice is the erection of timber fencing on the land adjacent to the highway, exceeding one metre in height.
 - The requirements of the notice are as follows: (a) permanently demolish the timber fencing, (b) permanently remove all of the demolition materials arising from step (a) from the land and (c) after step (b), plant along the length of the frontage of the land with Southampton Road where the fencing has been removed with tree/hedge species to match the existing adjoining planting in terms of position, distance and species.
 - The period for compliance with requirements (a) and (b) is 1 month and for (c) it is one month from the date that the Notice takes effect or before the end of the planting season following the date that the Notice takes effect whichever date is the later (for the avoidance of doubt the planting season runs from 1 November to 31 March the following year).
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, 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.
-

Appeal E: APP/Y3940/C/12/2186949 – Notice C

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs J Willett against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 2 October 2012.
 - The breach of planning control as alleged in the notice is the erection of buildings consisting of a shed, greenhouse, toy shed and a tractor shed.
 - The requirements of the notice are as follows: (a) permanently demolish the shed, greenhouse, toy shed, wood shed, and tractor shed the approximate positions of which are shown at 1-5 on the Notice plan, (b) permanently remove all of the demolition materials arising from step (a) from the land, (c) reinstate the area of the land formerly occupied by the buildings, to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the land immediately adjacent and (d) seed the area of the land referred to in step (c) with grass seed.
 - The period for compliance with requirements (a), (b) and (c) is 3 months and for (d) it is 3 months from the date this Notice takes effect or by the end of the or; *[sic]* before the end of the planting season following the date that the Notice takes effect whichever date is the later (for the avoidance of doubt the planting season runs from 1 November to 31 March the following year).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 as amended.
-

Appeal F: APP/Y3940/C/12/2186950 – Notice C

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr G Wells against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705..
 - The notice was issued on 2 October 2012.
 - The breach of planning control as alleged in the notice is the erection of buildings consisting of a shed, greenhouse, toy shed and a tractor shed.
 - The requirements of the notice are as follows: (a) permanently demolish the shed, greenhouse, toy shed, wood shed, and tractor shed the approximate positions of which are shown at 1-5 on the Notice plan, (b) permanently remove all of the demolition materials arising from step (a) from the land, (c) reinstate the area of the land formerly occupied by the buildings, to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the land immediately adjacent and (d) seed the area of the land referred to in step (c) with grass seed.
 - The period for compliance with requirements (a), (b) and (c) is 3 months and for (d) it is 3 months from the date this Notice takes effect or by the end of the or; *[sic]* before the end of the planting season following the date that the Notice takes effect whichever date is the later (for the avoidance of doubt the planting season runs from 1 November to 31 March the following year).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.
-

Appeal G: APP/Y3940/C/12/2186951 – Notice D
Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs J Willett against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 10 October 2012.
 - The breach of planning control as alleged in the notice is the change of use of the land from agriculture to a mixed use for agriculture, stationing and residential occupation of a caravan, storage of caravans and operational development undertaken as an integral part of the material change of use comprising the construction of hard surfacing, retaining walls, materially altering the landform and installation of a septic tank.
 - The requirements of the notice are as follows: (a) permanently cease to occupy the land for residential purposes, (b) permanently remove the caravans stationed on the land, (c) permanently remove all domestic paraphernalia from the land, (d) permanently remove the hard surfacing and retaining walls, (e) reinstate the land to its former contours and profiles, i.e., to match the contours and profiles of adjacent land, (f) permanently remove the septic tank and (g) permanently remove all of the demolition materials arising from steps (a) – (f) above, from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal H: APP/Y3940/C/12/2186952 – Notice D
Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr G Wells against an enforcement notice issued by Wiltshire Council.
 - The Council's reference is S/2102/1705.
 - The notice was issued on 10 October 2012.
 - The breach of planning control as alleged in the notice is change of use of the land from agriculture to a mixed use for agriculture, stationing and residential occupation of a caravan, storage of caravans and operational development undertaken as an integral part of the material change of use comprising the construction of hard surfacing, retaining walls, materially altering the landform and installation of a septic tank..
 - The requirements of the notice are as follows: (a) permanently cease to occupy the land for residential purposes, (b) permanently remove the caravans stationed on the land, (c) permanently remove all domestic paraphernalia from the land, (d) permanently remove the hard surfacing and retaining walls, (e) reinstate the land to its former contours and profiles, i.e., to match the contours and profiles of adjacent land, (f) permanently remove the septic tank and (g) permanently remove all of the demolition materials arising from steps (a) – (f) above, from the land..
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.
-

APPENDIX 2: THE ENFORCEMENT NOTICES - AS ISSUED

APPENDIX 2A - NOTICE A

2. THE LAND AFFECTED

Land at Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the material change of use of the Land to a mixed use for:

- (a) agriculture
- (b) the stationing and residential occupation of a caravan and the storage of a touring caravan incidental to such use
- (c) stationing and storage of a caravan and use for domestic storage
- (d) operational development undertaken as an integral part of the material change of use comprising the construction of areas of hard surfacing, timber decking, a polytunnel, storage shed and a partly constructed building

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 10 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) permanently cease to occupy the Land for residential purposes
- (b) permanently remove the caravans stationed on the Land
- (c) permanently remove all domestic paraphernalia from the Land
- (d) permanently cease to use the Land for domestic storage
- (e) permanently remove the former lorry bodies from the Land
- (f) permanently demolish and remove the areas of hard surfacing, timber decking, polytunnel, toy shed, and partly constructed building
- (g) permanently remove all of the demolition materials arising from step (f) from the Land,
- (h) reinstate the area of the land formerly occupied by residential mobile homes and decking to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the Land immediately adjacent
- (i) seed the area of the Land referred to in step (h) with grass seed

APPENDIX 2B - NOTICE B

2. THE LAND AFFECTED

Land at Sunhill and Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the erection of timber fencing on the Land adjacent to the highway exceeding one metre in height

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 4 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) permanently demolish the timber fencing,
 - (b) permanently remove all of the demolition materials arising from step (a) from the Land and
 - (c) after step (b), plant along the length of the frontage of the Land with Southampton Road where the fencing has been removed with tree/hedge species to match the existing adjoining planting in terms of position, distance and species.
-

APPENDIX 2C - NOTICE C

2. THE LAND AFFECTED

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission operational development comprising the erection of buildings consisting of a shed, greenhouse, toy shed, wood shed and a tractor shed

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 4 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) permanently demolish the shed, greenhouse, toy shed, wood shed, and tractor shed the approximate positions of which are shown at 1-5 on the Notice plan,
 - (b) permanently remove all of the demolition materials arising from step (a) from the land,
 - (c) reinstate the area of the land formerly occupied by the buildings, to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the land immediately adjacent and
 - (d) seed the area of the land referred to in step (c) with grass seed.
-

APPENDIX 2D - NOTICE D

2. THE LAND AFFECTED

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the material change of use of the Land to a mixed use for:

- (a) agriculture
- (b) the stationing and residential occupation of a caravan
- (c) storage of caravans
- (d) operational development undertaken as an integral part of the material change of use comprising the construction of hard surfacing, retaining walls, materially altering the landform and installation of a septic tank

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 10 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) permanently cease to occupy the Land for residential purposes
 - (b) permanently remove the caravans stationed on the Land
 - (c) permanently remove all domestic paraphernalia from the Land
 - (d) permanently remove the hard surfacing and retaining walls
 - (e) reinstate the Land to its former contours and profiles i.e., to match the contours and profiles of adjacent Land
 - (f) permanently remove the septic tank and
 - (g) permanently remove all of the demolition materials arising from steps (a) – (f) above from the Land
-

APPENDIX 3: THE ENFORCEMENT NOTICES - AS CORRECTED AND VARIED

APPENDIX 3A - NOTICE A

2. THE LAND AFFECTED

Land at Hillbilly Acre, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the material change of use of the Land to a mixed use for:

- (a) agriculture
- (b) the stationing of a caravan used for residential purposes
- (c) stationing and storage of a caravan used for domestic storage
- (d) operational development comprising the construction of timber decking and a storage shed

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breaches of planning control have occurred within the last 4 years and the last 10 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) cease to occupy the Land for residential purposes,
 - (b) remove the caravans stationed on the Land,
 - (c) remove all domestic paraphernalia from the Land,
 - (d) cease to use the Land for domestic storage,
 - (e) demolish and remove the timber decking and a storage shed,
 - (f) remove all of the demolition materials arising from step (e) from the Land,
-

APPENDIX 3B - NOTICE B

2. THE LAND AFFECTED

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the erection of timber fencing on the Land adjacent to the highway exceeding one metre in height

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 4 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) demolish the timber fencing,
 - (b) remove all of the demolition materials arising from step (a) from the Land,
 - (c) after step (b), restore the land to its previous condition.
-

APPENDIX 3C - NOTICE C

2. THE LAND AFFECTED

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission operational development comprising the erection of buildings consisting of a shed, greenhouse, toy shed, wood shed and a tractor shed which are shown numbered 1 – 5 on the Corrected Plan B

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breach of planning control has occurred within the last 4 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) demolish the shed, greenhouse, toy shed, wood shed, and tractor shed the approximate positions of which are shown as 1-5 on the Corrected Plan B,
 - (b) remove all of the demolition materials arising from step (a) from the land,
 - (c) reinstate the area of the land formerly occupied by the buildings, to its contours and profiles as they existed before development took place, i.e., to match the contours and profiles of the land immediately adjacent,
 - (d) seed the area of the land referred to in step (c) with grass seed.
-

APPENDIX 3D - NOTICE D

2. THE LAND AFFECTED

Land at Sunhill, off Southampton Road, Alderbury, SP5 3DG

3. THE BREACH OF PLANNING CONTROL

Without the benefit of planning permission the material change of use of the Land to a mixed use for:

- (a) agriculture
- (b) the stationing and residential occupation of a caravan
- (c) storage of caravans
- (d) operational development comprising the construction of a day room, hard surfacing, retaining walls, materially altering the landform and installation of a septic tank

4. REASONS FOR ISSUING THIS NOTICE

- (a) It appears to the Council that the above breaches of planning control have occurred within the last 4 years and the last 10 years

5. WHAT YOU ARE REQUIRED TO DO

- (a) cease to occupy the Land for residential purposes,
 - (b) remove the caravans stationed on the Land,
 - (c) remove all domestic paraphernalia from the Land,
 - (d) remove the day room, hard surfacing and retaining walls,
 - (e) reinstate the Land to its former contours and profiles i.e., to match the contours and profiles of adjacent Land,
 - (f) remove the septic tank,
 - (g) remove all of the demolition materials arising from steps (a) – (f) above from the Land
-

Annex to Appeal Decision - Corrected Plan A

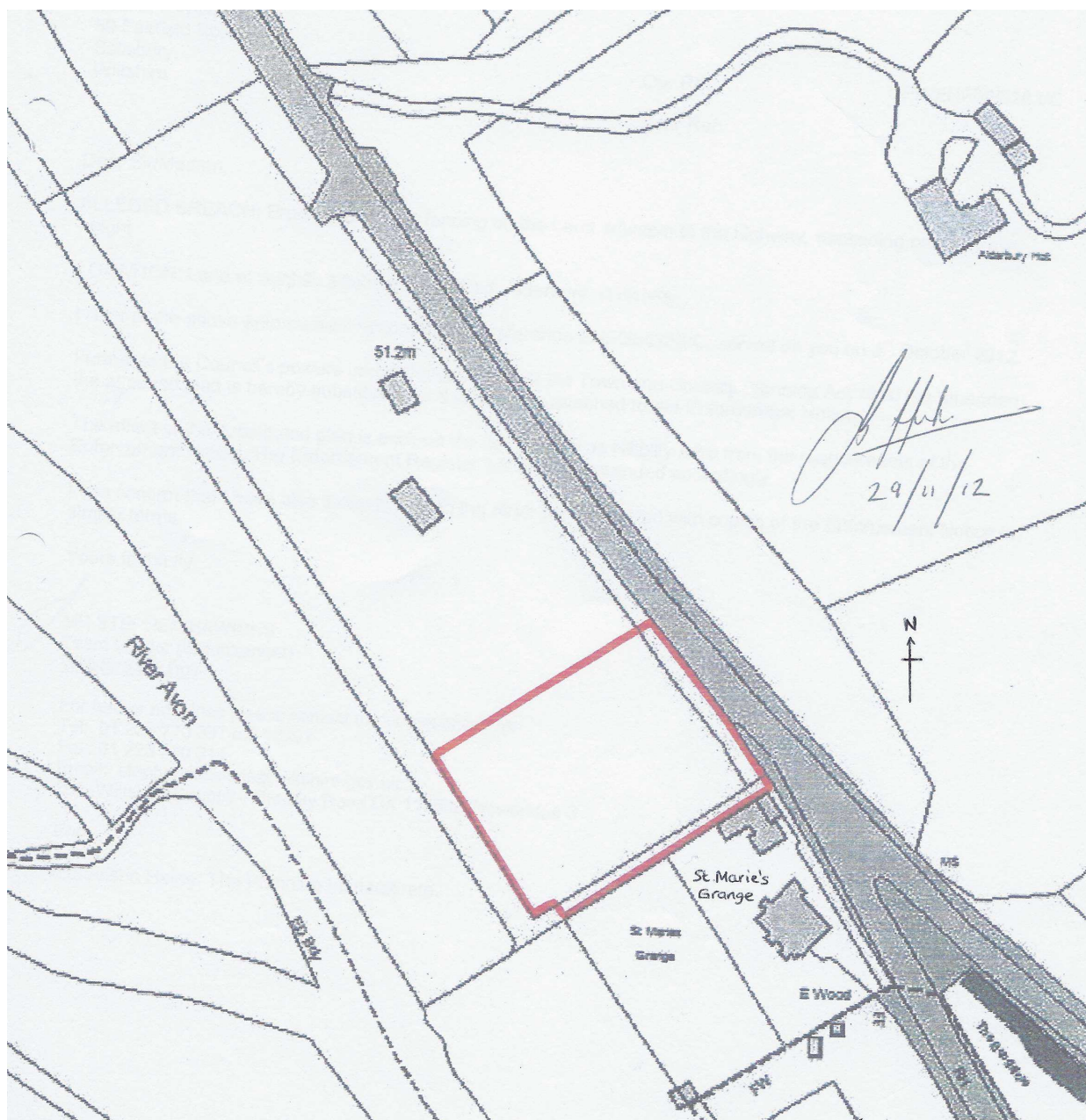
This is the plan referred to in my decision dated: 10.02.2014

