

<b>Date of Meeting</b>	15 <sup>th</sup> September 2016
<b>Application Number</b>	16/03703/FUL
<b>Site Address</b>	Land at Woodland Road, Patney, Devizes, Wiltshire
<b>Proposal</b>	Erection of a detached specialist dwelling for disabled person
<b>Applicant</b>	Mrs Rebecca Thursby
<b>Town/Parish Council</b>	PATNEY
<b>Electoral Division</b>	PEWSEY VALE – Cllr P Oatway
<b>Grid Ref</b>	407209 158569
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jonathan James

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

The application has been called to committee at the request of the division member, Cllr. Oatway. The key issues for justifying the call in are the scale of development, the visual impact on the surrounding area, the relationship to adjoining properties and the design – bulk, height, general appearance of the proposed development.

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

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

#### **2. Report Summary**

The main issues to be considered are the principle of development due to the fact that the site lies within countryside outside of any recognised Limits of Development; the visual impact on the character of the landscape; and the detrimental impact on the setting of the listed building (21 Woodland Road). The needs of the child in this case are also a primary consideration. It is considered that the proposed development does not overcome the previous reasons for refusal under application 15/09830/FUL and should therefore be refused for similar reasons.

### 3. Site Description

The site forms part of a field, bounded to the north by a lane that forms a public right of way and to the west by Woodland Road, which is a typical village road consisting of the carriageway and no pavements. Beyond the site to the south and west the fields continue. The site is on higher land than the carriageway. On the opposite side of the road are dwellings, including to the south-west, a Grade II listed building at 21 Woodland Road, thatched and partly half timbered.

The site forms part of a group of fields that extend northwards from the small village green. The ground rises away from the village green, and as a result, the site is on higher ground.

### 4. Planning History

15/09830/FUL          Erection of a detached specialist dwelling for disabled person.

With specific regard to the development proposed under the current submission the previous application 15/09830/FUL was refused on the 30<sup>th</sup> December 2015 for the following reasons:

*1) The proposed development by virtue of its siting on rising land on an undeveloped open field that forms part of the identity and distinctive character of the settlement of Patney would have an adverse impact on the character and appearance of the settlement that would conflict with Core Policies 51 and 57 of the Wiltshire Core Strategy and with paragraph 115 of the NPPF that gives great weight to conserving the landscape of areas of outstanding natural beauty.*

*2) The proposed development would harm the setting of the designated heritage asset at 21, Woodland Road, by reason of the close proximity of the development to this asset, the impact on the setting when viewed from the nearby public right of way to the north of the site, and the change in historical character through the partial loss of the current agricultural setting. This would amount to less than substantial harm, as defined in the NPPF, and would conflict with Core Policy 58 of the Wiltshire Core Strategy, which seeks to conserve and enhance the setting of listed buildings.*

*3) The proposal conflicts with the settlement strategy of the Wiltshire Core Strategy, as set out in Core Policies 1, 2 and 18 as the settlement at Patney is not identified as a location for sustainable growth and lies outside of the existing limits of development for settlements in the county and outside the built up limits of the identified small villages in the Pewsey Community Area. The development does not accord with any of the exceptions policies*

*listed at paragraph 4.25 of the Wiltshire Core Strategy 2015 and the site has not been brought forward for development through a neighbourhood plan.*

*4) Although the personal circumstances set out by the applicant are considered to amount to a relevant material consideration, it is not considered that they outweigh the cumulative harm identified in reasons 1-3 above.*

The period for appealing against this refusal expired on 30<sup>th</sup> June 2016 with no appeal having been made.

## **5. The Proposal**

The application is for the erection of a single detached family house on part of the field, served by a new access from Woodland Road. The house is described as ‘a barn conversion style dwelling’ and would be constructed of timber weatherboarding above a brick plinth with a clay tiled roof. The house has two floors, with the first floor within the roof and lit by dormer windows, gable windows and rooflights. The house addresses the road, but is set back from it by between 16-19 metres, with a parking area to the front. The main part of the garden would be to the south. The house has a ridge height of ca 7.6 metres and is sited on land ca 2.2 metres above the road. It has a length of just over 14 metres and a width at maximum of close to 13 metres.

