

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	14 November 2018
Application Number	18/07286/FUL
Site Address	Adjacent To 489a Semington Road Melksham SN12 6DR
Proposal	Erection of 4 no. dwellings (resubmission of 17/04649/FUL)
Applicant	Mr & Mrs P. Williams
Town/Parish Council	MELKSHAM WITHOUT
Electoral Division and Ward Member	MELKSHAM WITHOUT SOUTH – Cllr Roy While
Grid Ref	390,126 162,466
Type of application	Full Planning
Case Officer	David Cox

Reason for the application being considered by Committee

Cllr Roy While has requested that should officers be minded to approve this application, it should be brought before the elected members of the area planning committee for its determination and to consider the design and scale of the development and the visual impact on the surrounding area.

1. Purpose of Report

Having assessed the merits of the proposed development and tested it against the policies of the development plan and other material considerations, officers recommend that the application should be approved subject to conditions.

2. Report Summary

The main issues discussed in this report are as follows:

- The Principle of the Development
- Amenity/Living Standards of Proposed Occupants
- Impact on the Street Scene
- Impact on Neighbouring Amenity
- Highway Safety and Parking

3. Site Description

The application site is located to the south of No.489a Semington Road comprising an area of garden ground measuring approximately 28 metres by 24 metres which is located along Semington Road, on the edge of Berryfield, which is defined as a Small Village for the purposes of Core Policy 2 of the Wiltshire Core Strategy – which was confirmed through the appeal determination in March 2018 pursuant to appeal ref: APP/Y3940/W/17/3185107. 2-storey residential dwellings at No. 489 and 489a Semington Road are located to the north. There is a path and gate to the south of the identified site which serves as an access to the field shown and a garage belonging to 490 Semington Road – which are illustrated on the insert plans produced on the following page. The field which is located to the east benefits from outline and reserved matters approval for up to 150 dwellings – consented under application ref(s) 16/00497/OUT, 17/12514/REM and 17/10416/VAR.



Site Location plan

4. Planning History

W/12/01964/CLE - The linear strip of land at the back of the site (identified as the rectangular parcel of land in the above left image) was subject to the grant of a Certificate of Lawfulness on 14.12.2012 which certified the land as residential curtilage associated to No 489a.

16/11901/OUT - Outline application for up to 2 dwellings with all matters reserved – Approved 23.03.2017

It should be noted that when first submitted, the application sought outline consent for four dwellings which was negotiated by the previous case officer to two dwellings arguing that:

“The exact design and positioning of the proposed dwellings would be dealt with at the reserved matters stage however the extent of the plot is of sufficient size to allow the development of two dwellings, either 2 semi-detached dwellings or 2 detached dwellings, with sufficient private amenity space and space around the building to not be considered overdevelopment of the site. It is also considered there would be sufficient space available for the development to comply with current parking standards in terms of off road parking. In addition sufficient private amenity space would remain for the existing dwelling at No. 489A.”

No reserved matters application was pursued.

17/04649/FUL - Erection of 4 no. terraced dwellings - refused 09.08.2017 for the following reason:

