

Date of Meeting	5 th February 2014
Application Number	13/05142/FUL
Site Address	Land Rear Of 63 Shaw Hill Shaw Wiltshire
Proposal	Refurbishment and alteration of existing dwelling plus the erection of a new dwelling and associated works and alterations to existing access/private lane (resubmission of W/13/0999/FUL)
Applicant	Mr & Mrs M Hallett
Town/Parish Council	MELKSHAM WITHOUT
Grid Ref	388357 165603
Type of application	Full Planning
Case Officer	Kate Sullivan

Reason for the application being considered by Committee

The application is brought to committee at the request of the Division Member, Cllr Terry Chivers, on the grounds of the scale of the development; visual impact; relationship to adjacent property; design and the environmental/highway impact.

1. Purpose of Report

To consider the recommendation that the application for planning permission be approved.

2. Report Summary

The key issues for consideration are:

- Landscape and visual Impact
- Design
- Impact on the highway
- Impact on the neighbouring amenity
- Encroachment into open countryside

3. Site Description

The application site, as outlined in red straddles the village policy limits for Shaw. The area which proposes the new dwelling and the alterations to the existing dwelling is located within the village policy limits of Shaw. The access road and the alterations to the access with 61a, along with the encroachment into the field are located outside of the village policy limits.

The site is accessed via the A350 and is bordered by a recent development known as Beltane Place to the east, along with the existing dwellings which all gain access via the private lane. To the north and west of the application site is open countryside.

A public right of way shares the access along the private road and over a field gate/ style and follows along the side boundary of the existing dwelling, number 63 Shaw Hill.

The private road currently serves approximately 14 dwellings.

It is noted that the land which follows the line of the public footpath was subject to a dismissed planning appeal regarding the change of use of the land from agricultural field to domestic driveway to serve the recently constructed dwelling known as Beltane House which is located to the north of the application site.

4. Planning History

W/13/00999/FUL	Refurbishment and alteration of existing dwelling, plus the erection of a new dwelling and associated works. Withdrawn
90/01228/FUL	Extension to provide ground floor kitchen, day room, double garage and first floor bed/bath/study/corridor. Permission, 23.10.1990
89/01026/FUL	2 storey extension. Permission, 25.07.1989
85/00375/FUL	Erection of a pre-fabricated dwelling to be occupied by parents-in-law. Permission, 15.05.1985

Appeal history

APP/F3925/C/07/2034818 land adjacent to Sheeshnag, Shaw Hill
Enforcement appeal for the construction of a 100m long access track, dismissed and enforcement upheld.

APP/F3925/C/07/2036409

Enforcement appeal for the construction of a 100m long access track, dismissed and enforcement upheld.

5. The Proposal

The application seeks to:

- Refurbish and alter the existing dwelling including raising the ridge height of the roof by 1m.
- Erect a new dwelling within the garden of the existing dwelling
- Enlarge the private lane from the access with the A350 up to and including the right hand bend
- To facilitate the enlargement of the right hand bend through the change the use of a small portion of the adjacent field
- Alterations to the public right of way
- Change the access for number 61a Shaw Hill

6. Planning Policy

National Planning Policy Framework (2012)

West Wiltshire District Plan 1st Alteration 2004 – relevant policies are: C1 Open Countryside; H17 Development within Village Policy Limits; T12 Footpaths and bridleways; C31a Design; and C38 Nuisance.

7. Consultations

Melksham Without Parish Council

Melksham Without Parish Council object to the proposals on the following grounds:

- Widening of the lane which would then narrow would increase the potential to cause an accident
- Effect of widening the lane on the public right of way
- No street lighting
- The proposals do not address the dangerous access with the A350
- Design and proposed materials do not respect the local area
- Widening of the road into the field would harm the public right of way and extends beyond village policy limits
- Set a precedent for further development in adjacent gardens

Should permission be granted a condition should ensure that the lane is widened prior to the development of the dwellings.

Wessex Water

No objection – informative to be attached.

Wiltshire Council – Highways

No objection subject to conditions.

Wiltshire Council – Rights of Way

No objections.

8. Publicity

The application has been publicised by way of a site notice which was displayed on the 8 November 2013 on the field gate and neighbour notification letters were sent directly. 8 letters of representation have been received objecting to the proposal on the following grounds:

- Highway safety
 - The new entrance to 61a would create a new dangerous entrance onto the lane.
 - The repositioning of the entrance will not reduce the number of vehicles at the junction with the A365
 - Plans show two different visibility splays with the new entrance to 61a
 - Widened road would encourage faster driving from the main road
 - A bottleneck would be created at the point that the road width is reduced again
 - Wider road would encourage use of lane for parking
 - Private road already has a number of hidden driveways
 - Already several accidents along the lane
 - The private lane is not controlled by Highways; who has authority? Whose responsibility to upkeep? Council has a duty of care to all rate payers
 - No increase in visibility proposed for the new dwelling's access
 - No lighting or footpath for pedestrians
 - Increase in vehicles using the lane would have a negative impact on the existing residents
 - Impact on bin collection.
- Design
 - Design is not in keeping with other properties in the vicinity
 - Materials more in keeping with an industrial zone than the bath stone properties locally.
 - The proposed development does not respect the spatial character of the area and represents an over development of the land.
- Encroachment outside of village policy limits

- Would set precedent to further development
- Provision has not been made for the storing of wheelie bins that are left at the right hand bend for collection

9. Planning Considerations

9.1 Impact on the highway

This site and sites within the vicinity have been subject to similar planning applications that have been refused on the grounds of highway safety.

Planning application 11/02511/FUL, Proposed dwelling on land at Belthane House, is to the north-east of 63 Shaw Hill, utilising the same access road. This application was recommended to be refused for the following reason:-

'The access road by reason of its restricted width, poor alignment and sub-standard junction with the A365 is considered unsuitable to serve as a means of access to the proposed development.'

The application was dismissed at Appeal.

This application incorporates the widening of the access road to 5.8m (allowing two vehicles to pass) from the junction of the access road with the A365 to the access serving 63 Shaw Hill. Therefore, this alteration omits the original highway concern of the access road being of restricted width.

Below is Para: 7 from the Inspectors decision, which highlights vehicular conflict from the 3 accesses at the junction with the A365 (one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place).

'With regards to the visibility at the junction of the access road with the A365, I observed that to the northwest, there is a hedgerow that is in private ownership, but it did not appear to obstruct visibility to any great extent. To the south east, the dwellings fronting Shaw Hill are set back from the road enabling reasonable visibility. That said, the junction with the A365 serves three separate accesses: one to a property to the west (No 61A), a second serving the access road to the appeal site as well as a number of other properties, and a third serving the cul-de-sac known as Belthane Place. I have no doubt that the confluence of these accesses can already give rise to vehicular conflict, especially during the peak morning and evening periods when residents would be making their way to and from their dwellings, and traffic flows along the A365 are likely to be at their greatest. Consequently, I agree with the Council that any increase in the use of the junction resulting from a new dwelling should be discouraged.'

This application results in the number of accesses at the junction being reduced from 3 to 2; the access serving No.61A Shaw Hill would be permanently relocated to be served from private access road. Therefore, this reduction in accesses reduces the conflicts and therefore overcomes the view raised by the Inspector that the confluence of three accesses gives rise to vehicular conflict.

On the basis of the above, the alterations proposed overcome the highway concerns previously raised, therefore, no highway objection has been raised by the Highways Officer subject to the conditions being attached to any planning permission granted.

It is noted that neighbouring residents have raised concerns regarding the potential for drivers to increase their speed on the wider section, however as it leads to a corner it is acknowledge that drivers would already be reducing their speed to negotiate the corner and as such would not

increase the risk of accidents on the corner of the lane.

With regards to the maintenance of the widened part of the road this would be out with the responsibility of Wiltshire Council and would form part of the private lane as such this would become a private legal matter between residents served by the lane.

In relation to potential for people to park within the proposed widened area of the private lane it is considered that the area would be viewed as part of the lane and as such would not be viewed as a parking area.

At present residents of Shaw Hill lane have their bins collected from an area of land now within the applicant's ownership. Letters of objection raised concerns as to where the bins would be collected from in the future. The Waste and Recycling Team have been consulted and comment that their policies state that they are only required to collect waste from the nearest adopted highway. However if a private lane or road is built to an acceptable standard to accommodate a 26t refuse vehicle and we have a signed indemnity from the land owner, we would consider collecting waste from the curtilage of the properties. In relation to Shaw Hill lane if a refuse truck were to drive into the lane, there is nowhere for it to be able to turn around and the lane is too long and narrow to reverse all the way up to the houses. This is why the communal collection point was designated on the corner.

They note that there is not a lot of change planned, just to widen the first part of the lane to 5.8m up to the entrance to No.63 (and to change the entrance into No.61a). At present the refuse truck already reverse into here and therefore it would not change much regarding waste collections. The communal collection point on the corner where the field gate and stile is would have to remain and it is noted from the proposed plans that the field gate and fencing would be relocated and a collection point area would still remain.

Therefore it is considered that subject to the conditions recommended by the Highways Officer the proposed development would not result in an unacceptable impact on the highway or highway safety.

9.2 Impact on the Open Countryside

As stated in the site description the proposed dwelling and garage is located within the village policy limits of Shaw however the area of road to be widened would be located within the open countryside.

Saved Policy C1 of the West Wiltshire Local Plan seeks to maintain the quality and variety of the countryside, the water environment, the rural landscape and wildlife through the control of development and positive planning measures. The guiding principle in the countryside is that development should both benefit economic activity and maintain and enhance the environment. Saved Policy C1 goes on to state Development proposals in the open countryside will not be permitted, other than those which encourage diversification of the rural economy and rural recreation, unless there is an agricultural, forestry or other overriding justification such as essential transport improvements.

The proposed road widening would be located outside of the village policy limits and is not for an agricultural or forestry proposal. It can be argued that the proposal would provide an overriding justification in relation to highway safety improvements for the residents of Shaw Hill Lane, which is currently served by a narrow private lane, which has previously been highlighted in previous appeal decisions as being too narrow. The area to be widened would equate to approximately 12m² in area of land being tarmac and the field gate and fence reposition to facilitate the widening of the road to 5.8m in width overall. It is considered that this limited encroachment would not result in an unacceptable impact on the open countryside and would be in accordance with Saved Policy C1 in providing an

overriding justification in highway safety improvements to Shaw Lane.

The existing property and proposed property are located within the Village Policy Limits as defined by Saved Policy H17 of the West Wiltshire Local Plan. As such the principle of development is considered acceptable subject to accordance with other policies within the plan and criteria of the policies.

9.3 Impact on the public right of way

As a result of the proposed widening of the road the existing public right of way would require a slight diversion. The existing public right of way is taken via the access road and into the field through the kissing gate. The proposals would require the relocation of the gate further into the field. The amendment of the public right of way is undertaken through a separate application process directly with the Public Rights of Way Team. In relation to this application it is considered that the proposed development would not result in an adverse impact on the Public Right of Way due to the scale and nature of the development.

9.4 Design considerations

The existing property No.63 is a dormer bungalow constructed in reconstituted stone with a concrete tile roof. The proposed refurbishment of the bungalow would raise the ridge height of the property to 7.5m and an eave height of 4.5m with a grey slate roof. The refurbished dwelling would be rendered to 2.7m in height and cedar cladding to the remaining of the property up to ridge height. The existing dwelling is 6.5m to ridge. A total of 5 parking spaces would be provided within the site, 2 contained within a garage.

The proposed new dwelling would be 7.1m to the ridge and 5.2m to the eaves with a grey slate roof. The dwelling would be finished in cedar cladding with render detailing to the northern, southern and eastern elevations. On the western elevation grey brickwork detailing would be installed above the entrance and on the chimney. The proposed detached garage would be finished in cedar cladding.

The proposed new property would provide 5 bedrooms. The property would provide an internal floor area of 341sqm and cover a site area of approximately 189sqm. The plot would be approximately 1305sqm plus the drive. A total of 5 parking spaces would be provided within the site, 2 contained within a garage.

A rowan tree would be removed (T2) from the south eastern corner of No.63 plot, in addition weeping tree (T9) to the north west of the original property would be removed, Two of the Lawson Cypress (T4) would be removed from the south western boundary of No.63 due to the condition of the trees being poor.

Within the proposed new dwelling plot an apple tree (T10) would be removed from the north western corner of the plot and one Hawthorn Tree (T17) would be removed from the south eastern corner of the plot. All remaining trees and hedging would be retained. In addition Hazel hedging would be installed to the boundary of No.63 adjacent to the access road to the proposed dwelling and the north eastern corner of the new dwelling plot.

The neighbouring properties are constructed in a variety of materials including ashlar stone, re-constituted stone and render. Belthane Place to the south is a recently constructed development that is finished in re-constituted stone and render with red clay pantile roofs. Whilst it is acknowledge that the proposed cedar cladding and grey brickwork are not wholly in keeping with the neighbouring properties it is considered that the cedar cladding would provide a transition material from the open countryside to the north and west to the built development of Shaw. The grey brickwork would be contained to the northern elevation and as such would not be visible from the public highway and very limited views from the public footpath. The render reflects the render used in neighbouring properties and while the proposals are modern in design the scale and

materials proposed are in keeping with the local area in relation to the agricultural open countryside to the north and west and built residential developments to the south and east.

As such it is considered that the proposals would accord with the principles of Saved Policy C31a in relation to respecting or enhancing the local landscape and would not result in an unacceptable impact on the character of the local area. The properties would be located within large plots which is in keeping with neighbouring development. The scale of the properties is reflective of neighbouring two storey properties and would be proportionate to such properties.

9.5 Impact on the neighbouring amenity

No.63 faces onto the gable of the new dwellings at Belthane Place. The proposals would increase the ridge height of the property by 1m to 7.6m. The ridge height of neighbouring development at Belthane Place is 8.77m and 61a Shaws Lane 7.7m. It is considered that due to the scale of the proposed refurbishment of No.63, the location of the glazing and the separation distance from the gable of Belthane Place (approximately 18m) that the proposed refurbishment of No.63 would not result in an impact on the amenity of Belthane Place. Similarly the separation distance and intervening boundary treatments at No.61a to the south west and Walnut Cottage to the west the refurbishment of No.63 and increase in roof height would not result in an impact on the amenity of those properties.

The proposed new dwelling would be located to the north of No.63 and would be situated between No.63 and Belthane House located further to the north. It is considered that due to the scale of the proposed dwelling, the location of the glazing and the separation distance from the neighbouring properties the proposal would not result in an impact on neighbouring amenity.

10. Conclusion

It is considered that the re-submitted scheme overcomes the highway concerns originally raised at the application stage and at previous appeals. The small encroachment into the open countryside is considered to be very limited and would be considered to provide an overriding justification in relation to highway safety improvements for the residents of Shaw Hill lane, which is currently served by a narrow private lane.

The proposals would not result in an adverse impact on neighbouring residential amenity due to the design, scale and orientation of the proposed development.

Whilst the materials proposed are not wholly in keeping with the local vernacular it is considered that the use of cedar cladding would provide a transition from the open countryside and agricultural buildings to the residential development of Shaw. The grey brick work would be limited to the northern elevation and as such would not be a prominent feature in the public view. The render would reflect the render used on neighbouring developments. It is considered that the proposals are in accordance with Saved Policy C31a of the West Wiltshire Local Plan.

It is considered that the proposals while requiring a separate application to be made directly to the Public Rights of Way team for the alteration of the right of way the proposals would not result in an adverse impact on the public right of way sufficient to refuse the application.

RECOMMENDATION

Approve the application subject to conditions.

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

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

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

Block Plan and Street Scene A21 dated 7/10/2013, Block Plan and Street Scene A01 dated 7/10/2013, Elevations proposed dwelling A24 dated 7/10/2013, Elevations refurbished No.63 A23, Dated 7/10/2013, Garage floor plans, Planting Scheme proposed A26 dated 7/10/2013, Proposed Floor Plans A22 dated 7/10/2013, Proposed Materials A27 7/10/2013, Road Layout Plan Detail A dated 7/10/2013, Road Layout Plan Proposed dated 23/10/2013, Road Layout Plan Detail dated 7/10/2013.

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

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

REASON: To ensure a satisfactory landscaped setting for the development.

- 4 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwellinghouse hereby permitted or within their curtilage.

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

- 6 Prior to the commencement of development details shall be submitted to and approved by the Local Planning Authority for the provision within the curtilage of No.63 Shaw Hill for the parking and turning of three vehicles; (please note a garage is not considered to be a car parking space). The parking and turning shall thereafter be carried out in accordance with the approved details.

REASON: To ensure sufficient off road parking is provided.

- 7 No development shall commence on site until details of the stopping up of all existing accesses for No.61A Shaw Hill, both pedestrian and vehicular, have been submitted to and approved in writing by the Local Planning Authority. That stopping up shall take place in accordance with the approved details within one month of the first occupation of the development. No later than one month after the first occupation of the development, the

sole means of vehicular and pedestrian access to the development shall be as shown on the plans hereby approved.

REASON: In the interest of highways safety.

- 8 No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces for No.61A Shaw Hill and the proposed dwelling have been completed in accordance with the details shown on the approved plan reference Road Layout Plan Detail dated 7/10/2013 and Block Plan and Street Scene A21 dated 7/10/2013. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interest of highways safety.

- 9 The alterations proposed for No.63 Shaw Hill shall not commence until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interest of highways safety.

- 10 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that sufficient surface water drainage is provided on site.

- 11 No development shall commence on site until the widening of the access road to 5.8m has been constructed in accordance with the Road Layout Plan dated 7/10/2013.

REASON: In the interests of highway safety.

Informatives

- 1 If at any time during the works to trees there is any evidence of bats found (the active bat season being from May to September inclusive), the tree surgeon should stop work immediately and contact the National Bat Helpline on 0845 1300 228 for further information. Bats are protected species as set out in the Conservation of Habitats and Species Regulations 2010 which came into effect on 1st April 2010. It is an offence to kill bats, disturb them or their roosts.

2 **Water Supply and Waste Connections**

New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Please note that DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with Wessex Water before any drainage works commence.

Further information can be obtained from the New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Building Near to a Public Sewer

No building will be permitted within the statutory easement width of 3 metres from the pipeline agreement from Wessex Water. Please telephone the Sewer Protection Team 01225 526333.

Separate Sewer Systems

Separate systems of drainage will be required to serve the proposed development.
No surface water connections will be permitted to the foul sewer system.