The proposal is put forward as meeting the specific needs of the disabled child of the applicant, explained in detail in documents submitted by the applicant and available on the web site.

## **6. Local Planning Policy**

### Wiltshire Core Strategy 2015 (WCS):

- Core Policy 1 – Settlement Strategy. This identifies settlements where sustainable development will take place, with a settlement hierarchy running from Principal Settlements through market towns and local service centres to large and small villages. Patney is not listed as a large or small village in the Pewsey Community Area.
- Core Policy 2 – Delivery Strategy – in order to deliver the sustainable development envisaged in CP1, CP2 sets out the delivery strategy. Again, this states that houses will be delivered in sustainable locations, with a presumption in favour of such development within the limits of development defined on the

policies map. Outside the limits of development, development is only permitted in the circumstances outlined in paragraph 4.25 of the CS. As Patney is not identified in the settlement hierarchy (CP18 – Pewsey Community Area), it is outside of the limits of development of the sustainable locations.

- Paragraph 4.25 of the CS identifies the ‘exception policies’ which seek to respond to local circumstances and national policy to represent additional sources of supply of new employment and housing sites outside of the settlements identified in the hierarchy. Of these policies, CP34 (employment land); CP37 (military establishments); CP39 & 40 (tourism development) and CP47 (gypsies and travellers) are not relevant to this proposal. The remaining exception policies – CP44; CP46 and CP48 are addressed below.
- Core Policy 44 – affordable housing – this policy allows for the granting of planning permission for small sites comprising affordable housing only. It sets out the criteria against which any emerging proposals will be assessed, and advocates a proactive approach in conjunction with the parish council and working with local communities and other parties. The criteria include clear support for the proposal from the local community; meeting an identified and genuine local need ; within, adjoining or well related to the existing settlement; not compromising environmental and landscape considerations and respecting the character and setting of the settlement; and any such housing to be always available for defined local needs into the future.
- Core Policy 46 deals with meeting the needs of vulnerable and older people. The supporting text in paragraphs 6.53; 6.54 and 6.55 refers to addressing the issue of an aging population; although the policy text itself refers to the provision in suitable locations of new housing to meet the specific needs of vulnerable **and** older people, so it has a wider applicability than simply being restricted to older people. However, the policy does state that such accommodation should be provided in sustainable locations, within settlements identified in CP1, (normally in the principal settlements and market towns), but in exceptional circumstances outside but adjacent to the principal settlements and market towns. The criteria for development in such locations is similar to that for CP44 in terms of evidencing need, not compromising landscape and environmental considerations and respecting the character and setting of the settlement.
- Core Policy 48 deals with supporting rural life and covers a range of employment and social facilities. In relation to new housing, it states that outside of the defined limits of development, and outside of the existing built up areas of small

villages (the bottom rung on the CP1 settlement hierarchy), residential development will be supported where it meets the accommodation needs for workers employed in the immediate vicinity in the interests of agriculture, forestry or other employment essential to the countryside.

- Core Policy 51 – Landscape – the supporting text for this in paragraph 6.85 identifies the need to protect the distinct character and identity of the villages and settlements in Wiltshire. Development should protect, conserve and where possible enhance landscape character, and any negative impacts must be mitigated. A list of criteria is set out, and great weight is afforded to conserving and enhancing the landscape and scenic beauty of the AONB.
- Core Policy 57 – requires new development to make a positive contribution to the character of Wiltshire
- Core Policy 58 – Ensuring the conservation of the historic environment – requires development to protect, conserve and where possible, enhance the historic environment, and states that designated heritage assets and their settings will be conserved.

#### National Planning Policy Framework 2012

- Relevant sections include the need to give great weight to conserving the landscape and scenic beauty of AONB's and the need to assess the impact of development on heritage assets. There is also a requirement to ensure that there is a 5 year housing land supply in the housing market area.

The site is within the North Wessex Downs AONB.