by **D E Morden MRTPI**

Land at: Sunhill, off Southampton Road, Alderbury, SP5 3DG

Reference: APP/Y3940/C/12/2186944 and 2186945

Scale: Not to scale



Annex to Appeal Decision - Corrected Plan B

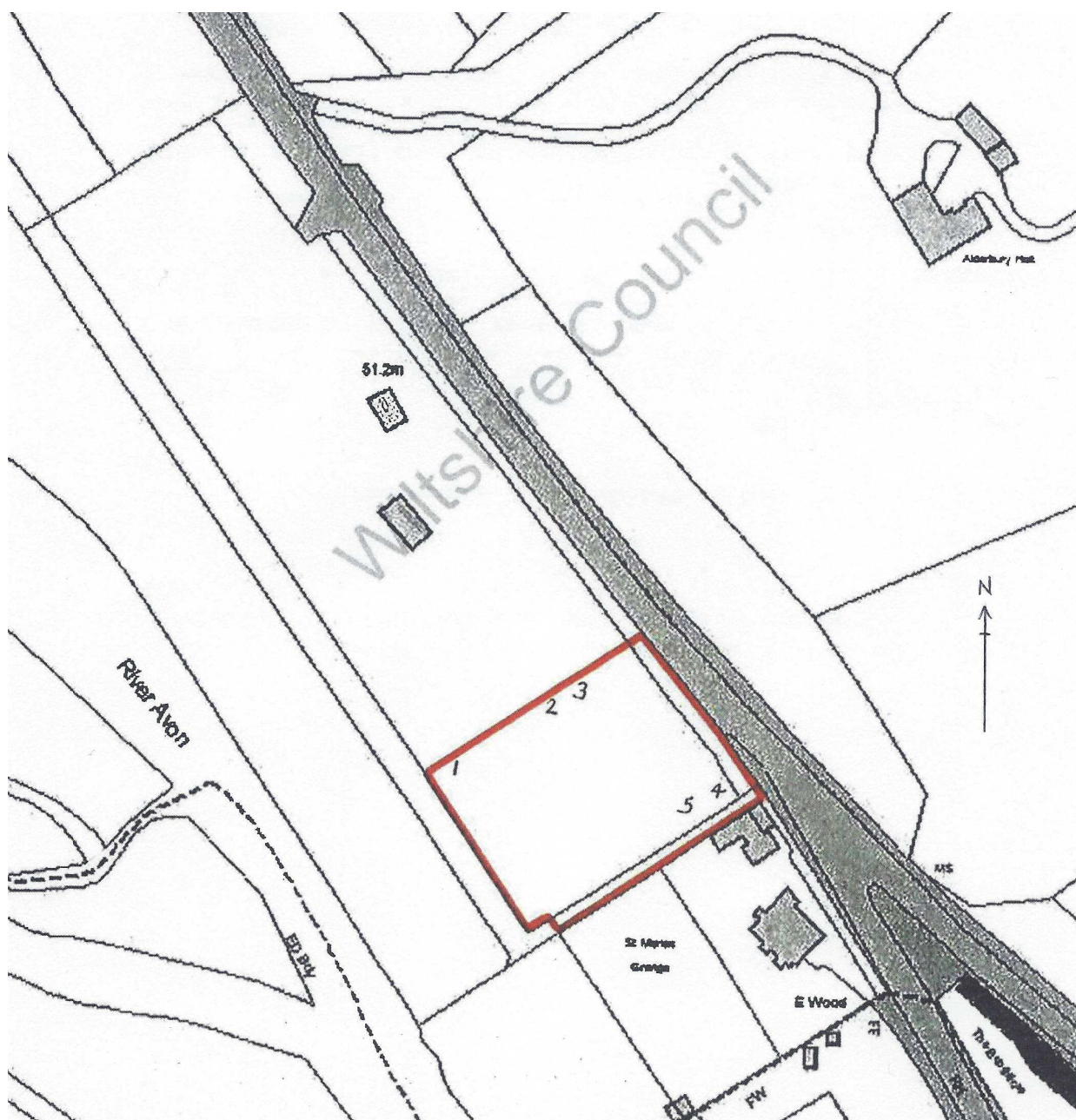
This is the plan referred to in my decision dated:10.02.2014

by D E Morden MRTPI

Land at: Sunhill, off Southampton Road, Alderbury, SP5 3DG

Reference: APP/Y3940/C/12/2186949 and 2186950

Scale: Not to scale



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REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	15 th July 2015
Application Number	14/04756/FUL
Site Address	Land At Salisbury Retail Park London Road Bishopdown Salisbury Wiltshire SP1 3YX
Proposal	Site 1 - Full application for Class A1 foodstore with associated petrol filling station and car parking, access and landscape works. Site 2 - Outline application (all matters but access reserved) for provision of public open space/play area (Class D2), incorporating a pedestrian and cycle link between Green Lane and London Road
Applicant	Asda Stores Ltd
Town/Parish Council	LAVERSTOCK
Ward	ST MARKS AND BISHOPDOWN
Grid Ref	415858 131860
Type of application	Hybrid Full and Outline Planning
Case Officer	Richard Hughes

Reason for the application being considered by Committee

Furthermore, on 11th February 2015, Members of the Strategic Planning Committee approved an application for a food retail store, car park and vehicular access at London Road, Salisbury (ref 14/5997/ful refers). This application, together with the application subject of this current report has been considered together as part of officers assessment of the retail and highways impact of the proposals. Consequently, given the likely combined impact of the retail schemes, it is considered that the matters need to be considered by Committee.

1. Purpose of Report

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.

2. Report Summary

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 of car parking and traffic, and the strategic road network. The impact of the proposed planned retail store in comparison with two other current superstore applications, including the recently approved ALDI scheme, are also examined in the report.

City Council – Supports the application in principle, but object due to various highway issues remaining unresolved, including the provision of an access from Green Lane, the provision of a 30 mph speed limit along the A30, adequate safe cycle access to the store, and the traffic survey taking into account the new school at the Barratts development.

Laverstock and Ford Parish Council Support, subject to conditions related to noise and antisocial behaviour, and store opening not permitted outside the hours of 7am to 11pm.

Winterbourne Parish Council – Concerned about the likely increase in traffic congestion and possible detrimental impact on the local shop in the Parish

Third parties - 105 letters raising various concerns and issues, including supporting and negative comments regards the impact of the development.

3. Site Description

The application site lies on the north eastern edge of Salisbury in the Bishopdown area of the city, adjacent to Pearce Way and the A30 London Road. It extends to 3.9ha, of which 3.4ha comprises the full application area and 0.5ha the outline application. The land is of an open, overgrown character.

Vehicular access into the site is proposed from the roundabout at the junction of the A30 and Pearce Way, at which point some limited development has already taken place, being preliminary ground works associated with an access that was intended to serve a previously approved retail park in the 1990's.

The site is bounded to the west by Green Lane, a right of way that separates it from residential properties to the west on the Bishopdown Farm estate. To the northeast on the other side of Pearce Way is a Premier Inn hotel and the Hampton Inn pub-restaurant, while to the southeast running down London Road are a number of car dealerships. Further south along London Road are additional commercial premises, including a health & fitness centre and a residential car home, and a petrol filling station containing a small M&S Simply Food, as well as a Park & Ride facility that is accessed off the St Thomas Way/London Road roundabout just south of the site. To the southwest the site abuts the rear gardens of Bishopdown Cottages, a small terrace of houses. Land to the north of Pearce Way is allocated for new housing within the adopted Core Strategy and is currently being developed (Hampton Park).

4. Planning History

The site in question and the immediate surrounding area has a long, detailed, and complex planning history. However, in relation to the site subject of this application, the following previous applications are considered to be of most relevance:

S/2012/0905	Material amendment application - to alter internal layout of retail units approved as part of planning permission S/2011/1723.
S/2011/1723	Application to vary Condition 1 of extant planning permission S/2007/1460 (8 unit retail warehouse development providing 8,361m ² of retail floorspace on the ground floor with 4,182m ² of retail floorspace at mezzanine level, together with associated car parking, cycle parking, servicing, access and landscaping) to extend time limit for implementation.
S/2007/1460	8 unit retail warehouse development providing 8,361m ² of retail floorspace on the ground floor with 4,182m ² of retail floorspace at mezzanine level, together with associated car parking, cycle parking, servicing, access and landscaping
S/2002/2117	erection of a mixed use development comprising a 4812 metres squared gross (2787 m squared net) foodstore (class a1) with coffee shop separate colleague & customer car parks service yard & vehicular & pedestrian access together with 1254m squared gross (930m squared net) of office accommodation (b1) & a 890m squared retail parade (a1) & associated landscaping
S/1998/0373	Reserved matters approval associated with outline consent S/1994/0632 Approved 1998. (Note: Members should note that following this approval and the discharge of conditions, works commenced on site, thus keeping the permission alive in perpetuity)
S/1994/0632	Outline planning permission for a bulky goods retail units (8361sqm) and a garden centre, together with cap parking, and access off London Road. Approved, subject to a legal agreement related to various highway measures. (Members should note that a bulky goods retail condition was imposed).
S/1991/1664	Outline application - construction of a motor traders park together with the construction of a new roundabout and the realignment of the A30 london road (Note: Members should note that whilst the motor traders park was never developed, the new roundabout and associated highway works were commenced, leading to the road arrangement at the site today).

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 – Food retail store, petrol station, parking, roadworks, and wetland Southampton Road, Salisbury (currently undetermined)

14/05997/ful – ALDI food retail store, London Road, Salisbury. Approved subject to a S106 agreement

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

And also the following developments which affect the A36 trunk road system:

15/1104/ful – Dolphin Industrial Park, Southampton Road, Salisbury. Variation to bulky goods retail conditions in relation to consent S/2012/1808 (not yet determined).

14/12175/FUL 65 bed hotel with drive thru restaurant with associated parking, access and landscaping. (Currently undetermined)

14/11461/ful Access (egress) serving Tesco's, off Petersfinger Road. (Currently undetermined).

14/10789/VAR - Countrywide stores, Hatches Lane Salisbury – Relaxation of retail planning conditions. Approved.

14/03278/VAR - Dunelm, Hatches Lane, Southampton Road, Salisbury. Relaxation of retail planning conditions. Approved. (Store now trading).

S/2012/1808 – Dolphin Industrial Park, Southampton Road, Salisbury (see above)

S/2010/1274 - Tesco, London Road, Amesbury

S/2008/0550 – Lidl, Southampton Road, Salisbury

5. The Proposal

The proposal has been adjusted and amended following the various consultation comments submitted over recent months, and can be divided into two parts:

Site 1 - Full application for Class A1 foodstore (amended scheme) with associated petrol filling station and car parking, access and landscape works. The store would have 4,937sq m gross floorspace (2,323sq m net); and a reduction in car parking spaces from 361 to 274 spaces in line with the reduced sales.

Site 2 - Outline application (all matters but access reserved) on 5083sq m site, for provision of ecological mitigation, as well as public open space, incorporating a pedestrian and cycle link between Green Lane and London Road

Furthermore, as a result of comments from the various highways consultees and other parties, the applicant has also submitted an “alternative” layout plan for the site which shows

how a pedestrian and cycle link could be provided between the retail store and the adjacent Green Lane (this matter is covered in detail in the following report).

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

- Retail assessment
- Design and access statement
- Landscape proposals design report
- Tree reports
- Statement of community consultation
- Transport Assessment and Travel Plan
- Energy and sustainability reports
- Ecology and lighting reports
- Noise and Air Quality

(Members should note that the detailed elevations and other plans related to this scheme also show the likely location and appearance of several advertisements associated with the retail store. Please note that such adverts will require a separate advertisement consent application in due course, and cannot be determined through this current planning application).

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.

NPPG – Overall design, environmental impacts, and general impact on amenities

Wiltshire Core Strategy - 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
- CP67 – Flood Risk
- CP69 – River Avon SAC

6. Summary of consultation responses

WC Highways – No objections subject to a number of S106 contributions and suitable conditions (see highways section of Planning Considerations section for more details)

WC Rights of Way – Would like to see a pedestrian and cycle link with Green Lane as per the applicants alternative suggested plan in order to encourage users of the store who may live nearby the walk and cycle to the store.

WC Transportation team – Welcome in principal the proposed cycle and footpath link on the planned open space but concern that the pathway would not be sufficiently linked into the adjacent planned store to encourage more sustainable access to the site. Also, would welcome the creation of a pedestrian and cycle link between the store site and Green lane. Also, raised issues regards the number more motorcycling bays be provided and that a shelter for mobility scooters should also be provided.

WC Archaeology – No objections subject to a watching brief being conditioned.

WC Drainage – Comments made regarding about the methods and consents required subject to drainage proposals.

WC Public Art – Provision of public art required in line with Council policy and strategy

WC Ecology – Compensatory ecological mitigation is required due to the removal of the existing open land. This could be provided in the planned open space and the landscaping, particularly along Green Lane – this will need to be secured in any S106. Condition requiring a Construction Environmental Management Plan to control the impact on the SAC river system, and a Landscape and Ecology Management Plan to ensure protection of on site protected species.

WC Landscape- No wider landscape issues

WC Urban Design – Raised issue related to the design and materials of the building and whether the building would be sympathetic to the area

WC Open Space – Preferred option is for ASDA to maintain the open space in perpetuity rather than this Council.

WC Conservation – There are no known heritage assets that would be affected by the proposal therefore, no comments to make.

WC Public Protection – Following discussions, agreed the imposition of a condition related to a noise assessment strategy, and a request for contributions towards improving air quality/sustainable transport initiatives.

WC Spatial Planning - The retail priority for the council at Salisbury the proposed redevelopment of the Maltings and Central Car Park, this is a town centre site adjacent to the existing Primary and Secondary shopping areas and this development together with the existing convenience commitments in South Wiltshire and Salisbury will meet the convenience and comparison need up to 2021, hence the reason why the WCS does not allocate a site for a further supermarket.

The proposal is therefore not in the up to date development plan as evidence does not indicate that a further convenience store is needed in Salisbury. As the NPPF forms a material consideration a retail appraisal has been undertaken by the applicant in order to assess whether the proposal meets the sequential test and impact requirements of CP 38 of the WCS and the NPPF or not and whether if it meets the requirements and represents a retail material consideration to indicate that the proposal can be approved. The Council has in response commissioned consultants to assess the applicants retail appraisal and this concludes that for the reduced scheme this proposal meets the sequential test and impact would be more limited and therefore can meet the requirements of the NPPF.

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. This has now shown that the proposal can be considered for approval.

Responses from other council and statutory consultees should be considered and recommended conditions attached to any approval.

Environment Agency – No objection subject to conditions related to surface water drainage and a construction environmental management plan.

Natural England – No objections subject to suitable conditions related to sustainable surface water drainage being provided

Esso – No objections provided the pipeline is protected during development

English Heritage – No comments

Highways Agency – Direction of Non Approval Withdrawn. It is considered that the proposal would not adversely affect the strategic road network, and would reduce traffic along the A36 Southampton Road artery.

Network Rail – No observations to make

Wiltshire Fire and Rescue – General safety advice

Wessex Water – Existing foul sewer runs across the same part of the site as the esso pipeline, and this must be protected. There is adequate capacity within existing water supply.

7. Publicity

Bishopdown Farm Residents Association – provide the following comments:

- i) London Road – concern about the impact on vehicular traffic on this extremely congested road, and consideration should be given to reducing the speed limit to 30mph from St Marks Roundabout to St Thomas Bridge.
- ii) Opening delivery hours – should reflect proximity to residential areas
- iii) Green Lane access – Would welcome such an access as it would encourage residents to walk to the store
- iv) Signage – should be kept to a minimum. Do not like the suggested rooftop sign which would be highly visible and intrusive.
- v) Trolleys- The scheme should be designed to stop these being taken off site
- vi) Bus Stops – The bus service expansion should include capacity for ASDA shoppers
- vii) Litter – Bins in suitable locations are needed

Salisbury City Council – Supports the application in principle, but maintains an objection until a pedestrian and cycle route being provided between the store and Green Lane at the junction with Linford Road. Lighting needs to be installed on the southern end of Green Lane. Access to public transport needs further work to ensure that passengers can safely and easily access bus services on the eastern side of the A30. The speed limit on the A30 must be reduced to 30mph out to the A338 roundabout to provide safer access and egress at the ASDA entrance and improve general safety for cyclist, pedestrian and motorists along the London Road.