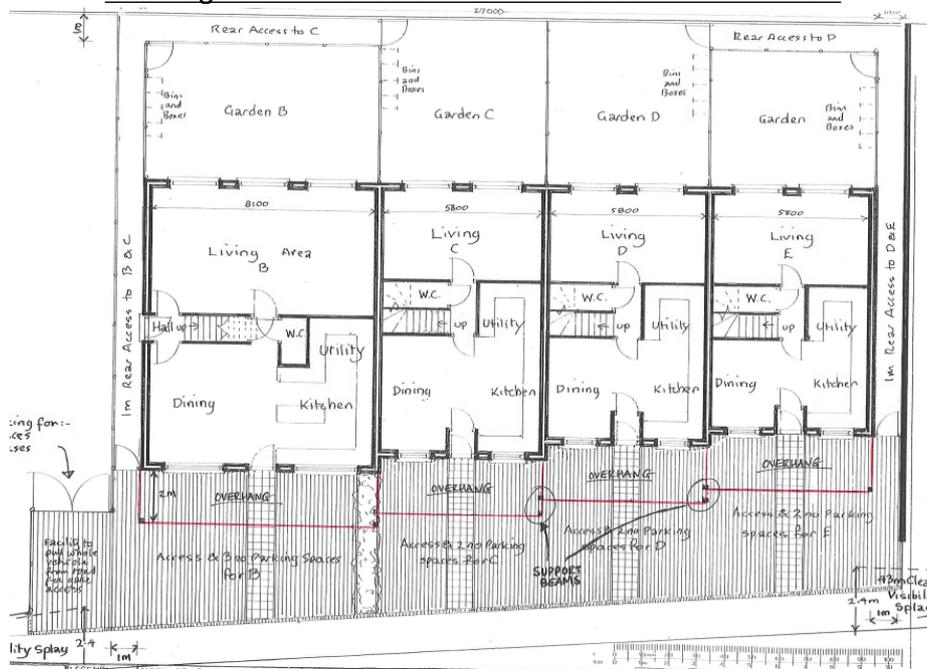
“The proposal by reason of its design, size, scale, height, proportions, plot sizes and building layout would result in an inappropriate overdevelopment of the site and would not be in keeping with its immediate environs. Furthermore the proposal would fail to provide adequate standards of amenity for its future occupiers further demonstrating the over development of the site. The proposal is therefore contrary to Core Policy CP57 of the Wiltshire Core Strategy and paragraphs 17 and 56 of the National Planning Policy Framework”.



Proposed Front Elevation Plan of refused 17/04649/FUL



3D image of the front elevation of refused 17/04649/FUL



Proposed Block Plan/Ground Floor Plan of refused 17/04649/FUL

Following the refusal, the applicant went to appeal, which the planning inspectorate dismissed; but it is important to appreciate that the appointed inspector did not dismiss the

appeal on overdevelopment of the site or on visual impact grounds; and argued in para 13 of the 1 March 2018 appeal decision that:

“the proposed terrace would be read as a cohesive set forming part of the gradual evolution of this part of Berryfield. Given the existing context [and acknowledging the consented 150 new dwellings to the site on land to the east], I consider the design of the appeal proposal to be acceptable. I see no reason why the appeal scheme would not fit comfortably within this evolving context, which the use of sympathetic materials would help blend with the street scene as a whole.”

Despite officers advancing concerns about the scale and form of the appealed development, the appointed inspector was not convinced that the development would harm the character and appearance of the local environs. The inspector also concluded that she had no issue with the proposed building to plot ratios and argued that they would be similar to that seen in the local area.

The inspector dismissed the appeal solely on the grounds that the proposed development would not provide acceptable living conditions for future occupants, with particular regard given to the provision of outdoor amenity space and light.

The inspector argued that dwellings of the size being proposed could be suitable for family occupation; and argued within paras 7 and 8 that:

“Looking back towards the proposed terrace the dwellings would loom over the small exterior spaces. Owing to the scale of the proposed dwellings and the short length of the gardens, shadow would be cast over the exterior spaces for much of the day. I note the argument that the gardens would get some daylight, which may achieve more than the minimum amount recommended as good practice. I also note the case that shade can provide a welcome reprieve during hot weather. However, even if a north-facing garden could have less sun, it does not justify the provision of extremely small gardens that would be in full shade for much of the day and throughout the year”.

“The proposed gardens would also function as storage areas for bins and recycling boxes, while the two end gardens would be partly bounded by an access route to the central two gardens. I consider that the rear space would function more like a yard than a garden, with a frontage dominated by off street parking, and that the overall provision would be a meagre and inadequate provision for both use and enjoyment. I therefore consider that the quality of the exterior space would not just be small but also oppressive and uninviting, which would fail to provide an acceptable standard of outdoor provision for future occupants”.

The inspector also argued that *“there would be insufficient natural light provided within the main living spaces of the proposed dwellings”.*

A copy of the appeal decision issued pursuant to the appealed 17/04649/OUT development is appended to this report.

