

# AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN  
**Date:** Wednesday 14 October 2015  
**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Will Oulton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713935 or email [william.oulton@wiltshire.gov.uk](mailto:william.oulton@wiltshire.gov.uk)

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

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## Membership:

Cllr Christopher Newbury (Chairman)	Cllr Magnus Macdonald
Cllr John Knight (Vice-Chair)	Cllr Horace Prickett
Cllr Trevor Carbin	Cllr Pip Ridout
Cllr Ernie Clark	Cllr Jonathon Seed
Cllr Andrew Davis	Cllr Roy While
Cllr Dennis Drewett	

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## Substitutes:

Cllr Nick Blakemore	Cllr Gordon King
Cllr Rosemary Brown	Cllr Stephen Oldrieve
Cllr Terry Chivers	Cllr Jeff Osborn
Cllr Fleur de Rhé-Philippe	Cllr Jerry Wickham
Cllr Russell Hawker	Cllr Philip Whitehead
Cllr Keith Humphries	

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# AGENDA

## 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 - 16*)

To approve and sign as a correct record the minutes of the meeting held on 12 August 2015.

3 **Chairman's Announcements**

To receive any announcements through the Chair.

4 **Declarations of Interest**

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

5 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 2.50pm on the day of the meeting.

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

Questions

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

Director) no later than 5pm on Wednesday **7 October 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 **Planning Applications**

To consider and determine the following planning applications:

6a **15/05186/FUL - The Long Barn, Cumberwell** (Pages 17 - 26)

6b **15/05079/FUL - Witleigh, Melksham** (Pages 27 - 44)

6c **15/06732/FUL - 63 Shaw Road, Melksham** (Pages 45 - 56)

6d **15/05061/FUL - 209 Conkwell** (Pages 57 - 64)

## 7 **Planning Appeals Update Report** (Pages 65 - 68)

To receive details of appeal decisions and appeals pending.

## 8 **Urgent Items**

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

### **Part II**

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

None

## **WESTERN AREA PLANNING COMMITTEE**

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### **DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 12 AUGUST 2015 IN THE COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Christopher Newbury (Chairman), Cllr John Knight (Vice-Chair), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Dennis Drewett, Cllr Magnus Macdonald, Cllr Horace Prickett, Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While

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#### **74 Apologies for Absence**

There were no apologies from members of the Committee, but apologies for absence were received from Cllrs Rosemary Brown and Nick Blakemore who had hoped to attend.

#### **75 Minutes of the Previous Meeting**

The minutes of the meeting held on the 1 July 2015 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes of the meeting held on 1 July 2015 subject to the amendment of the spelling of a name.**

#### **76 Chairman's Announcements**

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

#### **77 Declarations of Interest**

Cllr Jonathon Seed declared that he did know the applicant in relation to item 6 e) – 15/05186/FUL, but that this relationship was not an impediment to his participation in the consideration of the application.

#### **78 Public Participation and Councillors' Questions**

No questions had been received from councillors or members of the public.

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

**79 14/01659/FUL - Haygrove Farm, 44 Lower Westwood, Bradford on Avon**

Public participation:

Paul Oakley spoke in support of the application.

The Area Team Leader outlined the report that recommended that the application be approved with conditions and invited members to consider setting aside the extant resolution to tie any permission to a s106 legal agreement.

Issues discussed in the course of the debate included: the implications of the previous permission granted; and whether there was a necessity in planning terms for a s106 agreement. The officer summarised the additional information submitted by the applicant for member's consideration which related to personal finance and commercial viability. The officer also asked members to consider the implications of planning decisions made by Wiltshire Council since the beginning of 2014 and up until the date of the committee meeting (affecting all three hubs) regarding other holiday let accommodation proposals which were granted permission subject to occupancy condition restrictions only without a legal tie throughout rural Wiltshire in protected landscapes such as the Green Belt, AONBs and for sites affecting heritage assets. A recent appeal decision relative to a site in Little Ashley was also highlighted for members attention since it specifically looked at the reasonableness of planning condition occupancy restrictions. Updates made to the committee report were also highlighted.

Members of the public were invited to speak on the application as listed above.

Cllr Magnus MacDonald spoke as the local member.

Cllr Magnus MacDonald proposed, subsequently seconded by Cllr Trevor Carbin, that the Committee should remove the requirement in the approval, previously made, for a s106 agreement.

Having been put to the vote, this motion was lost.

The meeting noted that the original resolution, made at their meeting on the 30<sup>th</sup> April 2015, to grant permission for the above development subject to planning conditions and to the prior completion of a Section 106 legal agreement to restrict the occupancy of the accommodation to holiday accommodation only, remained unchanged.

The Committee then resolved to move to the next item of business on the agenda.

**80 15/03114/FUL - Land at 119 St. Thomas Road, Trowbridge**

Public participation:

Graham Jones, Christopher Turnball and Simon Selby spoke in objection to the application.

The Senior Planning Officer outlined the report that recommended that the application be approved with conditions.

Cllr John Knight spoke on behalf of the local member Cllr Nick Blakemore.

Issues discussed in the course of the debate included: the location of the proposal and its relationship to buildings in the vicinity; the parking and access arrangements; the impact of the proposals on the street scene; the views of the neighbours and the possible impact of the proposals on their amenity.

Members of the public were invited to speak on the application as listed above.

Cllr Jonathon Seed proposed, subsequently seconded by Cllr Roy While, that the Committee should approve the application as per the officer's recommendation detailed in the report.

Following a proposal by Cllr Andrew Davis, Cllrs Seed and While agreed to incorporate an amendment to their substantive motion that an additional condition be made to remove permitted development rights in relation to further development.

Having been put to the vote, the meeting;

**Resolve to grant permission subject to the following conditions:**

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

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

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

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

- 3 The development hereby permitted shall not be first brought into use until the access and parking spaces have been consolidated and**

surfaced (not loose stone or gravel). The access and parking area shall be maintained as such thereafter.

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

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

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

- 5 No development shall commence on site until a scheme of hard and soft landscaping and boundary details has been submitted to and approved in writing by the Local Planning Authority, prior to the commencement of any such works. The works shall then be carried out strictly in accordance with the approved details.

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

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

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

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or



without modification), there shall be no first floor windows on the south west elevation and north east elevation.

**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 such additions.

- 8** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Classes A-E shall take place on the dwellinghouse hereby permitted or within its curtilage.

**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.

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

Drawing reference 648/BL registered on 02 April 2015  
Drawing reference 648/01b received by email on 08 July 2015  
Drawing reference 648/SP registered on 02 April 2015  
Drawing reference 648/S01 registered on 02 April 2015

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

**INFORMATIVE:** The applicant is advised to contact Wessex Water direct on 01225 526 000 with regard to the connection of water and waste supplies for this proposed development.

**81 15/04899/FUL - 17 Palairet Close Bradford on Avon**

Public participation:

Isobell Guttridge, Christine Steel and Esther Harris spoke in objection to the application; Paul Gould spoke in support of the application and Cllr Gwen Allison spoke on behalf of Bradford-on-Avon Town Council.

Cllr Magnus MacDonald spoke on behalf of member Cllr Rosemary Brown.

The Senior Planning Officer outlined the report that recommended that the application be approved with conditions.

Issues discussed in the course of the debate included: the existence of covenants and the relevance of planning conditions; the layout and the material for the proposals; the impact of the proposals on the amenity of neighbours; the implications conditions of the original permission; the ownership and the responsibility for the maintenance of the land; the views of the residents and the petition received in objection to the application; the intention of the original development; and the impact of the proposals on the landscape environment.

Members of the public were invited to speak on the application as listed above.

Members discussed the public concerns and the relevance of other planning permissions and refusals in the area. Cllr Magnus MacDonald proposed, subsequently seconded by Cllr Ernie Clark, that the application be refused for the reason that the height and relocation of the boundary wall encroaching on land to the side of the property, would be visually intrusive in the street scene and harmful to the openness and historic spatial characteristics of the area.

Having been put to the vote, the motion was lost.

Cllr Andrew Davis proposed, subsequently seconded by Councillor Horace Prickett, that the Committee should approve the application as per the officers recommendation detailed in the report.

Having been put to the vote, the meeting;

**Resolved that the application be approved subject to 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.**

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

- 3 No part of the development shall be brought into use until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.**

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

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

- **Plans and elevations as proposed dated April 2015**
- **Plans and elevations as existing dated April 2015**
- **Block Plan dated May 2015**

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

**5 No part of the development shall be brought into use until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.**

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

**82 15/05185/FUL - 30 Palairet Close Bradford on Avon**

Public participation:

Isobell Guttridge, Christine Steel and Esther Harris spoke in objection to the application, and Cllr Gwen Allison spoke on behalf of Bradford-on-Avon Town Council.

The Senior Planning Officer outlined the report that recommended that the application be approved with conditions.

Issues discussed in the course of the debate included: the size and elevation of the application; the proposal to realign the wall; the implications on preserved trees and the views of the Arboricultural Officer; the layout and the material for the proposals; and the impact of the proposals on the amenity of neighbours.

Members of the public were invited to speak on the application as listed above.

Councillor Magnus MacDonald confirmed that the statement, previously read out on behalf of Cllr Rosemary Brown in relation to previous application, was applicable to this application too.

Cllr MacDonald proposed refusal which was subsequently seconded by Cllr Carbin for the reason that the proposed re-alignment of the boundary wall would adversely impact the trees subject of a Tree Preservation Order and remove one tree and some visual open space from the public realm which would adversely affect the character and appearance of the open plan estate contrary to Core Policy 51 and Core Policy 57 of the Adopted Wiltshire Core Strategy.

Having been put to the vote, the meeting unanimously:

**Resolved to refuse the application.**

**Reason: That the proposed re-alignment of the boundary wall would adversely impact the trees subject of a Tree Preservation Order and remove one tree and some visual open space from the public realm which would adversely affect the character and appearance of the open plan estate contrary to Core Policy 51 and Core Policy 57 of the Adopted Wiltshire Core Strategy.**

83 **15/05186/FUL - The Long Barn Cumberwell Farm Great Cumberwell Bradford on Avon**

Public participation:

There were no representations received from members of the public.

The Senior Planning Officer outlined the report that recommended that the application be approved with conditions.

Issues discussed in the course of the debate included: that the application was retrospective; whether the building was suitable for agricultural use; the materials that the new building was constructed; the impact of the development on the landscape; the size and nature of the farm and its agricultural use; and the size and function of the windows.

Cllr Trevor Carbin proposed, subsequently seconded by Cllr Ernie Clark, that consideration of the application be deferred to enable more information to be collated and to enable a site visit to take place.

Having been put to the vote, the meeting unanimously:

**Resolved that consideration of the application be deferred to enable more information to be requested from the applicant's agent to assist members appreciate the extent, form, means of construction and appearance of the former barn which has been removed and replaced on site; and to enable a member site visit to take place at a future date.**

*Admin Note: The meeting noted that the date for the site visit would be set at the next meeting on 2 September.*

84 **Corsley 29 (Pt) Diversion Order and Definitive Map and Statement Modification Order 2015**

The Team Leader for the Highways Record Team presented the report which outlined the recommendation.

Issues discussed in the course of the debate included: the history of the site and the footpath; that views of the affected land owners; and the views of the parish council and the objector.

Cllr Jonathon Seed asked the officer to reply, at a later date, how many hours had she spent, once the objection had been submitted, in preparing report for committee.

Cllr Horace Prickett, subsequently supported by the meeting, that the officer be commended for their hard work in preparing the matter for the Committee.

There were no representations made by the public.

Cllr Pip Ridout proposed, subsequently seconded by Cllr Ernie Clark, that the officer's recommendation as set out in the report be approved.