Laverstock and Ford Parish Council Support, subject to conditions related to the following:

- i) Noise within the delivery area must be minimal and be contained by fencing and shielding
- ii) The times of delivery to the store must be controlled to avoid a nuisance to neighbouring properties

- iii) Store opening must not be permitted outside of the hours of 7am to 11pm
- iv) There must be robust security in order to prevent anti-social behaviour in the car park when the store is closed

Winterbourne Parish Council – Concerned about the likely increase in traffic congestion and possible detrimental impact on the local shop in the Parish

Third party comments - 105 letters raising the following matters:

- Proposal would exacerbate traffic problems along London Road
- Would result in traffic parking in adjacent housing area
- Too much traffic and development in area, including 500 new dwellings
- Would adversely affect city centre retail trade and local shops
- More supermarkets not needed
- Supermarket needed to west of city centre, not here
- Would adversely affect Laverstock which will be used as a rat run
- Loss of valuable open space and ecological land/protected species
- May adversely impact the amenities of adjacent housing due to noise and disturbance, light pollution
- Antisocial behaviour may result in adjacent housing area
- Welcome ASDA store, will reduce trips to other ASDA stores (inc Andover)
- Reduce traffic along Southampton Road
- Reduce traffic along London Road to Andover

Cycling Opportunities Group (COGS) – A number of reservations regarding out of town development and its effect on local transport infrastructure, but in this case, the adverse effects of trip generation by the supermarket may be balanced by a reduction in trips generated further afield to existing supermarkets that are remote from residential areas. The application includes a number of improvements to cycle and footways, but the previously proposed access to Green Lane needs to be restored for adjacent residents. We object unless this access is reinstated.

Milford Preservation Group - The application continues to have great merit, in that a) creation of a major retail outlet in the growing residential area to the Northeast of Salisbury is an essential element in the City's future; b) it would lead to a reduction of traffic passing through Laverstock village, Milford and the 'rat run' Milford Mill Road leading to the Bourne Retail Park off the A36 Southampton Road; and c) it would relieve the ever-increasing traffic congestion on the A36 Southampton Road between Alderbury and the Salisbury College Roundabout. For these reasons we give our full support to the revised Application.

8. Planning Considerations

8.1 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 “fall back” position

The site subject of this application has an extant planning permission for a bulky goods retailing scheme, which was approved in the mid 1990’s and a start was made on the scheme, (the creation of an access arrangement off London Road) thus keeping the permission alive in law (Reserved matters 1998/0373 refers), and in theory, enables that particular development to be continued at any time, although given how much time has elapsed since the consent was given and works started, it seems unlikely that such a historic proposal would now actually be built out in reality. The footprint of the building permitted was just above 8000sqm, plus 420 car parking spaces.

The land was subsequently allocated for development in the 2003 Salisbury District Local Plan, and planning permission was later given on appeal for a similar bulky goods retail scheme in 2009 (application ref S/2007/1460 refers). This permission was subsequently renewed by later applications for modifications to the scheme until April 2015. Whilst (to the

best of officers knowledge), this later approval has not been commenced and hence may well have lapsed, a future revised application was a similar scheme would be difficult to resist in planning terms. The permitted footprint was just over 8000sqm with 405 parking spaces. With mezzanine floors, the floor area permitted was just over 12,000sqm gross.

Consequently, whilst the site is no longer subject of an policy allocation under the newly adopted WCS, officers consider the site to effectively fall within the definition of brownfield, previously developed land, due to the extant planning permission on the site from the 1990's.

As a result, the principle of the development of the land would be difficult to refute, and its development for some form of retail use is considered to be acceptable, subject to its impacts. Such impacts are considered elsewhere in this report.

Other retail applications and developments

This impacts of this current retail application (for ASDA), 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 ALDI store has been approved only a few hundred metres south of the ASDA site, on the eastern side of London Road, adjacent to the existing park and ride site (application 14/05997/ful refers). Members of Strategic Committee resolved to approve the ALDI scheme, subject to a suitable S106 and conditions.

The cumulative impact of this store and the ASDA 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 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 relevance to this report as the planning application related to 500 dwellings has recently been approved and is partially completed, on land to north of the application site. The Secretary of state approved the scheme in September 2011. As part of the consideration of this current retail application, the 2009 appeal decision approving the retail park was taken into consideration. In particular, the transport assessment and EIA took into account the approved/extant retail approval on this site and its impacts. As a result, it is considered that the cumulative impacts of both schemes would have been fully considered by the Inspector. 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.

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

A number of the third parties have raised concerns about the impact of the ASDA store on the vitality and viability of the city centre. However, a number of responses have also welcomed the proposal. Others have highlighted the need for a retail store to the west of the city, not on this site. These responses are summarised elsewhere in this report.

As a result of the 2009 appeal case related to this London Road site (S/2007/1460 refers), the development of the land for a large scale bulky goods retail scheme has considered to be acceptable in recent years. Further, given the extant planning permission on the site for a similar bulky goods scheme, this currently scheme subject of this application (by ASDA) needs to be considered against this planning history background, plus any policy changes and other material considerations. In particular, the ASDA proposal has been considered in the context of the recent approval of an ALDI store, also on London Road, and the currently undetermined application for a retail store on the Southampton Road, Salisbury (which itself is affected by other recent and current applications related to retail matters along the A36, as listed in the Planning History section of this report).

In terms of National Policy, the previous appeal decision in 2009 was made against the backdrop of PPS4, which has since been replaced by the NPPF. This continues the town centre first stance of the previous guidance, and 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..”

Paragraph 24 of the NPPF continues thus:

“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 continues thus:

“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.”

Since the 2009 appeal decision related to this site, 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. 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.

The impact of any development of the London Road site on this proposed development of the Maltings and central car park (which is an allocated site within the WCS) was a significant material consideration as part of the 2009 appeal considerations. Since that time, 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 remains of significant material weight, as it was in 2009.

A detailed retail study 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 applicants retail report offers the following conclusions:

- The application site already benefits from an extant planning permission for major non-food retail development. The current planning application will therefore result in a significant reduction in the quantum of Class A1 retail floorspace.
- Compared to the fallback planning permission, the proposed Asda will also provide over 0.5ha of land for community use, with the hybrid application seeking outline permission for

a variety of possible uses.

- Currently main food shopping in Salisbury is dominated by the Tesco Extra store on Southampton Road, and to a lesser extent the Waitrose on Churchill Way West. Both stores (together with the Sainsbury in the city centre) are trading well above their benchmark company average levels. This is suggestive of a quantitative need for another store. The proposed Asda would address this while also providing increased choice and competition to local residents.
- The location of main foodstores across Salisbury shows a gap in provision in the northern part of the city. As well as the extensive areas of existing housing this part of the city also contains major allocations for further residential development, increasing the need for a new store to serve this area.
- Owing to the historic nature of the city, the only site within the city centre that would be capable of accommodating a new superstore is The Maltings/Central Car Park. However that is integral to the Council's strategy of improving the city centre's non-food retail offer, which is required to strengthen the city against competition from other centres. The only food retailing envisaged for this site is a relocation/enhancement of the existing Sainsbury supermarket. The development of another superstore would not be suitable.
- The proposed ASDA will not cause any significant adverse impact on the vitality or viability of any defined centre, and will not prejudice the Council's aspirations for the Maltings/Central Car Park redevelopment.
- The proposed store will provide up to 350 new jobs within the store, as well as further job opportunities during the construction phase.
- In diverting trade away from the existing Tesco Extra store the proposed Asda will also make a small contribution to reducing the existing traffic congestion along Southampton Road. It is also known that some residents in Salisbury are currently travelling out of the city to visiting the existing Asda stores in Andover and Totton: the provision of a store on London Road will therefore reduce the need to travel.

The Council commissioned an assessment of the applicants retail report, undertaken by GVA Grimley. This report initially concluded that applicants retail report had a number of flaws, namely:

- The applicant's supporting material lacked a proper assessment of the non-food and leisure elements against the tests of impact and the sequential approach.
- Inadequate information and analysis to demonstrate compliance with the sequential approach to site selection. In particular, the applicant has not demonstrated sufficient flexibility in terms of scale and format when considering alternative sites and there is the lack of a proper assessment of the suitability and availability of the MCCP site.
- The ASDA store is likely to have a significant impact upon the health of Salisbury city centre and the Maltings site, by virtue of the direct convenience and comparison goods impacts and the potential of the store to affect vitality and viability levels within the centre.

The applicants have responded to the above critique, and have adjusted and reduced the scale of the net sales area of the retail store down to approximately 2,323sqm (from 3,716sqm), and have thus argued a corresponding reduction in the likely retail impact of the proposal on the city centre.

Notwithstanding the applicants amendments and arguments, it has also recently transpired that Sainsbury's have decided to pull out of its involvement in the ongoing Salisbury Gateway application at Southampton Road, subject of separate undetermined application 14/03690/ful. This has implications for the ASDA proposal, as it may suggest that Sainsbury's may wish to concentrate its efforts on its city centre store, located on the Maltings/city centre car park site. Consequently, if this is the case, Sainsbury's ongoing involvement in the Maltings project makes it more unlikely that the central site would be available to ASDA.

The Council's retail advisers, GVA Grimley, have concluded that the significantly reduced ASDA proposal is now likely to have a more acceptable impact on the city centre than the original scheme (approximately half the original impact), and far less impact than the undetermined Southampton Road application, and has advised that, should the Council be minded to approve this proposal, then conditions are placed upon the approved store to control the amount of convenience and comparison goods floorspace, along with the total net sales area and the ability to sub-divide the unit into separate parts.

Based on the above, Officers advise that the next best sequential preferable site for the ASDA proposal (other than the Maltings site) would appear to be the site subject of the application. This view is based on the assessment of a number of different sites, and the assessments of the various planning merits of the development outlined within this officer report, which suggests that in the main, the proposed development on the London Road site would have impacts which could be mitigated successfully, and is located close to existing housing areas, thus enabling easy access by non-car methods of travel. In contrast, there remains a number of unresolved planning issues with the Southampton Road site and these are likely to remain issues even if the planned ASDA development were to be proposed at the Southampton Road site. Consequently, officers conclude that at the time of writing, the London Road site is a preferable site sequentially.

In retail terms, the proposal is therefore considered acceptable and in line with national and local plan retail policy, subject to a number of restrictive retail conditions, to limit the retail impact of the scheme.

8.3 Impact on highway systems around the site

London Road and hence the site, is accessed via the A36 Trunk road system. Numerous third party objections have been received related to the impact of this proposed development on the highway system around the site, particularly on the already busy London Road route, and the smaller road system in the adjoining residential areas, including through Laverstock. From the 105 pieces of correspondence concerned, it appears to be one of the main areas concern.

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 Assessment was submitted with the application. This was subsequently amended following comments from the Highways Agency (now Highways England) and incorporates highway data associated with the recent ALDI application scheme further south along London Road. The applicants report concludes the following impacts are likely:

- a)Hampton Park Roundabout. The analysis in the ATA showed that this junction will operate within capacity in all three peak hours;

b)St Thomas Way roundabout is approaching capacity in the Friday evening peak hour by 2025 without the proposed development. The analysis has shown that change in traffic flows at this junction as a result of the proposed development will not have an adverse impact on the operation of the roundabout. The roundabout will continue to operate within capacity in the morning peak hour and Saturday peak hour.

c)The Barrington Road/London Road junction is operating within capacity in all time periods with and without the proposed development. By 2025, in the morning and evening peak hour with and without the proposed development the junction is operating at capacity. However, the analysis has shown that change in traffic flows at this junction as a result of the proposed development will not have an adverse impact on the operation of the junction. The junction will continue to operate within capacity in the Saturday peak hour with and without the proposed development.

d)St Mark's roundabout. The change in traffic flows were calculated and St Mark's roundabout is proposed to experience a reduction of trips in the base plus development scenario compared to the base scenario and therefore no further assessment is considered to be necessary. This was subsequently agreed with the Highways Agency.

Based on the interpretation of the junction analysis, the applicants report concludes that proposed development will not have an adverse impact on the operation of the local highway network and furthermore, the report considers that mitigation measures are not required.

Based on the above report and discussions with the applicants, and after detailed consideration of the matter over a number of months, the Highways Agency withdrew its Direction of Non – Approval regards the application, thus signalling the Agency's support for the proposal in terms of the impact of the scheme on the A36 road system, including the St Marks roundabout. As a result, it is considered that it would now be difficult to refuse the application on the basis of the impact of the ASDA application on the A36 trunk road system or its junction with London Road.

With regards the impact of the scheme on London Road itself and the surrounding highway systems within residential areas, the Council's own highways officer has also critically assessed the scheme, and has made the following comments:

"There is a previous permission on this site for non-food retail units and the site benefits from an extant permission for such a use. In assessing this proposal it is therefore necessary to look only at the increase in traffic over that likely to be generated by the previous, extant, permission.

It is now proposed to have a reduced size of store and a revised Transport Assessment has been submitted. It compares the new proposal with the extant permission and also takes account of the new residential development at Hampton Park and the recently approved Aldi store on London Road. I have examined the document and agree with the conclusion that London Road and the local highway network has adequate capacity to accommodate the additional movements generated by the proposed store. It should be borne in mind that the peak traffic generation for food retail does not generally correspond with peak flows on the highway, although some "pass by" trips will occur during those peak periods.

I have examined the latest internal layout and I note that no direct proposed access from Green Lane. I consider that that link is important to attract non-car trips to the store as it

offers a more direct, and thus shorter, route into the store for cyclists and pedestrians than that through the open space to the west of the site, which will also require users to cross the access to the service yard. A link is clearly feasible as it has been shown on previous layout plans and it should be provided in addition to the link through the open space which links Green Lane with London Road.”

“I note that the application includes additional lengths of footway along the roads adjacent to the site and these will need to be provided prior to the store opening. These footways will be located on the existing highway verge and will thus form part of the adopted highway. A legal agreement will be required to cover their construction.

The bus services along this section of London Road are currently infrequent. This will be changed in the near future when the hourly R7 service is diverted to operate via Pearce Way. Future service frequency improvements (to 2 per hour) are also likely with funding being provided by the Hampton Park development. However, in order to influence the modal split on journeys to the store, I consider that a more frequent and reliable service will need to be provided and thus a contribution is sought for the improvement of bus services along the London Road corridor.

I have examined the S106 Unilateral Undertaking in respect of the previous permission on the site. This contains two main transport provisions namely a public transport contribution of £300,000 and a £500,000 contribution to the improvement of St Thomas bridge should this be undertaken within 10 years, the latter secured by a Bond. I have already identified the need for the Public Transport contribution above and a sum of £350,000 for improvements to the public transport provision on the London Road corridor would be appropriate for this development given the time lapse since the previous permission.