5. The Proposal

This application seeks full planning permission for the erection of four dwellings in the form of a three storey terrace (submitted as being 1x3 bed and 3x2 bed units). The terrace would be approximately 27 metres in length. The height of the proposed terrace has however been redesigned and dropped from 9.9metres to 9.5/9.6m. The rear gardens have been increased by increasing their depth by approximately 1.5 - 2 metres (achieved by making the footprint of the dwellings smaller). Additionally, through the proposed creation of a central passageway, the rear garden space associated to the two central units would not require the passageways cutting into the two end gardens as previously proposed (which removed

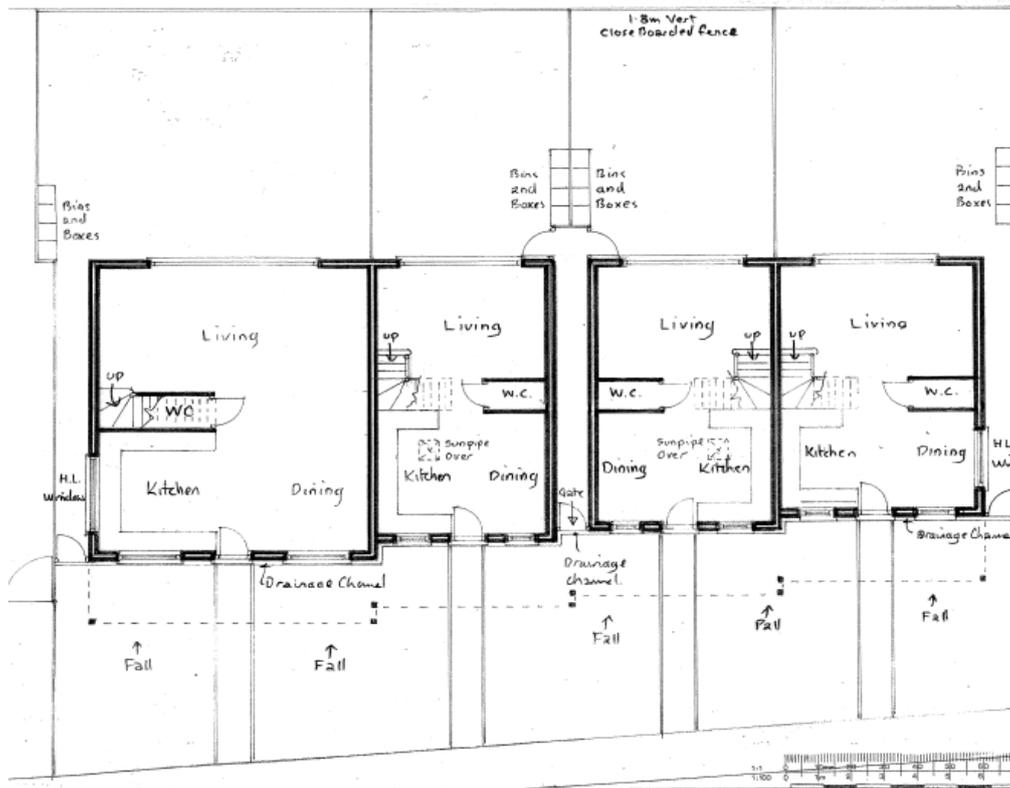
usable garden space). The resulting proposed gardens are now larger than what was previously the case - with the largest now being circa 78m² and the two smallest gardens extending to 47m² (compared to 42m² and 30m² under application 17/04649/FUL).

The roof has been materially re-designed with the main ridge running along the terrace removed with four new ridge lines and three central valleys.

The following inserts are reproduced to illustrate the revised elevation and roof form of the proposed development for Members to appraise.



Proposed Front (Street scene) Elevation and 3D rendered Elevation Plan



Proposed Block Plan/Ground Floor Plan

To address the previous reported concerns about light penetrating the ground floor rooms, both end dwellings would have side elevation windows and the two middle units would have 'sun pipes'.

It is acknowledged that the proposed plans include a second floor room notated as being a 'studio' - which could also be used as a further bedroom. Even if the studio/study is used as a bedroom, unit 1 would have 3 off road spaces meeting the requirement for 4 bedroom dwellings and units 2-4 would have two off-road spaces, thus satisfying the car parking requirements for three bedroom dwellings.

