

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	29 November 2017
Application Number	17/09119/FUL
Site Address	Land adjacent Ashley, Common Road, Malmesbury, SN16 0HN
Proposal	Erection of a single dwelling (resubmission of 15/10659/FUL)
Applicant	Mr & Mrs C Beardsmore
Town/Parish Council	St Paul Malmesbury Without
Electoral Division	Sherston – Cllr Thomson
Grid Ref	392348 186804
Type of application	Full Planning
Case Officer	Mark Staincliffe

Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr John Thomson who would like the Committee to consider the impact of the proposal on the local area. In particular he would like consideration of the development's visual impact, design and parking arrangement.

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 recommend the **GRANT** of planning permission, subject to conditions.

2. Report Summary

The key issues in considering the application are as follows:

- Principle of the development.
- Impact on character and appearance of the area.
- Parking provision
- Impact on residential amenity

Malmesbury Without Parish Council object to the proposed development. 11 letters have been received objecting to the proposed development and 0 letters of support were received

3. Site Description

Ashley is located off of Common Road within the defined settlement framework boundary of Malmesbury. The existing dwelling is a detached 3-bedroom bungalow with an integral single width garage. The property is located within a sizeable plot, with further parking provided on hardstanding to the front of the property, and a garden located to the rear and front. The application site has previously been sub-divided to allow the construction of a bungalow to the rear of Ashley, called The Birches. Ashley and the Birches share a driveway off of Common Road.

4. Planning History

N/94/02033/OUT	Outline - two bedroom bungalow- APPLICATION APPROVED
N/95/00561/FUL	Erection of dwelling- APPLICATION APPROVED
15/10659/FUL	Proposed Erection of Two Detached Dwellings & Associated Landscaping, Following the Demolition of the Existing Dwelling- REFUSED & DISMISSED AT APPEAL
15/01966/FUL	Erection of Two Detached Dwellings with Integral Garages & Associated Landscaping following the Demolition of the Existing Dwelling- APPLICATION WITHDRAWN
16/06955/CLP	Single storey side and rear extensions, front porch, loft conversion with rear dormer extension and roof lights to front roof slope- CERTIFICATE REFUSED
16/09256/CLP	Certificate of Lawfulness for Proposed Single storey rear and side extensions, front porch, loft conversion with rear dormer extension and roof lights to front roof slope- CERTIFICATE REFUSED
16/11360/CLP	Certificate of Lawfulness for Proposed Use - Single story rear and side extensions, front porch, loft conversion with rear dormer extension and roof lights to front roof slope- CERTIFICATE APPROVED

5. The Proposal

The application seeks planning permission for the construction of a detached, two storey dwelling to the front of the site with associated landscaping and car parking. Unlike the previous application the proposal seeks to retain the existing dwelling on site and will see a change in orientation of the proposed dwelling so that the proposed dwelling is now fronting the street.

6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:
Core Policy 1- Settlement Strategy
Core Policy 2- Delivery Strategy
Core Policy 3- Infrastructure Requirements
Core Policy 13- Spatial Strategy for the Malmesbury Community Area
Core Policy 45- Meeting Wiltshire's housing needs
Core Policy 50- Biodiversity and Geodiversity
Core Policy 51- Landscape
Core Policy 57- Ensuring high quality design and place shaping
Core Policy 62- Development impacts on the transport network
Core Policy 67- Flood Risk
Appendix D
Appendix E
Appendix G

Saved Policies of the North Wiltshire Local Plan:
NE18- Noise and Pollution

National Planning Policy Framework 2012:
Paras 2, 11 & 196 - development in accordance with the Development Plan
Achieving sustainable development – Core Planning Principles (Paragraphs 7 14 & 17)
Chapter 1- Building a strong, competitive economy (Paragraphs 18 & 19)

Chapter 6- Delivering a wide choice of high quality homes (Paragraphs 47, 49, 50 & 55)
Chapter 7- Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64) Chapter 8 - Promoting healthy communities (Paragraph 75)

7. Summary of consultation responses

Housing- No comments

Highways- No objection subject to conditions

Public Protection- It is likely that there will be some effect on the amenity during the construction phase through noise and potentially dust. To protect the neighbours during this period it is appropriate to prohibit any burning and restrict hours of construction.

