

## REPORT TO THE AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>24 June 2015</b>
<b>Application Number</b>	<b>15/02933/FUL</b>
<b>Site Address</b>	<b>Brown Leaves, Hollow Street, Great Somerford, SN15 5JD</b>
<b>Proposal</b>	<b>Erection of New Detached Dwelling Including New Access and New Single Garage (Resubmission of N/12/01264/FUL)</b>
<b>Applicant</b>	<b>Mr &amp; Mrs D Lydiate</b>
<b>Town/Parish Council</b>	<b>Great Somerford</b>
<b>Division</b>	<b>Brinkworth – Cllr Toby Sturgis</b>
<b>Grid Ref</b>	<b>396176 182945</b>
<b>Type of application</b>	<b>Full Planning</b>
<b>Case Officer</b>	<b>Lee Burman</b>

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

The Application was called in for Committee determination by Councillor Toby Sturgis to consider the impact of the proposed dwelling on the character and appearance of the locality including the Conservation Area in the context of other development permitted adjacent the site. Also, in order to consider the adequacy of parking provision and the likelihood of an increase in street parking.

### **1. Purpose of Report**

To recommend the planning permission be approved subject to conditions.

### **2. Report Summary**

6 Letters of objection received from 5 Local Residents (two letters submitted by the same resident).

The Parish Council object to the scheme proposals.

Key Considerations:-

Principle of Development

Design Character

Impact on the Character and Appearance of the Locality & Conservation Area

Impact on Residential Amenities

Highways and Parking

S106/CIL Matters

### **3. Site Description**

The site is situated to the western outer area of the village within the defined settlement framework boundary and is within the Great Somerford Conservation Area. The site at present forms the rear garden of the bungalow known as Brown Leaves and is on relatively level land. Whilst the site is set up slightly from the road it is partially screened from the

adjacent Hollow Road by existing development and boundary treatments. To the north lies an area of open space with a footpath though it that drops away significantly in level down to the River Avon. To the west of the site appears to be an undeveloped scrub/overgrown plot of land. Adjacent to the western boundary of the site are the properties of Holmdale and Parsloe with associated outbuildings. Access to the site is via a shared drive to the left of the bungalow.

#### 4. Planning History

N/05/01052/S73	Erection of Dwelling & Detached Garage together with Extension to Existing House & Erection of Garage/Stable Block	Approved
N/06/01485/TCA	Crown Reduction to Trees on Front Boundary of Property	Approved
N/08/02151/TCA	Tree Surgery To Ash Tree	Approved
N/11/03469/FUL	Erection of New Detached Dwelling Including New Access and New Single Garage	Withdrawn
N/12/01264/FUL	Erection of New Detached Dwelling Including New Access and New Single Garage (Resubmission of 11/03469)	Approved
15/00793/UN	Remove Informative No.4 Obligation Under Section 106 Dated 10th December 2012 Planning Application N/12/01264/FUL.	Withdrawn

#### 5. The Proposal

The proposal is for the erection of a new detached dwelling with ancillary works including planting, boundary treatments, gated access, off street parking, hardstanding and manoeuvring space. The proposals are the re-submission of identical proposals previously submitted and approved under N/12/01264/FUL. Conditions that were previously attached to that permission have in part been discharged.

#### 6. Planning Policy

National Planning Policy Framework (NPPF) Paras 14, 17, 49, 55, 129 131 132 134

Planning Practice Guidance (PPG) Paras 135 136

Wiltshire Core Strategy (WCS) Adopted January 2015 CP1, CP2, CP3, CP13, CP57, CP58, & CP61

#### 7. Consultations

Conservation – Raised initial objections to the original scheme proposals under application N/12/01264/FUL. The case officer for that application considered that the scheme revisions that had taken place via a pre-application enquiry process had addressed those objections to a large degree. The Conservation Officer disagrees with that assessment and raises objection to the current application proposals on the same basis as before – harm to the character appearance of this part of the Conservation Area by virtue of scale, bulk, mass, positioning and design character.