6. Planning Policy

National Context- The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

Local Context: Wiltshire Core Strategy (WCS) Core Policy 1 – Settlement Strategy; Core Policy 2 – Delivery Strategy; Core Policy 15 – Spatial strategy: Melksham community area; Core Policy 51 – Landscape; Core Policy 57 – Ensuring High Quality Design and Place Shaping; Core Policy 60 – Sustainable Transport; Core Policy 61 – Transport and Development

Saved Policies for the West Wiltshire District Local Plan (1st Alteration) - U1a - Foul Water Disposal; U5 Bowerhill Sewage Treatment Works

Other Material Considerations

Wiltshire's Community Infrastructure Levy – Planning Obligations Supplementary Planning Document (Planning Obligations SPD); Wiltshire's Community Infrastructure Levy - Charging Schedule (Charging Schedule) and Wiltshire's Community Infrastructure Levy - Regulation 123 List.

Wiltshire Council's adopted Car Parking Strategy

The Emerging Melksham Neighbourhood Plan – which is at 'scoping stage'.

Building for Life 12 (BfL12) Guidance

7. Summary of Consultation Responses

Melksham Without Parish Council – Objects: *The Parish Council acknowledges that the applicant has amended the proposal to address some of the comments raised by the planning officer and the planning inspector when the previous application was refused. However it still OBJECTS to this proposal as it is still over development of the site and wishes to reiterate some of the previous comments made on 4th July as follows:*

“The Council sees no reason to depart from the existing permission under application 16/11901/OUT for 2 dwellings on this site. It considers that 4 dwellings constitutes an overdevelopment of the site and that the proposal for 3 storey dwellings is completely out of keeping with the existing Street scene. The proposal therefore fails to demonstrate that it meets the criteria of Core Policy 57”

Furthermore, the application form states that this proposal is for 1no 3 bed dwelling and 3no 2 bed dwellings. However, the plans show a studio room, bathroom and attic storage for each dwelling on the attic floor plan (3rd storey), both with windows. The plans for studio rooms have very large windows and the Parish Council consider that along with the provision of a bathroom on the same floor that this constitutes an additional bedroom, effectively making this proposal for 1no 4 bed dwelling and 3no 3 bed dwellings. Not only do the Parish Council therefore query the parking provision for properties with these additional bedrooms, they also feel that the statement from the Planning Inspector about the previous application “failing to achieve appropriate standards of amenity for future occupiers” would not be met via this application with the additional space on the 3rd storey being used as a bedroom.

Wiltshire Council Highways Officer – No objection: subject to condition.

Wiltshire Council Archaeology Officer – No objection

8. Publicity

A site notice was displayed on 8 August 2018 and 22 individual notification letters were posted to neighbouring residents. Following these notifications, 2 letters of objection were received

- This is another application sneaked in again to Wiltshire Council by developers and greedy land owners ruining the environment. I can't get to see a doctor or dentist, and there is traffic everywhere. Are there not enough houses being built in Melksham?
- The development of four houses in a terrace is still an overdevelopment of the site and the changes are not sufficient to overcome the dismissed appeal. Why can the developer not implement the permission for two dwellings?

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Melksham area.

9.1 Principle of the Development

9.1.1 Through the appraisal of application 17/04649/FUL and the subsequent appeal it was confirmed that the application proposal is in accordance with adopted WCS Core Policy 2, thus qualifying as an infill site opportunity forming a part of the village of Berryfield. Officers maintain this position and given the consented 150 unit residential development on the land to the rear of the site, it would be substantively unreasonable to conclude any differently. In appraising the appeal, the site was recognised as being a suitable sustainable site for residential development with the inspector concluding that *"the site is located some 1.5km from the centre of Melksham, a Market Town that offers a range of services and facilities. It is also within easy walking or cycling distance of bus stops and employment areas. The proposal would therefore not cause an unsustainable reliance on the private car to satisfy day to day needs"*.

9.1.2 The officer delegated report for 17/04649/FUL and the appeal statement fully appraised all the design elements with officers previously arguing that the 4-house development constituted over development of the site. However, the inspector did not concur with this view and significant weight must be given to the appeal decision which concluded that the four-house development would not be overdevelopment; and furthermore, officers apply great weight to the material revisions made by the applicant to increase the size of the rear gardens. Officers submit that the proposed development enshrined within this application substantively addresses the previous reasons for refusal and the scheme presented for Member to determine, is considered policy compliant.