21, Woodland Road (opposite the access entrance to the site) is a Grade II listed building.

Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 – contains a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

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

**Patney Parish Council** – Objects on the following grounds:

The PC notes that this application is very similar to Application No 15/09830/FUL which was refused by Wiltshire Council on 30 December 2015. In fact, there are only very minor

differences between the two applications and much of the supporting documentation is copied from last time. As a result, many of the comments that the PC make are similar to last time.

The whole thrust of this application surrounds the very sad condition that the applicant's young daughter, is in. This is very clearly borne out by the comments and advice from all the medical and clinical people and organisations who have submitted representations on behalf of the applicant. The PC is in no position to argue these views and indeed does not do so. Certain other non-medical/clinical organisations have seen fit to support the application due to her condition – the PC strongly challenges their right so to do.

The PC provided an opportunity for all villagers to comment on the application. Comments received by the PC and the other representations published on the Wiltshire Council website show a high level of local response both in favour of and against the application. The village's response to the first application, received by the Parish Council and inclusive of published villager comment on the Wiltshire Council website, showed 10 **households** 'for' with 18 'against'. This second application, applying the same criteria, resulted in 9 **households** 'for' with 17 'against'. These statistics discounted views expressed by professional bodies, such as medical opinions, Campaign for the Protection of Rural England, and such, and also views from outside the village. They do legitimately include opinions which have been verbally expressed to the Council from those with no access to emails and web sites etc. The Council reaffirmed that whilst the views of villagers assisted in its deliberations such views could not and should not be regarded as binding on the councillors in arriving at their final decision on the application.

This application needs to be viewed from a planning perspective only (Core Strategy adopted by Wiltshire Council January 2015) and in particular as to whether it complies with current planning and correct use of agricultural land.

The PC has been made aware of historic covenants and agreements with regard to the land in question and the adjoining paddocks although no documentation has been seen. The PC is aware that an agreement currently exists between the owners of the land and previous owners that no building can take place on these paddocks – this is supported by documentation from the Land Registry dated 2 June 2016 under reference WT159247.

The PC has unanimously decided to object to this application on the following grounds:

- The proposed development is not in accordance with the Wiltshire Core Strategy;
- The village is in the North Wessex Downs Area of Outstanding Natural Beauty and this should be protected;
- The land to be used for the development is agricultural and is currently used as such;
- If the application is approved this could potentially be a precedent for further development of this area of the village;
- The entire paddock area in this part of the village provides part of the charm that the village has to offer, as envisaged when the paddocks were acquired in 1997;
- The development cannot possibly be regarded as infill – from the corner of the bridleway adjacent to the paddock moving in a southerly direction towards the village green there are no other properties on that side of Woodland Road;
- In his submission to the PC, Damien Thursby refers to the support that the PC gave to the application relating to 23-27 Woodland Road (Application No. 15/06250/FUL). The PC wishes to point out that its support was subject to provisos, but Wiltshire Council approved the application. However, the owners

have recently carried out extensive renovations to the current properties and have refurbished No. 25, unoccupied since 2005. This seems to demonstrate very clearly that the owners have no intention in the short or medium term to carry out redevelopment

- The dominant position of the proposed building would be very apparent and be contrary to the ambience of this part of the village;
- The support provided by the various medical parties consulted by the applicant are not surprising since they clearly demonstrate that the application would be of considerable benefit to the applicant's daughter. The PC is in no position to challenge these views but does challenge whether they are a justification for approving the application
- The PC is in no doubt that the proposed property would be well outside the financial means of many people should the property ever be re-sold and this clearly calls into question the applicant's implied condition that it would or could be sold to another family with a disabled member. We are all being asked to accept that this development (at a reported valuation of between £725,000 and £750,000) is the only solution to the problem that this family faces. It is beyond doubt that the average income family could not afford this proposed development.

In conclusion the PC is of the unanimous view that this application, as with the previous one, totally lacks credibility and should be rejected.