Highways - No objections subject to conditions and Informatives given context of previous permission

Wiltshire Fire & Rescue Service – Recommends use of a Domestic Sprinkler System.

Affordable Housing – No requirements in relation to a single dwelling proposal

Archaeology – No Comments

Great Somerford Parish Council – Object. The proposal is contrary to WCS CP51 as the conservation officer previously identified harm to the character and appearance of the Conservation Area.

Contrary to CP57 vi as the proposal would not be in keeping with general area. In combination with permissions on adjacent land the proposal results in too great a density of development.

Contrary to CP57 ix a large emergency vehicle is unlikely to be able to gain access. In combination with the current application at Parsloe if permitted would cause a parking/traffic issue.

Also queries S106 Contributions requirements and CIL Liability.

## **8. Publicity**

The application was advertised by site notice, press notice, Parish Council and neighbour consultations.

6 Local residents have submitted objections to the proposals and the issues raised are summarised as follows:-

- Over development of the locality in conjunction with other permissions.
- Account not taken of permissions on adjacent sites.
- Out of keeping with the character and appearance of the area
- Harmful to character and appearance of the Conservation Area
- Inappropriate location for development – residential garden
- Contrary to WCS policies including CP57 CP58
- Poor quality design and layout
- Materials out of keeping with locality
- Overbearing impact and devaluation of existing property at Brown Leaves
- Loss of views to open space and trees from Hollow Street
- Inadequate parking and vehicle manoeuvring space
- Draft Neighbourhood Plan assessments identified development in Hollow Street as inappropriate due to access issues
- Concern over impact of construction works given site size recommends a construction method statement condition or noise restrictions
- The development will not be a self build project and therefore should be liable to CIL charging
- Disputed comments in design and access statement
- Loss of residential amenity to neighbouring dwellings
- Will cause parking conflicts and on street parking
- The previously given reasons for approval no longer apply
- Previous representations ignored. Was pre application advice sought and provided?

## **9. Planning Considerations**

### **Principle**

The site is located within the defined settlement framework boundary of Great Somerford and is therefore a location where limited infill development of single new residential

properties would be acceptable. Policies CP1 CP2 CP3 do not restrict or oppose development within the gardens of existing residential properties as a matter of principle. Similarly whilst the NPPF removes gardens from the definition of previously developed land it does not exclude or oppose the development of such locations for additional housing. The NPPF does include a requirement for local Planning Authorities to significantly boost the supply and delivery of housing. It also requires Authorities to assess the projected scale of delivery of housing from windfall and small sites. The recently adopted WCS makes an assumption in calculating the supply of land for housing and subsequent housing requirements and this includes a significant level of delivery from windfall and small housing sites in the defined settlements.

Most importantly the Council has granted permission for the same development proposal in the same location as recently as 21/12/2012. This permission does not expire until 21/12/2015 and this is therefore a material consideration that must be given very significant weight. There must be a very significant change in material circumstances in order to justify a different decision to that previously made. Whilst the Council has adopted the WCS strategy since that previous decision was made it is not considered that the policies of the new plan provide a basis and sound and defensible reason for arriving at a different conclusion. The policies are based on similar principles and approach as those of the previous North Wiltshire Local Plan and both documents were found to be in accordance with the requirements and provisions of NPPF as evidenced by Inspectors' appeal decision and the WCS Examination in Public.

It is also worth noting that the applicant could commence development by the digging of footings and thereby implement the existing consent at any time prior to 21/12/2015 after which the permission would remain live in perpetuity.

Given this position it is not considered reasonable to refuse the application as a matter of principle

### **Design**

As noted above the proposals are the same as the scheme previously permitted under application reference N/12/01264/FUL in terms of design character. There has been no significant change in material site circumstances that would warrant and justify a fundamentally different approach to design.

