

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

<b>Date of Meeting</b>	08/12/2021
<b>Application Number</b>	PL/2021/05622
<b>Site Address</b>	97 East Gomeldon Road Gomeldon SP4 6LZ
<b>Proposal</b>	Demolition of an agricultural barn, the erection of a bungalow and associated change of use of land.
<b>Applicant</b>	Mr and Mrs W Maher
<b>Town/Parish Council</b>	IDMISTON
<b>Electoral Division</b>	Old Sarum & Lower Bourne Valley - Cllr Oliver
<b>Grid Ref</b>	419119 135595
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Hayley Clark

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

This application is brought to committee at the request of Councillor Oliver, for the following reasons:

*The previous application was reviewed at a previous SAPC meeting and turned down - I would like to see this application be given similar consideration should the officers recommendation be for refusal*

**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 which are considered to be material in the determination of this application are listed below:

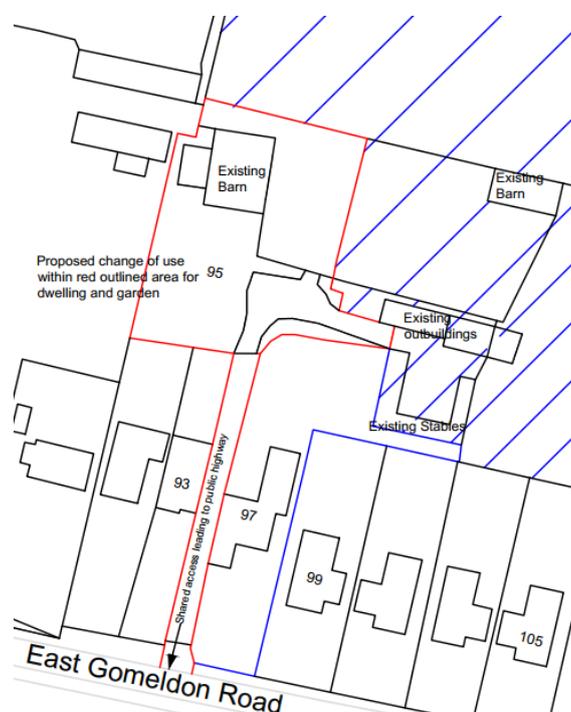
- Principle
- Personal Circumstances
- Character & Design
- Neighbouring Amenities
- Highway Safety
- Ecology
- River Avon Special Area of Conservation (SAC) catchment area

The application has generated a letter of support from Idmiston Parish Council; and five letters from third parties.

### 3. Site Description

The application site relates to agricultural land located on the north side of East Gomeldon Road; whilst the site has its own address it has no associated dwelling, the only buildings on the land are for agricultural use, stables or outbuildings. The site address is actually 95 East Gomeldon Road but is under the same ownership as 97 East Gomeldon Road. An existing agricultural barn is located towards the north west corner of the red line site, this is currently used for storage.

The access to the site runs between 93 and 97 East Gomeldon Road and is bordered by fields to the east, north and west with residential properties to the south. The site is located on sloping ground with the highest point to the north, sloping down towards the road to the south. The extract below taken from the submitted location plan shows this relationship



### 4. Planning History

20/01969/FUL Erection of a new chalet bungalow, change of use of land from agricultural to residential. This application was withdrawn following objections from Officers and a recommendation for refusal regarding the principle of development, character and design and phosphate loading on the River Avon SAC.

20/08997/FUL Change of use of current agricultural land to residential area. Construction of proposed new chalet bungalow. Recommended for Refusal by Officers and refusal upheld by Southern Area Planning Committee for the following three reasons

1. The site is located in the small village of East Gomeldon to the rear of a row of existing dwellings. East Gomeldon does not have a development boundary and is classed as being in the open countryside, in an unsustainable location where there is a presumption against new unsustainable development. The proposed dwelling is therefore contrary to core policies 1,2, 4, 60 and 61 of the Wiltshire Core Strategy and Section 9, paras 102, 103, 108 & 110 of the National Planning Policy Framework 2019 which seeks to reduce the need to travel particularly by private car, and support and encourage sustainable, safe and efficient movement of people and goods.

The proposed development is not considered to be infill development as defined by core policy 2 of the Wiltshire Core Strategy. Furthermore, the site is not identified as a site for possible future development in the made Neighbourhood Plan and is not considered to comply with any of the exemption tests as outlined in paragraph 4.25 of the Wiltshire Core strategy.

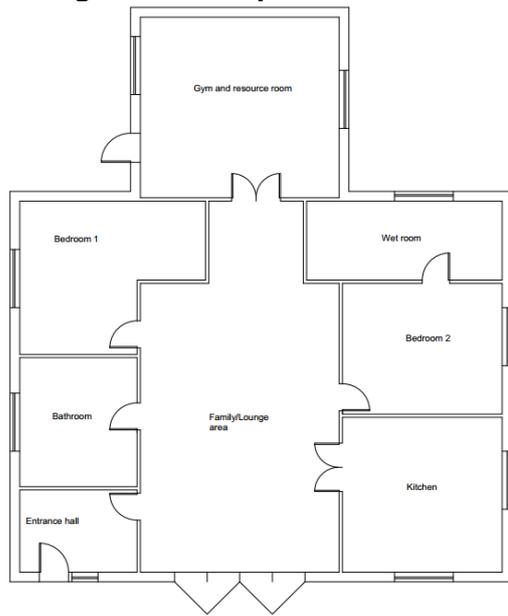
The property is for the parents/family of Toby, a 14 year old with Down Syndrome to live in while Toby resides in the existing 3 bed bungalow, this however does not accord with exemption policies as the proposed dwelling shows no design features that would indicate its use by someone with a disability, contrary to core policy 46.

2. The character of East Gomeldon Road is defined by ribbon development along the north side of East Gomeldon Road with dwellings either located at the front of the residential plots with linear rear gardens or located at the rear of the plot with linear front garden. Tandem or backland development is unusual for this road. The siting of the proposed dwelling located further to the north than existing dwellings and their curtilages is considered to be harmful encroachment of residential development into the rural landscape, contrary to core policy 57 of the Wiltshire Council Core Strategy. The scale and siting of the dwelling on raised ground will result in an unduly prominent form of development which will be out of keeping for the locality in this rural landscape contrary to core policy 57 of the Wiltshire Council Core Strategy.
3. The site is situated within the River Avon catchment area that is a European site. Advice from Natural England indicates that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering this European site causing further deterioration to it. The application does not include detailed proposals to mitigate the impact of these increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development. The proposal would therefore conflict with The Habitat Regulations 2017, Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 175 and 177 of the National Planning Policy Framework.

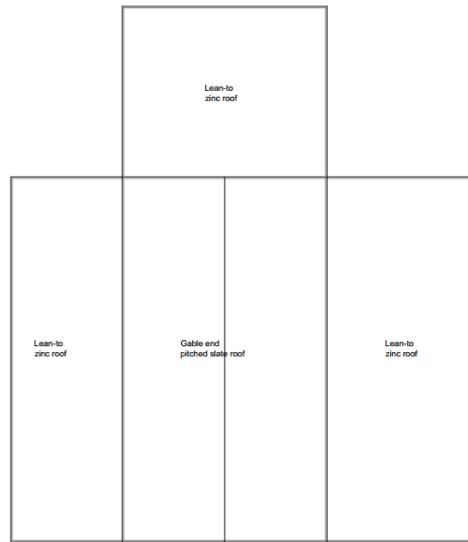
## **5. The Proposal**

This is a full application which now proposes to demolish an existing agricultural barn on agricultural land in the open countryside and replace with a two bedroom single storey bungalow along with associated change of use to residential. Proposed elevations and plans shown below for convenience.