**Wiltshire Council Ecology** – No objections.

**Wiltshire Council Highways** – The highway position is one which acknowledges the policy objection in regards to the location of the proposal. It is within the AONB and Patney is without any policy boundary. The previous application was refused on these grounds. If permission were to be granted, the visibility splay on the site location plan would need to be demonstrated and conditions applied to any permission granted securing the visibility splay and the parking and turning provision, in the interests of road safety.

**Wessex Water** - New water supply and waste water connections will be required from Wessex water to serve this proposed development. Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system.

**AONB Landscape Officer** – No objection; the AONB previously offered advice on how to make the development acceptable and it is noted that this advice has been taken onboard to satisfy these requirements. The proposed development is sited and designed so as to minimise its impact on the natural beauty of the area and is considered to comply with CP51 and the NWD Management Plan.

**CPRE** – Consider permission should be granted for the proposed special dwelling; do not believe there would be unacceptable harm to the countryside. The extreme circumstances of the case warrant acceptance of the application under policy CP46 *Meeting the needs of Wiltshire's vulnerable and older people* or policy CP44 *Rural exceptions sites*.

## **8. Publicity**

The application has been advertised by way of a site notice and press notice (setting of a listed building and departure from the development plan) and by letter to neighbouring properties.

There has been a split in the opinions expressed by local residents to the local planning authority. Approximately half of those households making representations object to the proposal, citing various concerns, including those covered by the parish council, and concerned at the impact of the development on the character and appearance of the area, the setting of the listed building and the conflict with planning policy. Whilst most of them are sympathetic to the personal circumstances cited by the applicant in relation to her daughter's needs, they do not consider that these justify the proposal. The other approximate half either raise no objection or support the proposal, many again sympathising with and supporting the case put forward by the applicant.

The proposal is also supported by the medical staff involved in the care of the applicant's disabled daughter and by her MP from Salisbury.

The full comments of all identified above as responding to the application are set out in the letters on the Council's web site, although a summary of the main points are provided below:

Oppose:

- Strongly oppose the application to build on the site; the present application is for a virtually identical dwelling in the same position as before;
- An alternative was offered for rent to the applicant which, was declined; there is an alternative more appropriate site behind 21 Woodland Road; the existing annex could be extended to provide appropriate accommodation;
- Restrictive covenant on the land preventing its development;



- The site is part of a highly valued open space at the heart of the village which is valued for its character and rural feel of the village; it is integral to the character of Patney;
- The scale and type of dwelling is visually sensitive and will not respect the nature, character and setting of the area;
- Detrimental visual impact; the site is designated in the Wiltshire Core Strategy as “open countryside”. It is an agricultural field, not infill;
- The development would elongate the settlement beyond the built form;
- It is also in an Area of Outstanding Natural Beauty;
- Detrimental impact on the setting of the adjacent Listed Building; cumulative impact with adjacent development on setting of heritage;
- Create a precedent for pressure to build on the remaining part of the pasture;
- Patney is not a sustainable village - there are no medical facilities, no shops, no parks, no pavements;
- Contrary to policy; The development does not meet with the requirements of the policies of the development plan; there are no exceptional circumstances to deviate away from policy;
- No justification for a two storey house, which would be overly dominant within this location;
- Any financial gain should be to the benefit of the community through a specialist need house of affordable housing.

Support:

- A need for a specially adapted home to meet the requirements of the family;
- The design of the house is sympathetic to the surroundings;
- The barn style building will integrate well within the village and will be well concealed;
- The dwelling would fit in well with the village and won't have a negative impact on the character, landscape or heritage of Patney;
- It is for exceptional social needs, and these justify a reduction of the size of the open field within the village;
- The needs raise an exceptional case at the high level of permanent support required by the child; this permanent solution would meet those needs;
- The addition of this house, combined with the planting shown on the plan, will hide the current building and significantly improve the landscape.

## 9. Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act states that “*determination must be made in accordance with the development plan unless material considerations indicate otherwise*”. Paras 2 & 11 of the NPPF reiterate and confirm this requirement. This is the starting point for determination. The Wiltshire Core Strategy, adopted in January 2015 is the relevant development plan for the purposes of this proposal.