In addition it is considered that some of the characteristics of the proposed dwelling are reflected in some of the properties in the immediate locality and in the wider village, not least of all the properties of Brown Leaves and Holmdale themselves. As such it is not considered that there is significant conflict with WCS policy 57 in this respect.

Given this position it is not considered that the design & character of the proposed dwelling provides a sound and defensible basis for refusal.

### **Character and Appearance of the Locality & Conservation Area**

As noted above as a matter of principle there is an extant permission for the same form of development on the same site. There must be a significant change in circumstances to now come to a different conclusion as to the harm identified to the character and appearance of the Conservation Area as identified by the Conservation Officer.

In this specific context it is not considered that there is a material change in circumstances that would justify an alternate recommendation. The policy approach now set out in the WCS CP58 reflects the Council's previous approach contained in the North Wiltshire Local Plan 2011. The policy approach set out in the NPPF was in place when the previous decision was made. This has been the subject of clarification through case law but it is not

considered that provides a sound and defensible basis for a recommendation of refusal. In this context it is important to note that the application site is not especially visually prominent in the Conservation Area, being partially screened by existing development and mature boundary treatment and planting in the vicinity. There are no significant and prominent views through the site from the adjacent road due to existing development and site boundaries. The development of the proposed dwelling would achieve benefits in terms of increasing the supply of land for housing and meeting a need for single level properties within a village environment. Such developments are often favoured by the older members of our community and could therefore meet a need in this specific respect. The Government has identified that housing development is an important driver for economic development and provides jobs and employment. The proposal will also add to the support for local facilities by increasing demand. The proposed dwelling could not be positioned anywhere else within the site to achieve these benefits without the impacts identified by the Conservation Officer. Given the relative lack of visual prominence of the site and the scheme revisions already incorporated following pre-application advice it is not considered that significant additional reductions in scale or design alterations will achieve the same level of benefit whilst significantly reducing the harm that has been identified by the Conservation Officer.

On balance it is not considered that there is a sound and defensible basis for refusal on the basis of harm to the Conservation Area as a heritage asset.

Representations assert that the case officer, in determining application N/12/01264/FUL, was not aware of all the material circumstances and in particular the partially implemented extant permission on the adjacent site at Parsloe. A review of the delegated officer report for that application demonstrates that the Officer was aware of the permission as this is specifically referenced in the report. Other representations refer to the "current" application at Parsloe but a review of the Council's records indicates that there is no currently undetermined Full, Outline or Reserved Matters application at that site.

It is also not considered that CP51 is directly relevant as this policy deals with the protection of the open landscapes of Wiltshire. This site is within the defined settlement framework boundary of the village, adjoining existing development and within the residential curtilage of an existing dwelling. On this basis it is not considered that the site forms a part of the wider open landscape of the locality that falls to be protected under this policy.

### **Residential Amenities**

Again the extant permission at the site for the same development proposal in the same position is a significant material consideration. There is no significant change in circumstances that would warrant and justify a recommendation on the basis of harm to the amenities of neighbouring properties.

The WCS Core Policy 57 is similar in its provisions and requirements as to the policy approach set out in the North Wiltshire Local Plan and both have been found to accord with the NPPF.

Residents' concerns in respect of disturbance during construction are noted. This is a relatively small village in a rural location where ambient noise levels will be low for much of the time. Locations such as this will experience relatively limited amounts of new residential development. Development is more likely to centre around extensions to existing properties and re-use of rural buildings and agricultural related developments. As such rates of development are likely to be relatively low compared to more urban locations. As noted above the site is adjoined by neighbouring properties. Objectors have suggested that concerns in this respect could be overcome by the use of a condition requiring submission

and agreement of a Construction Method Statement and this is not considered to be unreasonable.

### **Highways & Parking**

Again the extant permission at the site for the same development proposal in the same position is a significant material consideration. There is no significant change in circumstances that would warrant and justify a recommendation of refusal on the basis of inadequate parking and on site manoeuvring with consequent creation of a highways hazard through increased on street parking.