**Proposed ground floor plan**

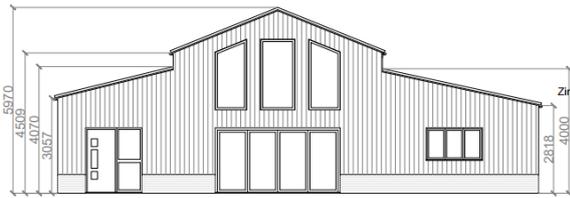


**Proposed roof plan**

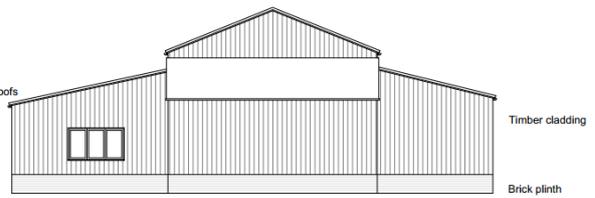


**Proposed elevations**

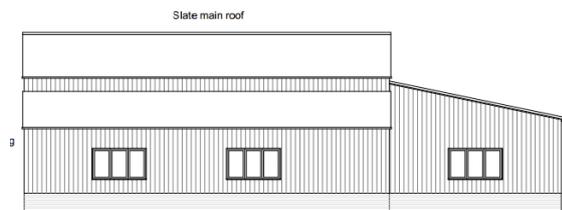
**East**



**West**

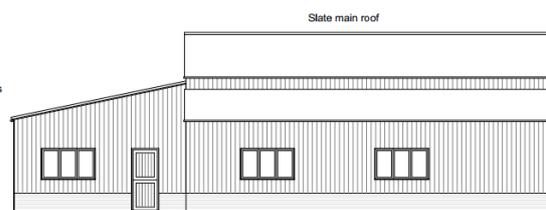


**North**



Side - North Elevation

**South**



Side - South Elevation

**6. Local Planning Policy**

National Planning Policy Framework (**Updated July 2021**) (NPPF)

National Planning Practice Guidance (NPPG)

National Design Guide (January 2021) (NDG)

Salisbury District Council Local Plan policies (Saved by Wiltshire Core Strategy)

Saved policy C6

Wiltshire Core Strategy (WCS):

CP1 (Settlement Strategy)

CP2 (Delivery Strategy)

CP3 (Infrastructure Requirements)

CP4 (Amesbury Community Area)

CP46 (Meeting the needs of Wiltshire's vulnerable and older people)

CP50 (Biodiversity and Geodiversity)

CP57 (Ensuring High Quality Design & Space Shaping)

CP58 (Ensuring the Conservation of the Historic Environment)

CP60 (Sustainable Transport)

CP61 (Transport and Development)

CP62 (Development Impacts on the Transport Network)

CP64 (Demand Management)

CP69 (Protection of the River Avon SAC)

**Supplementary Planning Documents:**

Idmiston, Porton, Gomeldon Village Design Statement (VDS)

Idmiston Parish Council Neighbourhood Plan 2015-2026 (NHP)

Affordable Housing SPG (Adopted September 2004) Affordable Housing SPG (Adopted September 2004)

Achieving Sustainable Development SPG (April 2005)

Wiltshire Local Transport Plan – Car Parking Strategy

Creating Places Design Guide

Habitat Regulations Assessment and Mitigation Strategy for Salisbury Plain Special Protection Area

Conservation of Habitats and Species Regulations

**7. Summary of consultation responses**

**Idmiston Parish Council**

Support

**Highways**

The site is located in the village of East Gomeldon to the rear of a row of existing dwellings. East Gomeldon does not have a development boundary and I will be guided by you as to whether you consider the proposal to be contrary to the Wiltshire Core Strategy, Core Policy 60 and 61 and Section 9, paras 102, 103, 108 & 110 of the National Planning Policy Framework 2019, which seek to reduce the need to travel, particularly by private car and support and encourage sustainable, safe and efficient movement of people and goods.

I also note the planning history of this site, with a similar proposal refused consent under reference 20/08997/FUL. As per previous advice from this Highway Authority, I do not view the proposals to be likely to create a highway safety issue and therefore, should you be minded to support the development with regards to sustainability, I wish to raise no highway objection providing the following conditions are imposed:

(WD20) No part of the development hereby approved shall be first occupied until the parking and turning area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

(WG2) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

### **Informative**

The applicant(s) is advised that the discharge of this condition does not automatically grant land drainage consent, which is required for any works within 8m of an ordinary watercourse or any discharge into an ordinary watercourse. The applicant remains responsible for obtaining land drainage consent, if required, at the appropriate time.

### **Archaeology**

No objections - here are no archaeological issues that I would wish to raise in this instance.

### **Public Protection**

I am writing regarding planning application PL/2021/05622 for demolition of a barn and construction of a 2 bed bungalow. The new dwelling will be near to agricultural land and buildings and residents may therefore notice impacts from noise, dust, odour and pests in to the future. However, it is not unusual for dwellings to be near stables and the other agricultural buildings do not look, large or intensively used. The following conditions should be applied:

- 1) No development shall commence on site until a demolition and construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:
  - i. An introduction consisting of demolition phase environmental management plan, definitions and abbreviations and project description and location;
  - ii. A description of management responsibilities;

- iii. A description of the demolition programme;
- iv. A named person and telephone number for residents and LPA to contact;
- vii. Details regarding dust and noise mitigation;
- viii. The movement of demolition and construction vehicles;
- ix. The cutting or other processing of building materials on site;
- x. Wheel washing and vehicle wash down facilities;
- xi. The transportation and storage of waste and building materials;
- xii. The location and use of generators and temporary site accommodation

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

2) There shall be no burning undertaken on site at any time.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

3) Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

4) Former agricultural use of the site/building may have given rise to potential sources of land contamination e.g. fuel oil, vehicles, asbestos, pesticides or herbicides. As it is now intended to use the site for residential purposes a statement/letter report must be provided which confirms the historical uses of the site/building and how development works will address any potential for land contamination which may exist.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

### **Ecology/River Avon SAC Phosphates**

Objection

**Further Information Required:**

	<b>Issue</b>	<b>Policy/Legislative Compliance</b>	<b>Date information requested &amp; Further information required (Leave blank if further information not required)</b>	<b>Satisfactorily addressed (Document &amp; Date)</b>
1.	Increase in phosphorus burdens to the River Avon SAC	The Conservation of Habitats and Species Regulations 2010 (as amended), Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 175 and 177 of the National Planning Policy Framework	A detailed mitigation strategy to counterbalance the increase in phosphorus burdens from the proposed development.	

**The outstanding document(s) listed above are needed to enable the council's ecology team to consider all the relevant impacts and benefits of the proposed scheme. The council's ecologists will provide a further response once all the above information has been submitted via the case officer.**

**Matters Considered:**

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. Advice from Natural England indicated that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering this European site causing further deterioration to it.

The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non sewered, permitted during this period. However, applications of this nature do not currently come within the terms of the generic AA recently agreed with Natural England therefore we currently do not have sufficient evidence to conclude that it is compliant with the Habitats Regulations.

The planning statement refers to impacts of nitrogen on the Solent catchments. The development site is located in the River Avon catchment, which is sensitive to increases of phosphorus from foul waste and urban run-off. The proposed development will result in a new unit of accommodation and it is the Council's view that mitigation is required to counterbalance the associated phosphorus burdens.