### **9.1 Principle of Development**

Patney is not a settlement identified within the hierarchy set out in the adopted Wiltshire Core Strategy. As a result, new residential development is not considered to be sustainable in principle and such development can only take place if the proposal meets the criteria of one of the ‘exception policies’ or if the land has been brought forward through a Neighbourhood Plan (NP). There is no NP for Patney and thus it is only the exceptions policies that can be considered, although these must be taken in conjunction with the other relevant policies relating to development, such as CP51; 57 and 58.

CP 44 – this is the exceptions policy relating to affordable housing. However, the proposal does not meet the definition of affordable housing provided in the NPPF and it does not accord with all the criteria set out in the policy. The objection of the Parish Council and from half of those making representations points to the conclusion that the proposal does not have the ‘clear support’ from the local community and it has not been brought forward in conjunction with the parish council. Issues in relation to the environmental and landscape considerations and relationship to the character and setting of the settlement will be addressed separately below under the relevant landscape and heritage policies, but the proposal is also not able to be kept always available to meet local affordable housing needs. The applicant’s attempts to address this issue in the supporting information, whilst laudable, will not achieve the aim of the policy, which is designed to secure affordable housing in suitable locations. In short, the proposal does not comply with this policy.

CP46 – this is the exceptions policy relating to meeting the needs of vulnerable people. Whilst the supporting text and much of the policy is directed at the needs of older people, the applicant’s daughter would meet any reasonable definition of a vulnerable person, and thus the policy must be considered. However, the policy states that such accommodation should be provided in sustainable locations identified in Core Policy 1, and in exceptional circumstances, outside but adjacent to the principal settlements and market towns. Again, there is also the caveat that landscape considerations will not be

compromised and that the development respects the character and setting of the settlement, as well as facilities and services being accessible from the site. In short, the proposal does not accord with policy CP46 as Patney is not a sustainable location identified by the policy.

CP48 – this policy supports proposals for new housing that are required to meet the accommodation needs of workers whose employment is essential to the countryside such as farmworkers. No such case has been made here and no justification exists for permitting the development under the terms of this policy.

The proposal is therefore not in accordance with any of the exception policies of the Wiltshire Core Strategy and is therefore contrary to these provisions of the development plan. However, other policies must also be considered in relation to the wider aims of sustainability, including protecting the character and appearance of the area, the landscape and heritage assets.

## **9.2 Landscape Impact**

The whole of the settlement of Patney and its surrounding countryside is included within the North Wessex Downs Area of Outstanding Natural Beauty. The purpose of AONB designation is to conserve and enhance the natural beauty of the area. The Council is required to have regard to this purpose in determining planning applications. The NPPF states that ‘great weight’ should be given to conserving the landscape and natural beauty of these landscapes.

The Wiltshire Core Strategy identifies the need to protect the distinct character and identity of the villages and settlements in Wiltshire.

Given these two factors, a key issue must be to understand the contribution the site makes to the character and appearance of the village. Currently, it forms part of the agricultural landscape that acts as the backdrop to the view from the small village green at the centre of the settlement. There is no evidence of the site having been developed and the fields between Manor Farm and Woodland Road are a characteristic part of the settlement, preserving the openness that prevents it from becoming just another linear development in the manner that has developed alongside the eastern side of Woodland Road from beyond the sunken pathway to the Beechingstoke Road. The listed building at 21, Woodland Road still looks out over these fields, and the public footpath connecting Woodland Road and Manor Farm still looks out across these fields to the listed building and beyond.

Thus whilst the landscape is not part of the rolling downs that offer commanding views across the Pewsey Vale, it is part of the distinct character that characterises the settlement of Patney and if the identity and character of such settlements is to be kept, the landscape at this smaller scale is worthy of conserving.

The proposal would see the erection of a modern dwelling at one of the highest points in this field. It would erode the character of the area, marking the first modern intrusion of domestic residential development. It would be prominent in views across from the footpath to the listed building (see below). The construction of the new access from the road, with its associated visibility splays, would further detract from the character and appearance of the area. In short, the proposal would conflict with Core Policy 51, in that it would have a harmful impact upon the landscape character of the area and the distinctive character of the settlement. Whilst the mitigation proposals are noted and taken into account, they could not ameliorate the harm that the construction of a dwelling of this size in this location would have here.

