

## REPORT FOR NORTHERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	18 <sup>th</sup> December 2024
<b>Application Number</b>	PL/2023/06212
<b>Site Address</b>	Land north of Queen Street, Braydon, Malmesbury, SN16 9RL
<b>Proposal</b>	Formation of field track (part retrospective)
<b>Applicant</b>	Mr Gottfried Holland
<b>Town/Parish Council</b>	Purton Parish Council
<b>Electoral Division</b>	Brinkworth
<b>Type of application</b>	Full planning permission
<b>Case Officer</b>	Peter Korankye-Gyabong

### REASON FOR THE APPLICATION BEING CONSIDERED BY COMMITTEE

The application is before the Planning Committee at the request of the Local Division Member for the following reason(s)

- Scale
- Relationship to adjoining properties
- Design
- Environmental/highways impact

### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to assess the merits of the proposed development against the policies of the development plan and other material considerations. Having considered these, the report recommends that planning permission be APPROVED subject to planning conditions.

### 2. MAIN ISSUES

2.1 The main issues which are considered to be material in the determination of this application are listed below:

- Principle of development
- Scale, design, impacts on the character and the appearance of the area
- Residential amenity/living conditions
- Ecology
- Highways Safety & Impact on the Road Network

### 3. SITE DESCRIPTION

3.1 The site comprises open fields in agricultural use located in remote rural area within the village of Braydon to the immediately north of Queen Street. The site forms part of the former Holland Handling scrapyards site.

3.2 The site and its environs are typical of rural agricultural land with soft field boundaries formed of native hedgerows and a variety of native trees along with the commercial scrap yard.

3.3 The surrounding fields are mostly flat and are in Flood Zone 1. A public footpath (ref PURT133) runs along the site's eastern boundary. The site falls outside of any settlement boundary as defined within the WCS.

#### **4. RELEVANT PLANNING HISTORY**

N/06/03008/S73A - Completion of underground engineering operations to construct upgraded site drainage facilities (Retrospective). Approve with Conditions.

N/11/04158/FUL - Reinstatement and Improvements of Existing Access. Approve with Conditions.

#### **5. PROPOSAL**

5.1 This application seeks planning permission for a field track with access from the lane to the north of Queen Street leading down to the fields above the former scrap yard.

5.2 The fields are in agricultural use and the proposed use of the track is to gain access to these fields for tractors and other agricultural vehicles.

#### **6. CONSULTATIONS**

Highways Engineer: The track will run over the right of way PURT133 and rights of way should be consulted.

Rights of Way: The southern most section of the proposed track crosses public footpath PURT133. No objection subject to the approval of works by the Countryside Access Officer and subject to informative not to undertake works to disturb the surface of public footpath without prior consultation with the Rights of way Countryside Access Officer.

Ecology: No objection subject to conditions for development to be carried out in strict accordance with the Ecological Mitigation and Enhancement Strategy dated June 2024, submitted.

Wiltshire Wildlife Trust: Raise objection in relation to the follow:

- The application fails to consider the track runs along the boundary of their Nature Reserve Avis Meadows, a priority habitat lowland meadow and a County Wildlife Site
- There is no space to plant trees or a hedge between track and boundary
- A drain has been constructed from the track into the meadow without their consent
- Runoff from track drains directly into Avis Meadows
- Runoffs have detrimental impact on hydrology and nutrient levels of the meadow
- The affects the buffer zone of Ravensroost SSSI

- They will be used for lorries and larger machinery on a frequent and intensive basis than asserted.

Purton Parish Council: “No objection.”

Charlton Parish Council: Raise no objection stating that “MJ Church could not use the track for access without a change of use planning application (which the PC is confident would never be approved since the C67 is clearly far too small a lane to take the sort of traffic which would be involved).

## **7. REPRESENTATIONS**

The application was publicised by letters.

Ten representations have been received in relation to the following:

- The current access is sufficient so there is no need for new track
- The road the track exits onto has been identified as unsuitable for heavier traffic
- The proximity to Ravensroost Wood SSSI has not been considered
- Increase in vehicular activity may impact on the surrounding nature reserves
- The land drain that empties on adjacent land could change hydrology of hay meadow and County Wildlife Site
- Increase in traffic poses a danger to walkers, cyclist, vehicles and horse riders
- Downgrading of the area have a detrimental effect on property value
- Distribution of hardcore by noisy equipment would disturb wildlife and ecosystem.

## **8. PLANNING POLICY**

National Planning Policy Framework (NPPF) 2019

Paragraph 11 -	Presumption in favour of sustainable development
Paragraph 127 -	Function and form of development
Paragraph 170 -	Conserving and enhancing the natural environment.

Wiltshire Core Strategy adopted 2015 (WCS)

Core Policy 1 -	Settlement Strategy
Core Policy 2 -	Delivery Strategy
Core Policy 13 -	Malmesbury Community Area
Core Policy 50 -	Biodiversity and Geodiversity
Core Policy 51 -	Landscaping
Core Policy 57 -	Ensuring High Quality Design and Place Shaping
Core Policy 58 -	Historic Environment
Core Policy 60 -	Sustainable Transport

## **9. PLANNING CONSIDERATIONS**

Assessment

9.1 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.

### Principle

9.2 Planning permission for the provision of facilities for agricultural uses have been granted on the site and as such the principle of providing supporting structures for agricultural uses are well established within this part of the countryside. As such, the development is acceptable subject to a conditions and compliance with other policies of the Wiltshire Core Strategy.

### Impact on the Character and appearance and amenity of neighbours

9.3 Core Policy 51 states Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

9.4 The north boundary close to the road, the east and west boundaries and the track respectively consists of established hedging and vegetation which would provide a good level of screening. The track is considered compatible with the rural character of the area and not considered harmful to the locality.

9.5 Core Policy 57 requires that development should ensure the impact on the amenities of existing occupants is acceptable and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF (paragraph 127f) states that planning decisions should 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.'

9.6 Due to the limited scale of the development and its siting, away from residential neighbours, it is considered the proposal would not impact on neighbour amenity and as such would comply with Core Policy 51 and Policy 57.

### Ecology

9.7 Biodiversity Net Gain (BNG) is an approach to development seeking to ensure that habitats for wildlife are left in a measurably better state than they were before the development. As of 12 February 2024, BNG is mandatory in England under the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This means developers must deliver a BNG of 10% to ensure development will result in more or better-quality natural habitat than there was before development.

9.9 The applicant has not submitted Biodiversity Net Gain assessment because the proposal submitted before BNG became mandatory.

9.9 It is noted from the public representations that concern is raised in relation to impact on landscape and wildlife. The Council's Ecology Officer has reviewed the application together with the submitted Ecological Mitigation and Enhancement Strategy and note the site is adjacent to Avis Meadows Wiltshire Wildlife Trust Reserve and is located within Holland Handling Meadows County Wildlife Site, known for its unimproved neutral meadows.

9.10 The Ecology Officer states that it is reasonable to allow necessary access to tend to livestock and although the hedgerow would not have direct mitigation for any impacts to the grassland, it could provide connectivity in the wider landscape and offer habitat suitable to

support birds and invertebrates and provide a buffer between the track and Wildlife Trust Reserve which would be beneficial.

9.11 The Council's Ecology Officer further notes that the loss of grassland is considered to be insignificant due to the proposals measures to allow the area to revegetate and opines that the impact on the County Wildlife Site would be de-minimus whilst the impacts on the Wildlife Trust Reserve are not expected.

9.12 The updated ecological assessment submitted covers the site and proposes measures to ensure habitat protection. The Council's Ecology Officer states the measures are satisfactory and recommend planning condition to ensure the development would be carried out in strict accordance with the submitted ecological mitigation and enhancement strategy submitted, which would be applied if permission is granted. It is considered therefore, that the proposal adequately addresses the concerns raised by the interested parties and therefore complies with Core Policy 50.

#### Highways Safety & Impact on the Road Network

9.13 Paragraph 111 of the NPPF states 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. Additionally, Core Policy 62 of the WCS states that developments should provide appropriate mitigating measures to offset any adverse impacts on the transport network at both the construction and operational stages.

9.14 It is noted in the representations received from neighbours that concerns are also raised in relation to traffic generation, highway safety because of increase in traffic which would pose a danger to walkers, cyclist, vehicles and horse riders. Wiltshire Council Highways were consulted to provide comments on the proposal. The Highways Officer has no objection, but recommended rights of way should be consulted was done. The Rights Of Way have not raise objection either but recommend information to be away of not encroaching the footpath which would be applied. It is considered that the proposal would comply with the provisions of Core Policies 62 and 64 of the WCS and Paragraph 111 of the NPPF.

## **10. CONCLUSION**

10.1 The proposed track would neither have negative impact on neighbour amenity, in terms of light received, overshadowing or loss of privacy nor have adverse impact on the visual amenity of the locality. It would neither have any significant adverse impact on ecology, nature reserve, nor on highway safety. The proposal is therefore considered unacceptable in the context of its surroundings and is compliant to the general criteria set out in the policies of the local development plan and that of the revised NPPF (2023).

## **RECOMMENDATION**

**That the application be GRANTED planning permission subject to the following conditions**

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

LPC 5661 EX 01 - Site Location Plan. Received on 24 July 2023.

LPC 5661 EX 02. Site Plan. Received on 24 July 2023.

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

2. The development will be carried out in strict accordance with the guidance and recommendation of the following documents:

- Ecological Mitigation and Enhancement Strategy. June 2024. LPC

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

3. All soft landscaping comprised in the approved planting plan 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 for the protection, mitigation and enhancement of biodiversity.

4. The field track hereby permitted shall not be used for any other purposes other than agriculture.

REASON: In the interests of highway safety.

## INFORMATIVES (2)

The applicant should note that no works should be undertaken to disturb the surface of public footpath PURT133 without prior consultation with the Rights of way Countryside Access Officer (CAO). Where appropriate any safety/mitigation/reinstatement measures must be approved by the CAO. It is an offence under section 131A of the Highways Act 1980 to disturb the surface of a public right of way without lawful authority to do so. The Highway Authority have the power to take enforcement action as necessary.

The applicant should note that it is a criminal offence to obstruct a public right of way under section 137 of the highways Act 1980 and therefore no materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way PURT133 whilst development takes place, without prior consultation with, and the further permission of, the highways authority at Wiltshire council.