The Council, as competent authority needs to have certainty that the development proposals will not have an adverse effect on the integrity of the European site. The provision of every

new dwelling in the catchment will lead to a chain of house moves over its lifetime and this has the potential to bring more people into the catchment. Effective mitigation needs to be legally secured for the lifetime of the development, which is considered to be 80-125 years. It is not possible to rely on restrictions to occupancy within the new dwelling. Any measures proposed for mitigation would need to be legally secured and enforceable by the competent authority over the development's lifetime. Natural England has set out guidance on the type of phosphorus removal measures that are appropriate as mitigation such as permanent removal of agricultural land or wetlands. **The application must submit their own mitigation strategy showing the development will achieve nutrient neutrality, together with a letter from NE demonstrating that the strategy and development proposals submitted for planning have been reviewed by them and found to be compliant with the Habitats Regulations.**

Currently the application does not include detailed proposals to mitigate the impacts of these increases in phosphorus and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European site as a result of the development.

## Ecology – other matters

### Objection

#### Recommendations:

<input type="checkbox"/>	No Comment
<input type="checkbox"/>	Support
<input type="checkbox"/>	No objection
<input type="checkbox"/>	Condition (no objection subject to conditions)
<input checked="" type="checkbox"/>	Objection - further information required
<input type="checkbox"/>	Objection in principle
<input checked="" type="checkbox"/>	HRA required (refer to comments from Senior Nutrient Officer, Wiltshire Council 6 <sup>th</sup> September 2021)

#### Further Information Required:

	Issue	Policy/Legislative Compliance	Date information requested & Further information required	Satisfactorily addressed (Document & Date)
1.	Net loss of biodiversity and biodiversity net gain	CP50 and NPPF	Plans showing features to mitigate impacts on birds (including barn owl) and bats. (09/09/2021)	

**The outstanding document(s) listed above are needed to enable the council's ecology team to consider all the relevant impacts and benefits of the proposed scheme. The council's ecologists will provide a further response once all the above information has been submitted via the case officer.**

#### Matters Considered:

- The supporting Phase I Survey, Reptile Survey and Mitigation Strategy, prepared by Bourne Ecology (July, 2021) has been reviewed.
- This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. Please refer to comments made by Rachel Jones (Senior Nutrient Officer, Wiltshire Council ,6<sup>th</sup> September 2021) in relation to this matter.
- The supporting report confirms the barn supports breeding woodpigeon, collard dove and barn owl and that the surrounding land support toads and a low population of slow worm.

- Section 5 details appropriate mitigation and enhancement including pre-construction works and sensitive construction methods to avoid temporary impacts on birds (including barn owl), reptiles and amphibians which must be adhered to and should be secured by condition.
- **In order to ensure the development will result in no net loss of biodiversity and biodiversity net gains replacement features for use by birds and bats as recommended in Section 5 the submitted Phase I Survey, Reptile Survey and Mitigation Strategy, prepared by Bourne Ecology (July, 2021) must be incorporated onto planning drawings specifically:**
  1. Plan/s showing details of the location and specification of replacement bird nesting features (sparrow terrace nest box).
  2. Plan/s showing the location and specification of replacement barn owl nest box in retained barn including recommended modifications of the barn.
  3. Plan/s showing the location and specification of permanent bat roosting features.

**Further details were provided and passed to the ecologist for further comment and they have raised No objection subject to condition and removed their holding objection**

The submitted plan 'Location of Biodiversity Mitigation and Enhancements 95 East Gomeldon (PL/2021/05622)' is satisfactory to remove my holding objection for application PL/2021/05622.

If you are minded to approve this application the following, or similarly worded, condition is recommended.

The development will be carried out in strict accordance with the following documents:  
The submitted 'Location of Biodiversity Mitigation and Enhancements 95 East Gomeldon (PL/2021/05622)' plan.

Section 5 of the submitted Phase I Survey, Reptile Survey and Mitigation Strategy report prepared by Bourne Ecology, July 2021.

REASON:

For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

### **Third Party Representations**

Five letters of representation received for this application; these are included in full below

1

We have no objections to the proposed plan especially as it is a family development and not a development for gain. A application was approved on the edge of Winterbourne Earls on agricultural land two houses built to be sold to fund family care home cots. Other uses of agricultural land can also be found for example two properties at Little Dale Farm and the blatant change of use of land opposite Horfield Estate in Porton.

Please get on and approve the application to enable the applicant and his family to complete the desired family plan on the land.

2

1) While there is no building line in E. Gomeldon Rd. this property will constitute back development into agricultural land and will be a precedent for other occupants in E. Gomeldon Rd. do the same.

2) It is Agricultural land.

- 3) There are bats and possibly barn owls. We understand that they should not be disturbed.
- 4) This is a revised Application and We are concerned that the property will be enlarged under the permitted development regulations, to the size stated in the original Planning application
- 5) There appear to have been considerable small developments on this site already, and we are concerned that it will mean that there is over development of the site.

3.

I am the owner of 93 East Gomeldon Road, and whilst this house is currently a rental property, I do intend to live at number 93 in the future. Therefore, would be affected by the rebuild of the barn.

I approve of this application on the basis that I have got to know the Maher family and fully support the idea that Toby should have the opportunity to live independently next door to his family.

The Maher's have previously tried to buy my house (number 93) which is a two-bedroom bungalow, for the purpose of allowing Toby to live next door to his family, but I am not planning to sell now or in the future.

I wish them the best of luck with this application.

4 .

My main concern is about back fill in East Gomeldon Rd ,that with the amount of properties with land behind and developers always looking in the area it will start a precedence changing land from agricultural ,which we are losing at a rapid rate, (Loss of agricultural land Clause 14.01-1R of the Planning Policy Framework, Protection of Agricultural Land) and building on it in an area that has already got restricted access

Also as we have a regular Barn Owl and Bats that fly around us is there a possibility they live in the barn .

5.

if this “back land” development is allowed I hope that will set precedent to allow other properties in the road to develop their “back land”, if this is not the intention then the no “back land” development policy should be adhered to.

This bungalow is very close to our rear gardens and land that currently enjoy privacy. However it does appear that the design is well thought out and avoids windows overlooking our property.

## **8. Publicity**

This application was advertised through the Parish Council and neighbour letters as well as statutory consultees.

## **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.

### **9.1 Principle of development**

## **NPPF**

The National Planning Policy Framework (NPPF) (2021) which sets out Central Government's planning policies, confirms that planning law requires that applications for planning permission be determined in accordance with the development plan (proposed development that is in accordance with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused), unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990); that the NPPF is a material consideration in planning decisions and planning policies and decisions must also reflect relevant international obligations and statutory requirements.

The proposals are therefore to be considered in the context of the National Planning Policy Framework (NPPF) and the adopted Wiltshire Core Strategy (WCS), saved policies of the Salisbury District Local Plan, the Wiltshire Local Transport Plan, neighbourhood plans and village design statement.

At the heart of the NPPF is a presumption in favour of sustainable development and the Adopted Wiltshire Core Strategy seeks to build resilient communities and support rural communities but this must not be at the expense of sustainable development principles. The Settlement and Delivery Strategies of the Core Strategy are designed to ensure new development fulfils the fundamental principles of sustainability.

This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner. A hierarchy has been identified based on the size and function of settlements, which is the basis for setting out how the Spatial Strategy will deliver the levels of growth.

## **Wiltshire Core Strategy**

Core Policy 4 confirms that development in the Amesbury Community Area (which includes Gomeldon) should be in accordance with the Settlement Strategy set out in Core Policy 1 and growth in the Amesbury Community Area over the plan period may consist of a range of sites in accordance with Core Policies 1 and 2.