Whilst the materials proposed are unobjectionable in this rural setting, (although rather than looking like a 'barn conversion style of dwelling' as described by the agent, in reality it has the appearance of a dormer bungalow clad in wood), the siting of the dwelling simply fails to relate positively to its landscape setting and the existing pattern of development and is not sympathetic to the historic landscape. It therefore conflicts with Core Policy 57.

### **9.3 Impact on Heritage Assets.**

The main designated heritage asset here is the listed building at 21, Woodland Road. The construction of the access opposite this property, breaching the bank, and the construction of the house in a location where it has an adverse impact on the setting of the listed building when viewed across the fields from the public right of way amount to less than substantial harm to the setting of the listed building. Nevertheless, this is still a harmful impact that needs to be taken into account and brings the proposal into conflict with Core Policy 58. Less than substantial harm needs to be weighed against any public benefit. In this case, any public benefit is tangential, and may only be indirect in terms of meeting the needs of a vulnerable person, a balance that is addressed below.

The structure, with associated access and parking and turning features, along with the urbanised form of landscaping will become permanent features within the landscape adjacent to and within the setting of the listed building. Whilst it is acknowledged that the applicant's heritage advice suggests that there would not be any harm on the listed

building or its setting, this is not the view of Council Officers. In fact the applicant's own submission somewhat contradicts its own conclusion by recommending that "*in order to ensure that the new development pays deference to the established character of the locality, including the setting on No 21 Woodland Road*", that the development should incorporate the following elements:

- *The floor slab of the new dwelling should be set down as far as practical;*
- *The footprint of the new dwelling should be located as close as possible to the northern boundary of the site;*
- *The junction of the proposed access drive with Woodland Road should be as far north as possible, and the drive should be surfaced in gravel or rolled hoggin;*
- *The form of the new dwelling should be traditional, with a front to back span no greater than found typically in the village;*
- *External walling materials should be mellow in colour and have a 'soft' texture, roofed over with profiled clay tiles;*
- *Any external lighting scheme should minimise the amount of any light spill beyond the site boundaries;*
- *The finished scheme should be carefully landscaped with the aim of repairing and enhancing site boundaries and old hedgerows on land within the same ownership*".

As can be seen from the evidence of the applicants heritage statement, enhancements sought to the scheme the design, use of materials, the location of the dwelling and the location of the access point and length of access track are all recognised as requiring amendment in order to make the scheme acceptable in terms of the impact on the adjacent listed building.

### **Development Plan Summary**

The proposal does not accord with the policies of the development plan. It is not in a sustainable location and would adversely affect the character and appearance of this part of the settlement and would cause less than substantial harm to the setting of a listed building.

### **9.4 Other material considerations**

**9.4.1 Housing land supply** – the site is located within the Eastern Housing Market Area where the latest housing land supply figures showed a land supply in excess of 8 years, well beyond the 5.25 required to bring into play paragraph 14 of the NPPF in relation to

housing land supply. The policies of the development plan can therefore be considered to be up-to-date in terms of paragraph 14 and can be given full weight.

**9.4.2 Personal Circumstances** – the personal circumstances of the applicant's daughter are set out in detail in the planning application, in terms of her needs and the healthcare that she requires. This is a relevant material consideration that must be weighed in the planning balance. The advantages of being close to relatives are set out, and the reasons why proximity to a hospital is not critical in this case are identified. The application is supported by the medical team that provides her care. The house has been designed to provide for her needs. The appellant states that they have been unsuccessful in finding a building plot to build a specially adapted home, losing out to higher bidders, and that a self-build custom home will meet their requirements in a manner that would not be easily achieved through purchase and adaption/extension of an existing dwelling. The applicant has supplied a great deal of material that has been carefully considered.