Having been put to the vote, the meeting unanimously:

**Resolved:**

**That "The Wiltshire Council Corsley 29 (part) Diversion Order and Definitive Map and Statement Modification Order 2015", be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination, with a recommendation from Wiltshire Council that the Order be confirmed without modification.**

**Reason for Decision:**

Despite the objection received it is considered, for the reasons given in paragraphs 3.6.a to 3.7.d the Decision report (please see Appendix C), and in paragraphs 15 to 19 above, that "The Wiltshire Council Corsley 29 (part) Diversion Order and Definitive Map and Statement Modification Order 2015" continues to meet the legal tests for the making of a Diversion Order under Section 119 of the Highways Act 1980; and

Additionally, the legal tests for the confirmation of a Public Path Diversion Order, as set out under Section 119 of the Highways Act 1980, appear capable of being satisfied and no new evidence has been submitted during the formal objection period which would lead Wiltshire Council to no longer support the making of the Order.

85 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 5.20 pm)

The Officer who has produced these minutes is Will Oulton, of Democratic Services,  
direct line 01225 713935, e-mail [william.oulton@wiltshire.gov.uk](mailto:william.oulton@wiltshire.gov.uk)  
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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 1

<b>Date of Meeting</b>	14 October 2015
<b>Application Number</b>	15/05186/FUL
<b>Site Address</b>	The Long Barn Cumberwell Farm, Great Cumberwell, Bradford on Avon, BA15 2PQ
<b>Proposal</b>	Retrospective permission for reconstruction of an agricultural barn.
<b>Applicant</b>	Messrs C & A James
<b>Town/Parish Council</b>	SOUTH WRAXALL
<b>Ward</b>	HOLT AND STAVERTON
<b>Grid Ref</b>	381874 163276
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	David Cox

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

Councillor Trevor Carbin has requested that this application be determined by Members should officers be supportive of it and to allow Members to consider the following key issues:

- The design, bulk and general appearance of the proposal.

This application was brought before the Planning Committee on 12 August 2015 with a positive officer recommendation and the case was debated by members before agreeing to defer making a decision until members had visited the site and to enable the case officer to obtain additional information from the applicant/agent quantifying the size, form and appearance of the demolished barn.

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

The requested additional information has been thoroughly assessed and following a detailed appraisal of the application, officers now recommend that the planning committee refuses the application. From a procedural stance, members are advised that since the application was deferred to allow members to visit the site and see the unauthorised nature of the development for themselves, this application should remain a committee item.

### **2. Report Summary**

The main planning issues to consider are:

- The Principle of Development.
- The Impact on the Green Belt.
- The Impact on a Non-Designated Heritage Asset.
- Impact on Archaeology.
- Impact on Ecology.
- Developer Contributions / Community Infrastructure Levy.(CIL)

### 3. Site Description

The unauthorised building (which is referenced and known as the Long Barn) is comparable to a two storey building and is constructed from natural stone (facing a blockwork inner skin) under a clay tiled roof. The long barn is part of a wider complex of buildings which include a green metal clad steel framed agricultural building, a farm house and other former agricultural buildings that are now used as holiday lets. The long barn is approximately 170 metres to the south east of the Cumberwell Golf Course club house but is within the Western Wiltshire Green Belt. A Bridleway – SWRA26 runs immediately past the barn.

### 4. Planning History

W/92/00884/FUL Additional 18 hole golf course amendments to design and siting of clubhouse incorporating stewards accommodation

The 1992 application had a red outline that captured the whole Cumberwell Farm and did not directly involve or change the long barn.

### 5. The Proposal

Under this application, retrospective planning permission is sought for the construction of what the applicant purports to be an agricultural barn. As members will see for themselves on site, the building is substantially complete and measures approximately 32 metres long by 10.5 metres wide and has a ridge height of approximately 9 metres sloping to 5.2 metres at the eaves. The barn has been split into two sections and has a number of windows on both levels and door openings which include two arched openings into each section. As part of the planning submission, the applicant has produced photographs showing a top loader (an agricultural vehicle) accessing the inside of the building. Although officers recognise that such a vehicle appears to be smaller than most modern day tractors.

The submitted plan drawing of the former barn indicates that there was a drop in levels which has been removed. The extent of the excavation works have not been confirmed, although the D&A indicates that the west side of the barn was 1.5 metres below the level of the adjacent modern barn. When the site was visited, there was evidence of earthwork scarring on the adjacent agricultural building which remains on site.

The application is also supported by an historic photograph which was used as a reference for the elevation plans of the demolished barn. This photograph is reproduced below:

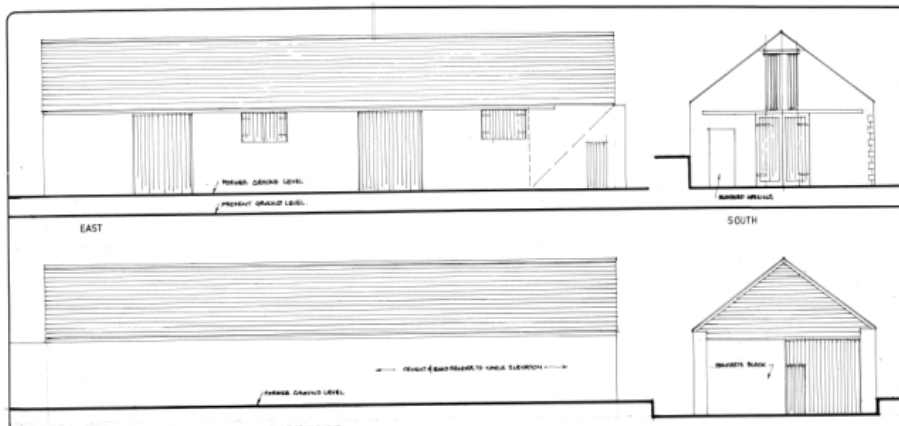


Officers understand that the photograph illustrates the western side elevation of the former barn. The submitted photograph implies that the barn was essentially single-storey with eaves more or less at head height and the barn certainly did not have the numerous domestic scaled wall openings created in the unauthorised structure. However, the plan

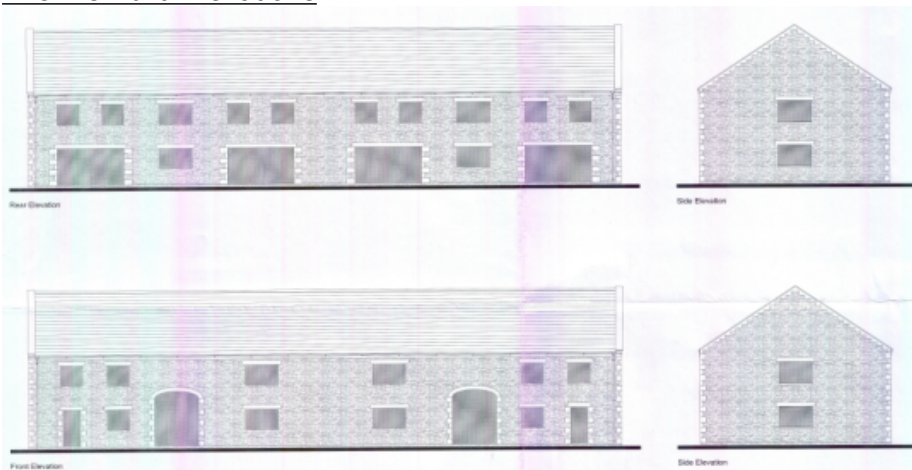


does illustrate that the barn was dug into the ground and the finished floor level would have been at a lower level compared to the levels shown on the photograph.

### The Former Barn Elevations



### The 'As Built' Elevations



The elevation plan drawings of the former barn are not consistent and offer conflicting heights as to how much that the demolished barn was dug into the ground, varying from 1m to 1.7m on the north and south elevations. On the western elevation (the same elevation the above historic photograph illustrates) there is a constant 3.4m from ground level to the eaves. Rather than delay matters further requesting the agent to correct such anomalies they are recorded here for members to duly note.

## **6. Planning Policy**

Government Guidance - The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The National Planning Policy Framework (NPPF) acts as a principal material consideration in the determination of planning applications. It introduces the presumption in favour of sustainable development at paragraph 14 as a 'golden thread' running through plan making and decision taking

The Adopted Wiltshire Core Strategy (Jan 2015) - Strategic Objective 1 - Delivering a Thriving Economy; Strategic Objective 4 - Helping Build Resilient Communities; and Strategic Objective 5 - Protect and Enhance Natural, Built and Historic Environment. The following Core Policies are also relevant to this case:

CP7- Bradford on Avon Community Area; CP48 - Supporting Rural Life; CP51 - Landscape; CP57 - Ensuring High Quality Design and Place Shaping; CP50 - Biodiversity

and Geodiversity; CP58 – Ensuring the Conservation of the Historic Environment; CP67 – Flood Risk.

The adopted WCS also includes a number of policies carried over from the West Wiltshire District Plan 1<sup>st</sup> Alteration 2004 (as documented within Appendix D) however, in this particular case none of the policies are relevant.

Since May 2015, Wiltshire Council has become a CiL charging authority and the following documents are relevant: Wiltshire's Community Infrastructure Levy – Planning Obligations Supplementary Planning Document (Planning Obligations SPD); Wiltshire's Community Infrastructure Levy - Charging Schedule (Charging Schedule) and Wiltshire's Community Infrastructure Levy - Regulation 123 List

In the event of any appeal being lodged against a refusal decision, it is prudent to record here that the DCLG Statement dated 31 August covering "Green Belt Protection and Intentional Unauthorised Development" would be a material consideration. For the record, the Statement is clear that applications submitted prior to 31 August 2015 are not included, but applications and appeals following this date, most certainly are.

## **7. Consultations**

South Wraxall Parish Council – Objects for the following reasons:

- Deliberate destruction of original historic building.
- Should have been re-built with respect to original barn.
- Original design should have been given on the application so consideration could be given to the changes.
- Do not feel it resembles an agricultural barn, but more like a residential property.

The Council's Archaeologist – No objection subject to a planning informative.

The Council's Ecology Officer – No objection subject to conditions and informative.

## **8. Publicity**

This application was advertised by a site notice which was displayed on a telegraph pole at the main entrance to the golf club as well as individual neighbour notifications. The expiry date for third party representations was 30 June 2015, however no comments were received.

## **9. Planning Considerations**

9.1 The Principle of Development - The building could be used for agricultural storage purposes, although officers recognise that by virtue of the wall openings and the dwarf walls, accessing the building by modern tractors and other agricultural vehicles would be difficult, if not impossible. The photograph showing a top loader seemingly squeezing into one opening does not convince officers that the building would be suitable for significant agricultural vehicular use. It could be used for storage purposes, but the way the building has been constructed so far with the domestic styled/sized wall openings indicates a potential alternative use. Whilst the applicant maintains it is for an agricultural barn, it cannot be ignored that there is substantive doubt raised about the true function for the building.

9.1.1 The unauthorised "barn" may well have been constructed re-using good quality stone and inserting bull's-eye window(s), but significant concern exists about the nature of this unauthorised development.

9.2 The Impact on the Green Belt - Paragraph 89 of the NPPF states that the construction of new buildings is inappropriate in the Green Belt unless it is for certain exceptions. One of

these exceptions is the limited infilling or the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. Paragraph 90 states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These certain other forms of development include engineering operations.

9.2.1 If the submitted elevations of the former barn can be relied upon, the unauthorised barn would be the same length and width of the demolished barn. However, its eaves and ridge have been increased in height by 1 metre across its full 32 metre length.

9.2.2 Despite officer requests, the applicant has not fully demonstrated the extent of the excavation works confirming the ground floor levels of the demolished and unauthorised barns. Additionally it must be said that the historic photograph only captures part of the building and it fails to provide any immediate site context to enable officers to appreciate building heights and levels. It is however broadly accepted that there has been excavation works carried out to the west of the barn i.e. the ground area partially shown in the historic photograph where a new retaining wall has been built adjacent to the farm buildings; but no documentary evidence has been submitted to demonstrate that the floor area of the demolished barn has been excavated. The case officer's site visit photographs show some excavations adjacent to a fence but this is approximately only a foot deep and could reasonably be assumed to have only been excavated for the access road and not the barn itself.