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county, and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development/settlement boundaries. Settlement boundaries are essentially defined as the dividing line between areas of built urban development (the settlement) and non-urban or rural development (the open countryside).

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

East Gomeldon is identified as a small village in the Wiltshire Core Strategy where any settlement boundaries have been removed and therefore has no defined limits of development/settlement boundary being a village that does not have a range of services, facilities and few employment opportunities where new housing development will be

restricted. East Gomeldon is therefore classed as being situated in the open countryside and as such is in an unsustainable location where there is a general presumption against new development, particularly of a residential nature. There is therefore an “in principle” objection to the erection of a new dwelling on this site in a small village, in the open countryside, in an unsustainable location.

### **Exception policies in Wiltshire Core Strategy**

Outside of the limits imposed by CP1, CP2 and CP4, development should only be permitted in the circumstances outlined in paragraph 4.25 of the Core Strategy. Paragraph 4.25 identifies ‘exception’ policies, which seek to respond to local circumstances and national policy, to provide additional sources of employment and housing sites. These policies are listed below:

- Additional employment land (Core Policy 34)
- Military establishments (Core Policy 37)
- Development related to tourism (Core Policies 39 and 40)
- Rural exception sites (Core Policy 44)
- Specialist accommodation provision (Core Policies 46 and 47)
- Supporting rural life (Core Policy 48)

Officer’s note that where there is a change from agricultural to residential, it is normal to class the agricultural land as countryside and wouldn’t as a rule allow a new dwelling there unless it was for an agricultural worker – Core Policy 48 relates. Core policy 48 is not however relevant for the proposed development at 97 East Gomeldon Road.

Of the above exceptions, only one is relevant to the application before us, this is **Specialist accommodation provision (Core Policies 46 and 47)**, noting Core Policy 47 does not apply as this related to Gypsies and Travellers.

Core policy 46 (Meeting the needs of Wiltshire’s vulnerable and older people) supports “The provision, in suitable locations, of new housing to meet the specific needs of vulnerable and older people will be required. Wherever practicable, accommodation should seek to deliver and promote independent living.” Core policy 46 therefore supports the provision of homes and accommodation for vulnerable people **but only in suitable locations.**

Provision of homes and accommodation for vulnerable people will be supported, including but not limited to:

- iv. people with learning disabilities
- v. people with mental health issues
- vi. homeless people and rough sleepers
- vii. young at risk and care leavers.

Such accommodation should be provided in sustainable locations, where there is an identified need, within settlements identified in Core Policy 1 (normally in the Principal Settlements and Market Towns) where there is good access to services and facilities.

The above criteria state that “*Such accommodation should be provided in sustainable locations ..... where there is good access to services and Facilities*”. It has already been identified above that the site lies within open countryside and is not deemed to be within a sustainable location and is not near services and facilities.

In exceptional circumstances, the provision of specialist accommodation outside but adjacent to the Principal Settlements and Market Towns will be considered, provided that:

- viii. a genuine, and evidenced, need is justified
- ix. environmental and landscape considerations will not be compromised
- x. facilities and services are accessible from the site
- xi. its scale and type is appropriate to the nature of the settlement and will respect the character and setting of that settlement

An applicant’s personal circumstances are not normally a material planning consideration and not relevant to the planning decision (unless exceptionally and clearly relevant, e.g. provision of facilities for someone with a physical disability). In this case, the planning statement accompanying the application sets out in detail the personal circumstances of the Applicant’s son:

*‘Toby has Down Syndrome which, as noted in the letters from the applicants (Appendix A) the Down Syndrome Support Charity Ups and Downs Southwest (Appendix B) and Toby’s school (Appendix C) presents many challenges for individuals who wish to live an independent life. Indeed, it was accepted by the Case Officer of the previous application that Toby’s circumstances represented a genuine need for the accommodation. During the previous application Officers held concerns as to whether the scale and facilities within the proposed dwelling were appropriate and if the provision of a dwelling for the applicants to live in (thus allowing Toby to live in the existing dwelling at No.97) would be policy compliant. The present application proposes a dwelling which is purpose-built for Toby’s needs. There are 2 bedrooms (which allows for a live-in carer if required in the future), a kitchen, bathroom (again for the carer), living area, wet room and gym/resource room all on a single level. It is considered that the revised scheme full accords with criterion (viii).’*

The advantages of being close to relatives are also set out in the supporting information:

*Toby is nearly 15, the house will take a certain amount of time to build and even longer for him to adapt to changes, potentially it could take years of adjustment. The process would not be comparable to giving a typically developing 18-year-old a key to a house and him moving in. For Toby, it will take lots of one night sleep overs, time to learn how to use everything, time getting used to a carer (if needed) and time to learn to live differently. The transition is expected to be a lengthy process. Again, this is why it is important that the applicants’ family unit sticks together, next door to each other so they can help with the transition.*

Whilst it has been previously accepted by the LPA that the personal circumstances of the applicant in this case are a material consideration, it is not considered that the development as proposed outweighs the policy objections to the scheme. There is no mechanism to ensure that it would remain in the ownership of the applicant and were the applicant to cease occupation it would be open market housing in an unsustainable open countryside location poorly related to services.

**In this case the proposed dwelling is not located in a suitable or sustainable location (being within the open countryside not within or adjacent to a Principal Settlement or Market Town) and is therefore in principle contrary to CP1, 2, 4 and 46 of the WCS.**

In addition, the documents do show that when Toby is an adult in a few years' time and if he is able to and wishes to, he will not be able to live independently as he will require support by an adult whether this is a parent or other carer. Toby is currently 15 so a few years off adulthood, it is understood that it takes time for a new dwelling to be constructed and also it is understood the desire for Mr and Mrs Maher to want the best for their son, this does however apply for any parent, regardless of background, disability or personal circumstances. Often children wish to live in the area in which they have grown up but there are just not affordable houses available, this does not however trigger the need to ignore or go against policy to create unacceptable development in the open countryside such as the new dwelling proposed here. **The "in principle" objection still stands.**

Section 5.11 of the submitted planning statement agrees that the proposed development is contrary to policy and states that *"Whilst the proposals are not fully policy compliant, they are certainly accordant with the spirit of the policy and it is only the locational aspect which fails. The harm caused by this policy conflict is therefore considered to be significantly limited."* Section 5.14 of the planning statement states *"Although not entirely accordant with CP46, the proposed development would serve a demonstrable need for a vulnerable person within an established settlement. This is considered to be entirely accordant with the spirit of the Wiltshire Core Strategy, which seeks to enable genuinely required development in appropriately sustainable locations"*. However, the locational aspect of this policy is one of the key components and as already extensively explained, the site is not in a sustainable location; development contrary to this can only be seen as harmful and bad planning.

It is understood that Mr and Mrs Maher have lived in the general area for a number of years and wishes to remain local. The application does not provide supporting information or justification as to why other sites have or have not been looked into, why other sites are not suitable or whether an extension to the main house for an annexe has been looked into as a possibility.

Third parties have raised a couple of examples of other development in the locality which have been approved and they feel are the same as that proposed at 97 East Gomeldon Road, and therefore mean this current application should be approved in principle see below. All sites are unique and have different impacts and constraints as well as different impacts on neighbouring properties and the local area. What is acceptable for one site is not necessarily acceptable for another, this is why Officers have a careful and sometimes very difficult balancing act to carry out when reaching decisions on applications weighing a huge range of factors including policies and material considerations.