Malmesbury Without Parish Council- The Parish Council strongly objects to this application on four points:

1. The plot currently consists of 'The Birches' which takes up the whole width of the rear of the property and in front of it 'Ashley'. The proposal to build in front of 'Ashley' will result in a cramped and overdeveloped site out of keeping with the character and appearance of its setting. Other developments in the area have benefited from starting with plots clear of any existing houses and have been accordingly well planned. This is not the case with this application as the site already has two properties on it. The proposed house will be nearer the road than other properties in the neighbourhood and being in an elevated position will intrude on the privacy of the houses on the other side of the road. The applicants said in a submission on appeal of the decision to refuse a previous application for this site (15/10659/FUL): 'The prevailing character on this side of the road is clearly for large family-sized plots in well-designed cul-de-sacs of three, four and five houses.' It is quite obvious that this piecemeal addition, lacking a plan for the site as a whole, does not fit this description.
2. The new property will not have a garage and the two parking spaces in the plans are so small that it is difficult to believe that the car doors will be able to open. There is a considerable risk that one or more cars belonging to occupiers of the building will park on Common Road. As such the exit views for cars leaving neighbouring properties will be blocked and there will be an additional hazard for other road users. It is clear that cars using both Ashley and the property proposed will have to reverse out onto the road as there is no space for them to turn creating another hazard. Any visitors, including delivery vans will have to park on the road.
3. We question the street elevation depiction in the application. It shows 'Ashley' just above the proposed building with 'The Birches' visible to the rear. In fact at the moment the 'The Birches' is not visible from the street other than its garage which is not masked by the property in front. The depiction is possibly trying to hide the fact that the new building would be unacceptably intrusive in relation to 'Ashley' with its upper windows clearly invading the privacy of that dwelling.
4. The design statement claims that houses in the road are predominately rendered. This is not only incorrect (23% of the houses are rendered) but contradicts a statement made by the applicant in a submission in relation to their previous application for this site. (15/10659/FUL). Furthermore, we note that there is no information on the proposed roofing material other than it will be grey. This is unsatisfactory as people should be able to comment on the proposed material.

(Note: the roofing material was an issue raised by some objectors to the previous application)

8. Publicity

The application was advertised by neighbour letter and site notice.

The application has generated 10 letters of objection and 0 letters of support. A summary of these comments is set out below:

- Over development of the site
- Out of character with the area
- No garage for the new house
- Insufficient car parking for the proposed and existing dwelling
- Poor design
- Proposed materials unacceptable and out of character with the area
- Adverse impact on neighbours amenity (privacy of 7,8 & 9 Common Road)
- Drainage within the site remains unresolved
- Adverse impact on nesting birds and protected species
- Represents a cramped form of development
- New access unsafe
- Plot 1 orientation has change since the inspector determined that the design and impact on local residents was acceptable
- Built development on this plot is far greater
- Proximity of property and its windows to the road has decreased
- Change in orientation of plot one increases the prominence of the shallow pitch roof
- No details of the roofing materials
- Overbearing & oppressive impact on Ashley
- NPPF seeks to secure high quality design. This is not high quality

Malmesbury & St Paul Without Residents' Association: Considers that the application conflicts with Core Policy 57(iii) in respect to the proposal being required to respond positively to the existing townscape and landscape features of Common Road. The proposal if approved will lead to a contrived and cramped form of development out of keeping with the character and appearance of its setting and other developments in the area.

The Association has always been concerned about the highway aspects of development on this site. The Association supports the many local people who are implacably opposed to this proposal and hence urge you to refuse it.

9. Planning Considerations

Principle of development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. This requirement is reflected in paras 2, 11 & 196 of the NPPF. In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Plan saved in the WCS, forms the relevant development plan for the Calne Community Area.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight. Furthermore, the appeal decision relating to application 15/10659/FUL is also a material consideration and must be taken into consideration in the determination of this application.

The site is located within the urban area of Malmesbury therefore the principle of residential development is acceptable subject to the suitability of the highways matters, layout, landscaping, appearance and scale of the development.

Planning Application 15/10659/FUL Appeal Decision

As set out earlier in the report (section 4), planning application 15/10659/FUL was refused planning permission by the Council and subsequently dismissed at appeal. The application was refused for two reasons:

- 1. The proposed development, by reason of its siting, scale and design, would result in a contrived and cramped form of development out of keeping with the character and appearance of its setting. The proposal therefore conflicts with Core Policy 57(iii) and (vi) of the adopted Wiltshire Core Strategy and Paragraphs 17 and 64 of the National Planning Policy Framework.*
- 2. The position of the property by virtue of its close proximity to the neighbouring properties, have an overbearing impact upon and result in loss of amenity of neighbouring properties. The proposed development would therefore result in unacceptable levels of amenity for future and existing occupiers contrary to the requirements of with Core Policy 57(vii) of the adopted Wiltshire Core Strategy and Paragraphs 17 of the National Planning Policy Framework.*

The Inspector's consideration of reason for refusal 1 is set out in paragraphs 5-8 of the decision notice, with the Inspector concluding at paragraph 8:

I therefore find on the first main issue that the proposed development would not harm the character and appearance of the area. It would accord in this way with Core Policy 57 (iii) and (vi) of the Wiltshire Core Strategy (adopted January 2015) (CS) which seek, amongst other things, to ensure that development responds positively to the existing townscape and relates effectively to the immediate setting and wider character of the area. It would conform to the requirements of paragraphs 17 and 64 the National Planning Policy Framework (the Framework) related to good design.