**9.4.3 – Other matters** – various other matters have been raised such as private covenants but these are not relevant to the consideration of the application and the key issues are considered to be those identified above.

**9.4.4 – Equality Act/Human Rights** – It has been suggested that the Council has failed to pay sufficient regard to the requirements of the Equality Act (2010). The Equality Duty has three aims. It requires public bodies to have *due regard* to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

Having *due regard* means consciously thinking about the three aims of the Equality Duty as part of the process of decision-making, this the Council has clearly done.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. Whilst barrister advice offered by the applicant's submission suggests that the Core Strategy is

'silent' on this matter, Core Policy 46 does address the housing needs of vulnerable people.

In relation to Human Rights, the Courts have held that 'the best interests of a child shall be a primary consideration'. However, they have made it clear that this does not make the best interests of a child determinative, paramount, or *the* primary consideration. The approach to be taken is to seek to identify the child's best interests and to keep these at the forefront of the decision makers mind as all material considerations are examined and the exercise of planning judgement made.

In this case, the best interests of the child lie in providing suitable accommodation. This proposal would provide suitable accommodation, adapted for her needs and close to family support. However, it does not follow that this necessarily means that this is the only site or property where her needs can be met, and that those needs override all other material considerations. The adverse impacts of not approving the application would mean that the search for a suitable site or property would continue whilst the family remain in other accommodation. It must be decided whether this adverse impact is proportionate.

## **10. Conclusion (The Planning Balance)**

The Council has a difficult judgement to make. It has to determine applications in accordance with the development plan, except where material considerations indicate otherwise. A primary interest in this application is the needs of the child, but the law makes it clear that this by itself is not determinative.

The proposal is in conflict with the development plan, in that it would result in the construction of a house in a location and site where normally no new dwellings would be permitted. It would have an adverse impact on the character and appearance of the area and would cause harm (albeit less than substantial in NPPF terms), to the setting of the listed building on the opposite side of the road. These are real harms, and some (not all) of those local residents making representations have stated their objections to the proposal on one or more of these grounds.

Set against this is the valid material consideration of the special needs of the applicant's daughter. These cannot be ignored and must be given some weight.

In the final analysis, it is considered that whilst the personal circumstances of the applicant and her daughter amount to a primary and significant material consideration, it

does not outweigh the harm that would be caused by allowing a development that in this particular location would have an irreversible significant adverse impact on the character and appearance of the area, and cause harm to the setting of a heritage asset, on a site that has not been brought forward for development by the local community. It is considered that the adverse impact of such a decision is proportionate in this case.

## **RECOMMENDATION**

**It is recommended that the application be refused for the following reasons:**

1) The proposed development by virtue of its siting on rising land on an undeveloped open field that forms part of the identity and distinctive character of the settlement of Patney would have an adverse impact on the character and appearance of the settlement that would conflict with Core Policies 51 and 57 of the Wiltshire Core Strategy and with paragraph 115 of the NPPF that gives great weight to conserving the landscape of areas of outstanding natural beauty.

2) The proposed development would harm the setting of the designated heritage asset at 21, Woodland Road, by reason of the close proximity of the development to this asset, the impact on the setting when viewed from the nearby public right of way to the north of the site, and the change in historical character through the partial loss of the current agricultural setting. This would amount to less than substantial harm, as defined in the NPPF, and would conflict with Core Policy 58 of the Wiltshire Core Strategy, which seeks to conserve and enhance the setting of listed buildings.

3) The proposal conflicts with the settlement strategy of the Wiltshire Core Strategy, as set out in Core Policies 1, 2 and 18 as the settlement at Patney is not identified as a location for sustainable growth and lies outside of the existing limits of development for settlements in the county and outside the built up limits of the identified small villages in the Pewsey Community Area. The development does not accord with any of the exceptions policies listed at paragraph 4.25 of the Wiltshire Core Strategy 2015 and the site has not been brought forward for development through a neighbourhood plan.

4) Although the personal circumstances set out by the applicant are considered to amount to a primary material consideration, it is not considered that they outweigh the cumulative harm identified in reasons 1-3 above.