9.2 Amenity/Living Standards of Future Occupants

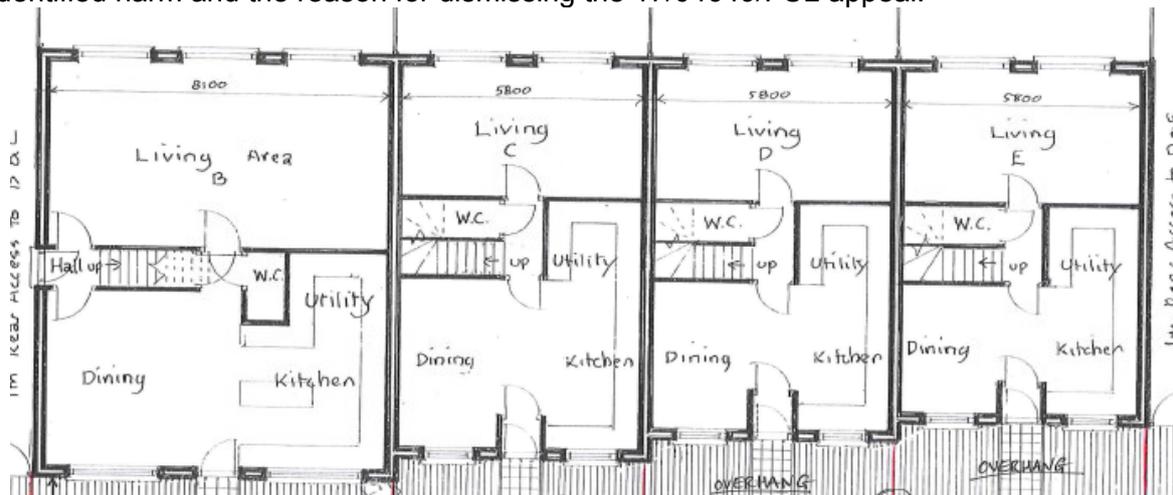
9.2.1 The proposed dwellings would be capable of being occupied by families and mindful of the reason for dismissing the recent appeal, the amount of amenity space to be afforded to future occupants is a key issue to determine. The appeal was dismissed on the basis that the 2017 development *"would result in unacceptable harm to the living conditions of future occupiers [and] would not achieve a high standard of design and would therefore be in conflict with Core Policy 57"*.

9.2.2 The re-designed scheme has reduced the height and footprint of the terrace, the garden sizes have been increased and the previously proposed rear passageways have been deleted (which reduced and limited the extent of two gardens to create two fenced off

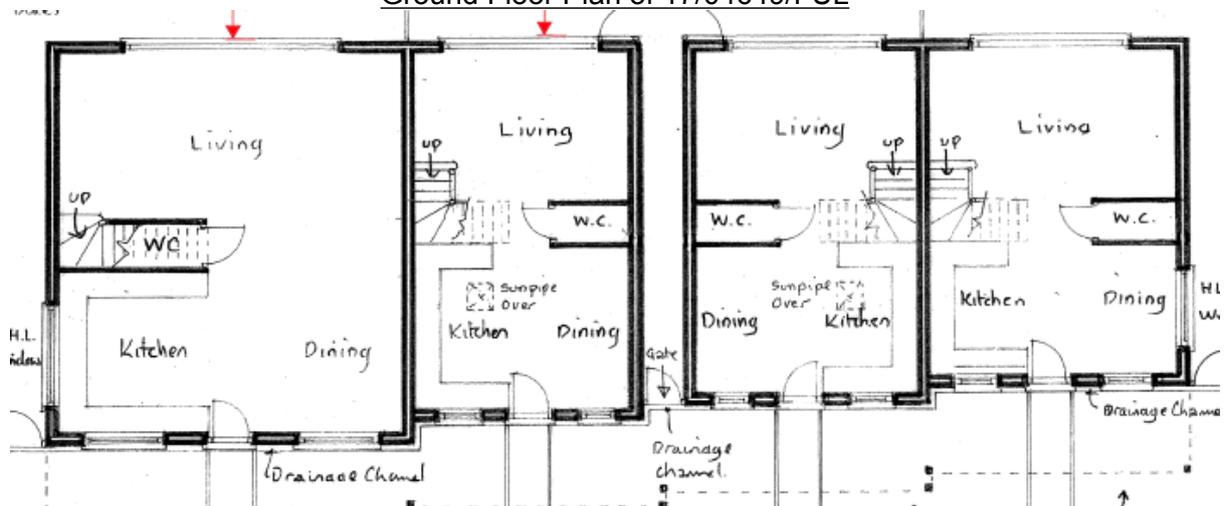
access paths to access the two central units), and officers conclude that the revisions are acceptable and Core Policy 57 / NPPF compliant. The height and length of the proposed terrace would still result in some overshadowing of the rear garden from 12pm onwards on each day. However, the pyramid roof form would allow for more natural daylight/sunlight to filter through to the rear than what would have been achieved by the previous proposal.