The Inspector's consideration of reason for refusal 2 is set out in paragraphs 9-16. In Paragraph 12 the Inspector concludes that the development would not harm the amenity of other properties within the street and would only result in harm to the Birches, which lies immediately to the rear of Ashley:

There would be no harm though as regards other neighbouring properties given that these generally have their side elevations only facing in the direction of the appeal site, or else are not in a comparable position to The Birches. As such, the outlook from main habitable rooms and gardens of other neighbouring properties would not be harmfully affected.

At paragraph 16 of the decision notice the Inspector concluded:

In respect of the second main issue, the proposal would have a harmful effect on the living conditions of the occupants of The Birches, with particular regard to outlook. It would conflict in this way with the underlying aims of Core Policy 57 (vii) of the CS relating to the protection of residential amenity. It would be contrary also to the Framework's aims of seeking a good standard of amenity for occupants of land and buildings, as contained in paragraph 17.

The Council is not bound to follow the Inspector's reasoning and conclusion on the previous planning appeal as each application must be determined on its merits. However, the

inspector's decision is a material planning consideration and significant weight should be afforded to the inspector's decision and conclusions, particularly with regards to design and principle of development. To disagree with any of the conclusions contained within the appeal decision notice will require clear and methodical justification to be provided. This matter and assessment as to impact on residential amenities is addressed in further detail below.

Highway Matters

The Highway Officer's initial comments on the application were:

While not objecting in principle to the erection of a dwelling within the development framework for Malmesbury and with an existing adequate access I am concerned about the demonstration of on-site parking for the existing dwelling, Ashley, and the proposed 3 bedroom dwelling.

New plans have been submitted showing a revised parking layout to overcome the concerns and points of clarification raised by Highways Officers. The revised plans show a revised parking layout and swept path analysis for both Ashley and the proposed unit. The revised plans now show that vehicles parked at both properties can enter and leave in a forward gear and demonstrate that the proposed development will provide off street parking for both properties which accords with the Council's adopted parking standards in terms of minimum space size and total number of parking spaces.

Concerns have been expressed by local residents regarding the lack of garaging for the proposed dwelling. There is no requirement within local or national planning policy for each new dwelling to have a garage. The requirement under the Council's policies is for the provision of adequate off street parking against adopted standards, which, as set out above, is achieved.

Concerns have also been raised with regards to the safety of the access and surrounding accesses due to the proximity of the new dwelling to the public highway and it interfering with existing visibility splays. The set back from the public highway is significant and the submitted plans demonstrate that adequate visibility can be provided from the site access. The development therefore accords with both local and national planning policies.

Drainage

Subject to conditions officers are satisfied that the development will not have an adverse impact on drainage within the locality and is therefore in accordance with the NPPF and CP67 of the Core Strategy.

Impact on Residential Amenity

The submitted layout demonstrates that the separation between the existing property and the proposal will be between 13.8m and 9.6m, this is comparable to the separation distance on the previously submitted application.

Concerns have been raised by the Parish Council and local residents with regards to the proposed site levels and the impact of the proposed development on the amenities of surrounding properties. Taking into consideration the levels shown on the submitted section plan, separation between Ashley and the proposal and the offset angle of Ashley, it is considered that the proposal will not have an overbearing impact on Ashley. Should planning permission be granted the finished floor level of the propose dwelling will be conditioned to ensure that the proposed dwelling will not be higher than that shown on the submitted plans.

It is acknowledged that the orientation of the proposed dwelling has changed from the previously refused application and there will now be mutual overlooking between windows of

the proposed dwelling and Ashley, however, it is considered that the proposed relationship is acceptable and will not result in a significant adverse impact on the residential amenities for existing or future occupants of these properties. The conclusion is largely down to a few factors.

Ashley's garden and majority of primary habitable rooms are located to the rear of the property and will not be impacted or over looked by the proposed development. Furthermore, the separation between the dwellings, levels within the site and the orientation of Ashley will ensure that there is no direct overlooking of the proposed garden for the new unit. Moreover, the only windows at first floor on the rear elevation of the proposed dwelling serve none habitable rooms and will be installed with obscure glazing, which will be controlled by planning condition, thus no overlooking.