- Horefield Estate Porton, this site is a site that was identified in the Neighbourhood Plan for residential development and whilst it is change of use of agricultural land, it does comply with policy for this reason unlike the site at 97 East Gomeldon Road which is contrary to the neighbourhood plan.
- Site in Winterbourne, no further reference or details have been given for this therefore I cannot comment on this without an address or application number. The third party states two dwellings were built and sold off to fund care home costs, implying they were not built for use by vulnerable occupants.

A different application in Winterbourne was approved by Wiltshire Council for a new dwelling for a disabled person which was contrary to policy as it was to be erected outside of the

defined settlement limits of The Winterbournes is application 14/03915/FUL. This application was not assessed against the current national (NPPF 2021) and local (Wiltshire Core Strategy, Neighbourhood Plan) planning policies and guidance but was assessed against previous policies which have been superseded.

The siting of the proposed dwelling for 14/03915/FUL was in open countryside and therefore in an unsustainable location, but the new dwelling included very clear special adaptations within the design to allow for the disability of the member of the family. This site is different from the site at East Gomeldon in many ways and is not considered comparable.

The location of this approved dwelling is shown on the snip-it below from the approved location plan from 14/03915/FUL. This site could be considered infill development if assessed against today's current policies and guidance and therefore may have been considered compliant with these policies including the neighbourhood plan.



## Neighbourhood Plan

The application site falls within the Idmiston Parish Council Neighbourhood Plan 2015 – 2026. The application site is not identified as a site for possible future development in this Neighbourhood Plan.

Page 37 of the Neighbourhood Plan states that

*Importantly, Porton is identified as a large village where residential development should predominately take the form of small housing sites within the defined limits of development. **The Gomeldons are collectively identified as a small village where development will be limited to infill within the existing built up areas.** Idmiston is not identified in the settlement strategy and consequently there is a general presumption against development there.*

There is one site on East Gomeldon Road indicated for development of a single dwelling in the Neighbourhood Plan, this is at the far east end of East Gomeldon Road at Land at St Judes, East Gomeldon Rd, East Gomeldon, labelled as site reference G5 in the Neighbourhood Plan.

Policies 15, 17 and 19 of the made Neighbourhood Plan are relevant as detailed below.

**“Policy 15 - Housing Needs.** *The Parish Council is committed to ensuring that sufficient Affordable Housing is available to meet the needs of those who live in the Parish or the locality of Idmiston. Core Policy 44 of the Wiltshire Core Strategy allows the development of ‘rural exception’ sites and Core Policy 46 of the Wiltshire Core Strategy supports the provision of housing for older people as an exception. Small schemes for affordable and elderly persons accommodation which come forward in compliance with this policy will be supported, subject to other policies within the plan. All other proposals for residential development will be expected to comply with Core Policy 43 of the Wiltshire Core Strategy.”*

**“Policy 17 - Development Criteria** *Any developments in villages will need to meet all of the following criteria:*

- *Be well related to the existing village envelope*
- *Be of modest scale and not generally exceed ten dwellings, in order to protect the rural nature of the village*
- *Reflect the character and variety of the existing pattern of development in the village*
- *Follow the lines of the contours on sloping sites to ensure a better fit with the existing landform”*

**Policy 19 - New Development Sites.** *The Neighbourhood Plan will facilitate the delivery of approximately 32 homes across the Plan period. The delivery of new homes will be monitored, in the event that the development of new homes through existing commitments or proposals will not achieve the figure of approximately 32 dwellings, consideration will then be given for the development of the sites shown in Figure 1 of the plan. Subject to other policies in this Plan new residential development proposals will be supported to achieve the housing requirement where they deliver infill development or at the large village of Porton small scale development of no more than 11 homes within and immediately adjacent to the settlement boundary of Porton, as established in the Core Strategy. Residential development elsewhere in the Plan area will be resisted.*

Policy 15 of the Neighbourhood Plan acknowledges Core Policy 46 but only in relation to older people, this does not refer to vulnerable or special needs. Regarding Policy 17, it could be argued that the proposal does not meet all elements of this policy such as being well related to the existing village envelope and reflecting the character and variety of the existing pattern of development in the village. Finally, Policy 19 says that housing outside of the allocated sites will be considered if they are infill but that development elsewhere in the plan will be resisted, **the development is not considered as infill development as explained below and therefore does not comply with the policies of the Neighbourhood Plan.**

### **Infill development**

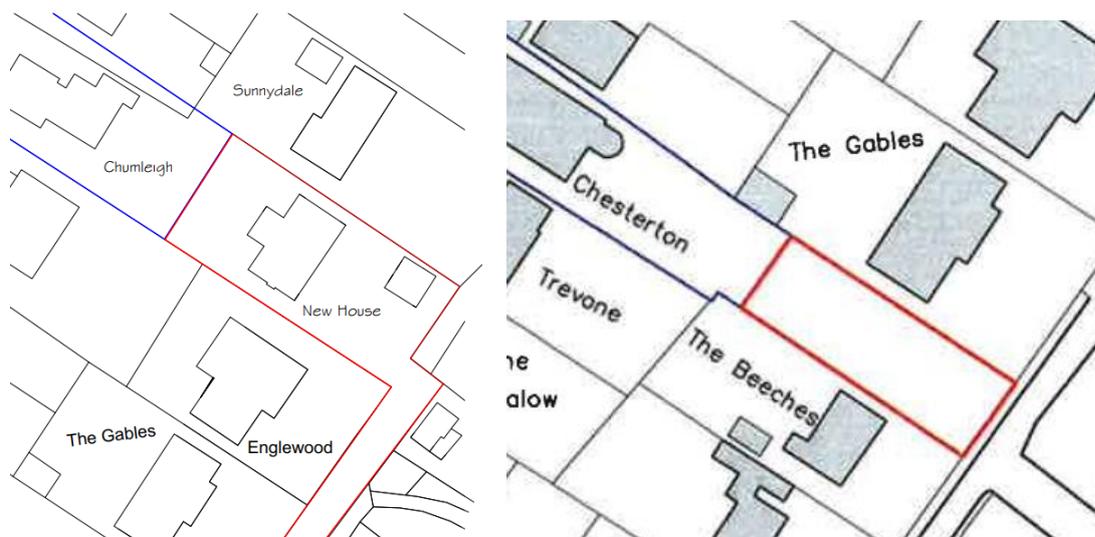
Core policy 2 states that *“At the Small Villages development will be limited to infill within the existing built area. Proposals for development at the Small Villages will be supported where they seek to meet housing needs of settlements or provide employment, services and facilities provided that the development:*

- i) Respects the existing character and form of the settlement*
- ii) Does not elongate the village or impose development in sensitive landscape areas*
- iii) Does not consolidate an existing sporadic loose knit areas of development related to the settlement.”*

For the purposes of Core Policy 2, infill is defined as: *“the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling”.*

For the purposes of infill to be considered acceptable, the site would not only need to be clearly within the built up area of the village but also needs to fill a small gap between other residential dwellings (one on either side at least or surrounded by existing dwellings) and which is only capable of providing 1 or 2 dwellings

Below are two examples to demonstrate infill development both are sites located off Salt Lane in Winterbourne Gunner (approx. 1km from 97 East Gomeldon Road), for each site the proposed dwelling was to be constructed between existing dwellings, infilling a gap whilst respecting the existing character of the area. The location of the proposed dwelling at 97 East Gomeldon Road is clearly not infill development and therefore contrary to policy.



The siting for the proposed dwelling is on agricultural land, on higher ground to the north of the main ribbon of residential development which follows the East Gomeldon Road. The site is not located between other existing residential dwellings and does not fill a gap, for the purposes of core policy 2, **the proposed development is not considered to be infill development.**

### Principle summary

The application site is located in a small village and is considered to be in the open countryside; the site is considered to be in an unsustainable location where there is a presumption against unsustainable development, with no direct access to facilities and services and is contrary to Core Polices 1, 2 and 4 of the Wiltshire Core Strategy and the aims of the NPPF. Furthermore, the site is not identified as a site for future development within the made Neighbourhood plan, is not considered to be infill development and is not considered to be justified in terms of compliance with the exception polices as defined within core policy 46.

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 consideration in this case is the needs of the Applicant's son, 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 dwelling in a location where new dwellings would not normally be

permitted. Furthermore, the proposal would result in harmful encroachment of residential development into the rural landscape designated as a special landscape area.

It is considered that whilst the personal circumstances of the Applicant and their son amount to a material consideration, it does not outweigh the harm, in planning terms, that would be caused by allowing a development that in this particular unsustainable location would have an irreversible adverse impact on the area, on a site that has not been brought forward for development by the local community. The proposed new dwelling is therefore not considered to be acceptable in principle.

## **9.2 Personal Circumstances**

The applicants are aware of the policy restriction of new dwellings in the open countryside but feel an exception could be made due to the special needs of the applicants' son, Toby. Personal circumstances of the applicant are not normally a material planning consideration, however, where these circumstances are exceptional and clearly relevant (e.g. provision of facilities for someone with a disability) then some flexibility can be given in determining applications.

The personal circumstances of the applicant and the applicant's family in particular the applicant's son, Toby have already been described and discussed above but these personal circumstances in this instance are a material consideration for determining this planning application. The proposed development seeks to achieve a new dwelling for Toby who is 11 years old and has Downs Syndrome to live in whilst his parents remain in the existing three bed bungalow. It is understood that Toby wishes to live independently when he is an adult but due to his disability will need care in some form although this is not known at this point. Having his parents close by will help with everyday activities although a live in carer may be required at some point. Officers appreciate that the family are trying to do what they feel best for Toby for the future and it is unfortunate that the proposed development on this site is contrary to the exception policy as it is not designed as a new dwelling for someone with a disability both in terms of scale, design and siting.

### **Equality Act/Human Rights**

In determining planning applications the Local Planning Authority has to have regard to the requirements of the Equality Act (2010). This 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. 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, built for the child's needs and close to family support. However, it does not follow that this is the only site or property where his needs can be physically 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; Toby as mentioned above is 15, it would be highly unusual for someone so young to have a dwelling for themselves, it is ore usual for children to remain in the family home until they ra least reach adulthood or much older.

### **9.3 Character & Design**

Under the Councils adopted design guidance (Creating Places), Objective 16 states that proposals should clearly exhibit...

- The importance of space between dwellings and groups of buildings
- The relationship of the site to the wider landscape
- The relationship of dwellings to the street
- The variety and scale evident within groups of dwellings
- How the new dwelling(s) will relate to the context and to each other to create a particular place
- The scale and mass of dwellings providing the context
- The detail which typifies local buildings including treatment of window openings in terms of scale, pattern and ornamentation, eaves and gables, extensions and their materials
- Whether there are alternatives to standard designs, which could enhance even the non-traditional environment?

**Poor designs, which take little or no account of their local setting will be refused.**

Core Policy 57 states *"a high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality"*.

The NPPF updated July 2021 puts greater emphasis on the need for good design than the 2019 Framework.

Paragraph 9 states Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area

Paragraph 130 of the NPPF sets out that developments should function well and add to the overall quality of the area, be sympathetic to local character and establish a sense of place. It states at paragraph 134 that development that is not well designed should be refused. This has been highlighted in a recent appeal decision for 107 Bouverie Avenue South (planning reference 20/06105/FUL ) for a new dwelling which the Southern Area Planning Committee refused and the Planning Inspectorate upheld for reasons of poor design and backland development that was harmful to the character and appearance of the area – notable similarities to this current application.

East Gomeldon Road currently consists of a long road that extends from Gomeldon Road to the west; under the railway line; and continues in an easterly direction. East Gomeldon Road comprises mainly of development along the northern side of the road with fields and open countryside to the south; exceptions to this include the small housing development to the east of the railway line which includes Broadfield Road/Close, Hillside Drive and Ladymith.

Properties on the northern side of East Gomeldon Road are predominantly residential plots which are sited towards the front of the plot with rear liner gardens with a few being sited towards the rear of the plot with linear front gardens. The properties are bounded by fields to the north. Generally, any built development further to the north and uphill of the line of dwellings along East Gomeldon Road relates to stables, outbuildings or occasional farm buildings. The dwellings along East Gomeldon Road comprise a mix of architectural design and ages but the prominent scale is that of bungalow development. There are few examples of residential dwellings being built behind other residential dwellings, normally known as tandem or backland development, both tandem and backland development are unusual for this location.

In terms of policy, Officers feel the following additional policies should be highlighted as pertinent to this application.

Saved Policy C6 of the Salisbury District Local Plan (SDLP) states: *"Within the Special Landscape Area, proposals for development in the countryside will be considered having particular regard to the high quality of the landscape. Where proposals which would not have an adverse effect on the quality on the landscape are acceptable, they will be subject to the following criteria;*

- (i) The siting and scale of development to be sympathetic with the landscape; and*
- (ii) High standards of landscaping and design, using materials which are appropriate to the locality and reflect the character of the area. "*

Design Policy 6 of the Idmiston, Porton and Gomeldon Village Design Statement (VDS) states: *"For our villages to remain as recognisably separate places, with their own identities, it is critical that these physical and visual breaks between our settlements are retained. Consequently any development which prejudices the continued separation of our existing villages from each other, and from those in neighbouring parishes, will not be supported."*

Policy 1 of the Idmiston Neighbourhood Plan (NP) states: *"For the villages to remain as recognisably separate places, with their own identities, it is critical that these physical and visual breaks between our settlements are retained. Consequently, any development which prejudices the continued separation of our existing villages from each other, and from those in neighbouring parishes, will not be supported."*

Design Policy 10 of the VDS states: *"To ensure new development in Gomeldon and East Gomeldon is compatible with the existing settlements' mostly linear form... Tandem or backland development should be avoided"*.

The proposed demolition of the existing agricultural building and the erection of a new dwelling to the rear of the existing linear form of residential development, outside of the existing building line along with the creation of a residential curtilage for the dwelling would therefore be contrary to Design Policies 6 and 10 (VDS), Policy 1 (NP) and C6 (SDLP), as the extent of land used for residential purposes (and the resultant presence of domestic paraphernalia, e.g. outdoor furniture, children's play equipment etc) would encroach onto the agricultural land that serves as the buffer between the villages of East Gomeldon and Porton, and would be out of keeping with the character and appearance of the area and would constitute harmful encroachment into the open countryside.

During the course of the application, third parties made Officers aware of building work being undertaken on the application site relating to the conversion of an agricultural building to residential/domestic use. Officers queried this with the Agent but no response was forthcoming, the case officer during a site visit to the property looked at the outbuilding and the applicant confirmed it was for a office (home office) and gym for Toby. The applicant stated this would be used until the dwelling was built and then Toby would use the gym in the main house. Nevertheless, no prior consent was sought for this development and the matter referred to planning enforcement. Officer are concerned that should the proposed new dwelling and associated use be granted that there would be further residential encroachment into the open countryside as shown by this unlawful development. The loss of a second agricultural building (the demolition of existing and conversion of this second) could result in a request for further buildings to be erected on site.

The previous application cited a number of properties along East Gomeldon which were felt by the applicant as similar in terms of character to their proposed dwelling, these have not been raised with the current application, but Officers feel it is prudent to include these within this report for completeness, these will be described below. Officers do not concur with the views of the applicant and feel that each of the examples cited does not support the new dwelling in the location proposed and is not comparable in terms of siting, design or character.

**1. 81 East Gomeldon Road** received outline consent for a new dwelling (18/03762/OUT) to the front of the existing dwelling. The existing dwelling was set back from the road with the new dwelling to be constructed in line with the existing dwellings closer to the road within the existing front garden; the new dwelling considered to be following the existing pattern of development. This development was classed as tandem development which is unusual for this location; the existing dwelling being sited towards the rear of the plot and barely visible from the road. The new dwelling was considered to visibly fit in with the character of the area. This proposal did not encroach on the open countryside and did not propose to extend the residential curtilage to the north of existing residential curtilages.

Snip-it from approved site plan below, noting East Gomeldon Road to the bottom (south) of the image.



**2. 83 East Gomeldon Road**, is one a few dwellings along this road which have been constructed towards the rear of the residential plot with a long front garden as can be seen in the snip-it below taken from the Council's mapping. This is not comparable to the site at 97

East Gomeldon Road where the new dwelling will be constructed to the north of the dwellings shown below with its residential gardens extending even further north. No site history can be found for when this dwelling was erected but an application from 1992 for an extension has been found therefore the dwelling was constructed before 1992.



**3. 159 (Rogues Roost) East Gomeldon Road**, new dwelling was approved in 1992 with additional residential curtilage added in 1997. This site also does not encroach on the open countryside to the north and is not considered directly comparable to the site at 97 East Gomeldon Road.



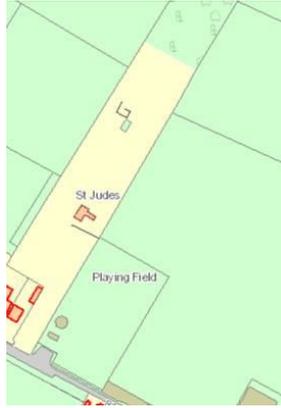
**4. 195 East Gomeldon Road** also known as Little Dale Farm is a form of backland development and was construction pre 1970. This dwelling is located fairly close to East Gomeldon Road and does not encroach on the agricultural land or open countryside, indeed the dwelling has associated outbuildings and agricultural land to the north.



**5. 59 East Gomeldon Road** is perhaps the most like the application site in that it is an anomaly and is therefore not considered to represent the character of this locality as it is one property. Looking at the site history, an application for a replacement dwelling was approved under planning reference S/1983/0495 but a later application for a new dwelling and access was refused in 2001. If anything, this application demonstrates why any further dwellings encroaching on the agricultural land and open countryside of the local area will be harmful to the character of this area.



**6. 223 East Gomeldon Road**, this is the last dwelling along the northern side of the road at the east end. In 2015, application 15/09817/FUL was approved for the replacement of a mobile home with a log cabin. Noting this site is one which is designated within the made Neighbourhood Plan as suitable for an additional dwelling. This site is not considered to be comparable with the application site.



From the brief run through above, Officers do not feel that there are any directly comparable dwellings along East Gomeldon Road which set a precedent for the erection of the new dwelling at 97 East Gomeldon Road. Notwithstanding this, each site must be assessed on its own merits and in this instance the erection of a new dwelling in the location shown at 97 East Gomeldon Road is considered to be out of keeping with the character of the local area and is considered to form a harmful development due to the encroachment on the open countryside. There are also concerns that by allowing one dwelling in the proposed location, in the open countryside which is contrary to policy that this will lead to further applications for similar development, further eroding the open countryside. The third party representations received comment on this matter and the case officer received further enquiries regarding building on land behind their properties should this application be approved.

In terms of design of the building itself, there can be no disagreement that the existing barn is in poor repair and visually unattractive, its removal on visual amenity grounds can only be seen as an improvement. Officers do however have concerns that by removing the barn and thus the storage space this provides, there will be an inevitable subsequent application for an additional barn on site should the existing barn be removed and new dwelling constructed. Additional barns on this site could itself pose harm to the rural landscape and further erosion of built development into the undeveloped land.

The proposed dwelling has been designed to be of a similar size and scale as the existing barn although slightly larger in length and width; the proposed dwelling follows a similar design to the existing barn. However, it is considered that the proposed design for new house by following the design of the existing building is utilitarian and ugly with little in the way of architectural merit, having more of a resemblance to an American Church than well designed rural dwelling. The proposed design of the new dwelling is considered to be contrary to objective 16 of the Council's design guide Creating Places, core policy 57 and the general good design aims of the NPPF (2021)

#### **9.4 Neighbouring Amenities**

WCS policy CP57 (Ensuring High Quality Design & Place Shaping) also requires new development to have 'regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration and pollution'. The NPPF also confirms that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Residential amenity is affected by significant changes to the environment including privacy, outlook, daylight and sunlight, and living areas within private gardens.

The location of the proposed dwelling will be largely surrounded by fields, with residential properties only to the south. The proposed dwelling will be constructed on higher ground than the neighbouring properties due to the sloping topography of the site; there are therefore concerns regarding overlooking/loss of privacy. However, the proposed dwelling is single storey with openings at ground floor level only other than on the east elevation where higher level gazing is included. Given the scale, siting, orientation and design of the proposed dwelling it is not considered that the development will overlook neighbouring properties or overshadow or overbear.

Officers do have concerns regarding the amenity of 87 East Gomeldon Road whose rear garden and stable block with manege border application site with the new dwelling to be constructed immediately alongside the stable block. Officers feel there is a conflict of uses with the potential for the building works as well as future residential use of the application site as residential will potentially negatively impact on the welfare of the horses stabled adjacent to the new dwelling. This is a new issue that has not arisen during the previous application as the existing barn acts as a buffer, with this being removed, there is no longer any protection afforded to the stables. Officers sought comments from the Council's public protection team regarding the conflict of uses, they however did not consider there was basis for objection subject to conditions.

It is therefore on balance not considered that the proposal will result in significant implications for neighbour amenity through loss of light or being overbearing.

### 9.5 Highway Safety

The application is proposing the erection of a single dwelling accessed off an existing access and driveway which serves one other property.

Current parking policy, and the terms and conditions for Wiltshire's resident parking permit schemes, are presented in 'LTP3', which is the third evolution of the Wiltshire Local Transport Plan. LTP3 sets out the Council's objectives, implementation plans and targets for transport in Wiltshire for the period from March 2011 to March 2026.

Regarding parking standards, LTP3 sets out minimum space requirements for residential developments. The standards follow:

<b>Bedrooms</b>	<b>Minimum Spaces</b>
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor Parking	0.2 spaces per dwelling (unallocated)

The submitted plans show that sufficient parking spaces can be provided which accords with the above guidance for a two bed dwelling. The Council's Highways Officer has raised no concerns regarding highway safety or parking.

The Council's Highways Officer has however raised concerns regarding the location of the property outside of any local settlement boundaries and therefore in the open countryside and therefore in an unsustainable location meaning the dependence upon the private car for residents and their visitors. The proposal to be contrary to the Wiltshire Core Strategy, Core Policy 60 and 61 and Section 9, paras 102, 103, 108 & 110 of the National Planning Policy Framework 2019, which seek to reduce the need to travel, particularly by private car and support and encourage sustainable, safe and efficient movement of people and goods.

*Officers note that the NPPF has been updated in July 2021, the above paragraphs of the NPPF should in fact relate to 104, 105, 110 and 112.*

## **9.6 Ecology**

Core Policy 50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system.