I have looked carefully at the bridge contribution and note that its purpose was to remove the need for higher vehicles to use the centre of the carriageway and thus reduce the likelihood of vehicles hitting the bridge. However I acknowledge that no progress has been made with this scheme since it was identified during the first application on this site over 15 years ago and also that 6 years have passed of the ten years specified in respect of the last permission. Whilst the bridge works have highway benefits they cannot be claimed to be necessitated by the development. For this reason I do not consider that the requirement for a contribution/Bond would meet the current tests in the CIL regulations and thus this element is not being pursued.

There will be a need for a Green Travel Plan for the store and this can be secured either as part of the S106 Agreement or by way of condition. Subject to a S106 Agreement to secure the public transport contribution outlined above there is no highway objection to this application”

As a consequence of the above comments, it is considered that despite the understandable local concerns related to traffic impact, it would be difficult to refuse the proposal on the impact of the proposal on the A36 trunk road system or the London Road A30 or associated road network around the site, provided a suitable S106 agreement is entered into and suitable conditions proposed, which would mitigate the identified highway impacts. The other highway and access related matters are also considered below.

Access to the site via a linkage from Green Lane

As part of the numerous third party and other consultee comments received, many have notably either requested that some form of pedestrian and cycle access is created from Green into the site, or have requested that no such link is created. Given this split in opinion, the developers have simply offered to alternative sets of plans, one showing the provision of such an access, the other no access.

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 Council Sustainable Transport Highways Team support the provision of such a link, as do other consultees, including WC Highways, the City Council, and COGS and BFRA.

However, the negative side to providing such a link is that it may encourage users of the supermarket to park within the adjacent housing area close to the site, and to walk through to the store. This point has been highlighted by a number of residents, as has the possible creation of antisocial behaviour, although limited justification for this is given.

Notwithstanding this matter, the creation of a link wide enough to allow cycling and pedestrians (usually approx 3 metres), is likely to result in some possible harm to existing trees and shrubs along Green Lane, and open up views of the store and its operations to users of Green Lane, thus further increasing the impact of the store on the surrounding area. Any additional lighting of this path in future is also likely to affect adjacent trees and wildlife.

Notwithstanding the above, it would in any case be possible to access the site sustainably, using either the planned cycle and pathway route via the area of planned open space to the south of the store, or via the pathways linking to the extended path around Pearce way to the north of the site, which links into Green Lane and the surrounding highway system.

Consequently, whilst the positive sustainable benefits of a pathway link are understood, it is considered that the likely negative impacts of the provision of such a path in the suggested location may outweigh any positive gains accrued. However, should members consider otherwise, it would be possible to condition the creation of the suggested pathway link as shown on the alternative plans as submitted.

Additional footpaths around the site

Currently, the footpath system around part of the site (north east of the vehicular access to the site adjacent to Pearce Way) is incomplete. The proposal would complete the footpath/cycleway in this area, improving the accessibility of the site. This is considered to be a positive improvement resulting from the proposal.

Site B - Access between Green Lane and London Road

As referred to above, the proposal also provides for a footpath and cycleway on the planned open space adjacent the retail store site and Bishopdown Cottages. In officer's opinion, this will enhance linkages around the site, and improve upon the current footpath arrangement,

given the narrow nature of part of the London Road pavement adjacent to Bishopdown Cottages. This is considered to be a positive improvement resulting from the proposal. It is noted that some third parties, including the Council's transportation team, have suggested that the access arrangements as proposed in this location may result in possible conflict between cycle users and vehicles. It is accepted that it may not be a totally ideal arrangement in so far as this route involves cycles crossing the roadway to the service area. However, this is a small proportion of the route, and it is difficult to see how this area could otherwise be arranged to avoid all conflict with vehicular traffic. Subject to adequate sight lines and markings/signage in this location, it is considered that the proposed arrangement would not, in officers opinion, be so likely to result in obvious conflict as to warrant the refusal of the whole scheme solely on this basis. Indeed, it is considered that the benefits of this linkage to Green Lane outweigh the likely harm caused by the perceived safety issue.

Highway works to the A30

The surrounding highway system was remodelled in the early 1990's as part of the previous historic planning consents for the application site and the adjacent housing developments.

A number of third parties have suggested that this proposal should only be acceptable subject to works to reduce the speed of traffic along the A30. Whilst such concerns are understandable, neither of the previous planning permissions for retail development on this site contained such a requirement, save for a requirement previously to allow future works to lower the road beneath the railway bridge. However, neither the Council's Highways officer nor the Highways Agency has suggested any such works being necessary to allow this current development. As a consequence, it would be difficult to justify any significant highway adjustments above and beyond those required by the highways consultants.

Sustainable travel

Notwithstanding the above, a significant financial contribution would be generated by this development towards improving the existing bus service in this area. A contribution of some £350,000 has been mooted and this will be secured via any S106. Similarly, a Green Travel plan for the use will help create a modal shift to more sustainable forms of travel for the employees of the store.

Overall, given the recent planning history of the site, and given the comments of the Highways Agency and the Council's own highways officer, it is considered that a refusal of the scheme on the basis of the likely impacts of the development on the surrounding highway systems would be difficult to justify, and that suitably conditioned, the scheme would comply with the aims of national planning policy, and local plan transport policies.

8.4 Design, landscaping, 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 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. Similarly, 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.

Furthermore, Core Policy 52 (Green Infrastructure) of the WCS is relevant, and indicates that where development is permitted developers will be required to:

- Retain and enhance existing on site green infrastructure
- Make provision for accessible open spaces in accordance with the requirements of the adopted Wiltshire Open Space Standards
- Put measures in place to ensure appropriate long-term management of any green infrastructure directly related to the development

- Provide appropriate contributions towards the delivery of the Wiltshire Green Infrastructure Strategy and
- Identify and provide opportunities to enhance and improve linkages between the natural and historic landscapes of Wiltshire.

Following initial consultee and third party comments (and following the retail issues outlined elsewhere in this report), the applicants have chosen to amend the originally submitted scheme, as follows:

- A significant reduction in the store size from 6,030sq m gross floorspace (3,716sq m net) to 4,937sq m gross floorspace (2,323sq m net);
- A reduction in car parking spaces from 361 to 274 spaces in line with the reduced sales area;
- An overall reduction in the store has allowed the reposition of the store footprint to an optimal position;
- Western Boundary: the building has been moved 3m away from the Green Lane boundary and car park reconfigured to increase the landscape belt and reduce impact on root protection zones of existing trees. This has also facilitated a dedicated enclosed access route to the Click and Collect Facility, which has itself been relocated further from the Green Lane boundary;
- Eastern Boundary: the store has been positioned 5.8m further from the boundary reducing the impact of the entrance to the development, increasing the landscaping area and reducing the height of the retaining structure;
- Northern Boundary: the landscape belt to Pearce Way has been significantly increased through a reduction in car park spaces. The reduced depth of the store has enabled the front of the store has been moved 6m towards the southern boundary without increasing proximity of the store to that boundary;
- Southern Boundary: the service yard has been reduced in size with a landscaped buffer zone introduced between the service yard and open space;
- The Marshalling Area has been internalised and is integral to the store both in functions and materials
- Increase in size of home shopping and click and collect facilities;
- The external plant areas to the east elevation have been relocated within the building footprint and cycle shelters centralised
- The ATM facility has been reduced and is now integral to the store rather than stand-alone unit, enabling the cycle shelters to be centralised at the front of the store and seasonal trading to be relocated to improve pedestrian flow;
- Removal of double length trolley bays to the front of the store, improving circulation;
- Minor amendments to the elevations of the store to suit the revised format whilst retaining the material palette; and
- Reduced extent of roof plant to reflect smaller store with reduced visual and acoustic impact.

The amended, reduced scheme still envisages a large prominent supermarket building. Although essentially a utilitarian box, discussions regards the design and external appearance of the building have taken place with officers. The building would have a flat roof, with timber cladding on the upper sections of the elevations, and some brickwork and sheet cladding elsewhere.

Whilst the architectural design may not be to everyone's taste, it is a significant material consideration that the site has extant planning permission for an approximately 8000sqm

building plus over 400 parking spaces, and has recently had a similar previous consent for a large scale bulky goods retail building, together with a similarly large area of car parking.

In officers opinion, the (amended) scheme submitted as part of this current application offers several design improvements over the previous consented schemes from the 1990's and that subject of permission reference S/2007/1460:

- The overall bulk of the building would be smaller than the consented schemes. The consented L shaped buildings would be significantly larger and thus more visible generally.
- The proposed building would be located towards the centre of the site, with the car parking to the north. This means that only a small portion of the western facade of the building would be located adjacent to Green Lane and the associated protected trees, and as a result, would have less visual impact on Green Lane and the associated mature trees than the previous consents.
- Given that the service yards would no longer be directly abutting Green Lane as previously approved, there is likely to be less noise and general disturbance to housing located within close proximity to the west of the site.
- A previous planned 3 metre acoustic fence of significant length along the western edge of the site with Green lane is also no longer required in that location.
- Furthermore, whilst the rear service yard of the building would face south towards the existing Bishopdown Cottages, the yard and any associated lighting and fencing and other disturbance would be separated from the cottages by a large area of retained open land. This land will perform several functions, including acting as a landscape buffer for the development, an ecological mitigation area for other land lost to the development, and also to provide a footpath and cycle link from Green Lane to London Road.
- As the site benefits from an extant planning permission, any existing ecology could be removed at any time. In officers opinion, the current scheme therefore improves on the consented schemes as it offers some meaningful ecological mitigation.
- The landscape proposals for the site include the planting of new individual trees, some of which are recommended to be larger specimens minimum 4.5m high, 2 m clear stem to the London Road frontage in order to provide instant visual enhancement. The new trees will compensate for the loss of the scrubland trees in the centre of the site. Belts of new and retained buffer planting is also proposed around the western and eastern boundaries with further soft landscaping relating to the Pearce Way frontage and the new Petrol Filling Station.

Consequently, whilst the current visual appearance of the site will be transformed, the mature, protected trees along Green Lane will remain and are protected during construction, along with some of the existing foliage. Although this development will result in a dramatic change to the site, previous consents actually allowed less new planting to take place on site than the current scheme, and may have resulted in harm to some of the mature trees along Green Lane, due partly to the previous required acoustic fencing. In contrast, this current scheme is therefore considered somewhat of an improvement in general landscaping terms compared to the previous planning permissions. 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, or Ecology officer.

Consequently, whilst in officers opinion the suggested building and associated paraphernalia are likely to be readily visible from London Road and the surrounding area, including the wider area and elevated land including the Laverstock Downs and part of the planned Country Park associated with the Hampton Park development, the proposed works may well have significantly less visual impact on the wider area than the previous consented schemes or any such similar/identical scheme which may be proposed in future.

It is therefore considered that with suitable conditions to secure the aforementioned details and landscaping scheme, the proposal would accord with national guidance and local policies.

8.5 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:

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.....All non-residential development will be required to achieve the relevant BREEAM “Very Good” standards , rising to the relevant BREEAM “Excellent” standards from 2019 (inter alia..).....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.....”

The development has been accompanied by a Sustainable Construction report. This outlines the environmental credentials of the building. 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, which reflects the condition imposed on the previous Bulky Goods retail scheme previously approved in 2009 on this site (S/2007/1460 refers). The proposed car park would also include a number of electric vehicle parking and hook up spaces.

Consequently, subject to a suitable planning condition, the suggested scheme is therefore considered to accord with National planning guidance, and adopted local policies.

8.6 Archaeology and heritage assets

Whilst the site is not located close to any significant heritage or cultural assets (Old Sarum SAM and Figsbury Ring SAM are some distance away to the north east and west), the site is located within an area where archaeological remains have been found in recent years following the 2009 permission. The NPPF indicates that:

“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.

Following discussions with the Council’s Archaeologist, it has been agreed that an archaeological condition can be imposed on any consent, which secures a watching brief and final report on any findings. This is consistent with the previous planning permission on this site from 2009 (S/2007/1460 refers).

Consequently, subject to a suitable planning condition, the suggested scheme will lead to less than substantial harm, and could lead to public benefits, as outlined elsewhere in this report. The scheme is therefore considered to accord with National planning guidance, and adopted local policies.

8.7 Ecology and biodiversity

A number of third party concerns have been expressed at the loss of the existing site due to its use as informal open space and as a home for wildlife.

The site is located on the eastern side of Salisbury, adjacent to residential and commercial developments. Part of the River Avon SSSI/SAC is located approximately 150m from the site (the river system). The development site comprises a mix of grassland, scrub and scrub woodland habitats. It is bounded on one side by a hedgerow and lane containing a number of mature trees (Green Lane), some of which are formally protected. The site contains habitat suitable for notable invertebrate species and the adjacent lane is known to be of local value for bats.

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;*
- *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;

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 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.."

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..."

Consequently, a detailed ecological report has been submitted with the application and this assesses the potential ecological effects of the proposed construction of a new ASDA store at London Road, Salisbury. The following mitigation measures are recommended by the report to conserve and enhance biodiversity on the site:

- The high value invertebrate habitat will be retained on the site.
- Any vegetation clearance should take place outside of the bird nesting season of March to September.
- Mature trees adjacent to the site should be retained and protected during

construction.

- The lighting scheme should be designed to prevent light spill onto adjacent habitats, particularly mature trees which may be used by bats.
- Surface water drainage on the site should be via soakaways in order to maintain water levels in nearby protected sites.
- The development presents opportunities for ecological enhancements in line with local and national biodiversity targets. Recommendations include the planting of fruiting trees in landscaped areas, the enhancement of an existing boundary hedge and the erection of bird and bat boxes on the site.

Furthermore, since the submission of the application, the developers have held a public consultation exercise. The originally submitted scheme has therefore been redesigned to include an area of informal open space (Site B) between the planned retail store and the back of Bishopdown Cottages, which will act as ecological mitigation. Furthermore, a wider strip of landscaping between the proposed car parking and the protected trees along Green Lane will now be retained with its existing flora/scrub planting, rather than the area removed and replanted. The Council's Ecologist supports these changes to the scheme and has indicated that in her opinion, it is unlikely that the scheme would adversely affect the SAC given its distance from the river system, subject to suitable conditions controlling the works, including provisions within any legal agreement related to the future maintenance of the planned open space as an area for ecological mitigation.

As the site benefits from an extant planning permission, any existing ecology could in theory be removed at any time. In officers opinion, the current scheme therefore improves on the previously consented schemes as it offers more ecological mitigation. Consequently, subject to suitable planning conditions, the scheme is therefore considered to accord with National planning guidance, and adopted local policies. The impacts of light pollution on nature conservation matters is also assessed below.

8.8 Noise, light pollution, air quality, and general impact on amenity

The application site is located very close existing residential properties, including those located on the western side of Green Lane on the Bishopdown/Hampton Park housing estate, and the Bishopdown Cottages, a terrace of properties located to the south of the site. There has been concern expressed by various third parties and adjacent neighbours regards the impact of the proposals in terms of general noise and disturbance with regards the operation of the store. Unlike the previous 2009 consent, the applicants have indicated that they wish to open the store to customers 24 hours a day.

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.”*

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, particularly if the store operates 24 hours as planned. Levels of traffic noise and general disturbance will increase significantly when compared to the current benign use of the land. The 24 hour operation would also result in traffic noise being created on and around the site during the night and early morning period, although the amount of traffic during the night is unlikely to be as significant as that during the day or evening.

The concerns of adjacent neighbours regards the likely impact on their amenity are therefore somewhat justified, particularly as the previous planning consents on the site limit the hours of opening of the previous proposals and do not allow for 24 hour opening times.

The applicants have submitted a number of reports, outlining the likely impacts of the development, namely an Air Quality report, ventilation and extraction design statement, and external lighting design report, and an environmental noise survey/noise impact assessment.

The Council's EHO has had a protracted discussion with the applicant regards the likely impacts of the development in terms of noise disturbance. Clarification of various noise emissions and similar factors have been discussed, and some adjustments have been made to the proposal. The EHO has now stipulated that in terms of air quality, some form of contribution is required, either towards sustainable transport measures, and/or towards the Council monitoring facilities in this area. Regards other noise matters, the EHO has requested that a Noise Management Scheme be conditioned, which will outline how noise is to be controlled from the site, including from the planned extraction and similar systems, and also which would also restrict the hours of operation of the click and collect services, and the operation of the onsite compactor. The EHO is currently considering the applicants suggested hours of delivery, and officers will report the conclusion of these deliberations at the meeting.

However, as all ready stated elsewhere in this report, it is considered that this revised proposal would actually represent an improvement over the previous consented schemes in terms of general noise disturbance, given particularly that the original west facing service yard has now been relocated to face south. Whilst now facing Bishopdown Cottages, the yard and associated plant would be divided from the dwellings by a modest area of open land. The scheme is therefore likely to significantly reduce any likely noise impacts from plant and good vehicles compared to the consented schemes.

As a consequence, it is considered that it would be difficult to justify a reason for a refusal of this current scheme on a basis that significantly more harm would be caused to surrounding residential amenities. Consequently, subject to the final comments of the EHO, and suitable planning conditions and S106 terms, the suggested scheme is therefore considered to accord with National planning guidance, and adopted local policies.

Light pollution

The scheme inherently involves the provision of 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.

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.”

A lighting strategy has been submitted with the application. The scheme would have numerous lighting apparatus around the site, including lamps on/around the external facade of the buildings, as well as lighting within the proposed car park, and around the perimeter, including lighting to the rear service yard.

This contains much technical data related to the impact of the planned lighting. The following summaries the information within that document:

- The ASDA external lighting scheme has been developed to provide a safe and secure car park for customers and colleagues.

- The design and layout of the external lighting system will comply with Dark Skies criteria limiting upward lighting component.
- Luminaire selections have been made in accordance with ILE guidance taking account of local residential properties.
- The external car park is designed to achieve 20 lux average illumination with a minimum of 7 lux. (A moon lit night, in the absence of any artificial light, would provide an illumination level of 1 Lux).
- The external lighting comprises LED lamps mounted on 8 metre columns.

All areas of external lighting will be automatically timed and photocell controlled via an external lighting control panel, suitably zoned to meet the operational needs of the store, and to conserve energy use. The lighting solution has been prepared in accordance with the current Design Standard for exterior lighting in conjunction with current standards. Care has been taken when selecting luminaires to ensure the appropriate products have been chosen that will greatly reduce light and glare to and around site boundaries.

On the above basis, it is considered that the proposal has been designed in manner which would limit the amount of light pollution within the surrounding area, although it is acknowledged that compared to the existing situation, lighting pollution will increase significantly. Members should however consider that the site already benefits from a planning consent for not-dissimilar built form, and thus, it may be difficult to defend a reason for refusal based on the impact of light pollution.

8.9 Flooding and drainage matters

The NPPF indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, and promotes a sequential approach to assessing developments. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment should provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding. The NPPF continues:

“103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.”*

Core Policy 67 of the Wiltshire Core Strategy relation to Flood Risk also indicates that:

“Development proposed in Flood Zones 2 and 3 as identified within the Strategic Flood Risk Assessment will need to refer to the Strategic Housing Land Availability Assessment when providing evidence to the local planning authority in order to apply the Sequential Test in line with the requirements of national policy and established best practice. All new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable.”

The latest Environment Agency modelling indicates that the ASDA London Road site lies within Flood Zone 1, and hence, sequentially preferable. However, as the site is over one hectare, a full flood risk assessment has therefore been prepared to accompany a planning application. There is no significant risk of flooding from secondary sources such as groundwater, surface water flooding, sewers or from artificial water bodies.

The Environment Agency has not objected to this application on the above basis. Given that the site already benefits from an extant consent for a similar development, it is therefore considered that a refusal on flooding or drainage grounds would be difficult to justify.

8.10 Site B - Provision of open space, linkages, and ecology mitigation

Unlike previous consents on this site, the southern part of the site has been given over to an area of open space & ecological mitigation, which will also provide a cycle and pedestrian route between London Road and Green Lane. Members should note that this element of the application is in Outline form only, apart from its means of access. Thus, as a result, a future application will be needed in relation to the exact detail of this area, as the details shown on the submitted drawings must be treated as indicative only.

A number of third party comments have raised concerns about the loss of the existing use of the existing site as informal open space, and dog walking area. Whilst such comments are understandable given the availability of the land for informal usage for some 20 years, the site has never been formally allocated as public open space in any Development Plan, and with the existence of existing public open space serving the housing development, and the planned Hampton Park Country Park area, it is considered that it would be difficult to make a case that the area suffered from a lack of informal open space. Notwithstanding this matter, the site already benefits from an extant planning permission which in theory results in the removal of the open character of the land, and which did not contain any replacement open space, and also benefits from a more recent planning permission, which likewise, did not contain any open space replacement.

In general terms, unlike housing development, there is also no particular policy to require new open space provision with this supermarket development. The Council's open space officers have confirmed that it would be preferable if this site were managed by the applicants rather than by the Council.

On the above basis, a refusal of this current scheme based on the lack of provision for or the loss of public open space, would be difficult to support, particularly as the current scheme does envisage the provision of a modest area of informal open space. The provision,

ownership and long term maintenance of this area of open space will need to form part of any S106 Agreements associated with the development.

9. CIL/S106 contributions

The scheme would result in a number of impacts identified in the above report. However, it is considered that some of these impacts can be mitigated via provisions or contributions secured via a S106 legal agreement, as explained below:

Public Art – Saved Policy D8 requires larger development to make a contribution towards the provision of public art within the South Wiltshire Area. Regards this particular site, the previous extant planning permission made a contribution towards public art, and these monies were transferred to the Council some 15 years ago following approval of the reserved matters application S/1998/373. The Council Public Art officer has indicated that no further contribution is required, provided these monies can be used as part of the new scheme. The S106 will need to reflect this. At the moment, it is envisaged that public art could perhaps be provided on the area of open space which forms part of the scheme.

Air Quality – The Council's EHO has suggested that a contribution towards sustainable travel may ameliorate his concerns on this matter, but is currently considering whether a contribution towards the Council air quality measuring apparatus is required, as outlined in WCS CP55 . Once resolved, this matter needs to be included within any S106 Agreement.

Traffic measures – In accordance with the comments of the Council's Highways officer, the following provisions are suggested should Members consider them appropriate in order to encourage modal shift and make the development more sustainable:

- Financial contribution of £350,000 towards enhanced bus services to serve the site
- Provision of a Green Travel Plan
- Provision of additional footways and cycleways along edge of site

Public open space and associated pathways – The Council's open space officer has indicated that the Council would not wish to adopt or take on this area of open space. Thus, the developer would have to take on the provision and maintenance of this land, and ensure that the land is accessible to the public, including the proposed pathways between Green Lane and London Road. The S106 will also need to ensure that the ecological compensation intended to be the main purpose of this land is carried out and maintained.

10. Conclusion

The proposal has been the subject of a number of third party concerns, including the likely traffic impact, the impact on the city centre and surrounding retail shops, and the impact on surrounding residential amenities. It is also the case that there have been a number of comments in support of the scheme, in relation to customer choice and retail impact, jobs, and the reduction in traffic.

It is considered that whilst the proposed retail scheme would divert some trade from Salisbury city centre, the overall level of retail impact would not be significant enough to warrant refusal of the application. Furthermore, at the time of consideration of this proposal, and despite being a sequentially preferable site, officers are of the opinion that the Maltings/Central Car Park development site in the heart of Salisbury City Centre would not be available for the development proposed, particularly due to the apparent existing and planned future involvement of Sainsbury's in the site. Thus, the suitability of the application site and other sites elsewhere must be considered in accordance with the NPPF.

With regards the suitability of the chosen application site, the impact of a retail store on the planned site as suggested has been rigorously assessed. The site subject of the application is regarded by officers as a previously developed site, located within an established and growing mixed residential and commercial area. The site has good transport links, and is able to be accessed via a variety of sustainable transport methods. The site also benefits from an extant planning permission for a much larger commercial/retail scheme, including a larger provision of car parking, and also has previously had other permissions for similar schemes. These historic consents would be likely to have similar, if not greater, impacts on surrounding receptors than the current planned retail scheme. The scheme would also provide for some additional improvements to the localised highway infrastructure and provide some ecological mitigation, and a small area of open space and local linkages, some of which are not present on the previous planning permissions related to the site. The proposed building has also been re-orientated compared to previous permissions on the site, thus lessening the likely impacts on adjacent protected trees and the green corridor along Green Lane, and also lessening the general noise impacts on adjacent residential properties to the west of the site. There would also be potential benefits to ecology and biodiversity compared to the approved and extant planning permissions related to the site.

Other sites around the city have also been considered, but are not considered either suitable for the development and/or available to take accommodate the development proposed. The likely impacts resulting from the proposed development on other such sites is also likely to be significantly worse than the likely impacts resulting from the development on the planned site subject of this application.

Consequently, whilst the various concerns have been taken into account, it is considered that the proposal is acceptable, subject to suitable mitigation in the form of various restrictive conditions and a legal agreement. Therefore, the proposal is considered to be in line with national and local planning policies, as outlined in the report.

Should Members be minded to Approve this application, under the terms of the Consultation Direction issued by Central Government, as the retail scheme is within close proximity to other retail development, either approved or built out in recent years, the LPA must consult the Secretary of State prior to issuing any decision. (Members should note that the recent ALDI application was also referred to the SoS, which did not choose to call in the application in that instance)

RECOMMENDATION: THAT PERMISSION BE APPROVED/GRANTED, SUBJECT TO:

i) **THE SECRETARY OF STATE DELEGATING THIS APPLICATION 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 MITIGATION MEASURES:**

a) FINANCIAL CONTRIBUTION OF £350,000, TOWARDS THE PROVISION AND IMPROVEMENT OF BUS SERVICES TO AND FROM THE SITE

b) THE PROVISION OF A GREEN TRAVEL PLAN TO ENCOURAGE USERS OF THE PROPOSED DEVELOPMENT TO USE NON-CAR TRAVEL MODES TO ACCESS THE SITE

c) A SCHEME FOR THE PROVISION OF PUBLIC ART ON THE APPLICATION SITE, UTILISING THE FINANCIAL CONTRIBUTION PREVIOUSLY PROVIDED TO THE COUNCIL AS PART OF RESERVED MATTERS PERMISSION S/1998/0373.

D) A SCHEME FOR THE PROVISION OF AN AREA OF ECOLOGICAL MITIGATION FOR SITE B (REQUIRED AS A RESULT OF THE DEVELOPMENT OF SITE A) THAT THE TIMING, PROVISION, AND MAINTENANCE OF SITE B SHALL BE SUBMITTED TO AND AGREED IN WRITING BY THE LOCAL PLANNING AUTHORITY BY A SPECIFIED DATE AND IN ACCORDANCE WITH AGREED TRIGGER POINTS. THE SCHEME SHALL INCLUDE RETAINED AND NEW PLANTING, AND THE PROVISION OF A 3M WIDE PATHWAY AND CYCLE-PATH BETWEEN LONDON ROAD AND GREEN LANE. THE SCHEME SHALL ALLOW FOR FREE PUBLIC ACCESS THROUGH THE SITE IN PERPETUITY.

And subject to the following conditions:

01 The development (subject of Site A – retail store, petrol station, car parking, servicing area and landscaping, and access points) hereby permitted shall begin no later than three years from the date of this decision.

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.

Approved details

02 The development shall be carried out in accordance with the submitted details of materials as outlined as part of this planning application, unless otherwise agreed in writing by the Local Planning Authority.

Proposed Site Plan: 13.145.A(00)_04 Rev H

- Proposed Ground Floor Plan: 13.145A(00)_05 Rev C
- Proposed Roof Plan: 13.145A(00)_06 Rev C
- Proposed Site Sections: 13.145A(00)_07 Rev C
- Proposed Elevations: 13.145A(00)_08 Rev E
- Proposed Part Elevations: 13.145A(00)_09 Rev D
- Proposed Colour Elevations: 13.145A(00)_14 Rev B
- Proposed Landscape Master Plan A2309 03 Rev G

• Design and Access Statement Appendix – Design Amendments (to be read in conjunction with previously submitted Design and Access Statement Rev C)

- Retail Assessment
- Transport Assessment
- Draft Travel Plan
- Design & Access Statement
- Supplementary Design & Access Statement relating to PFS
- Air Quality Assessment
- Ecological Appraisal – Full application/Asda store
- Ecological Appraisal – Outline application
- Tree Survey Report
- Statement of Community Involvement
- Environmental Noise Survey/Noise Impact Assessment
- Flood Risk Assessment (incorporating drainage strategy)
- Heritage Assessment
- Ground Investigation Report
- Waste Management Statement
- External Lighting Design Statement
- Energy Conservation Design Statement
- Ventilation & Extraction Design Statement

REASON: In order to ensure that the scheme is constructed in accordance with the details previously agreed

Materials

03 No external materials or external facade works shall take place/be applied until full details/samples of the materials for the external elevations of the buildings and walling, 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.

Noise Management Plan

04 Before the retail store first comes into use/operation on Site A, there shall be submitted to and approved in writing by the Local Planning Authority, a Noise Management Plan which shall include all operational activities and fixed plant, including delivery times for goods to the retail unit, the operating times for the click and collect facility, and a scheme for insulation against noise emissions from extractor fans and all similar equipment. Unless expressly agreed by the LPA as part of the Noise Management Plan, the waste compactor facility shall only operate between 0600hrs and 2300hrs. Development shall be carried out in accordance with the approved Noise Management Plan.

REASON: In the interests of the protection of amenity

Customer trolleys

05 Before the retail use of Site A hereby permitted first comes into operation, a scheme to restrict the removal of customer trolleys from the retail park site shall be submitted to and approved in writing by the Local Planning Authority prior to the retail foodstore. Development shall be carried out in accordance with the approved scheme.

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

Lighting

06 Before the erection of any lighting on either Site A or B, a scheme for the lighting of the car park, cycle/footway and the buildings shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

Landscape and ecology

07 No development shall take place, including site clearance, until a Landscape and Ecology Management Plan has been submitted to and approved in writing by the Local Planning Authority which should include the following points (a) tree and shrub/vegetation protection and retention along the western boundary of the site (Green Lane) as ecological compensation; (b) a scheme for the assessment, protection and translocation of any existing reptiles; (c) the provision of bird boxes on the proposed landscaping areas; (d) any site vegetation clearance between March-August inclusive shall not commence until approved in writing by the Local Planning Authority (e) a timetable, and details of a management regime for the long term maintenance of the open/planted areas, and which body will be responsible for implementing the Plan. All works will be carried out in accordance with the agreed Plan.

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

Construction works

08 No development shall take place, including site clearance, until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority which should include the following points (a) lighting on site during construction and the control of light pollution; (b) the siting of any compound, plant, machinery, and parking of all vehicles associated with construction (c) the protection of the aquifer, river system, ecology and adjacent residential uses from pollution during construction; (d) the hours of construction of the development hereby permitted shall be limited to the following times - Monday to Friday - 0700 hours to 1800 hours, Saturday - 0800 hours to 1300 hours, and there shall be no construction work carried out on Sundays and Public Holidays.

All works will be carried out in accordance with the agreed Plan.

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

Retail limitations

09 With regards Site A, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the retail store shall be used solely for purposes within Class(es) A1 (retail) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)(or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). There shall be no subdivision of the Class A1 retail unit hereby approved, or any additional internal floor space created (including any insertion of mezzanine floors) for the purposes of additional net retail sales area, not covered by this permission.

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case and 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.

10 Regards site A, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted for the purposes of the creation of additional net retail sales floor area.

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

Landscaping

11. With regards to Site A, no landscaping works shall take place until a scheme detailing the hard and soft landscaping has been submitted to and approved by the LPA. This should include details of surface materials; planting along the southern boundary of Site A with Site B; times of planting, species and size; and a long term maintenance scheme for the soft landscaping. The landscaping shall be carried out and maintained in accordance with the approved scheme.

REASON: In order to soften the future visual impact of the proposed buildings and improve the street scene

Highways and parking

12 No development shall take place until full details of the construction of a shared cycleway/footway along Pearce Way and London Road together with a new link between London Road and Green Lane (including on site B), including new bus shelter, raised kerbs,

any additional street lighting and all works contained within the existing public highway at the proposed access point, and detailed design of the cycle parking facilities, have been submitted to and approved in writing by the Local Planning Authority; the works shall be constructed in accordance with the approved details prior to the retail use of the development first coming into operation.

REASON: To improve the sustainability and accessibility of the site by non car modes of transport.

13 No part of the development of Site A hereby permitted shall be first brought into use until the access, turning area, servicing area, parking spaces and cycle 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 and to ensure that satisfactory facilities for the parking of cycles are provided, and to encourage travel by means other than the private car.

Drainage

14 No development shall take place regards the drainage scheme/works for the site, until a scheme for the discharge of surface and foul water from the buildings 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.

Archaeology

15 No development shall commence within Site A or Site B until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority for that Site; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

Sustainable design

16 The development of hereby permitted shall achieve a BREEAM (Building Research Establish Environment Assessment Method) rating of 'very good'. Unless otherwise agreed in writing with the Local Planning Authority, the retail unit shall not be occupied until the post-construction state assessment and subsequent BREEAM Certificate certifying that 'very good' status has been achieved has been submitted to and agreed in writing by Local Planning Authority.

REASON: In order to produce a scheme with a high level of sustainable design in accordance with adopted Wiltshire Core Strategy Policy CP41

Site B

17 Notwithstanding the provisions of condition 1 above, the development hereby approved for Site A shall not be commenced until a scheme for the protection of existing flora and fauna on Site B (as defined on the approved plans) including the protection of the trees and existing vegetation along the Green Lane boundary, as ecological compensation areas, during the construction of Site A has been submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that Site B is protected from development works during the construction of Site A, in order that a suitable area of ecological mitigation is retained during the construction of Site A.

18 With regards Site B (the ecological mitigation area), approval of the details of the layout, external appearance of any buildings/structures, and the landscaping thereto of Site B (excluding those works approved in full as part of Site A) of the site (herein called the reserved matters) shall be obtained from the Local Planning Authority in writing, prior to commencement of the development of Site B. Development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

19 Applications for the approval of the reserved matters in relation to Site B shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development of Site B hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Additional access via Green Lane (if agreed by Members)

20 No development associated with the link to Green Lane shall commence on site until full details of a direct pedestrian/cycle link from Green Lane into the north western boundary of the site have been submitted to and approved in writing by the Local Planning Authority, including required tree and shrub protection/replanting and levels. No part of the development hereby approved shall be first brought into use until that link has been completed in accordance with the approved details.

REASON: To ensure that adequate pedestrian and cycle routes are provided to the site in the interests of highway safety.

INFORMATIVE

1.The Environment Agency has indicated that detailed design of the surface water management scheme for the proposed development must meet the following criteria:

Any outflow from the site to watercourse must be limited to existing Greenfield run-off rates and volumes and discharged incrementally for all return periods up to and including the 1 in 100 year storm. There should be parity in runoff rate and volume. Any additional volume of runoff caused by the development must be discharged at 2l/s/ha or less. Any discharge to public sewer must be agreed with the operator.

The surface water drainage system must incorporate enough attenuation to deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change for the lifetime of the development. Drainage calculations must be included to demonstrate this (e.g. Windes or similar sewer modelling package calculations that include the necessary attenuation volume).

Where infiltration forms part of the proposed stormwater system such as infiltration trenches and soakaways, soakage test results, test locations and detailed designs are to be submitted in accordance with BRE digest 365. The site investigation should look at seasonal variation in ground water levels and infiltration rates.

If there is any surcharge and flooding from the system, overland flood flow routes and "collection" areas within the site (e.g. car parks, landscaping) must be shown on a drawing. CIRIA good practice guide for designing for exceedance in urban drainage (C635) should be used. The run-off from the site during events up to and including the critical 1 in 100 year storm plus an allowance for climate change must be contained within the site and must not reach unsafe depths on site. The adoption and maintenance of the drainage system must be addressed and clearly stated.

2.The Environment Agency has indicated that safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

3.The applicant should note that the advertisements shown on the submitted plans cannot be approved as part of this planning application, and will need separate advertisement consent.

4. The archaeological investigation work should be conducted by a professional archaeological contractor in accordance with a Written Scheme of Investigation agreed by this office. There will be a financial implication for the applicant.

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	15 th July 2015
Application Number	14/11919/OUT
Site Address	Land Off A365, Shurnhold, Melksham, Wiltshire
Proposal	Outline application with all matters reserved except for access, for demolition of existing structures and construction of up to 263 dwellings with access, open space, landscaping and associated works.
Applicant	Gladman Developments Ltd & Mr N Keen
Town/Parish Council	MELKSHAM (TOWN)
Ward	MELKSHAM NORTH
Grid Ref	389439 164653
Type of application	Full Planning
Case Officer	Alison Hall

Reason for the application being considered by Committee

The application is a large scale major development of more than 200 houses on land outside of the town policy limits for Melksham. The application therefore raises issues of more than local importance and has wider strategic implications.

1. Purpose of Report

The purpose of the report is to assess the merits of the planning proposal and recommend that planning permission be refused.

2. Report Summary

The main issues to consider are:

- Principle of the development
- Drainage and flood risk
- Access and impact on the highway
- Impact on the character and appearance of the area and open countryside
- Impact on Archaeology
- Agricultural Land Quality
- Impact on Ecology
- Impact on education provision
- Impact on the setting and character of Listed Buildings

3. Site Description

The application site is a greenfield site, comprising rectangular shaped agricultural fields extending to approximately 9.7ha.

The site is located to the south-west of the A365 on agricultural land outside of the Town Policy limits as defined in the Wiltshire Core Strategy. The A365 defines the north-eastern boundary of the site, with open countryside surrounding the site on all other sides to the south, west and north. There are sporadic dwellings located close by which are outside of the settlement limits. The main western edge of Melksham is located approximately 340m to the east. On the opposite side of the road is housing within the settlement boundaries of Melksham, and the former George Ward school buildings, a brownfield site where planning permission has been granted for residential redevelopment. South Brook is located 210m to the south east. The Grade II Listed Building of Shurnhold Farm is located in a 'pocket' that is excluded from the site.

4. Planning History

The application was subject to a pre application submission and the submission of a formal planning application was not encouraged.

The current application was not the subject of a formal EIA screening request. However, upon receipt the application was considered against the relevant criteria and it was concluded that this is not EIA development and no environmental statement was required with the planning application.

5. The Proposal

The proposal is for outline planning permission for the construction of up to 263 dwellings on land to the south of the A365 and west of the settlement of Melksham.

Two access points are proposed, one to the south east of Shurnhold Farm onto the A365m, the second would be to the north of Shurnhold Farm from the A365.

The illustrative development framework plan details the indicative housing areas, SUDs drainage location, internal road layout, green space of 2.2ha which includes 0.9ha of children's equipped play area and 0.25ha informal children's play area.

The design and access statement indicates that the average housing density on the site would equate to 27 dwellings per hectare and would provide a mix of housing ranging from 1-5 bedroom houses. The indicative breakdown of housing is set out in section 5.5 of the design and access statement. The indicative scheme proposes a mix of 2 storey, 2.5 storey and 3 storey in height. The 3 storey elements would be located to the south and centrally within the site.

6. Local Planning Policy

At the time of writing this report, the situation is that:

- a. **Adopted development plan** – The Wiltshire Core Strategy was adopted in January 2015. A number of policies from the West Wiltshire District Plan (2004) have been saved and carried forward.

The relevant Core Policies (CP) are:

CP1 – Settlement Strategy

- CP2 – Delivery Strategy
- CP3 – Infrastructure Requirements
- CP15 – Melksham Community Area Strategy
- CP41 – Sustainable Construction and Low Carbon Energy
- CP43 – Providing Affordable Homes
- CP44 – Rural Exception Sites
- CP45 – Meeting Wiltshire's Housing Needs
- CP50 – Biodiversity and Geodiversity
- CP51 – Landscape
- CP52 – Green Infrastructure
- CP55 – Air Quality
- CP57 – Ensuring high quality design and place shaping
- CP58 – Ensuring the Conservation of the historic environment
- CP60 – Sustainable Transport
- CP61 – Transport and Development
- CP62 – Development impacts on the transport network
- CP63 – Transport strategies
- CP67 – Flood Risk
- CP68 – Water Resources

Saved Policies carried forward from the West Wiltshire District Plan (2004)

- U1a – Foul Water Disposal
- I2 – The Arts

- b. **Neighbourhood Planning** - There is a Melksham Town and Melksham Without parish neighbourhood plan area. The neighbourhood area has been officially designated and has an established steering group but it is at an early stage of preparation. There is no draft plan at this stage and therefore little weight can be afforded to the neighbourhood plan.

National Planning Policy context

The **National Planning Policy Framework (NPPF)** was introduced as a principal material consideration in the determination of planning applications in March 2012. 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. The sections of the NPPF that are considered relevant to this pre-application, as well as paragraphs 14 and 17, are:

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Delivering a wide choice of high quality homes
- Conserving and enhancing the natural environment

In addition the relevant sections of the NPPF to this application are Chapter 4 – Promoting sustainable transport, Chapter 6 – Delivering a wide choice of high quality homes, Chapter 7 – Requiring good design, Chapter 8 – Promoting Healthy Communities, Chapter 10 – Meeting the challenge of climate change, flooding and coastal change, Chapter 11 Conserving and enhancing the natural environment, Chapter 12 – Conserving and enhancing the historic Environment.

Planning Practice Guidance (PPG) has been prepared by the government to assist with interpretation of the policies contained within the NPPF.

7. Summary of consultation responses

Melksham Town Council – Object – Flooding and cumulative flooding with scheme at the former George Ward School, impact on school provision, adverse impact on highway safety and traffic and impact on GP provision.

Melksham without Parish Council – Object – flooding, traffic and highways impact, impact on school provision, outside of limits of development and therefore not in accordance with the Wiltshire Core Strategy.

Wiltshire Council Highways – No objection subject to conditions and S106 contributions to provide a ghost island, contribution of £80,000 towards cycle lane improvements, Contribution of £60,000 towards the provision of MOVA software and enhance cycle timing at A365/Corsham Road, contribution of £23,854 index linked towards the relief of congestion between the development and town centre, contribution of £6500 towards PROW improvements, provision of a toucan crossing for pedestrians and cyclists on the A365, Green travel plans vouchers to each household via Travel Plan (£250/£150), a travel plan monitoring fee of £7500 (£1,500 pa over 5 years), provision of a bus shelter and relocated bus stop on the A365.

Wiltshire Council Drainage – Object – Major storm and flooding issues immediately up and down stream of the site. The Council is undertaking a full catchment review of the Whitley/Shaw/Melksham area down to the River Avon following last year's flood in the area. Until that review has been completed and resultant works have been identified any application in the area is premature as the investigation will set the storm drainage strategy and improvements needed for developments at this application site and others.

Environment Agency – no objection, subject to conditions requiring a pre-commencement submission of a detailed surface water run-off management scheme and mitigation measures to protect a groundwater abstraction source.

Wiltshire Council Education – Object due to lack of capacity for primary school provision (74 places) S106 contributions required for 53 secondary places.

Wiltshire Council Spatial Planning Policy Officer – Object – the proposal lies outside the limits of development. The development is not in accordance with the exception sites policy

for development outside of the policy limits. The policy considerations are addressed more fully in the main part of the report.

Wiltshire Council Environmental Protection – No objection subject to conditions relating to noise, contamination, construction hours, dust management plan, noise management.

Wiltshire Council Conservation Officer – Development would result in harm to the setting of the Listed Buildings of Shurnhold Farm. In terms of the NPPF, this would be less than substantial. However, there is also a statutory requirement to have special regard to the desirability of preserving the setting of the listed building. The large scale development proposals would fail to preserve the historic bucolic setting of Shurnhold Farmhouse. If permission was to be recommended, the mitigation offered in the illustrative development framework should be incorporated into the terms of the approval.

Wiltshire Council Environmental Services - No objection subject to the Open Space and Play provision, a contribution of £6,248 for the expansion of Melksham Cemetery.

Wiltshire Council Affordable Housing Officer - As the site is outside of the limits of development and not allocated as a strategic site AH should be 100%. If the scheme is considered acceptable otherwise then 30% affordable housing would be sought.

Wiltshire Council Archaeologist – Evaluation has been undertaken which indicates nothing of archaeological significance will be impacted by the proposals. No further archaeological works are necessary in relation to this application.

Wiltshire Council Public Rights of Way – No objection subject to conditions and S106 contributions and footpath diversion application. A condition requiring the installation of a footpath link to connect with Asda, S106 contributions of £6479 towards gates and stiles.

Wiltshire Council Sports and Play – S106 Contributions required at a total of £165,412 towards pools, halls, indoor bowls and artificial turf pitches at the Melksham Community Campus.

Wiltshire Council Ecologist – No objection subject to conditions.

Wiltshire Council Waste – No objection in principle comment on need at reserved matters stage for internal roads to be accessible for the waste collection lorry.

NHS – S106 contributions required to a total of £101,982 based on floor space, to support the development of local doctor's practices. Of the three practices currently serving the Melksham area, two have reasonable premises but the third is planning to move from its current unsuitable accommodation. Of the two others, 1 has capacity issues and the other has some capacity to take a limited number of new patients.

Wiltshire Fire and Rescue – No objection subject to informatives

Natural England – Development unlikely to significantly impact on any nationally or internationally designated nature conservation sites.

Wessex Water – No objection however diversion of watermain/sewer required through separate agreement with Wessex Water. There is sufficient network capacity for mains water with capacity improvements as required subject to an engineering appraisal, separate systems of drainage must be provided, foul water disposal point requires agreement with Wessex Water

Wiltshire Police – No objection at outline but informatives recommended informing reserved matters stage

8. Publicity

The application was advertised by letter, site notices and by press advertisement.

A total of 111 letters of objection have been received which raise the following concerns:

- Flooding
- Traffic
- Education – primary school provision
- Impact on the character of the area and open countryside
- Health Care provision – GP's, Dentist, Hospitals
- Outside limits of development
- Impact on public rights of way
- Impact on character and setting of Listed Buildings
- Impact on the character of Shurnhold Village
- Coalescence with Shaw and Whitley
- Impact of noise due to additional traffic
- Highway safety from proposed access points
- Loss of agricultural land
- Loss of Green Field land
- Local public transport insufficient
- Impact on ecology and biodiversity
- No further housing needed in Melksham
- Density of development
- Unsustainable development
- Loss of informal recreation space
- Impact on sewer capacity
- Lack of community infrastructure in area
- Pollution, CO2
- Neighbourhood plan process to bring forward sites outside the limits of development
- Pedestrian safety
- Cumulative impact with former George Ward School
- Lack of bungalows

In addition a petition signed by 527 was received.

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

The National Planning Policy Framework (NPPF) was introduced as a principal material consideration in the determination of planning applications in March 2012. 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. The sections of the NPPF that are considered relevant to this pre-application, as well as paragraphs 14 and 17, are:

- Building a strong, competitive economy
- Delivering a wide choice of high quality homes
- Conserving and enhancing the natural environment

The Development Plan

Under the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan in respect of this application is the Wiltshire Core Strategy, adopted on 20th January 2015.

Spatial Strategy and Sustainable Development

The Wiltshire Core Strategy designates the town of Melksham as a market town that has the ability to support sustainable patterns of living in Wiltshire through its current levels of facilities, services and employment opportunities and which has the potential for significant development that will increase jobs and homes. However, Core Policy 2 also seeks to ensure that communities such as Melksham have a better balance of jobs, services, facilities and homes in order to reduce the need to travel and redress the imbalance between jobs and homes.

The proposed site lies outside the Limits of Development for Melksham as defined on the Core Strategy policies map. The site is therefore located within the open countryside. Core Strategy Policy 2 allows for development outside settlement boundaries where they are permitted by other policies of the plan i.e. Core Policy 35, Core Policy 37, Core Policy 39, Core Policy 40, Core Policy 44, Core Policy 46, Core Policy 47 and Core Policy 48, or where they are brought forward through a neighbourhood plan or the proposed Wiltshire Housing

Site Allocations DPD. The application is not being brought forward via these alternative plans and does not comply with policies that allow for an exception to this approach.

The principle of a settlement boundary approach is justified in terms of providing plan led clarity to what development may go where. This approach was endorsed by the Inspector who examined the Core Strategy, in his final report, stating ...*'by such means the Council intends to provide clarity on what forms of development may be carried out where in a manner consistent with the Framework. There is no compelling evidence to suggest that such an approach is flawed, particularly in the context of the Planning Practice Guidance which indicates all settlements may play a role in delivering sustainable development in rural areas'*. The Inspector acknowledged that settlement boundaries need to be reviewed and agrees that the correct mechanism to advance this review is through the Wiltshire Housing Sites Allocations DPD, which is now being progressed.

With regards to Core Strategy Policy 15 (Melksham Spatial Strategy), an indicative amount of housing in Melksham and Bowerhill of approximately 2,240 homes is required to 2026. The latest published Housing Land Supply Statement¹ shows that of the 2,240 homes requirement, 1,629 dwellings have either been completed or are developable commitments. The Inspector who examined the Core Strategy stated in his final report (paragraph 287) that *'the Core Strategy...would enable the Sites DPD and the neighbourhood planning process to facilitate the provision of the required level of housing'*. He continues in paragraph 288 that there appears to be sufficient commitments in the shorter term to ensure an adequate supply of housing land for the town and that the Sites DPD *'seems to be the most pragmatic and efficient way of complementing the neighbourhood planning process to ensure the provision of sufficient housing to meet identified needs in a timely fashion'* and *'by such means it will be feasible to deliver the housing numbers shown within modified Core Policy 15 as necessary'*.

A steering group has been established to undertake a neighbourhood plan in the Melksham town and Melksham Without area and a neighbourhood area was formally designated on 14th July 2014. This process will give the opportunity to allocate further housing sites during the Core Strategy Plan period.

The Wiltshire Site Allocations DPD is currently being prepared in order to allocate future housing sites at the town and this will include the review of settlement boundaries. The Core Strategy Inspector, in his final report, has endorsed this approach as a clear mechanism to deliver the housing growth required in Wiltshire, to review settlement boundaries, and to complement the work of established neighbourhood plan groups. This will ensure a proper plan-led approach to identify the most sustainable sites that can deliver not only housing, but appropriate infrastructure. The Secretary of State, in his recent decision on an appeal² at Park Road, Malmesbury also endorsed this approach, stating that he *'acknowledges that the Council have now accepted the need to do further work on identifying more housing land across their area, including through a review of the settlement boundaries in the CS...and that that needs time to go through the proper consultative and statutory processes'*. Informal consultation has been undertaken on options for development at Melksham. This site did not form one of the options.

¹ Housing Land Supply Statement April 2014 (Wiltshire Council, July 2014)

² APP/Y3940/A/13/2200503

5 year housing supply

NPPF paragraph 47 requires that, to boost the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. NPPF paragraph 49 identifies that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policy for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing.

Since the adoption of the Core Strategy in January, the Council has received four appeal decisions which have referenced the five year land supply in this housing market area. At three of these, Oaksey, Minety and Cricklade, the Inspector's accepted the conclusions of the Core Strategy Inspector and accepted that the Council had a five year land supply. In the fourth, on land north of Bath Road, Corsham, (an application for 150 houses and some employment land), the Inspector considered 'new evidence' put before him and concluded that the Council had a shortfall of 254 houses within the North and West Housing Market Area (a supply of 6214 homes against a requirement for 6468 homes). Whilst he acknowledged that the shortfall was 'not great', he considered that the relevant policies for the supply of housing should not, in these circumstances, be considered up to date.

The Council has serious doubts about the manner in which the Inspector arrived at this decision. Planning Practice Guidance makes it clear that housing land supply assessments, once published, should not normally need to be updated for a full 12 months unless 'significant new evidence' comes to light or the local authority wishes to update its assessment earlier. At the appeal, the Council relied on the Housing Land Supply statement published in August 2014, and the 'evidence' brought forward by the appellant on the availability of sites was thus not rigorously examined as the council did not consider the statements brought forward at the appeal to meet the PPG criteria of 'significant new evidence'. Despite the Inspector's findings, the Council remains confident that it can demonstrate a five year land supply, but the findings of the Inspector must be taken into account as a material consideration in the planning balance.

9.2 Drainage and flooding

Environment Agency

The Environment Agency originally objected to the proposals however following further information that the agent sent directly to the Environment Agency they withdrew their objection. Commenting that they reviewed the submitted email Eleanor Dale of Hydrock dated 3rd March 2015 that there are alternative options (with a discharge route not requiring access across privately owned land) available should infiltration ultimately be discounted for this site. On this basis, the Environment Agency removed their objection and request that a condition requiring prior to commencement that a detailed surface water run-off management scheme, supported by drainage strategy report and design calculations is submitted to and approved in writing by the Local Planning Authority. The informative sets out the information that is required for the condition.

Wiltshire Council Drainage

However notwithstanding that the Environment Agency has withdrawn their objection since the application was submitted, Wiltshire Council has become the Lead Flood Authority and the Council's Drainage Team maintain their objections.

The South Brook is a main river which joins the River Avon at Melksham and is located 210m to the south east of the site. The South Brook flows close to Whitley and through the smaller villages of Atworth, West Hill, Shaw and Shurnhold.

Flooding was experienced on the 18th of September 2014 in Shaw, Whitley, Pulpit, West Hill and Shurnhold, where 36 houses were internally flooded and 56 affected by external flooding. Flood flow routes were reported as overland flow, under-capacity of key structures and direct overtopping of the South Brook. This was seen at Shaw School which has suffered flooding on a number of occasions in the last 5 years. Houses at Shurnhold and Round Ponds have suffered frequent flooding and in the flood event under investigation flooding was estimated as waist deep by residents.

Wiltshire Council, the Environment Agency and HR Wallingford Civil Engineers are working together to update the current model for the whole catchment from Shaw/Whitley down to the River Avon to identify potential drainage works and/or improvements to resolve current flooding issues within the catchment and to allow for potential future developments. The report findings will have a major influence on the whole catchment and the particular drainage strategies of potential future developments. Therefore prior to knowing the outcome of the review, any application for development especially on greenfield sites such as this could lead to additional flooding and not meeting the resultant required strategy for the benefit of the whole catchment. The results of the review will be taken into consideration as part of the Wiltshire Sites Allocation DPD process.

The proposed development is therefore not in accordance with Chapter 10 of the NPPF and Policies CP68 and CP1 of the Wiltshire Core Strategy.

9.3 Access and Impact on the highway

Two access points are proposed, one to the south east of Shurnhold Farm onto the A365m, the second would be to the north of Shurnhold Farm from the A365. While the highways officer acknowledges that the A365 is a busy road carrying 10,973 vehicles per 12 hour week day on average it is also subject to a 30 MPH speed limit across the site frontage. The site access would meet the design requirements and as such they raise no objections to the proposals subject to conditions and S106 contributions.

The proposals therefore are considered in relation to the highways elements to be in compliance with CP62 and CP63 and NPPF.

9.4 Impact on the character and appearance of the area and open countryside

The application site is located outside of the limits of development and as such is located within the open countryside.

Core Policy 51 seeks to protect, conserve and enhance Wiltshire's distinctive landscape character. The term 'landscape' in this policy is used to refer to both the built, historic and natural environment in urban and rural areas.

The policy advises that proposals will need to demonstrate that the following aspects of landscape character have been conserved and where possible enhanced through sensitive design, landscape mitigation and enhancement measures:

- i. The locally distinctive pattern and species composition of natural features such as trees, hedgerows, woodland, field boundaries, watercourses and waterbodies
- ii. The locally distinctive character of settlements and their landscape settings
- iii. The separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe

- iv. Visually sensitive skylines, soils, geological and topographical features
- v. Landscape features of cultural, historic and heritage value
- vi. Important views and visual amenity
- vii. Tranquillity and the need to protect against intrusion from light pollution, noise, and motion
- viii. Landscape functions including places to live, work, relax and recreate, and
- ix. Special qualities of Areas of Outstanding Natural Beauty (AONBs) and the New Forest National Park, where great weight will be afforded to conserving and enhancing landscapes and scenic beauty.

The site is in agricultural use within the open countryside and the proposed development would result in a change effect from rural to urban. Whilst this is likely to be true of any of the sites coming forward for housing delivery in Melksham in the future, this simply reinforces the importance of being able to compare competing sites to establish which is the most sustainable and causes the least harm to the environment. That is one of the purposes of the Wiltshire Sites Allocation DPD. The site does not have any landscape designations.

Whilst the site does not have any landscape designations, it is crossed by two public footpaths from which the change from a rural field to a built-up area will be significant in terms of the experience of the footpath user of both the character of the area and its appearance. These footpaths are likely to be more in demand for recreational purposes when the additional housing at Shurnhold School opposite is developed, providing a valuable recreational resource for these residents. Furthermore, in visual terms, the impact of a large isolated block of housing on this side of the A365, isolated from other development by the surrounding fields, would be detrimental to the character and appearance of the area. The development here would be out of character with the rural approach to Melksham that currently exists on this side of the A365.

In sum, the proposal would have an unacceptable adverse impact on the character and appearance of the area that would conflict both with the policies of the Wiltshire Core Strategy and with the NPPF.

9.5 Impact on Archaeology

The site has been evaluated for archaeological remains and the Council's Archaeologist is satisfied that nothing of archaeological significance will be impacted by the proposals. No further works are necessary.

9.6 Agricultural Land Quality

According to the Agricultural Land classification, the site is made up of land that is predominantly Grade 2 agricultural land. Despite promptings, the applicants have not properly addressed this matter in their submissions.

The NPPF (paragraph 112) requires Local Planning Authorities to protect the best and most versatile agricultural land, which is defined as Grades 1, 2 and 3a of the Agricultural Land Classification. In addition paragraph 026 of the NPPG guidance 8-026-20140306 re-affirms the NPPF position.

The proposed development would result in an irreversible loss of a significant area of predominately Grade 2 agricultural land. It is worth noting that it has been held on appeal on a proposal to develop Grade 3a agricultural quality land that whilst it might be necessary to develop some land in Grade 3a and above, the priorities for doing so could properly be considered only in the context of a development plan. In that case, since it was not shown

through such a process that no other suitable site was possible, there was no overriding need for the development. Important agricultural land would be lost and it would create a precedent in respect of an adjoining site.

It is considered that the same principle applies to this application. The site consists of even higher quality land (Grade 2) which is outside of the limits of development. The site is not an allocated site for development.

The review of settlement boundaries is taking place through the Wiltshire Site Allocations DPD. The Core Strategy Inspector has also concluded that this DPD is the correct mechanism for bringing forward future site allocations in Wiltshire. There is consequently no need to release additional land for housing in Melksham at this time and at this location.

It is therefore considered that the proposal would result in an unacceptable and irreversible loss of the best and most versatile agricultural land (Grade 2) that is not outweighed by the benefits of the scheme and is therefore not in compliance with Para 112 of the NPPF or Para 26 of NPPG guidance 8-026-20140306.

9.7 Impact on Ecology

The site comprises five fields of species-poor semi-improved grassland currently managed as hay meadows, part of the existing farmyard consisting of 3 modern warehouse style barns and hedgerow field boundaries. There is also an additional adjacent barn that is considered in the report as bat droppings were found within it, so it is being used as a bat roost. The overall biodiversity value of those habitats present is considered to be low and typical of edge of settlement pastoral farmland. The main habitats of most value are the intact hedgerows at the outer boundaries of the site, particularly at the north and west. Horseshoe bats were recorded during the bat activity survey and Lesser horseshoe bat droppings found in the offsite adjacent barn. Consideration has therefore been paid to the potential impact on the Bath and Bradford on Avon Bat SAC, which lies 6.8km away from the application site.

The Design and Access Statement (DAS) refers to opportunities for biodiversity on pages 40 and 46, including:

- 1.52ha of public open space, including areas of amenity and meadow grassland to provide areas for informal recreation and to enhance biodiversity
- The attenuation pond will be created with areas of permanent water and ephemeral areas with grassland planting
- Existing hedgerows and trees will be retained (where possible) and enhanced as part of the landscape strategy

CP50 requires all development to *incorporate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development*. They should also *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*. CP57 also requires the *retention and enhancement of existing important landscapes and natural features in order to take opportunities to enhance biodiversity, create wildlife and recreation corridors*.