In this context it is also relevant to note that the Inspector's decision at Paragraph 12 confirmed:

There would be no harm though as regards other neighbouring properties given that these generally have their side elevations only facing in the direction of the appeal site, or else are not in a comparable position to The Birches. As such, the outlook from main habitable rooms and gardens of other neighbouring properties would not be harmfully affected.

Material circumstances relating to the impact on neighbouring properties have not changed sufficiently to disagree with the inspector's conclusion on the impact of other properties in the street. There is therefore no harm to the residential amenities of dwellings to the North, East and West of the site.

Taking into consideration the above it is considered that the proposed development would have no significant adverse impact on the residential amenities of the surrounding properties and would secure an adequate level of residential amenity for future occupants of the proposed dwelling and thereby accords with CP57 of the CS and para 17 of the NPPF.

Character and Appearance of the Area

As identified within the previous appeal decision some recent development has taken place nearby, which took advantage of the large plot sizes along Common Road and has seen multiple dwellings constructed on one plot. The effect is of a varied street scene, including dwellings with far smaller plots than that of the current dwelling on the appeal site.

As with the previous application, the proposed dwelling would be of a slightly more contemporary design than other properties along Common Road, but they would draw on design characteristics seen in the locality including the rendered finish and shallow pitch roof. It is important to acknowledge that the property design is not dissimilar to the design of property previously considered to be acceptable by the planning inspector. With the inspector concluding:

Both would be of a slightly more contemporary design than other properties along Common Road, featuring fairly large areas of glazing to their road-facing elevations. However, they would draw on design characteristics seen in the locality including in their rendered finish..... As such, and given the significant variation in property styles in the immediate area, the proposed dwellings would not appear visually discordant.

It is accepted that the proposed dwelling would be more prominent within the street scene than the previous appeal due to the dwelling's change in orientation. However, the previous application and appeal were considered against the same national and local planning framework and the harm would not be so significant as to warrant a refusal. As set out

above, the site is located in an area where that is characterised by dwellings of varying design, style and use of materials. The proposed development would not harm the character and appearance of the area. It would accord in this way with Core Policy 57 (iii) and (vi) of the CS.

Ecology

The concerns raised by a local resident on this matter are noted, but when considering the previous application there was no objection to the redevelopment of the site and officers are still satisfied that harm, which would warrant a refusal of the application does not exist. There is no evidence that would suggest a conflict with CP57 or CP50 of the CS or Para 109 of the NPPF.

Amenity Space

Concerns have been raised by local residents with regards to the level of private amenity space provided for the existing and proposed dwelling. The Council does not have a policy specifying a minimum size of residential gardens and the acceptability of private amenity space is a matter of planning judgement.

Taking into consideration the rear garden size of existing properties in this part of the street scene it is considered that the proposal is acceptable and will afford future occupiers with a good level of usable outdoor space that one would expect from properties of this size. The fact that there is no national or local requirement for minimum garden sizes and taking into consideration the existing circumstances within the street it is considered that the proposal is acceptable and in accordance with CP57 of the CS.

10. Conclusion

The application site is located within the settlement boundary of Malmesbury and sustainably located in relation to its facilities, local services and employment opportunities. Furthermore, the previous appeal decision determined that the development plan supported development in principle and that a modern design and palette materials was appropriate, this is a matter that weighs in favour of the proposal.

Taken in the context of the presumption in favour of sustainable development and the fact that this is not a designated or important landscape as defined by the NPPF and CS and in terms of the planning balance, however, these considerations are outweighed by the benefits of development, which include improvements to surface water drainage, the delivery of housing. All other matters have been sufficiently addressed, with technical details capable of resolution by planning condition. On balance, therefore, it is considered that the proposal is acceptable in planning terms and in accordance with the Core Strategy and NPPF.

RECOMMENDATION

GRANT planning permission, 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 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

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

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- means of enclosure;
- all hard and soft surfacing materials;

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 a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 4 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.

- 5 No part of the development hereby permitted shall be occupied 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.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the development hereby permitted.

REASON: In the interests of residential amenity and privacy and to ensure that should accommodation be provided within the roof space the property has sufficient off street parking to accord with the Council's parking standards.

- 7 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels 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.

- 8 The dwelling hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON: To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

- 9 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;

- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

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 minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

- 10 Before the development hereby permitted is first occupied all windows at first floor in the Northern elevation shall be glazed with obscure glass only and the windows shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

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

Site Location Plan

P010.H

P011.A

P020.C

P030.C

P060.A

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

- 12 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 occupied until surface water drainage has been constructed in accordance with the approved scheme.

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 the development can be adequately drained.

INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

INFORMATIVE TO APPLICANT:

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.

INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.