9.2.3 It is also material to acknowledge that the gardens would be larger than those dismissed at appeal with unit one increasing from 47m² to 78m² (representing a 65% increase) and the smallest units increasing from 30m² to 47m² (i.e. a 56% uplift). It is also material to note in relation to Build for Life principles, that the garden sizes would exceed the plan footprint of each dwelling unit – the gardens would be approximately 8 metres deep and 5.8 metres wide and would receive satisfactory levels of direct morning sunlight and sufficient ambient daylight for the remainder of the day.

9.2.4 To address the inspectors concerns relating to internal daylight levels, ground floor side windows on the two end units are proposed as well as introducing sun pipes for the two central units. The side windows would have a limited impact on third party interests as they would be within 1 metre of the property boundary, but they would provide additional light source to the ground floor internal space, which has also been redesigned to be more ‘open plan’ to allow more borrowed light to permeate through the ground floor from the all the proposed windows – which is illustrated in the inserts below (comparing the previous and proposed ground floor plans). It is submitted that this should successfully overcome the identified harm and the reason for dismissing the 17/04649/FUL appeal.



Ground Floor Plan of 17/04649/FUL



Proposed Ground Floor Plan

9.2.5 Sun pipes are products that are installed to provide additional light to rooms that would otherwise have limited natural daylight. They can be very effective so much so that they often need to be dulled down to avoid creating internal glare. Overall, officers are satisfied that the revised scheme is policy compliant and the concerns identified by the appeal inspector have been addressed.

9.3 Impact on the Street Scene

9.3.1. In appraising the 17/04649/FUL appealed development, the inspector found the design and impact on the local surroundings to be acceptable and policy compliant and argued that she “saw no reason why the appeal scheme would not fit comfortably within this evolving context”. The following two inserts illustrate the appealed development street scene illustration and the revised scheme design.



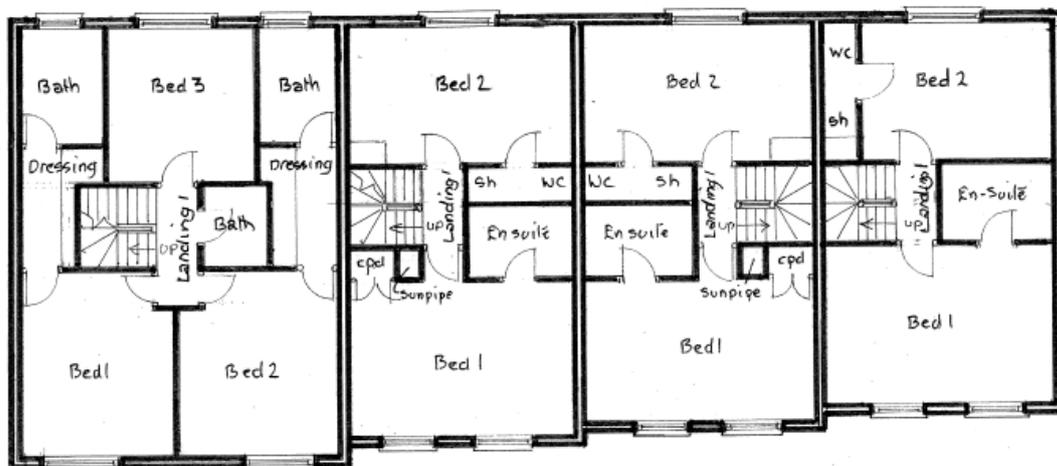
17/04649//FUL

18/07286/FUL

9.3.2 Instead of the ridge running along the terrace with four projecting front gables, four ridgelines running front to back with three valley gutters would be formed – which officers are satisfied with in terms of CP57 / NPPF design based requirements.