The existing barn has been shown to be a nesting site for woodpigeon, collard dove and barn owls. Third party representations received have confirmed that barn owls are regularly seen as well as bats although bats have not been found in the existing barn itself

Section 5 of the submitted ecology survey details appropriate mitigation and enhancement including pre-construction works and sensitive construction methods to avoid temporary impacts on birds (including barn owl), reptiles and amphibians which must be adhered to and should be secured by condition.

In order to ensure the development will result in no net loss of biodiversity and biodiversity net gains replacement features for use by birds and bats as recommended in Section 5 the submitted Phase I Survey, Reptile Survey and Mitigation Strategy, prepared by Bourne Ecology (July, 2021) must be incorporated onto planning drawings specifically:

1. Plan/s showing details of the location and specification of replacement bird nesting features (sparrow terrace nest box).
2. Plan/s showing the location and specification of replacement barn owl nest box in retained barn including recommended modifications of the barn.
3. Plan/s showing the location and specification of permanent bat roosting features

The above details were included in the submitted plans and were accepted by the ecologists as appropriate mitigation in this instance.

## **9.7 River Avon Special Area of Conservation (SAC) catchment area**

Core Policy 50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system.

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset **all planned residential development**, both sewered and non sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)
- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinet's resolution on 5<sup>th</sup> January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021.

However, as this application is not planned residential development i.e it is in the open country side contrary to core policies 1, 2 and 4 and does not accord with the exception policies in the core strategy or aims of the NPPF and is not an allocated site in the Neighbourhood Plan. The application does not therefore fall within the scope of the mitigation strategy and generic assessment. At this time as the site is not planned development it is concluded that the proposed residential development will lead to adverse impacts through phosphate loading on the River Avon SAC.

The applicants have put forward a counter argument which is "The proposed development is a purpose-built dwelling for use by the applicants' son, Toby, who has Downs Syndrome. Currently, Toby resides in the family house on-site with his mum and dad. The proposed development would allow Toby a greater degree of independence, whilst still being close by to family who can regularly check in on him and provide assistance at short notice if necessary. A 2nd bedroom is proposed because it is likely that at some point down the line, Toby will need live-in care from a specialist carer (note, a carer would also move into the existing family home if this development doesn't go through). The unique circumstances of this particular development mean that there will not be an increase in the number of occupants at the wider site, as Toby is not a new occupant but would just be moving from the family house to his own unit. It seems to us that there would arguably be no net increase in phosphate resulting from the development because the occupancy is the same and load is just spread across 2 units rather than 1.

The Council however do not accept this argument, whilst there may not be an increase in residents in the new dwelling over the short term as the family member will be moving from the main house, as this is a new dwelling and that the timescales over which mitigation is necessary is 80 to 125 years. In planning terms, it would be extremely difficult to monitor and to enforce, both in the short term and the long term. Furthermore, an added complication is that water use in households is not linear based on occupants in the dwelling. For example, a one person household uses more water *per person* than a three person household. We would therefore not be willing to accept this argument. It is also our view that monitoring and enforcing water use in private households over a period of 80 to 125 years would be extremely problematic from a logistics and funding perspective. It would also be challenging to rectify the situation should high water use occur in the private households. Basically, this application is for a new dwelling, which is market housing, therefore it is treated as such but as it is unplanned development, contrary to policy it is not covered by the current agreed mitigation. The applicants have also confirmed that they are unable to provide mitigation and after discussions with the Council it was concluded that there would be no option but to include this as a reason for refusal.

## **9.7 CIL/S106**

In line with government guidance issued by the DCLG (November 2014) Planning Contributions (Section 106 Planning Obligations), 1 proposed dwelling does not generate the need for S106 contributions. The Community Infrastructure Levy (CIL) came into effect on the 18th May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department.

## **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 material consideration in this case is the needs of the Applicant's son, but the law makes it clear that this by itself is not determinative. Officers must remain focused and not be swayed by emotions of an applicant's personal situation.

The site is located in the small village of East Gomeldon to the rear of a row of existing dwellings. East Gomeldon does not have a development boundary and is classed as being in the open countryside, in an unsustainable location where there is a presumption against new development. The proposed dwelling is therefore contrary to core policies 1,2, 4, 60 and 61 and Section 9, paras 104, 105, 110 and 112 of the National Planning Policy Framework 2021 which seeks to reduce the need to travel particularly by private car, and support and encourage sustainable, safe and efficient movement of people and goods.

The property is for Toby, a 15 year old with Down Syndrome to live in while his parents remain in the existing 3 bed bungalow which is currently the family home. The site is not identified as a site for possible future development in the made Neighbourhood Plan and is not considered to comply with any of the exception policies as defined within the Wiltshire Core strategy, the proposed dwelling does not include any design features that would indicate its use by someone with a disability or is vulnerable and is effectively just a market house.

The siting of the proposed dwelling is not considered to follow the existing pattern of development for East Gomeldon Road and is considered to constitute unwelcome encroachment into the rural landscape to the detriment of the character and appearance of the local area contrary to the NPPF, WCS, Creating Places Design Guide, Neighbourhood Plan and Village Design Statement.

The design of the proposed dwelling is considered to an ugly, utilitarian design, whilst the dwelling will be not prominent within the streetscene, this does not give way to allowing unacceptable design through the unattractive appearance of a new building.

There is an ongoing issues regarding phosphate loading in the River Avon SAC Catchment Area. As this site is not planned development, it is not covered by current mitigation measures as agreed with natural England; it is therefore not possible to conclude that the proposed development will not cause harm

## **11. RECOMMENDATION:**

**That planning permission be REFUSED for the following reasons, in principle, character & design and phosphates.**

1. The site is located in the small village of East Gomeldon to the rear of a row of existing dwellings. East Gomeldon does not have a development boundary and is classed as being in the open countryside, in an unsustainable location where there is a presumption against new unsustainable development. The proposed dwelling is therefore contrary to core policies 1,2, 4, 60 and 61 of the Wiltshire Core Strategy and Section 9, paras 104, 105, 110 & 112 of the National Planning Policy Framework 2021 which seeks to reduce the need to travel particularly by private car, and support and encourage sustainable, safe and efficient movement of people and goods.

The proposed development is not considered to be infill development as defined by core policy 2 of the Wiltshire Core Strategy. Furthermore, the site is not identified as a site for possible future development in the made Neighbourhood Plan and is not considered to comply with any of the exception tests as outlined in paragraph 4.25 of the Wiltshire Core strategy.

The new dwelling is for Toby, a 15 year old with Down Syndrome to live in while his parents remain in the existing 3 bed bungalow, the proximity allowing family support. The new dwelling however does not include any design features or adaptations to indicate it is for someone who is vulnerable or has a disability, the new dwelling has the character and design of a standard market house which does not accord with exception polices and is contrary to core policy 46.

2. The character of East Gomeldon Road is defined by ribbon development along the north side of East Gomeldon Road with dwellings either located at the front of the residential plots with linear rear gardens or located at the rear of the plot with linear front garden. Tandem or backland development is unusual for this road and is contrary to the design principles in the village design statement and the Neighbourhood Plan. The siting of the proposed dwelling located further to the north than existing dwellings and their curtilages is considered to create harmful encroachment of residential development into the rural landscape. Furthermore, the design of the proposed dwelling is utilitarian and does not constitute good visual design, contrary to core policy 57 of the Wiltshire Council Core Strategy and the good design aims of the NPPF.
3. The site is situated within the River Avon catchment area that is a European site. Advice from Natural England indicates that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering this European site causing further deterioration to it. The application does not include detailed proposals to mitigate the impact of these increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development. The proposal would therefore conflict with The Habitat Regulations 2017, Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 180 and 182 of the National Planning Policy Framework.