9.2.3 Due to the limited information/evidence submitted with this application, it is not possible to confirm whether the building stands higher in the landscape. There is however no doubt that the bulk, massing and appearance of the unauthorised building is substantially different to the building shown in the historic photograph. Setting aside any concern held about what the building could be used for, the increased bulk and mass is significant which has eroded the openness of the Green Belt. The engineering operations which have been carried out on the land and the erection of the appeal building are considered to be inappropriate forms of development in the Green Belt which conflicts with national policy as set out in the NPPF.

9.2.4 In volumetric terms, the demolished building has been calculated as approximately 2083m<sup>3</sup>, whereas the unauthorised building has a volume of 2419m<sup>3</sup> representing a 16% increase which in addition to the increased bulk, constitutes a significant material increase over and above the previous barn. Whilst the Council has been mindful of the presence of the former barn, and has acted entirely reasonably, following the submission of new information supplied by the applicant's agent, the unauthorised building is inappropriate and harmful development in the Green Belt, and is contrary to established national policy as set out in the NPPF.

9.3 The Impact on a Non-Designated Heritage Asset - Whilst due regard has been given to the parish council's concerns, the barn is not listed nor is it within a conservation area; and consequently, it has no designated heritage asset status. Officers do however fully concur that the former barn was of some considerable age. Within paragraph 135 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account as part of the determination process. The NPPF calls for a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.

9.3.1 Whilst retrospective applications are never ideal, the Council must consider the application on its merits and assess the impacts accordingly. The site inspections, historic site photograph and the evidence submitted by the applicant as well as officer knowledge of

the site have been taken into account as part of the 'balanced judgement'. The Design and Access Statement includes three external pictures of the barn which show that it had stone walls and a red tiled roof. Whilst officers have been unable to confirm whether there the barn had significant structural failings, which may have been the trigger for the unauthorised commencement of work on site, it is noted from appraising the applicant's submitted photographs, there were signs of the internal walls leaning significantly.

9.3.2 The Design and Access statement states that the existing stone has been re-used but at first glance the stone appears to be new as it is much lighter colour. However the agent is adamant that the stone was cleaned to ensure the full removal of old mortar.

9.3.3 The increased bulk, the introduction of two clear storeys, and the formation of the domestic scaled wall openings have a consequential impact on the character of the old steading. However, officers acknowledge that several existing buildings within the old steading are of comparable size and appearance therefore officers cannot reasonably raise a concern about such matters in terms of the compatibility with the immediate buildings.

9.4 Impact on Archaeology - The application site is identified as having an Archaeology monument record titled as "Cumberwell Deserted Medieval Settlement". The applicant has also confirmed to have excavated the ground level down by 1.5 metres (which could have necessitated the need for a survey or watching brief). However, the Council's archaeologist has confirmed that the monument is not protected by statute like a listed building or scheduled monument. The archaeologist further submits given that the ground has already been excavated and the building has been rebuilt, there is little the Local Planning Authority can do other than add an informative to make the applicants aware of the monument record.

9.5 Impact on Ecology - The Council's Ecology Officer has stated that the precautionary principle should be applied to retrospective applications and assume that roosting bats were present and compensation is required to provide replacement roosting features/areas. The Ecologist advised that the photos of the original barn building demonstrated that it had potential for roosting bats with a partially open wooden slat door on the gable end, gaps at the bargeboards and a slate/tile roof. Bats had access through the open door, including horseshoes.

9.5.1 Whilst there are no bat records for the site, there are several bat roost records within 1 – 2 km including Lesser horseshoe, Whiskered, Natterer's, Brown long-eared, Pipistrelle and Serotine bats. The landscape around the site would be highly suitable for commuting and foraging bats with hedgerows, woodlands, wetlands and watercourses. There is a watercourse to the northeast that eventually meets the River Avon south of Broughton Gifford. This passes through Little Chalfield and Great Chalfield, which are known roosts for Lesser horseshoe bats (including a maternity roost) and also has records for Greater horseshoe bats.

9.5.2 The site also lies within the Bath and Bradford on Avon Bats Special Area of Conservation (SAC) Consultation Zone and the Lesser horseshoe and Greater horseshoe buffer areas to the SAC. It is submitted that it is likely that bat surveys would have been required before determination of the application if the works had not been commenced due to the likelihood of it being used by horseshoe species.

Bat roosts will therefore need to be retrofitted into the converted barn as a condition.

9.6 Developer Contributions/ Community Infrastructure Levy - This development proposal is not CIL liable as agricultural uses are not listed in the adopted Charging Schedule.

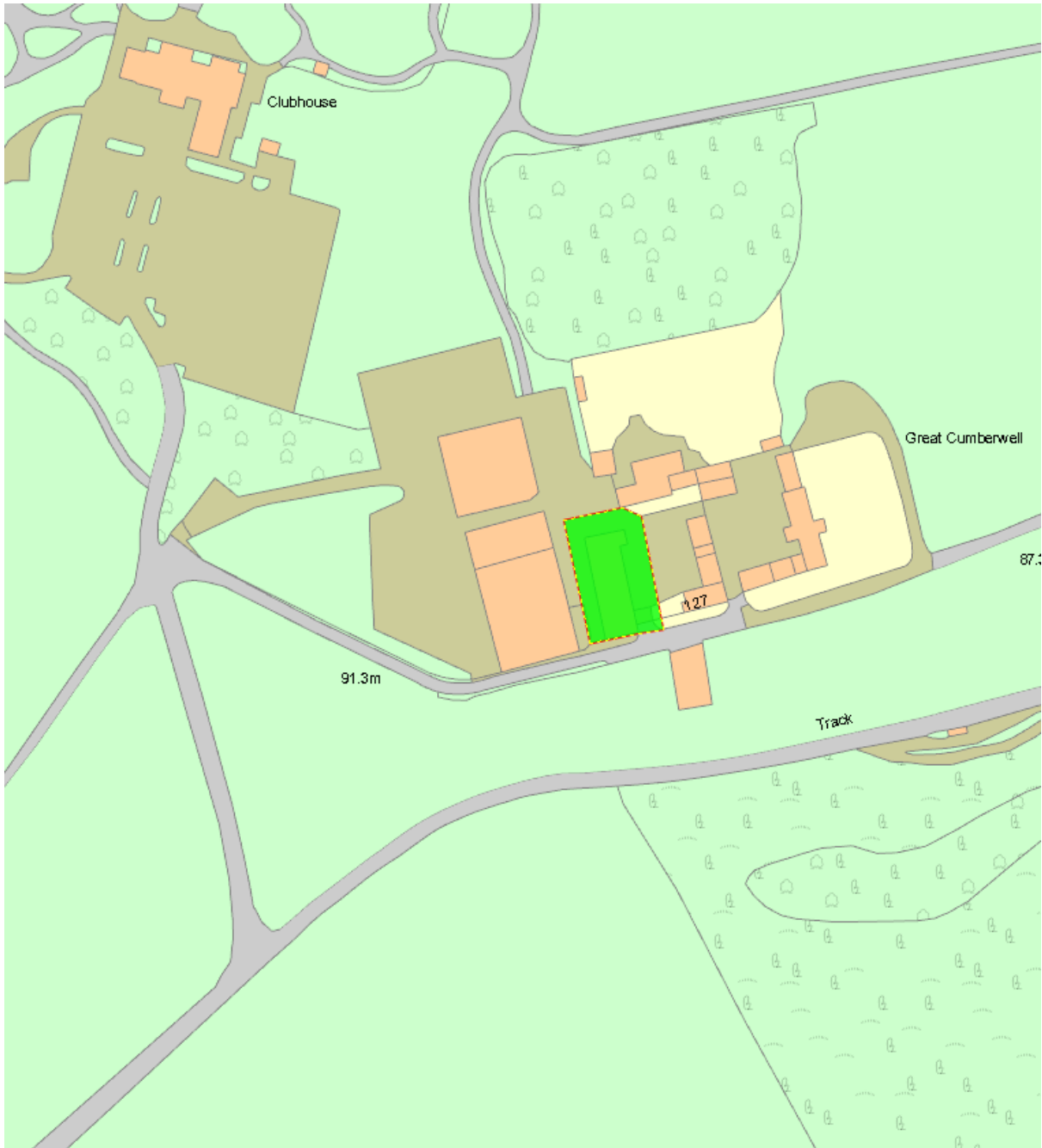
**Conclusion (The Planning Balance)** The unauthorised barn has been significantly increased in size which has caused a diminution of the openness of the Green Belt, its essential characteristic contrary to national policy. The domestic scaled wall openings appear alien and raise substantive doubt about the true function of the unauthorised building. The associated engineering/excavation works, which have led to a building of full two-storey height, are also inappropriate development in the Green Belt and as a consequence, the application is recommended for refusal.

**RECOMMENDATION: Refuse for the following reason**

The unauthorised development, by reason of its increased bulk and mass compared to the previous structure on the site and the engineering works have led to a diminution of the openness of the Green Belt, its essential characteristic. The uniform/regimented domestically scaled wall openings are also considered inappropriate. The proposal is therefore found contrary to Wiltshire Core Strategy Policy 51 – Landscape and Part 9 of the National Planning Policy Framework and specifically to paragraphs 87-89 and that no ‘very special circumstances’ exist to outweigh the demonstrable harm caused.

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Item 1 - 15/05186/FUL - The Long Barn Cumberwell Farm Great Cumberwell Bradford on Avon



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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 2

<b>Date of Meeting</b>	14 October 2015
<b>Application Number</b>	15/05079/FUL
<b>Site Address</b>	Withleigh House, Spa Road, Melksham, Wiltshire SN12 7NP
<b>Proposal</b>	Redevelopment of site with the erection of a part two part three storey building comprising 30 Retirement Living apartments with associated communal facilities, car parking, access and landscaped grounds
<b>Applicant</b>	McCarthy Stone Retirement Lifestyles Ltd
<b>Town/Parish Council</b>	MELKSHAM (TOWN)
<b>Electoral Division</b>	MELKSHAM CENTRAL
<b>Grid Ref</b>	390709 163531
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jemma Foster

### Reason for the application being considered by Committee

Councillor Hubbard has requested that the application be considered by the Planning Committee for the following reasons:

- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design – bulk, height, general appearance
- Environmental/highway impact
- Car Parking

### 1. Purpose of Report

To consider the application and recommend approval

### 2. Report Summary

The main issues to consider are:

- Principle
- Impact upon the character and appearance of the area
- Impact upon neighbouring amenity
- Access and highways
- Other

### 3. Site Description

The existing site sees a two storey detached dwelling located within a large plot of

land currently used as garden. The site is surrounded on the north, east and west by existing residential properties and Spa Road is located to the south at a much higher level than the existing site. There is existing mature landscaping on the boundaries of the site and a public right of way runs along the western boundary.

The site is located within the Limits of Development of Melksham and approximately 50 metres from the Melksham Conservation Area. There are also some Listed Buildings within the vicinity.

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

No relevant planning history

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

This application is for the demolition of the existing dwelling and replacement of 30 retirement living apartments with a range of communal facilities, car parking and landscaping.

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

##### Wiltshire Core Strategy

Core Policies (CP): 1 (Settlement), 2 (Delivery), 3 (Infrastructure requirements), 15 (Melksham Community Area), 41 (Sustainable Construction), 43 (Providing Affordable Homes), 45 (Meeting Wiltshire's Housing Need), 46 (Meeting the Needs of Wiltshire's Vulnerable and Older People), 50 (Biodiversity and Geodiversity), 51 (Landscape), 52 (Green Infrastructure), 56 (Contaminated Land), 57 (Ensuring High Quality Design and Place Shaping), 58 (Ensuring the conservation of the historic environment), 60 (Sustainable Transport), 61 (Transport and New Development), 62 (Development Impacts on the Transport Network), 64 (Demand Management), 67 (Flood Risk).