9.4 Impact on Neighbouring Amenity

9.4.1 The proposed terrace would be a fairly large structure measuring circa 9.5m but would be positioned approximately 10 metres to the south of the immediate neighbouring properties at No 489/489a Semington Road. Officers are satisfied that the development would not result in adverse harm to the immediate neighbours given the site separation distances, property orientation and lack of any upper floor gable wall openings.



Proposed First Floor Plan

9.4.2 Officers are fully mindful of the consented development for 150 dwellings on land to the immediate east of the application site, and after reviewing the reserved matters plans for

consented application 17/12514/REM, only one unit (i.e. plot 119 – which is illustrated on the plan insert below) would be the subject to some material overbearing impacts. As a ‘general rule of thumb’, officers seek to achieve a separation distance of 10.5 metres from first floor habitable windows to neighbours garden boundaries. In this case, the proposed rear gardens of the 4-unit terrace would be approximately 8 metres deep and with the approximate 4m wide landscape strip to the west of plot 119, there would be some 12 metres separating the rear of the proposed terrace and the gable of plot 119 which is considered to be acceptable. Furthermore the approved details for plot 119 do not include any windows on its western side elevation and as such, there would be no direct window to window impact.



Site Plan of 17/12514/REM

9.5 Highway Safety and Parking Provision

9.5.1. The proposed development would satisfy the requirements of the Council's adopted car parking strategy guidance; however it should also be noted that the planning inspector concluded that the 17/04649/FUL appealed development would not result in "*demonstrable harm in relation to parking or highway safety*". It is moreover important to appreciate that paragraph 109 of the revised NPPF directs LPAs that development "*should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". There is no substantive reason to argue that the proposed development would conflict with paragraph 109 of the NPPF in this particular case and it therefore has officer support.

10. S106 / Developer Contributions

No S106 financial contributions are sought or justified for this development, but CIL would apply.

11. Conclusion (The Planning Balance)

The revised scheme addresses the substantive concerns identified by the planning inspector pursuant to the appraisal of refused application 17/04649/FUL. Officers are satisfied that the re-designed scheme is policy compliant; and as a consequence, the application is recommended for permission subject to conditions.

11. RECOMMENDATION: Approve subject to the following conditions

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

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

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

Location Plan, Block Plan, Ground Floor Plan, First Floor Plan, Second Floor (attic) Plan, Front (south) Elevation Plan – all received 31 July 2018; 3D Photomontage comparisons, Solatube technical drawings and details, Street scene comparison plan (W/489a/Com) and Ridge and slab height comparison plan (2356/B/6 Rev A) – received 29 August 2018 and revised North and Rear Elevation Plans Rev A and Parking Plan – received 12 September 2018

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

3. No development above slab level shall commence on site until full details and samples of the stone walls and slate roof materials to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the 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.

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

REASON: In the interests of highway safety.

5. No part of the development hereby permitted shall be occupied until the access, parking spaces and footpath 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. No dwelling shall be first occupied until visibility splays have been fully demonstrated on an updated Block Plan, and that those splays shown on the approved plan have been cleared of any obstruction to visibility at and above a height of 900mm measured above the nearside carriageway level. Thereafter the visibility provision shall be maintained free of obstruction above 900mm in perpetuity.

REASON: In the interests of highway

7. No development above slab level shall commence on site until a scheme for the discharge of surface water (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 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.

8. No development above slab level 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 :-

- full details of any tree or hedgerow to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- all hard and soft surfacing materials.
- Details of bin muster points

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.

9. 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.

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

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

11. 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 windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in gable elevations and the rear elevation(s) above ground floor ceiling level of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

Planning Informative: The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy