

## REPORT TO THE AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	5 <sup>th</sup> November 2014
<b>Application Number</b>	14/04399/FUL
<b>Site Address</b>	Land off Lewington Close and Longford Road Melksham Wiltshire
<b>Proposal</b>	Demolition of the existing bungalow and construction of four x 3 bed houses and seven x 2 bed houses and one x 1 bed house with associated roads and parking. Also the provision of a play area off Lewington Close
<b>Applicant</b>	Mr Mick Latham
<b>Town/Parish Council</b>	MELKSHAM (TOWN)
<b>Ward</b>	MELKSHAM SOUTH
<b>Grid Ref</b>	390402 162962
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Matthew Perks

### Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Jon Hubbard for consideration of the scale of development, visual impact upon the surrounding area, the relationship to adjoining properties, and the design of the development.

### 1. Purpose of Report

To consider the above application and to recommend that planning permission be Granted, subject to the completion of a S106 Agreement.

### 2. Report Summary

The key issues are:

- The principle of development in this locality;
- Landscaping and Potential impact on neighbouring properties;
- Access; and
- Ecological considerations

Neighbourhood Responses:

There were 14 responses to advertising, including secondary responses on revised plans.

Melksham Town Council

Supports the application but highlights areas of concern, as discussed in section 7 below.

### 3. Site Description

The +-3000m<sup>2</sup> application site is comprised of the curtilage to No. 17a Longford Road and an elongated portion of land to the rear of No 11 Longford Road. The curtilage land is fairly extensive and is well planted with trees and shrubbery, and is surrounded largely by well-vegetated boundaries. The land is currently accessed via a “panhandle” private drive off of Longford Road to the south. The site is an isolated property in terms of the single access, but is set within a wider residential context of surrounding semi-detached or terraced dwellings in Peel Court, Semington Road, Longford Road, Kenilworth Gardens and Lewington Close.

The land falls within Melksham Town Policy Limits (Policy H1 to the West Wiltshire District Plan, 2004).

#### **4. Planning History**

None applicable to this site, apart from a 1985 outline application (W/85/00056/OUT) for a dwelling on portion of the site, which was refused.

#### **5. The Proposal**

The application is for the construction of four x 3 bed houses and seven x 2 bed houses and one x 1 bed house with associated roads and parking following the demolition of the existing bungalow. The scheme includes the provision of a separate play area off Lewington Close (which has been the subject of negotiation and discussion between the applicants, the Local Member and Melksham Town Council). Access would be retained from the existing “panhandle” from Longford Road to the south, but the majority of the dwellings would be served by a connection with Lewington Close to the north.

#### **6. Planning Policy**

##### **West Wiltshire District Plan 1st Alteration (2004) (WWDP)**

C31a Design  
C32 Landscaping  
H1 Town Policy Limits  
H24 New Housing Design

Emerging Wiltshire Core Strategy

National Planning Policy Framework

#### **7. Consultations**

##### **Melksham Town Council**

The Council supports the principle of the development, but has raised questions regarding loss of amenity particularly in relation to impacts on Kenilworth Gardens and Peel Court properties, density of development, and highways and ecological impacts. These comments are discussed in more detail in Section 9 below,

##### **Highway Officer**

The officer had concerns with the initial layout that was submitted in terms of parking, passing areas and turning. Following the submission of the revised plans the officer found the extension to Lewington Close and the overall parking provision to be acceptable subject to conditions in relation to the submission of highway and related infrastructure construction details (and their completion), access and parking provision prior to occupation.

## **Housing**

The officer advises that, under current planning policy approaches, no affordable housing contribution would be sought from this application. As the application is from a Registered Housing provider, these new homes are likely to be for affordable housing (although there is no Policy requirement for them to be) and Housing Officers therefore support the proposal. It is also confirmed that the mix and size of the units proposed reflect current affordable housing demonstrable need/requirements. The total number on the Housing register in the Melksham Community Area is 907, of who 502 are in priority housing need.

## **Drainage**

The officer notes that the site is within Flood Zone 1 according to the Environment Agency classification (lowest flood risk). No objections.

## **Environmental Health**

No loss of amenity likely, other than potential noise and dust during the construction phase. The authority can limit construction hours under the Control of Pollution Act 1974. An informative is recommended.

## **Wessex Water**

No objection, noting only that new water supply and waste water connections will be required from Wessex water to serve the development and that separate systems of drainage will be required.

## **Education**

Based upon there effectively being 11 new open market units a need for 3 primary and 2 secondary places is generated at the designated area schools which are Aloeric Primary and Melksham Oak Secondary. The Officer discusses existing provision and future pupil projections at both levels and concludes that a developer contribution will be required towards secondary infrastructure expansion of 2 places at the 2014/15 capital cost multiplier of £19084 each. The assessment is however specific to the site location, housing number and mix available, and any changes would necessitate a new assessment.

## **Ecologist**

Requested an additional bat survey and a mitigation strategy for the relocation of slow worms. This information was provided and the officer raises no objections, subject to conditions. The details are discussed further in the planning considerations below.

## **Open Space Officer**

The officer is satisfied with the proposals for the play area shown on the approved plans, as well as the equipment that is proposed provided that Melksham Town Council is in agreement. The provision of the area will need to be secured by way of a S106 Agreement.

## **Spatial Planning**

The officer sets out the Policy context referencing the NPPF, Policies H1 (Town Policy Limits), C38 (Amenity) of the West Wiltshire District Plan, 1<sup>st</sup> Alteration 2004. The emerging Core Strategy, in particular Core Policies 2 (Development Limits) and 15 (The Strategy for Melksham) is also of relevance. The officer concludes that the application proposals are consistent with both the adopted development plan and emerging Wiltshire Core Strategy with the proposed site falling within the settlement framework boundary for Melksham. No Policy objections are raised, subject to there being no other site specific impacts that would significantly and demonstrably outweigh the benefits of the development.

## 8. Publicity

The following is a summary of the objections received:

- Bat survey and Phase I Habitat Survey inadequate in terms of timing, methodology, buildings surveyed;
- Loss of hedge would mean loss of habitat;
- Overdevelopment of the site;
- Loss of privacy and amenity to neighbouring properties;
- Footpath would lead to loss of privacy and potential security issues because it could become a through-route;
- Rotation of buildings would enhance renewable energy options;
- Increased parking congestion;
- Play area is too far away from development;
- Loss of trees and replacement with parking harmful to surrounding amenity;
- Development including terraced units out of keeping with spacious feel to surrounding area;
- Potential for future loft space conversions to further overlook surrounding properties;
- Loss of view towards open countryside beyond the historic Spa buildings;
- Loss of light, privacy and overbearing on No. 6 Peel Court;
- Understand more houses are required, but shouldn't be on an already established property with loss of green oasis;
- Revised plans do not address issues at 6 Peel Court;
- Replacing the one bungalow with a single new dwelling would be acceptable, avoiding loss of green corridor; and
- Removal of trees will affect privacy at 3 Peel Court.

Some of the above objections were relayed by objectors to Mr Duncan Hames (MP) who wrote to Council requesting that they be considered.

## 9. Planning Considerations

### *Principle of Development*

The NPPF states that “*planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise*” and that “*in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development*”.

The site lies within Melksham Town Policy Limits where, in general, the principle of new residential development would be acceptable subject to the criteria that apply under Policy H1 of the West Wiltshire District Plan, 2004 and with other WWDP Policies, with due consideration for the increasing weight attached to the emerging Core Strategy and the NPPF. The site lies within the development limits envisaged in the Core Policy and, by definition, this would be a sustainable location in terms of the NPPF.

The observations of the Spatial Plans officer in response to consultation confirm the acceptability of the principle of development on the site.

### *Landscaping and potential loss of neighbouring amenity*

Melksham Town Council, whilst supporting the principle of the development has raised questions regarding loss of amenity particularly in relation to impact on privacy in Kenilworth Gardens, loss of privacy and sunlight at no. 6 Peel Court as well as the impact arising from the loss of the hedge on Kenilworth Gardens.

Following discussions with the agents in the light of pre-application advice as well as comments received on the proposals, alterations were made to the plans, which included increasing separation distances with neighbouring dwellings and alterations to landscaping proposals.

With specific reference to Kenilworth Gardens, separation distances would now be between 25m and 27m between rear-facing elevations to the new and existing dwellings. This would in all cases exceed the 21m privacy “rule of thumb” guideline that is generally applied between upstairs habitable rooms (and which is frequently reduced given space constraints in modern estate development). Garden depths to the new dwellings abutting the Kenilworth Garden rear amenity spaces would be approximately 10m, which is wholly reasonable. It is therefore considered that no unacceptable amenity, overshadowing or privacy impacts would arise for the dwellings in Kenilworth Gardens that abut the new dwelling plots.

The dwelling at No.6 Peel court lies some 16m west of the site at the nearest point on the boundary. The closest new dwelling would be approximately 17.5 m away with a gable end, containing no windows, facing west. There is open ground of approximately 8m in depth between the boundary to the nearest proposed dwelling and the rear garden boundary to No. 6. Given the location of No.6 to the west, the distance between the proposed new dwelling and its boundaries (and the existing dwelling itself) and where there would be no windows to the gable of the new dwelling facing No.6, it is considered that no unacceptable overshadowing or loss of privacy would arise in respect of that property. Similarly, No.3 Peel Court, being some 33m from the nearest of the proposed dwellings, would not experience any unacceptable overlooking potential, a matter raised in an objection letter.

To the south, existing neighbouring dwellings would be some 28 to 30m distant from the nearest new units, with rear gardens plus access paths to the new plots allowing for 9m between rear facing elevations and the existing boundaries to the elongated rear gardens that they would face, with a number of existing trees to the boundaries being retained.

To the north there is a dwelling with limited garden space (No.20 Lewington Close) where the potential existed for loss of light to rear windows and garden space due to the relative orientations of the new and existing dwellings. Following discussions the agents agreed to reduce the ridge level at the northern end of the development by providing for a 1 bedroomed dwelling with rooms to the roofspace. The 25 deg “rule of thumb” vertical angle from rear facing windows of the existing dwelling to the new ridge to provide for adequate lighting to this property to the north would be met.

In view of the above evaluation, the relationship to surrounding properties is considered to be wholly acceptable.

The density and form of the development has been objected to (“overdevelopment of the site”) by neighbours. The proposal, including parking and landscaping would result in development of approximately 40 units/ha., providing for a mixture of 1, 2 and 3 bedroom dwellings, with 2 bedroom units predominating, of a familiar modern character, all with private garden spaces varying between 36m<sup>2</sup> and 80m<sup>2</sup> in extent. (Pre-NPPF, guidance in the form of PPS3 advocated a *minimum* development density of 30 units/ha. in the interests of efficient use of land, albeit that this guidance was subsequently superseded). Whilst it is acknowledged that part of the adjacent context includes larger, fairly generous plots to Kenilworth Gardens and Longford Road, the proposal is effectively an extension to the

Lewington Close development with its mixture of terraced and semi-detached dwellings on modest plots. The new development would furthermore form a uniform cluster of dwellings of a common design theme with slightly less prominent buildings (in terms of ridge height) than Lewington Close, but not out of keeping with the subdivisional characteristics of that estate area.

With regard to landscaping, the site as it exists contains a number of trees and large shrubs which would be unavoidably lost. None of the trees on site however carry any protection status and, in the light of neighbour and Parish comments a landscaping scheme has been submitted, to include tree planting and native hedging to eastern boundary (replacing Leylandii) which would provide for a degree of screening and softening of the boundary treatment that would include a 2.1m high close-boarded fence.

The distance of the play area from the site is raised by an objector. This open space falls within the Lewington Close precinct and has resulted from efforts by the Local Member in discussions with the Town Council and applicants specifically to provide a local facility with equipment. The Open Space officer is satisfied with the open space as well as the proposed equipment.

### *Highways and Access*

The Highway Officer, having received additional information and details is satisfied with parking and access provision. The main parking area would be accessed from the north, via Lewington Close. 23 Parking spaces would be arranged around a turning head that would accommodate manoeuvring for a refuse vehicle. The area would be softened to a degree by surrounding planting and trees to separation islands. The highway officer raises no objections in relation to additional traffic or parking issues that are raised by the Town Council and objectors. The proposal would effectively be an extension to the Lewington Close cul-de-sac.

Concerns were also raised by objectors with regard to the creation of a pedestrian "through-route" from Longford Road to Lewington Close and potential security issues. The proposals would retain the southern access as a private driveway serving only Plots 4 and 5 parking (one garage and one parking space per unit). A gated pedestrian pathway from the main parking area would provide access to Plot 3. No public thoroughfare would therefore be provided through the development from north to south.

### *Ecology*

The site vegetation and the presence of the vacant dwelling gave rise at pre-application stage to the Ecologist noting the possible presence of protected species and the need for a Phase I Habitat Survey. This was submitted, but additional information was requested by the Ecologist. An objector had also raised concerns about the surveys as well as loss of habitat.

Additional documentation on bats (including a method statement in support of a license application to Natural England) and the re-location of slow worms was submitted at the request of the Ecologist. With regard to the bats the Ecologist noted: *"As a competent authority under the Conservation of Habitats and Species Regulations 2010, the Local Planning Authority (LPA) must have regard to the EC Habitats Directive's requirement to establish a system of strict protection and to the fact that derogations are allowed only where the three conditions (the "three tests") under Article 16 of the Habitats Directive are met. In order to comply with its duty under the Habitats Regulations, the LPA will need to take all three tests into account in its decision (see Judicial Review, Woolley vs. Cheshire East Borough Council, 2009).* Following evaluation of the "3 Tests" the Ecologist concluded that, subject to conditions in relation to planting, lighting, the provision of bat boxes and the

submission of an ecology management plan, there would not be an objection. In respect of reptiles, a revised "Reptile Mitigation Strategy" was submitted. This includes a re-location strategy which satisfied the Ecologist's requirements, again provided that a relevant condition is imposed. It is considered, therefore, that the habitat and ecology issues arising from the application can be adequately addressed by way of conditions.

## **10. Conclusion**

In view of the above evaluation of the proposal, it is considered that the development should be granted approval, subject to the completion of a S106 agreement and conditions.

## **RECOMMENDATION**

Planning Permission be granted at a future date in the event of the Development Control Manager being satisfied as to the prior completion a legal Agreement to secure:

- 1) An index-linked financial contribution towards secondary education infrastructure expansion of 2 places; and
- 2) The transfer of ownership of the proposed public open space to the Melksham Town Council and to secure the provision of the play equipment on that site.

Subject to the following conditions:

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

REASON:

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

- 2 The materials to be utilised within this development shall accord with the schedule of materials as described within the planning application form, registered 16 April 2014 and the revised drawings received on 12 August 2014.

REASON:

In the interests of visual amenity and the character and appearance of the area.

- 3 All soft landscaping comprised in the approved details of landscaping on Plan 3731/01 Rev K 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.

- 4 No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON:

To ensure that the roads are laid out and constructed in a satisfactory manner.

- 5 The development hereby permitted shall not be occupied until the first five metres of the access onto Longford Road, measured from the edge of the carriageway, has been widened to 5m (this access width shall include increasing the length of the lowered kerbs and footway crossover) and shall be consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON:

In the interests of highway safety.

- 6 No part of the development hereby permitted shall be occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all



times thereafter.

REASON:

In the interests of highway safety.

- 7 The development hereby approved shall be carried out in strict accordance with the revised 'Bats - Method Statement template to support a licence application' for 17a Longford Road, Melksham (reference WML-A13.2 (03/14)) prepared by Middlemarch Environmental Ltd and received by the local planning authority on 25th September 2014, as modified by any relevant Natural England bat licence relating to this development. The installation of the new bat roost features shall be supervised by a professional ecologist.

REASON:

To ensure adequate protection and mitigation for European protected species (Common pipistrelle, Brown long-eared and Serotine bats).

- 8 The cavity wall bat roost and its access point and the bat tubes will be available for bat use before the first occupation of the dwellings associated with the development hereby approved and shall be retained as permanent features for the lifetime of the development, as modified by any Natural England Licence relating to this development.

REASON:

To protect and maintain the bat roost mitigation.

- 9 No external lighting shall be installed to the south elevation of Plot 6 or the north elevation of Plot 5 unless it is required for health and safety purposes, whereupon lighting shall be controlled by a passive infra-red sensor; all other security /external lighting shall be controlled by passive infra-red sensor and all street lighting installed on site shall be low level and downward directional to minimise light spillage.

REASON:

To prevent illumination of the alternative cavity wall bat roost provided as mitigation in the southern elevation of Plot 6 and to keep the lighting of the whole site to a minimum for continued foraging/commuting bat usage.

- 10 Prior to the commencement of works associated with the development hereby approved, a Landscape and Ecology Management Plan shall be prepared and submitted to the local planning authority for approval. The approved plan shall be complied with during and after the completion of the development hereby approved.

REASON:

To ensure the appropriate management of retained trees, hedgerows and newly planted vegetation, and the maintenance of new bat roosts.

- 11 The development hereby approved shall be carried out in accordance with the revised Reptile Mitigation Strategy prepared by Middlemarch Environmental Ltd and received by the local planning authority on 19th September 2014. The Strategy shall be implemented in full unless otherwise agreed in writing with the local planning authority.

REASON:

To ensure adequate protection and mitigation for slow worms.

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

3731/01 Rev K received on 12 August 2014;

3731/02 Rev E received on 12 August 2014; and

3731/03 Rev E received on 12 August 2014.

REASON:

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

- 13 **INFORMATIVE:** Any noise during the construction phase should be limited to 0730-1800hrs Monday to Friday and 0800-1300 on Saturdays and not at all on Sundays

and Public Holidays.

**Appendices:**

**Background Documents Used in the Preparation of this Report:**