##### Saved Policies for the West Wiltshire District Local Plan (1<sup>st</sup> Alteration)

U1a (Foul Water Disposal), U2 (Surface Water Disposal)

Wiltshire and Swindon Waste Core Strategy – Policy WCS6

Affordable Housing Supplementary Planning Guidance adopted August 2004

Leisure and Recreation Development Plan Document

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Wiltshire Car Parking Strategy

Circular 06/2005 – Biodiversity and Geological Conservation

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **7. Consultations**

Melksham Town Council – Support but raise the following concerns: lack of parking for residents and visitors, highway safety – a traffic management scheme needs to be undertaken & poor visibility, loss of amenity for nearby neighbours – particularly New Lawns due to the height and proposed balconies, 3 storey is not in-keeping with the locality.

Wiltshire Council Public Protection – Approve with conditions regarding contaminated land, noise/dust, hours of operation, lighting & burning.

Wiltshire Council Public Rights of Way – No objections – a link to the public footpath would be useful

Wiltshire Council Archaeologist – Support subject to a condition regarding a programme of archaeological work being undertaken

Wiltshire Council Affordable Housing Officer – require 30% affordable housing

Wiltshire Council Arboriculturalist – The trees that are to be retained will have an overwhelming pressure to be removed, due to light and space issues. I also feel that there is very limited space available to plant any reasonable sized trees to provide any suitable screening in the future.

Wiltshire Council Waste Management Services Officer – Support subject to a contribution of £2,200 to provide refuse bins

Wiltshire Council Drainage Officer – Support subject to conditions regarding foul water & surface water

Wiltshire Council Landscape Officer – No objections

Wiltshire Council Ecologist – No objections subject to conditions

Wiltshire Council Open Space Officer – No objections. There is adequate amenity land on the site

Wiltshire Council Urban Design Officer – No objections but raises some small issues regarding overlooking and location of residential units adjacent to refuse/storage rooms.

Wessex Water – No objection

Wiltshire Fire and Rescue – Require the building to be carried out in accordance with Building Regulations

## **8. Publicity**

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 3<sup>rd</sup> July 2015.

3 letters of objection have been received with the following comments:

#### Design & Impact upon the area

- Height of the proposed building is not in-keeping with the area
- Trees are being removed which provide screening

#### Neighbour Amenity

- We will be behind a three storey building and next to the refuse room which will invade our privacy and reduce our amenity value as the distance between the wall and Wing 1 is just 20 metres
- The Neighbourhood Plan which is in draft states that single storey properties should not be overlooking by two storey properties
- Windows, terraces and balconies will overlook our properties
- Lights from the inside will impact upon our amenity

#### Highway Safety

- 23 parking spaces is not enough – where will staff and visitors park?
- Increase in traffic on Spa Road which already suffers from dangerous traffic problems
- Poor visibility from the access

3 letters of support have been received with the following comments:

- Good use of site
- Provides accommodation for an ageing population
- Close to town centre
- Improved access

## **9. Planning Considerations**

### **9.1 Principle**

The site is located within the limits of development of the market town known as Melksham where there is a presumption in favour of sustainable development and is therefore in accordance with CP1, CP2 and CP15 of the Wiltshire Core Strategy.

### **9.2 Design & Impact upon the character and appearance of the area**

#### Design

The proposed development sees a two/three storey building with differing roof heights to be built with reconstituted slate, ashlar/random rubble stone and red/orange brickwork all of which can be found in the immediate area. The proposed materials are therefore considered to be appropriate. Due to the existing land levels, the ground floor would not be visible from the road which is raised up above the ground level of the site.

The Town Council have stated that a three storey building is not appropriate to the immediate area however, directly opposite the site is an existing three storey care home which is set back from the road frontage and as such the proposed three storey element would be considered to be acceptable.

The design of the proposed building is considered to be acceptable and as such complies with the relevant criteria of CP57.

#### Conservation Area and Listed Buildings

The site access is located approximately 50 metres east of the Melksham Conservation Area and due to the site levels which are lower than the adjacent road (Spa Road), it is considered that the proposal would not harm the setting of this historic designation. The proposal is therefore considered to comply with the relevant requirements of CP58. There are two Grade II Listed Building located South East of the site known as 36 and 38 Spa Road which due to their location away from the proposed site, the level differences between the proposed site and the listed buildings, it is considered that the proposal would not have a detrimental impact upon the significance of these heritage assets and would not harm their setting. The proposal is therefore considered to comply with the relevant requirements of CP58.

#### Archaeology

The Wiltshire and Swindon Historic Environment Record shows that the proposed development site contains a heritage asset which is the former line of The Wiltshire and Berkshire Canal which was authorised in 1975 and closed in 1910. Map regression in both the Archaeological Desk Based Assessment and Heritage Statement show the line of the old canal (now filled in) at the far eastern edge of the site but they also show that the site was used as a Smithy. To the east of the site lays the site of the former cloth mill/Rope Works and to the south a wharf with associated buildings and infrastructure. Due to the interest in the 20<sup>th</sup> century industrial heritage within the proposed development site which will be impacted by the proposed development the Wiltshire Council Archaeologist has requested a programme of archaeological works to be carried out as a condition of any planning permission which is considered to be acceptable. The proposal is therefore considered to comply with the relevant requirements of CP58.

#### Trees

The application submission confirms that many trees on site are to be removed. The Wiltshire Council Arboriculturalist has raised concerns that the trees which are to be retained may either not survive the construction process or are of high maintenance with a shorter life span than the submitted tree survey suggests. He has also raised concern that there may be an overwhelming pressure to remove the remaining trees in the future due to light and space issues. However the existing trees on site are not located in a Conservation Area and are not protected by Tree Preservation Orders so could be removed at any time without the need for permission.

#### Ecology

A Phase 1 Habitat Survey has been carried out which confirms that three trees have the potential for roosting bats which are to be removed. It would therefore be appropriate to compensate for this loss through the installation of further bat boxes in trees that are to remain and in the proposed building. The proposal is therefore considered to comply with CP50.

#### Flooding & Drainage

The site is located within Flood Zone 1 which is the least susceptible to flooding. The Drainage Officer is satisfied that foul and storm drainage can be adequately

achieved for the proposed development has requested a number of conditions to allow the Local Planning Authority to assess the final discharge details which have been considered to be appropriate. The proposal is therefore considered to comply with Saved Policies U1a and U2 and CP67.

#### Land Contamination

A Ground Condition Survey has been submitted with the application which recommends further intrusive investigation prior to further site specific recommendations. The Public Protection Officer has therefore recommended a condition regarding land contamination to be attached to any approval which is considered to be appropriate. The proposal is therefore considered to comply with CP56.

#### Other Matters

CP41 requires all new residential development to achieve at least Level 4 (in full) of Code for Sustainable Homes and a condition can be attached to an approval ensuring that the development complies with this policy.

### **9.3 Impact upon neighbouring amenity**

#### Overshadowing/Loss of Light

The residents in New Lawns already suffer from overshadowing/loss of light from the existing high tree belt that exists between the two sites. Some of these trees are to be removed, particularly behind 10-12 New Lawns but additional landscape is proposed on this boundary. The proposed building which is located east of the existing dwellings in New Lawns and approximately 13 ½ metres at its closest point to the boundary of number 11 New Lawns may cause some overshadowing/loss of light during the morning but it is not considered that it would be significantly worse than the existing situation.

The proposed building is located west and approximately 5 metres to the closest point to the boundaries of the properties located in Rope Walk. It is important to note that the proposed building is reduced to two storeys in this location. The existing tree belt is to remain and therefore it is considered that the proposal would not result in overshadowing to these properties that would warrant a refusal reason. If the trees were to be removed then it is considered the proposed building would cause less overshadowing than the existing tree belt.

It is considered that the properties located north of the site would not be overshadowed by the proposed development due to its location approximately 12 metres to the boundary and because the proposed building is reduced to two stories.

It is therefore considered that overshadowing and loss of light to existing residential properties would not warrant a reason for refusal.

#### Overlooking

Amended plans have been received increasing the amount of obscure glazing on the western elevation at first & second storey level at the request of the occupants in numbers 10-12 New Lawns. The proposed balconies serving units 21, 22, 30 & 31 are located approximately 17 metres to the western boundary with the public footpath, approximately 19 ½ metres to the boundary of number 10 New Lawns and

approximately 34 metres the rear of number 10 New Lawns which are considered to be appropriate distances for overlooking not to warrant a reason for refusal. Additional landscaping on this boundary would also reduce any impact. As this balcony is the closest point to the western boundary it is considered that there would be no overlooking from the remaining windows and balconies on this elevation to dwellings located in New Lawns.

The windows closest to the boundary of properties within Rope Walk are located approximately 12 metres to the boundary which together with the existing tree belt is considered to be a sufficient distance not to cause overlooking issues.

#### Within the site

1.8 metre high privacy screens are to be located on some balconies to restrict overlooking and whilst the details of these screens have not been submitted, it would be appropriate to request this information via a relevant condition. It has also been considered necessary to introduce further privacy screens to prevent overlooking on units 14, 17, 19, 22, 24, 25 and 30.

There are some locations where windows/balconies are in close proximity to each other. In some instances it has been considered to be necessary to condition windows to be obscure glazed (unit 2) and others are at such an acute angle that it would not be possible to overlook but it is a common feature within retirement homes to allow occupants to talk to each other.

Concerns have been raised regarding the proximity of the refuse store to proposed residential units. It is therefore considered appropriate to ensure that the windows serving the refuse store which are annotated on the proposed plans as being obscure glazed are also fixed shut.

#### Other

There is the potential for the proposed development to create noise and/or dust disturbance in both the demolition and construction phase. The Environmental Health Officer has therefore requested conditions regarding a noise and dust management plan to be submitted, hours of use to be conditioned, no burning on site and further details to be submitted regarding lighting, all of which are considered to be appropriate.

Overall it is considered that the proposal subject to conditions would comply with the relevant criteria of CP57.

### **9.4 Highway Impact**

The proposed development sees the existing single track access widened to ensure a 6 metre bell-mouth, alongside a turning head within the site to allow large vehicles such as refuse trucks to turn and leave the site in a forward gear. Also proposed are 23 parking spaces and a room to store. The Highways Officer has assessed the highway issues relevant to this site and is of the opinion that there would be adequate visibility from the site including over the brow of the hill and although there is a reduction in the amount of car parking when compared to the requirements of Wiltshire Council Car Parking Strategy, the parking provision is considered to be appropriate due to the nature of the development, its proximity to the town centre,

nearby public car parking, nearby services and being on a bus route (X97). Enhancements to the public highway have been requested and are detailed in Section 9.5 of this report. The proposal is therefore considered to comply with CP60, 61, 62 and 64 and the Wiltshire Car Parking Strategy.

## **9.5 Other**

### Section 106 Legal Agreement

CP3 states that all new development will be required to provide necessary on-site and off-site infrastructure (where appropriate) requirements arising from the proposal.

The infrastructure items listed below are those that are relevant to the application site and are required in order to mitigate the impact of the proposed scheme, in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 204 of the National Planning Policy Framework 'The Framework'. These are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The developer has agreed to the following Section 106 requirements:

### Affordable Housing

CP43 states that on dwellings of 5 or more affordable housing provision of at least 30% will be provided. The policy goes on to state that where it can be proven that on-site delivery is not possible, a commuted sum may be considered. There is a demonstrable need for Affordable Housing and the requirement from this development would equate to 9 units. The Applicant has stated that it is not practical to mix affordable retirement housing with open market retirement housing due to the on-going service and maintenance arrangements which results in a weekly charge which Housing Associations are unable or unwilling to meet these charges. Therefore the commuted sum for this development would be £280,452.

### Highways

CP61 states that where appropriate, contributions will be sought towards sustainable transport improvements to encourage the use of sustainable transport alternatives. The Highway improvements that would be required as part of this development include 2 bus shelters at a cost of £5000 which would be used to upgrade the X72 service so that the residents of the proposed scheme would benefit from weather protection.

A contribution of £20,000 would also be required to enhance pedestrian and cycle routes in the vicinity of the site/between the site and the town centre/between the site and the nearby public car park. This would see an informal crossing point (a coloured surface with dropped kerbs) in the vicinity of Coburg Square so that the residents and their visitors can make use of a short cut and tightening the radius of corners on junctions Rope Walk, Warwick Crescent and Coronation Road in order to slow traffic and make it safer for vulnerable/elderly pedestrians.



A public right of way known as MELK34 runs adjacent to the western boundary of the development. The Public Right of Way Officer recommended that a connection from the development directly to the footpath may be beneficial to the residents. The Applicant is of the opinion that whilst this could be achieved within the site, it would compromise the landscaping scheme. It has therefore been agreed that this element is not achievable. The proposal would not adversely impact the public right of way and therefore the proposal is considered to comply with CP52.

#### Waste

Policy WCS6 requires developers “to design and provide facilities for occupiers of the development to recycle/compost waste and/or facilities within individual groups of properties or premises for the source separation and storage of different types of waste for recycling and/or composting”. Wiltshire Council retains control of procuring containers that are issued to occupiers of residential properties. The reasons for this are to ensure that the containers are compatible with lifting equipment and that branding – which is essential for ensuring that residents know what materials are designated for each container – meets the required standard. As a developer cannot directly provide the facilities for the separation and storage of waste, instead the requirement under WCS6 is met by securing a section 106 contribution. The contribution required as part of this development is £2,200

#### Community Infrastructure Levy (CIL)

Wiltshire Council became a CIL Charging Authority on 18<sup>th</sup> May 2015 and the proposed dwellings would be liable to pay the required contribution upon commencement of development. The site is located in Charging Zone 2 which requires £55 per square metre. The proposed development has a net increase of 2,842 square metres and as such the CIL rate that would be required is £156,310.00

#### Viability

As part of the application submission, the applicant has submitted a viability report which states that the site would not be viable if the Applicant had to pay CIL and the requested contributions.

The Assets team within Wiltshire Council have assessed the viability report and have concluded that the proposed development can provide some financial contribution and the Applicant has agreed to provide £130,000.

It is considered that this money should go towards the 2 bus shelters with the remainder going towards the off-site Affordable Housing contribution.

### **10. Conclusion**

The proposal complies with the relevant policies of the Local Plan and as such is recommended for Approval subject to a satisfactory S106 Legal Agreement being signed.

**RECOMMENDATION:** That the Area Development Manager be authorised to grant planning permission, subject to the conditions set out below, on prior completion

of a Section 106 legal agreement for bus stops and off site affordable housing contribution.

## **RECOMMENDATION**

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

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

- 2 No development shall commence on site until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and

the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

- 3 No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report

detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 4 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 occupied until the drainage details have been constructed in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner.

- 5 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority.

Should the submitted storm water drainage system, include a connection to the main sewer, and thus incorporating the use of a pumped system the application will need to include details of the pumping station and storage system, details of ownership, future maintenance liability and maintenance regime and standby power arrangements

The development shall not be occupied until the surface water drainage details

have been constructed in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner.

- 6 No development shall commence on site until a noise and dust management plan for both the demolition and construction phases has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner.

- 7 No development shall commence on site until details of the provision of bat roosting features into the new buildings, including integral boxes/bricks/tubes and access into parts of the roof space, and bat boxes in trees, including the Ash tree in the south-eastern corner of the site, and nesting opportunities for House martin, House sparrow, Starling and Swift and a plan showing the locations and types of all bat and bird features has been submitted to and approved in writing by the local planning authority. including a plan showing the locations and types of all bat and bird features. The approved details shall be implemented before the building hereby approved is first occupied.

REASON: To provide additional roosting for bats and nesting birds as a biodiversity enhancement, in accordance with paragraph 118 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area

9 No part of the development hereby approved shall be occupied until details of the obscure glazing used in the windows shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority, and; the obscure glazing has been installed in accordance with the approved details. The obscure glazing shall be maintained in accordance with the approved details in perpetuity.

REASON: In the interests of residential amenity and privacy.

10 Unit 2 shall not be occupied until the side windows serving the living room and bedroom 1 have been glazed with obscure glass to the level agreed in condition 9. The windows shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

11 The windows serving the refuse room shown on drawing annotated as proposed ground floor plan shall be fixed shut and shall remain as such in perpetuity.

REASON: In the interest of neighbouring amenity.

12 No part of the development hereby approved shall be occupied until details of external lighting within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: In the interest of amenity and neighbouring amenity.

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

REASON: In the interests of highway safety.

14 No dwelling shall be occupied, until details of the privacy screen walls detailed on the approved plans and for units 14, 17, 19, 22, 24, 25 & 30 have been submitted to and approved in writing by the Local Planning Authority, and; the privacy screen walls in respect of each dwelling have been erected in accordance approved details. The approved screen walls shall be retained and maintained as such at all times thereafter.

REASON: To prevent overlooking & loss of privacy to neighbouring property

15 All soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All

shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 16 Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

REASON: In the interest of neighbouring amenity

- 17 No burning of waste or other material shall take place on the site

REASON: In the interest of neighbouring amenity

- 18 The dwellings hereby approved shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 as a minimum has been achieved.

REASON: In the interest of Sustainable Construction

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

Site Plan, Proposed Roof Plan, Tree Protection Plan, Landscape Strategy Plan, Planning Drainage Strategy, Proposed Elevations 2 of 2, Proposed Ground Floor Plan, Proposed First Floor Plan, Proposed Second Floor Plan, received 26th May 2015

Proposed Elevations 1 of 2 received 26th June 2015

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

- 1 INFORMATIVE TO APPLICANT:

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

- 2 The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy)

- 3 **INFORMATIVE TO APPLICANT:**

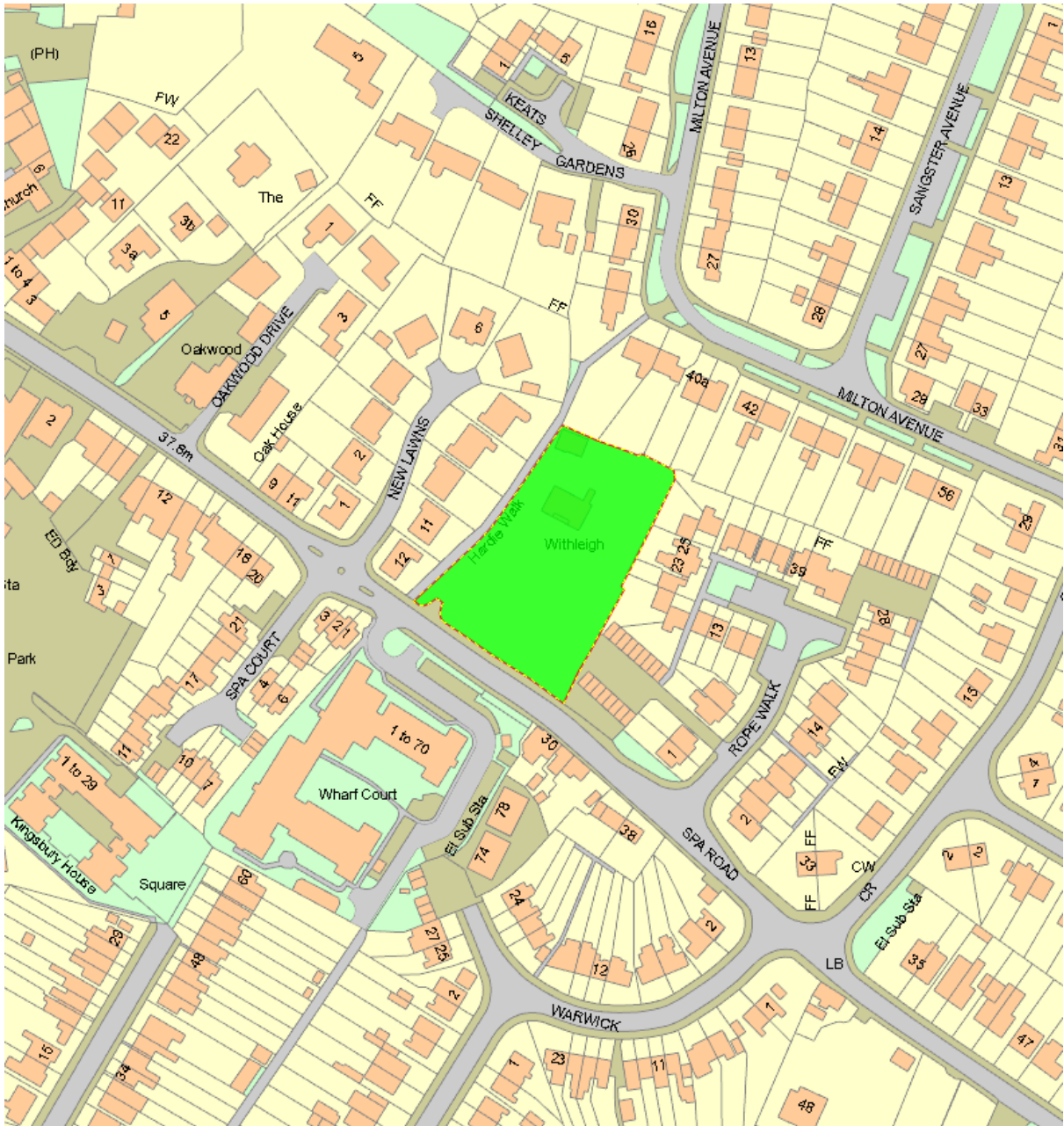
Please note that this consent does not override the statutory protection afforded to any protected species. All British bat species are protected under The Conservation of Habitats and Species Regulations 2010 (as amended), which implements the EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not. If bats are discovered, all works should stop immediately and a licensed bat worker should be contacted for advice on any special precautions before continuing (including the need for a derogation licence from Natural England). The applicant is also advised works should not take place that will harm nesting birds from March to August inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. If birds are nesting on/in or within the vicinity of the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between August and February. Further advice on the above can be sought from the Council Ecologists.

- 4 Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

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Item 2 - 15/05079/FUL - Withleigh House Spa Road Melksham



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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 3

<b>Date of Meeting</b>	14 <sup>th</sup> October 2015
<b>Application Number</b>	15/06732/FUL
<b>Site Address</b>	63 Shaw Hill, Shaw, Wiltshire SN12 8EX
<b>Proposal</b>	Alteration of existing dwelling to create 2 detached dwellings, plus the erection of 2 new detached dwellings and associated works.
<b>Applicant</b>	Mr & Mrs Hallett
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Electoral Division</b>	MELKSHAM WITHOUT NORTH
<b>Grid Ref</b>	388322 165585
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jemma Foster

### Reason for the application being considered by Committee

Councillor Terry Chivers has requested that the application be considered by the Planning Committee for the following reasons:

- Scale of Development
- Design – bulk, height, general appearance
- Environmental/highway impact

### 1. Purpose of Report

To consider the application and recommend approval.

### 2. Report Summary

The main issues to consider are:

- Principle
- Impact upon the character and appearance of the area
- Impact upon neighbouring amenity
- Access and highways
- Other

### 3. Site Description

The application site, as outlined in red straddles the village policy limits for Shaw. The area which proposes the new dwelling and the alterations to the existing dwelling is located within the village policy limits of Shaw. The access road and the alterations to the access with 61a, along with the encroachment into the field are located outside of the village policy limits.

The site is accessed via the A350 and is bordered by a recent development known as Belthane Place to the east, along with the existing dwellings which all gain access via the private lane. To the north and west of the application site is open countryside.

A public right of way shares the access along the private road and over a field gate/ style and follows along the side boundary of the existing dwelling, number 63 Shaw Hill.

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

13/05142/FUL	Refurbishment and alteration of existing dwelling plus the erection of a new dwelling and associated works and alterations to existing access/private lane (resubmission of W/13/0999/FUL) – Approved 20/02/14 (Western Area Planning Committee)
W/13/00999/FUL	Refurbishment and alteration of existing dwelling, plus the erection of a new dwelling and associated works. Withdrawn
90/01228/FUL	Extension to provide ground floor kitchen, day room, double garage and first floor bed/bath/study/corridor. Permission, 23.10.1990
89/01026/FUL	2 storey extension. Permission, 25.07.1989
85/00375/FUL	Erection of a pre-fabricated dwelling to be occupied by parents-in-law Approved 15.05.1985

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

The application is for alterations to the existing dwelling to provide 2 dwellings and to erect a further 2 dwellings in the existing curtilage and associated ancillary works.

A public right of way (MELW9) runs to the west of the site.

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

Wiltshire Core Strategy (WCS)

CP1 – Settlement Strategy, CP2 – Delivery Strategy, CP15 – Community Area Strategy Melksham, CP41 – Sustainable Construction and Low Carbon Energy, CP50 – Biodiversity and Geodiversity, CP51 – Landscape, CP52 – Green Infrastructure, CP57 – Ensuring High Quality Design and Place Shaping, CP58 – Ensuring the Conservation of the Historic Environment, CP60 – Sustainable Transport, CP61 – Transport and New Development, CP64 – Demand Management, CP67 – Flood Risk

Saved Policies for the West Wiltshire District Local Plan (1<sup>st</sup> Alteration)

U1a - Foul Water Disposal, U2 - Surface Water Disposal

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Circular 06/2005 – Biodiversity and Geological Conservation

Wiltshire Car Parking Strategy

#### **7. Consultations**

Melksham Without Parish Council: The Council does not object but has concerns over the entrance to the lane from the A365 and would like to see a report from Wiltshire Council Highways with regard to its safety and suitability as residents raised this as a concern.

Additionally the council wishes to see a condition imposed to ensure that the road surface of the lane is made good once construction is complete.

Wiltshire Council Rights of Way Officer: Melksham Without Footpath 79 is within the development site to the north, provision must be made for the full width of the path and remain unimpeded to the public

Wiltshire Council Highways: No objection subject to conditions regarding visibility splay, details of surface water discharge and the access being carried out in accordance with the submitted details

Wiltshire Fire & Rescue Service: Development should be carried out in accordance with Building Regulations

## **8. Publicity**

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 11<sup>th</sup> August 2015 and the Local Planning Authority received 6 letters raising the following concerns:

- The application is inaccurate – no measurements are shown, the public footpath isn't shown
- The proposed buildings are not in-keeping with the area nor are the materials they are to be built of. They are contemporary urban/industrial design which will not blend into the existing design of houses in this locality.
- The proposed dwellings will significantly overlook the front of my property (6 Beltane Place).
- The development will have high visibility as it sits on the brow of a hill.
- The proposed second entrance is near to a very blind entrance to a lane to Beltane House – the proposed fence is 900mm for 3 metres but what will stop the owner from increasing it in the future which will obscure sight lines.
- The previous application requested that the site frontage be lowered to 600mm for visibility which this application does not include and therefore a high hedge and wall will remain which will be dangerous to highway safety.
- The allocation of 3 parking spaces is ridiculous for 4 5 bedroom dwellings – nobody uses their garages for parking so they can't be taken into consideration.
- Construction traffic will use the access which is already overloaded.
- Given this is a private road consideration should also be given to the legal arrangements regarding upkeep as it should not be incumbent upon the existing residents to pay for the upkeep of the additional road. It should also be noted that the additional traffic will cause additional wear and tear on the existing road and again we feel that a legal arrangement should be entered into in this regard.
- The widening of the lane has not been completed
- Building 3 additional dwellings will increase traffic to the lane
- In the previous application the Council stated that legal matters were a civil issue. I have spoken to a Barrister specialising in personal injury claims who has confirmed that the Council who pass applications will be held liable for accidents, injuries or damages until all legal agreements are met.

## **9. Planning Considerations**

**9.1 Principle** - The site is located within the limits of development of the village known as Shaw where there is a presumption in favour of sustainable development and is in accordance with CP1, CP2 and CP15 of the Wiltshire Core Strategy. It is also important to

highlight that the principle for residential dwellings on this site has already been approved through the previous application. Although the WCS has been adopted since the previous application, the limits of development have been carried through.

**9.2 Design and Impact upon the character and appearance of the area** - The existing property (number 63) is a dormer bungalow constructed in reconstituted stone with a concrete tile roof. The neighbouring properties are constructed in a variety of materials including ashlar stone, re-constituted stone and render. Belthane Place to the south is a recently constructed development that is finished in re-constituted stone and render with red clay pantile roofs.

The ridge height of neighbouring development at Belthane Place is 8.77m and 61a Shaw Lane is approximately 7.7m. The height of the previously approved dwelling measured approximately 7.6 metres to the ridge. Dwelling number 2 of this current application has the highest ridge of the 4 dwellings which measures approximately 7 metres and is therefore lower than previously approved and lower than the adjacent dwellings.

The design of the proposed dwellings is of similar appearance to the dwellings approved under the previous planning application – timber cladding, grey brick, off-white render and slate. Whilst it is acknowledged that the proposed cedar cladding and grey brickwork are not wholly in keeping with the neighbouring properties it is considered that the cedar cladding would provide a transition material from the open countryside to the north and west to the built development of Shaw. It is important to highlight that these materials have already been considered to be acceptable through the previously approved application. No street lighting is proposed which is considered to be appropriate due to its rural location.

A hard and soft landscaping scheme has been submitted detailing approximately 9 trees to be removed, existing planting which is to remain and additional planting all of which are considered to be appropriate. The site is not located in a conservation area and there are no tree preservation orders on the site and therefore any of the trees on the site could be removed at any time without the need for planning permission. A tree protection plan has been submitted to help reduce the impact of construction on the existing trees which are to be retained and can be conditioned on any approval.

The site would be visible from various view-points including the A365 and the public right of way that runs along the west of the site. It is considered that although the design is different to the surrounding area, the roof heights have been kept to a minimum and the existing and proposed planting will help reduce the impact on the wider landscape. It is important to note that the previously approved dwelling was of similar design and much larger than the proposed individual units.

It is considered that the proposal would comply with the relevant criteria of CP51 and 57.

In order to ensure the proposed dwellings comply with CP41, a condition will be attached to any approval ensuring that the proposed dwellings are compliant with at least Level 4 (in full) of the Code for Sustainable Homes.

**9.3 Impact upon neighbouring amenity** - The property located at the end of Belthane Close which is the closest to the site has no windows on the side elevation, has a high wall on the boundary to the existing lane. Dwelling number one lies north east and measures approximately 6.4 metres at its closest point to the boundary of this property. It is therefore

considered that the proposed dwellings (particularly dwelling number 1) would not overlook or overshadow this property.

The properties immediately to the south east of the proposed site has a high hedge and fence on the boundary and it is therefore considered that the proposal would not have an adverse impact upon the amenity (overlooking, overshadowing) of these adjacent dwellings.

Between the site subject of this development and the property to the north east known as Beltane House are mature trees and a mature hedgerow (conifer and leylandii) which are to remain as part of the development. Glimpses of the neighbouring property can be seen through this natural boundary but due to their height, location together with the fact that there is only a bathroom window on the side elevation at first floor level (which can be conditioned to be obscure glazed) and a rooflight on proposed dwelling number 4, it is considered that there would be no overlooking or overshadowing to Beltane House that would warrant a reason for refusal.

Within the site, the side elevations of the proposed dwellings see bathroom windows at first floor level and doors at ground floor level and therefore it is considered that there would be no overlooking between the properties hereby approved that would warrant a reason for refusal. Suitable provision has also been made within the site for waste/recycling facilities.

It is therefore considered that the proposal would not have an adverse impact upon neighbouring amenity and as such complies with the relevant criteria of CP57.

**9.4 Highway Impact** - This site and other sites within the vicinity have been subject to similar planning applications that have been refused on the grounds of highway safety. Planning application 11/02511/FUL was for a proposed dwelling on land at Belthane House which is to the north-east of 63 Shaw Hill and utilised the same access road. This application was refused for the following reason:-

*'The access road by reason of its restricted width, poor alignment and sub-standard junction with the A365 is considered unsuitable to serve as a means of access to the proposed development.'*

The application was dismissed at Appeal.

Below is Para: 7 from the Inspectors decision, which highlights vehicular conflict from the 3 accesses at the junction with the A365 (one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place): *'With regards to the visibility at the junction of the access road with the A365, I observed that to the northwest, there is a hedgerow that is in private ownership, but it did not appear to obstruct visibility to any great extent. To the south east, the dwellings fronting Shaw Hill are set back from the road enabling reasonable visibility. That said, the junction with the A365 serves three separate accesses: one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place. I have no doubt that the confluence of these accesses can already give rise to vehicular conflict, especially during the peak morning and evening periods when residents would be making their way to and from their dwellings, and traffic flows along the A365 are likely to be at their greatest. Consequently, I agree with the Council that any increase in the use of the*

*junction resulting from a new dwelling should be discouraged.*

A previous application, in 2013 (13/05142/FUL), conditioned improvements to safety at the junction of the access lane and Belthane Place and Shaw Hill by moving the access from 61A Shaw Hill away from the junction and also widening of the access lane to 5.8m. When the Highway Officer visited the site for this current application, the former was complete however the latter was only partially complete. It was considered in the previous application that these improvements reduced the conflicts at the main entrance and therefore overcame the Inspectors concerns. It is important to note that the works were only required to be completed prior to the occupation of the dwelling approved under 13/05142/FUL which has not commenced and therefore the works have not been completed.

The existing dwelling (dwelling number 1) which is to be altered makes use of the existing access to the front of the property, with a new turning area. The proposed dwellings will be accessed to the east of the existing dwelling, with improvements to the existing access. There will be no increase in the number of access when compared to the previously approved application and the highways officer has raised no objections with regards to the increase in use of the access proposed to serve the 3 proposed new dwellings.

The proposed onsite parking complies with the Wiltshire Car Parking Strategy as 3 parking spaces have been provided for each dwelling (3x 5-bed and 1x 4-bed). Proposed dwelling 1 will also have access to a car port, dwelling 2 will have a single integral garage and dwelling 3 has an integral double garage and therefore an overprovision is provided for 3 of the 4 proposed dwellings. The proposals also include turning spaces to allow vehicles to enter and leave the access in a forward gear.

The public right of way runs along the west side of the site. As a result of the proposed widening of the road the existing public right of way would require a slight diversion. The existing public right of way is taken via the access road and into the field through the kissing gate. The proposals would require the relocation of the gate further into the field. The amendment of the public right of way is undertaken through a separate application process directly with the Public Rights of Way Team. In relation to this application it is considered that the proposed development would not result in an adverse impact on the Public Right of Way.

There is an existing bus stop opposite the site entrance and another further along the A365 which would enable future residents to access bus routes 271 and 272 (Bath, Melksham, Devizes and Easterton). There is also another bus stop at Shaw Church which is within walking distance of the site which serves bus route 232 (Corsham, Melksham, Bowerhill). There is also a zig zag local town and village service. The future occupants would therefore have access to public services.

Conditions will be required regarding visibility splay, details of surface water discharge and the access being carried out in accordance with the submitted details all of which are considered to be appropriate and therefore it is considered that the proposal would not have an adverse impact upon highway safety and complies with CP52, 60, 61 and 64.

Concerns have been raised from neighbours regarding heights of fences to ensure the visibility splay is protected which will be conditioned so it will not be able to be changed in the future. Construction traffic has also been raised as a concern as they will use the existing access, however this will only be for a short period of time (not be permanent) and therefore



this is not considered to be a reason to refuse the application. A pinch point on the private lane outside of the existing house has been raised as a concern, however the corner is to be widened to 5.8 metres and vehicles using this corner will have stopping sight distance of 20 metres (based on vehicle speeds of approximately 18mph) and therefore will have adequate time/space to stop to allow vehicles through this pinch point.

**9.5 Other Matters** - Concerns have been highlighted from neighbours regarding the legal issues and the Councils responsibility. The road is a private road and therefore is not the responsibility of the Council – this is a civil matter. Although the Council may give planning permission, this does not override the need to gain further permission from land owners or requirements held in covenants which again are civil matters.

A High Court Decision has been cited by one of the objectors which references a local authority giving permission for the construction of a footpath which they knew would be unsuitable because of lack of sight lines. The Local Authority allowed the public footpath to be opened and somebody was hit by a motor car while emerging from the footpath which was owned by the Local Authority. The decision saw the Local Authority at fault. This decision is not comparable to this site as the access road subject of this application is privately owned and there are no issues with regards to visibility.

Other concerns include no measurements on the submitted plans, however there is a scale bar on the plans so that they can be measured accurately.

Wiltshire Council adopted CIL (Community Infrastructure Levy) on 18<sup>th</sup> May 2015 and therefore the proposed dwellings subject of this application will be liable to pay CIL. The site lies within charging zone 2, category 4 and therefore attracts a CIL rate of £55 m2. Therefore an informative should be added to any approval informing the applicant.

**10. Conclusion** - The proposal complies with the relevant policies of the WCS and as such is recommended for Approval.

**RECOMMENDATION – Approval 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 All soft landscaping shown on Drawing Numbers A26 and TS1/A28 received by the Local Planning Authority on 8th July 2015 shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard

landscaping shall also be carried out in accordance with Drawing Numbers A26 and TS1/A28 received by the Local Planning Authority on 8th July 2015 prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 3 No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until the tree protection barrier shown on drawing TS1/A28 received by the Local Planning Authority on 8th July 2015 has been erected. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained trees shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

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

REASON: In the interests of highway safety.

- 5 No development shall commence on site until the widening of the access road to 5.8 metres has been completed as shown on drawing number A20 received by the Local Planning Authority on 8th July 2015.

REASON: In the interest of highway safety

- 6 No development shall commence on site until a scheme for the discharge of

surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure sufficient water drainage is provided on site.

- 7 The dwellings hereby permitted shall not be occupied until the alterations to the access serving them are completed in accordance with the Road Layout Plan (Drawing Number A20) received by the Local Planning Authority on 8th July 2015, including a visibility splay to the west of the eastern access to the rear of the access lane based on co-ordinates of 3m x 3m. The splays shall be kept free of obstruction above a height of 900mm at all times.

REASON: In the interest of highway safety

- 8 The dwellings hereby approved shall achieve Level 4 (in full) of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

REASON: In the interest of sustainable construction and low carbon energy.

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

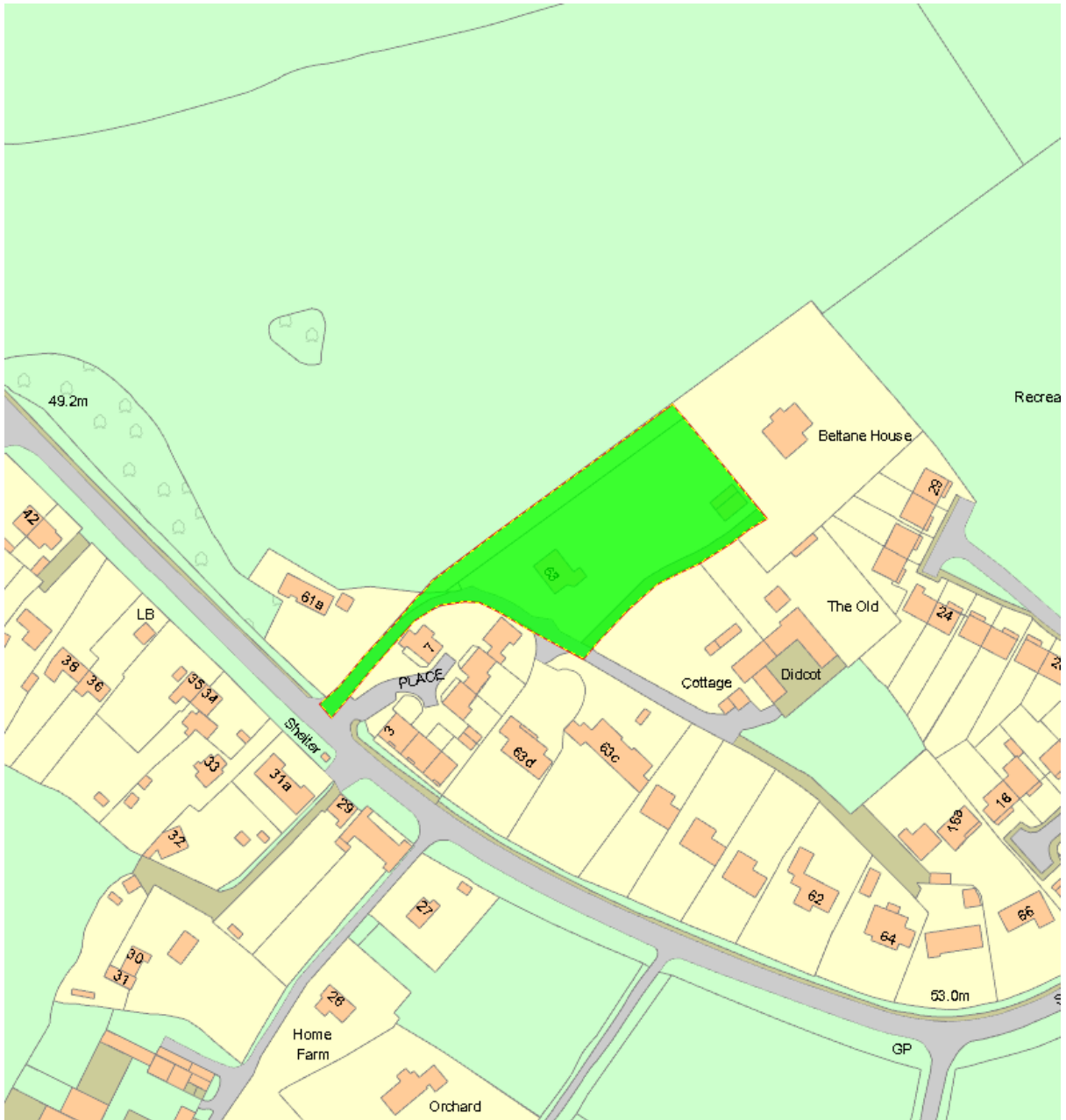
Site Location Plan, Drawing Numbers: A01, A02, A04, A20, A22, A23, A24, A26, TS1/A28, A29 received on 8th July 2015 and Drawing Number A21 received on 27th August 2015

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

- 10 The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy)

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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 4

<b>Date of Meeting</b>	14 October 2015
<b>Application Number</b>	15/05061/FUL
<b>Site Address</b>	209 Conkwell, Winsley, Bradford on Avon Wiltshire BA15 2JF
<b>Proposal</b>	Single storey extension to front of property
<b>Applicant</b>	Mrs Rebecca Wheeler
<b>Town/Parish Council</b>	WINSLEY
<b>Electoral Division</b>	WINSLEY AND WESTWOOD
<b>Grid Ref</b>	379169 162599
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Kate Sullivan

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

Councillor Magnus Macdonald requested that the application be considered by the Local Planning Authority, if the application is recommended for approval, for the following reasons:

- Relationship with adjoining properties;
- Bulk, height and general appearance.

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

To assess the merits of the proposal and to recommend approval of the application

### **2. Report Summary**

The main issues to consider are:

- Principle of development
- Design issues
- Impact upon the character and appearance of the area
- Impact on the Green Belt
- Impact on the Area of Outstanding Natural Beauty (AONB)
- Impact on the area of high ecological value
- Impact upon the neighbouring amenity
- Highway impact
- Other

### **3. Site Description**

The application site is located within the hamlet of known as Conwell which is located between the Market Town of Bradford on Avon and the City of Bath. Conkwell is located within the Green Belt, the Cotswold Area of Outstanding Natural Beauty and is additionally recognised as an area of high ecological value.

The application site is accessed via a 'no through' road from Blackberry Lane that serves approximately 8 properties. The road slopes steeply away from Blackberry Lane and the

property attached above the host dwelling comprises of numbers 210, 211 and 212 which have been a single property for some time and who have recently constructed a new single storey contemporary extension which links the dwellings that sits perpendicular to the road with the adjacent properties.

The host dwelling, is north facing and sits elevated above the road and is attached at the rear to an extension to Myrtle Cottage, 208 Conkwell with the host dwellings garden sitting behind this recent extension. The host dwelling was extended following permission in 2012 by raising the roof and converting the loft.

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

W/12/01825/FUL	Loft conversion with dormer windows – Approve with conditions 12.02.2013
W/06/00493/PDENQ	Dropped kerb - Approved

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

The application seeks to extend the property with a single storey front extension. This would enlarge the lounge and create a downstairs WC and new entrance porch.

The extension would be constructed of natural stone under a concrete tile roof. The roof would be asymmetric in design and would sit below the existing first floor windows. The front elevation would be constructed of green oak and would be glazed from waist height to the eaves. The lounge element of the extension would extend up to the building line of 211 Conkwell, the entrance extension would then be stepped back.

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

Wiltshire Core Strategy, 2015

CP1 - Settlement Strategy, CP2 - Delivery Strategy, CP7 - Bradford on Avon Community Area, CP50 - Biodiversity and Geodiversity, CP51 –Landscape, CP57 - Ensuring High Quality Design and Place Shaping, CP61 - Transport and Development

National Planning Policy Framework, 2012

Planning Practice Guidance, 2014

#### **7. Summary of consultation responses**

Winsley and Westwood Parish Council: No comments have been received at the time of writing.

No other consultation responses have been received.

#### **8. Publicity**

The application was advertised by site notice and neighbouring letters. 3 letters of support were received raising the following comments:

- The use of more natural and traditional materials is supported
- The scale is in proportion to the original cottage



- The proposal is in keeping with the hamlet.

4 letters of objection have been received raising the following comments:

- The extension would bring the dwelling closer to the road which would harm the views down the valley;
- Loss of light to the attached dwelling - the extension would reduce the light into the living room;
- Loss of privacy to the attached dwelling - the entrance would be relocated and rather than sitting behind the existing small extension those using the entrance would have a clear view into the living room;
- Impact on the special character of the area by extending the dwelling forward;
- The property has already been extended by raising the roof and creating an additional floor;
- Loss of view
- Incompatible design and construction
- Roofline would create a chalet appearance which does not have a local precedent
- Glazing is not aesthetically sympathetic
- Concrete roof tiles are not in keeping, clay tiles, lead or zinc should be used.

## **9. Planning Considerations**

### 9.1 Principle of development

The application site is located outside the limits of development where new development would not be permitted. However, as the proposal is for a small extension to an existing dwelling the proposal would be considered to comply with the relevant criteria of CP1, CP2 and CP7 of the Wiltshire Core Strategy.