Wiltshire Council's Conservation Officer has considered the proposals and submitted ecological details and raises no objection subject to conditions relating to the Ecological Mitigation Plan (EMP), the Landscape and Ecology Management Plan (LEMP).

9.8 Impact on Education Provision

The proposed development of 263 houses assuming a 30% level of affordable housing (79 units) reduces the number of qualifying properties for assessment by 24 to 239. On this basis this would generate a need for 74 primary and 53 secondary places. The designated area schools are Melksham Oak at secondary level and at Primary level Shaw CE.

Shaw CE has a capacity in permanent accommodation of 210 places. As of the January 2014 official headcount there were already 206 pupils on roll. Forecast numbers for the school are shortly to be updated for 2015, but numbers are currently expected to rise again for September 2015 to 208 pupils. The school is also the designated area primary for the pupil product of the Former George Ward School site, which already has planning approval, and which generates a need for a further 57 primary places; they are not yet reflected in our forecasts. The school will therefore, be full very shortly with further expansion being unfeasible.

As identified at the pre –app stage there is not the capacity to provide primary school places for the pupils generated by the proposed development, and therefore an objection is sustained for the proposal. The Melksham primary schools are already full/will reach capacity as a result of new housing development already registered/approved in the area, and the sites do not have sufficient space to allow for any further expansion.

In relation to the secondary school provision and without prejudice to the position stated on primary education above. It is purely academic, as an objection is sustained against this application. Subject to S106 contributions the secondary spaces required as a result of this proposal could be accommodated within the local schools of 53 places at £19084 per place.

However as the proposal would result in a need for 74 primary school places with the local schools having no capacity currently or capacity for expansion the proposal would not be in accordance with CP3 (Essential Infrastructure) of the Wiltshire Core Strategy.

In response to these comments, the applicants have suggested that their planning application could be amended to include the provision of a primary school. As this information was available and could have been taken into account at the pre-application stage, it is not considered appropriate to permit such a fundamental change to an application that has already been under consideration for several months as it would require the Council, consultees and local residents to re-assess the application as a whole, consuming more resources. Furthermore, the location of a school on this site would not be a sensible option if the result of the Wiltshire Sites Allocation DPD is that land on the other side of Melksham is considered to be more suitable for residential development. The informal consultation that has been undertaken on the Sites Allocation Plan indicates that there are better, more sustainable locations that could accommodate growth at the town. As such, increasing the education capacity in this location at this time would not be sensible. The need to appraise options for increasing primary education at the town is an important consideration in planning for the sustainable growth of the town.

As it stands, the proposal put forward by the applicants does not make adequate provision for the educational needs of the pupils that the new housing will generate.

9.9 Impact on the setting and character of Listed Buildings

Section 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990 – require the Council to have special regard to the desirability of preserving the building or **its setting** or any features of special architectural or historic interest which it possesses.

The following policies are also relevant:

The NPPF outlines government policy, including its policy in respect of the historic environment. Section 12 'Conserving and enhancing the historic environment' of the National Planning Policy Framework sets out the Government's high-level policies concerning heritage and sustainable development. The Historic Environment Planning Practice Guide published jointly by CLG, DCMS, and English Heritage provides more detailed advice with regard to protecting the setting of designated heritage assets.

English Heritage's "Conservation Principles" provides policy and guidance for the "sustainable management of the historic environment". "The Setting of Heritage Assets" published by English Heritage in 2011.

The site is not included within a designated conservation area and contains no heritage assets within it. However, the setting of nearby historic buildings is relevant and is discussed in the Built Heritage Assessment (BHA) submitted with the application.

With respect to the setting of designated listed buildings the BHA concludes that the development has the potential to cause some harm to Shurnold Farmhouse and the more distant parish church. Further listed buildings are found on the east side of Bath Road and at Shaw House to the north of the site. The BHA argues that the harm can be mitigated through buffering and landscaping. A submitted illustrative development framework shows a protected view corridor through the proposed development to the listed farmhouse from the WNW direction.

Although the concept of setting is not limited to purely visual matters it has to be acknowledged that the relationship between the farmhouse and its agricultural hinterland has already been weakened by intervening structures that have been provided at the Shurnold Farm Business Park. However the BHA underplays the value of surviving elements of the farmyard, particularly cowsheds, a cartshed and a stone barn but the significance of these assets has been diminished by re-building and conversion.

The BHA also underestimates the importance that should be attached to the existing contrast between the openness of the application site and the curtilage of the farmhouse. The integrity of the views across the application site towards the farmhouse would be greatly changed by the proposed development. Views from the west are not formal vistas or panoramas but the historic relationship between the farmhouse and the surrounding agricultural fields would be disrupted, the existing rural scene would be urbanised, and tranquillity reduced. The scale of the proposed development would have an adverse effect on the visual approach from the west, whilst light spill during hours of darkness experienced at the listed buildings would be increased.

Development of the site would not be efficient or well integrated with the main form and layout of Melksham. Essentially the site is part of an open field system beyond the natural limits of the town. It lies beyond the town by-pass, and its northern dual carriageway extension, and beyond the railway line skirting the west of the town, and for this reason the proposals need to be looked at critically.

The proposals would result in harm to the setting of listed buildings at Shurnold but in terms of the NPPF this would amount to less than substantial harm. The provisions of the Planning and Listed Buildings Act however represent an important statutory test that overarches any presumption in favour of development and which must be given considerable weight in reaching a final decision. The large scale development proposals would fail to preserve the historic bucolic setting of Shurnold Farmhouse and would therefore not be in accordance with CP58 of the Wiltshire Core Strategy.

This approach is supported in the recent appeal decision at Little Chalfield where the inspector at paragraph 28 states *“WCS Core Policy 58 states among other things that designated heritage assets and their settings will be conserved and where appropriate enhanced in a manner appropriate to their significance. This reflects the graded approach to ‘harm’ in the Framework and, given its very recent adoption, this policy is consistent with it. Framework paragraph 132 says that any harm should require clear and convincing justification while the courts have held that preserving in the heritage asset context means ‘doing no harm’. I therefore conclude that the appeal proposal would conflict with WCS Core Policy 58.*

It is therefore considered that as the proposal would result in harm to the setting of the listed building, albeit less than substantial. Given the other negative factors already outlined above in relation to this application, it is not considered that there are any public benefits that would outweigh this harm. Furthermore, the proposal would fail the statutory test ‘to have special regard to the preserving the setting of the listed building’. The scheme would not be in accordance with WCS CP58 or Para 132 of the NPPF.

10. S106 contributions

Core Policy 3 advises that *‘All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. In ensuring the timely delivery of infrastructure, development proposals must demonstrate that full regard has been paid to the council’s Infrastructure Delivery Plan and Schedule and all other relevant policies of this plan. Joint working with adjoining authorities will be encouraged to ensure that wider strategic infrastructure requirements are appropriately addressed’.*

Relevant infrastructure providers have been consulted on the application and financial contributions and conditions have been requested to mitigate the impacts of development. The mitigation requests are set out below.

However, it is clear that as the Council is now in the era of the Community Infrastructure Levy (CIL), not all of these mitigation measures can be justified, including the health provision and some of the off-site leisure provision.

Infrastructure	Mitigation required
Sustainable transport measures	Implementation of the residential travel plan including green travel vouchers of £250/£150, information packs for each household, appointment of a travel plan co-ordinator for 5 years, monitoring, targets and £7500 for travel plan monitoring (£1500 pa).
Sustainable transport measures	Provision of a ghost island.

Sustainable transport measures	Contribution of £60,000 towards the provision of MOVA software and enhance cycle timing at A365/Corsham Road
Sustainable transport measures	Contribution of £23,854 index linked towards the relief of congestion between the development and town centre
Sustainable transport measures	Contribution of £6500 towards public rights of way improvements
Sustainable transport measure	Provision of a toucan crossing for pedestrians and cyclists on the A365.
Sustainable transport measures	Contribution of £80,000 towards cycle lane improvements.
Sustainable transport measures	Provision of a bus shelter and relocated bus stop on the A365.
Leisure and Recreation Provision	<p>Environmental Services have requested the following financial contributions towards indoor recreation facilities at Melksham Campus</p> <p>Pools £67,997 Halls £77,918 Indoor Bowls £9,784 Artificial Turf Pitches £9,713</p> <p>Total £165,412</p>
Leisure and Recreation Provision	Environmental Services have requested that the onsite Open Space and Play Areas should be secured in perpetuity.
Cemetery Provision	Environmental services have requested a financial contribution of £6,248 towards cemetery provision in the area
Education	<p>The school places team state that the development gives rise to the need for 74 primary and 53 secondary places. There is insufficient capacity at the local primary schools and as such education object.</p> <p>The 53 secondary places would require £1,011,452.</p>
Health	NHS England has requested a capital payment of £101,982 in order to support the development of local practice's premises.
Public Art	An indicative public art contribution figure (based on £300 per dwelling) for this site would be £78,900 for 263 dwellings and we would expect that no more than 10% of this figure to be spent upon the production of a public art plan.

11. Conclusion (The Planning Balance)

The starting point for an assessment of the application is that applications must be determined in accordance with the policies of the development plan unless material considerations indicate otherwise.

In this case, the proposal is clearly in conflict with the policies of the development plan. The site is located within open countryside and outside of the Town Policy Limits defined for

Melksham. The proposal conflicts with the Delivery Strategy set out in Policy CP2 and CP15 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 this report reinforce the need for the delivery strategy required by policy CP2 as the properly planned method of establishing the most sustainable sites for meeting the housing needs of Melksham.

In relation to drainage, the Council in its role as Lead Flood Authority object to the proposal as it could lead to additional flooding in the absence of the findings of the catchment review. This conflicts with policy CP68 of the Wiltshire core Strategy.

In relation to the necessary infrastructure, Melksham does not have any spare capacity at its primary schools to cater for the pupils generated as a result of this development. To meet the educational needs for the residents of the additional houses that will be required to be supplied in the later stages of the plan period, it is evident that additional primary school capacity will be required in the town. However, this needs to be on a planned basis and in a sustainable location related to where the new houses will be constructed. Whilst not included within the current application, the developer's post submission idea that land for a school to accommodate the town's needs may be able to be accommodated within the scheme does not make any sense without knowing where the additional housing will be located – otherwise, there could be unnecessary and unsustainable cross-town commuting. The proposal does not comply with policy CP3 of the Core Strategy requiring essential infrastructure.

Turning to the landscape impact, the development would represent an intrusive block of housing surrounded on three sides by agricultural land. It would not appear as a planned extension of the built-up area, but as an isolated adjunct. Views and experiences of the rural landscape from the public footpaths that cross the site would be reduced and impaired. The proposal would conflict with policy CP51.

The proposal would result in harm to the setting of listed buildings at Shurnold and while in terms of the NPPF this would amount to less than substantial harm, the large scale development proposals would fail to preserve the historic bucolic setting of Shurnold Farmhouse and would therefore not be in accordance with CP58 of the Wiltshire Core Strategy, nor with the statutory duty to pay special regard to the desirability of preserving the setting of listed buildings.

The proposal would also result in the permanent loss of higher quality agricultural land, a factor that should only be acceptable if it was shown through the rigours of the local plan process that no other site is suitable. This is not the case here. This is in conflict with the NPPF.

The development would provide a benefit to local employment during the construction phase of the houses, although this would be limited in extent and duration. The provision of additional housing, including affordable housing, would also be a benefit.

The fact that a Planning Inspector has found that there is not a 5 year land supply in this housing market area is a material consideration, as this reduces the weight to be given to policies for the supply of housing in the Core Strategy, including the limits of development for the town. However, the size of the shortfall he identified is also a material consideration, and in this case, the shortfall he identified was small. It is also relevant that the Council does not agree with his findings of a shortfall and considers that it has a five year land supply. However, the council has to make an assessment as to whether the harm associated with the development significantly and demonstrably outweighs the benefits of the scheme.

The NPPF has to be taken as a whole, and a judgement made as to whether the proposal is sustainable development. In this case, it is clear that allowing the development would cause significant and demonstrable harm and would not be sustainable development. The harm extends across a wide range – landscape impact; impact on heritage assets; loss of best value agricultural land, the drainage issues left unresolved; the lack of key infrastructure. Given that any shortfall in housing supply is, at best, small, and that the Council's preferred approach of properly planning for the sustainable development of the town has been endorsed by the Core Strategy Inspector, and finally that the Core Strategy Inspector recognised that there were sufficient commitments to ensure an adequate supply of housing land for the town in the short term, it is considered that any benefits of the scheme are strictly limited and heavily outweighed by the harm that would be caused. Overall, this is not a sustainable development. As such it is recommended that the proposals are refused for the reasons set out below.

RECOMMENDATION

Refuse, for the following reasons;

1. The site is located in open countryside outside the limits of development defined for Melksham in the Wiltshire Core Strategy. The proposal would conflict with Core Policies 1, 2 and 15 of the Wiltshire Core strategy, which seeks to properly plan for sustainable development of housing in Wiltshire.
2. The proposal conflicts with the Council's plan-led approach to the delivery of new housing sites outside of the identified limits of development, as set out in Core Policy 2 of the Wiltshire Core Strategy which seeks to provide new housing sites to deliver the identified needs in the Melksham Community Area 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 3-7 below reinforce the need for the delivery strategy required by policy CP2 and CP15 as the properly planned method of establishing the most sustainable sites for meeting the housing needs of Melksham.
3. The proposal would create a large block of housing isolated from other development by surrounding fields. It would have an urbanising effect on this area of open countryside and the rural footpaths that cross it that would have an adverse impact on the character and appearance of the area that would be detrimental to the rural approach to Melksham that currently exists on this side of the A365. The proposal would therefore conflict with policy CP51 of the Wiltshire Core Strategy and with a core principle of the NPPF to take account of the intrinsic character and beauty of the countryside.
4. Wiltshire Council as Lead Local Flood authority is working together with other agencies to undertake a full drainage catchment review for the whole catchment from Shaw/Whitley down to the River Avon to identify potential drainage works and/or improvements to resolve current flooding issues within the catchment and to allow for potential future developments. The report findings will have a major influence on the whole catchment and the particular drainage strategies of potential future developments. Therefore prior to the completion and publication of the report any application for development especially on greenfield sites such as this application is premature and could result in additional flooding and not meeting the resultant required strategy for the benefit of the whole catchment. The proposed development is therefore not in accordance with Chapter 10 of the NPPF and Policy CP68 of the Wiltshire Core Strategy.

5. The proposal would result in a need for 74 primary school places, for which there is no capacity currently or capacity for expansion to accommodate the primary school places generated as a result of the proposal. It would therefore not be in accordance with CP3 (Essential Infrastructure) of the Wiltshire Core Strategy.
6. The proposal would result in harm to the setting of listed buildings at Shurnhold and the benefits of the scheme do not outweigh the harm. The proposal is therefore not in accordance with CP58 of the Wiltshire Core Strategy or paragraph 132 of the NPPF.
7. The majority of the site is shown on the agricultural land classification maps as Grade 2. The applicants have not provided any evidence to contradict this assessment and in the absence of such evidence, the Council is concerned that the proposal would lead to the loss of agricultural land that is defined as the best and most versatile. This would conflict with paragraph 112 of the NPPF.

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