

Date of Meeting	14 th October 2015
Application Number	15/06732/FUL
Site Address	63 Shaw Hill, Shaw, Wiltshire SN12 8EX
Proposal	Alteration of existing dwelling to create 2 detached dwellings, plus the erection of 2 new detached dwellings and associated works.
Applicant	Mr & Mrs Hallett
Town/Parish Council	MELKSHAM WITHOUT
Electoral Division	MELKSHAM WITHOUT NORTH
Grid Ref	388322 165585
Type of application	Full Planning
Case Officer	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 Withdrawn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 (1st 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 11th 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 Council's 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 18th 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