### 9.2 Design issues

The proposed extension would be constructed of traditional materials which would be appropriate for a dwelling in this location. Although the most recent alterations to dwellings in the immediate area have been of a contemporary nature, the use of traditional materials would not be resisted.

The proposed front extension would be subservient to the main the dwelling and the roof pitch has been design to ensure that it does not compromise the first floor widows. Whilst the roof has been design to be asymmetrical, it does not appear to be out of scale with the host dwelling.

Comments have been received expressing concern for the amount of glazing within the new extension, however, given that the extension is at ground floor, albeit on an elevated site, the level of proposed glazing would not be considered incongruous to a dwelling in this location.

The mass of the proposed extension has been reduced as the front extension has been set back to keep the existing gap between the properties. This helps maintain the organic nature of the dwellings in the immediate area and ensures that the proposal does not dominate the property.

Overall the design of the proposed front extension is considered acceptable in terms of scale, mass and detail and the proposal is considered to comply with the relevant criteria of CP57 of the Wiltshire Core Strategy.

### 9.3 Impact on the Character and appearance on the immediate area

The houses within this area of Conkwell are characterised by their rather haphazard nature. The properties sit on top of each other, and have evolved over time. The current proposal to alter and extend the host property therefore represents another evolution to the property and in itself would not be considered incongruous.

The proposed extension would result in the host dwelling being brought forward, in line with the gable end of the attached property. Whilst objections have been raised regarding the extension being brought forward, it is considered that there is not a defined building line. Additionally, the proposed extension does not sit closer to the road than the attached property. It is therefore considered that the proposal would not have an adverse impact upon the character and appearance of the area.

### 9.4 Impact on the Green Belt

The Green Belt is protected through legislation contained within the NPPF. Paragraph 189 states that *“a local planning authority should regard the construction of new buildings as inappropriate in Green Belt.”* There are a number of exceptions which include: *“the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.”* It is noted that the host dwelling has been previously extended with the roof having been raised to allow for the loft space to be converted. The additional volume created by the proposed extension is considered to be proportionate to the host dwelling and therefore would comply with the first Green Belt test.

The second test for properties within the Green Belt relates to the effect of the proposal on the openness of the Green Belt. The proposed extension would be a modest, single storey extension that would be viewed against the current built form on the site and effectively infills the space between two adjoining properties. It is not therefore considered that the proposal would harm the openness of the Green Belt. The proposal is therefore considered to comply with the tests set out in the NPPF.

### 9.5 Impact on the Area of Outstanding Natural Beauty

The application site is located within the Cotswold Area of Outstanding Natural Beauty. The proposed extension would be a small subservient extension to the front elevation of the dwelling and would be visible from the AONB due to the elevated nature of the property, however, the extension would be viewed against the existing backdrop of the host dwelling and the dwellings on either side. Therefore the proposed extension by reason of its size, siting, design and materials is considered not to harm the special qualities of the AONB and complies with the relevant criteria CP51.

### 9.6 Impact on the High Ecological Value

The area which is proposed to be developed sits directly in front of the dwelling which is currently laid to garden/ patio/ access steps. It is therefore considered that the proposals would not have any impact on the area of high ecological value given that the proposal is for

development on already developed land which is located between the existing dwelling and the road. The proposal is therefore considered to comply with the relevant criteria of CP50 of the Wiltshire Core Strategy.

#### 9.7 Impact on the amenity

The proposed extension would bring the living room closer to the road than currently exists which would impact upon the neighbouring dwelling (211 Conkwell). It is noted that a small window which is understood to serve a living room of number 211 Conkwell is located in this side elevation and there is another window serving this room on the north-east elevation. The proposed extension has been designed so that the deepest element of the extension is located furthest away from this window and the use of the proposed extension that would sit immediately adjacent to the existing neighbouring window would serve an entrance to the hallway.

The owner of the neighbouring dwelling has submitted plans showing the increased overshadowing of this window as a result of the proposals. These plans show that the window serving the living room currently only receives direct sun light from 5:30pm onwards (with a date of 1<sup>st</sup> June). The plans go on to show that the proposed extension would cause partial overshadowing to this window from 6:30pm and would be in total shadow by 8:30pm. It is acknowledged that the neighbouring property would have reduced evening light as a result of the proposal, but due to the nature of the existing property which has another window serving the living room concerned, another reception room and the fact that the neighbouring property is located on higher ground, it is considered that the level of overshadowing caused by the proposed development would not be sufficient to warrant a refusal reason.

The neighbour has also objected to the main door to the dwelling being located closer to this window with visitors having a clear view into their dwelling. The current arrangement on site results in the French doors being used as the principle entrance (which would be in approximately the same location as the proposed doors). It is also noted that the area in front of the window could be used as a patio area for sitting out. It is therefore considered that the proposals would not create a greater level of overlooking to the neighbouring property than already exists on the site.

On balance, although there would be some loss of late evening light to the neighbouring dwelling given the context of the site, and the nature of the dwellings in the immediate area, it is considered that the proposal would not lead to an unreasonable impact on the neighbouring amenity and the proposal would comply with the relevant criteria of CP57.

It is acknowledged that the neighbouring property would not benefit from the view down the valley from this window as a result of the proposed extension, but views are not a material planning consideration.

#### 9.8 Impact on parking and highways

The proposal would develop an area of land that is enclosed as garden and elevated above the road. This area is not currently used for parking of a vehicle and the proposals would not therefore impact upon the parking provision on the site. The proposals are therefore considered to comply with the relevant criteria of CP61 of the Wiltshire Core Strategy.

## **10. Conclusion**

In conclusion, whilst it is acknowledged that there would be some impact on the neighbouring dwelling; the proposal is a small, subservient extension that would be constructed of appropriate materials and is not considered to harm the Green Belt, AONB or area of high ecological value and would on balance be an acceptable extension given the context of the site.

## **RECOMMENDATION**

- 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 approved shall be carried out in accordance with the materials submitted in section 10 of the application form received 22.05.2015.

REASON: In the interest of preserving the character and appearance of the area.

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

Drg. No 101 Rev A received 29.05.2015 and Drg. No 201 Rev C received 29.05.2015

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

Item 4 - 15/05061/FUL - 209 Conkwell Winsley



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## Wiltshire Council

### Western Area Planning Committee

14th October 2015

### Appeal Performance 2015

#### 1. Purpose of Report

To review the outcomes of decisions made by the Planning Inspectorate on appeals in the area covered by the Western Area Planning Committee since the last report in December 2014.

#### 2. Appeal Decisions

Since December, the Council has received decisions on 26 appeals in the area covered by the Western Area Planning Committee (this number includes two decisions on applications dealt with by the Strategic Planning Committee on sites in the area covered by the Western Area Planning Committee). Sixteen of these were on decisions taken under delegated powers. Ten were made by councillors at committee, including the two determined by the Strategic Committee. Overall, sixteen appeals were dismissed and ten allowed.

**Table A – Appeal Decisions on applications determined under delegated powers**

Reference	Location	Description	Decision
13/06053/VAR	112, Beanacre, Melksham	Change to garden wall/fences	Dismissed
14/02453/VAR	The Chase, Hiperton	Annex changed to dwelling	Allowed
14/00953/FUL	5, Park Lane, Heywood	New dwelling	Dismissed
13/04731/FUL	35, Barnwell Rd Melksham	First floor extension	Allowed
14/08173/PNCOU	Barn, Little Common Lane, North Bradley	Conversion to dwelling	Dismissed
14/06888/FUL	27, Murray Walk, Melksham	Brick-built store	Dismissed
14/07681/FUL	Chalford house Hotel, Westbury	Photography platform	Allowed
14/05782/FUL	5, Imber Court, Warminster	Alterations	Allowed
15/00351/FUL	1, College Road, Trowbridge	Two storey extension	Dismissed
14/00131/LBC	6, Castle Street, Trowbridge	Redecoration and new signage	Dismissed
14/03475/ADV	6, Castle Street, Trowbridge	New signage	Dismissed
14/07159/FUL	4, Marshmead, Hilperton	Two dwellings	Dismissed
13/03862/FUL	156, Winsley	One dwelling	Dismissed
14/10916/VAR	22, Horse Rd, Hilperton	Separate occupation of annex	Allowed
14/09737/FUL	Barn at Hoopers Pool, Southwick	Conversion to dwelling	Dismissed
14/09946/VAR	Little Ashley, Bradford on Avon	Removal of occupancy condition	Dismissed

**Table B – Appeal Decisions on applications determined by Western Area Committee**

Reference	Location	Description	Decision
14/02339/FUL	Beechwood, Bratton Rd, West Ashton	New dwelling	Allowed
14/08400/FUL	Beechwood, Bratton Rd, West Ashton	New dwelling	Allowed
14/03770/FUL	Sienna Valley Farm, Chapmanslade	Barn extension	Dismissed
14/05253/FUL	Ganbrook Farm, Little Chalfield	Solar Farm (25ha)	Dismissed
14/03465/FUL	93, Victoria Rd Trowbridge	House extensions	Dismissed
14/05120/FUL	3, Goose Street, Southwick	3 houses	Dismissed
14/10385/VAR	Redstocks, Melksham	Variation of conditions	Dismissed
15/01668/FUL	221, Melksham Road, Holt	Single storey extension	Allowed

**Table C - Appeal Decisions on applications determined by Strategic Committee**

Reference	Location	Description	Decision
13/06140/FUL	Snarlton Farm, Melksham	Solar Farm (80ha)	Allowed
14/07284/FUL	The Poplars, Southwick	Gypsy & traveller site expansion	Allowed

### 3. Comments

The Council's overall success rate in defending its original decisions in the area covered by the Western Area Planning Committee was 61.5%, which is lower than the national average for 2014/15 (65.5%). The success rate on delegated decisions was higher than the national average at 69%.

During the period, the Council challenged the Secretary of State via a judicial review on two appeal decisions – the appeal at the Chase, Hilperton (14/02453/VAR) and an earlier decision at Devizes Road, Hilperton (13/06879/OUT) for 15 dwellings. Unfortunately, whilst the Judge found that the decision at Devizes Road, Hilperton, was unlawful, due to the actions of the planning inspectorate, she declined to quash the decision, considering that this would be unfair to the appellants.

There is no real common theme emerging through these decisions. However, it is clear that the adoption of the Wiltshire Core Strategy has had an impact. Fewer appeals against larger housing schemes in the western area have been received this year, with one of the largest (an appeal against the refusal of permission for 98 houses at Holt) being withdrawn by the appellants before reaching a public inquiry.

There were no cost awards against the Council for unreasonable behaviour on any of the appeals, nor were any costs awarded to the Council. An application by the Council for the costs it incurred up to the date of the withdrawal of the Holt application is currently being considered by the Planning Inspectorate.

In the absence of larger housing schemes, the two largest schemes determined at appeal were for solar farms. The smaller of these (Ganbrook Farm 25ha) was dismissed. The largest (Snarlton Farm, nr Melksham 80 ha) was allowed. In the former, the Inspector considered that the landscape impact and degree of harm to heritage assets in the nearby South Wraxall Conservation Area justified dismissal of the appeal. In the latter, the Inspector



found that the limited landscape impact was outweighed by the benefits of the scheme, in terms of the amount of renewable energy being generated and the economic benefits of the investment in the local economy.

#### **4. Future Trends**

An appeal has been lodged against the decision made by the Strategic Committee (in line with the officer's recommendation), to refuse a proposal for 300 houses at Bitham Park, Westbury. However, delays by the Inspectorate mean that the appeal is unlikely to be heard before late Spring/Summer. The Council currently considers that it has a five year land supply, and it is likely that the number of appeals against residential schemes and their success or failure in the future will be heavily influenced by any differing conclusions on this matter by Inspectors at appeal.

**Report Author – Mike Wilmott, Area Development Manager.**

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