The WCS Core Policy 61 is similar in its provisions and requirements as to the policy approach set out in the North Wiltshire Local Plan and both have been found to accord with the NPPF.

It should also be noted that Highways officers raised no objection to the original scheme proposals and similarly raise no objections to this application.

### **S106/CIL Matters**

The regulations in respect of S106 off site financial contributions for such services and infrastructure as affordable housing and open space provision have changed. The Government amended the PPG in November 2014 in respect of this matter and development of 10 dwellings or less and less than a 1000sq m no longer attracts such contributions. As such a S106 agreement is not required in this regards.

In any event the Council has now adopted its CIL charging schedule and such requirements are now addressed via that methodology. However this development proposal would not constitute CIL Liable development as the applicant falls within the terms of the Governments exemptions from CIL charging as set out in the PPG. The applicant would fall to be classed as a self builder and therefore is exempt. Objectors have questioned this position and it is worth clarifying that the PPG provides a very broad definition of what is considered to constitute a self build development. The full wording from the PPG is copied below for clarity and it is considered that the applicant meets these terms.

Should the property be sold after development and the applicant not remain resident in the dwelling for 3 years then it would become CIL liable and the applicant would be expected to address this matter through the submission of the necessary certificates. Officers would anticipate that such matters would be addressed as legal requirements of the sale and conveyance of the property.

### ***How does the self build exemption work (for a whole new home)?***

*The Government is keen to support and encourage individuals and communities who want to build their own homes, and is taking proactive steps to stimulate the growth of the self build market. One measure to help self builders has been to grant them an exemption from the Community Infrastructure Levy.*

*The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals claiming the exemption must own the property and occupy it as their principal residence for a minimum of three years after the work is completed.*

*Revision date: 12 06 2014*

*Paragraph: 136 Reference ID: 25-136-20140612*

### **Who can claim a self build exemption?**

*The exemption is applicable to homes built or commissioned by individuals for their own use. Community group self build projects also qualify for the exemption where they meet the required criteria.*

*There is also an exemption for people who extend their homes or build residential annexes.*

### **10. Conclusion**

On balance it is considered that there is no significant change in material circumstances that justifies and supports a different recommendation to the decision reached in respect of application N/12/01264/FUL. That application remains extant and is a material consideration of significant weight.

### **RECOMMENDATION**

#### **To approve planning permission 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 implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the local planning authority. Amendments may require the submission of a further application.

Design & Access Statement

Site Location Plan

Site Plan as Existing

Site Plan as Proposed

Site Sections AA

Site Sections BB

Section AA

Section BB

New Dwelling External Works

Proposed Floor Plans

Bungalow Existing and Proposed East Elevations

Bungalow Existing and Proposed West Elevations

Bungalow Proposed North and South Elevations

Bungalow Existing North and South Elevations

Proposed East and West Elevations

Proposed North and South Elevations

All dated 25/03/2015

REASON: To ensure that the development is implemented as approved.

3. No part of the development hereby permitted shall be first 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.

4. No part of the development shall be first occupied until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

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

REASON: In the interests of highway safety.

6. 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 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.

7. (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2012): Trees in Relation to Construction, has been submitted to and approved in writing by the Local Planning Authority, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.



In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later.

REASON: To enable the local planning authority to ensure the retention of trees on the site in the interests of visual amenity.

8. No development shall commence on site until details of the materials to be used on the exterior of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

9. 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 dwelling house hereby permitted or within its 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.

10. No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

11. 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 occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

12. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- (a) the parking of vehicles of site operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials used in constructing the development;
- (d) measures to control the emission of dust and dirt during construction;
- (e) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

#### **INFORMATIVES:**

13. Any alterations to the submitted and approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
14. The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.
15. You are advised that this planning permission does not override any interests that third parties may have regarding civil matters such as ownership, covenants or private rights of way. Before any works are carried out which affect land outside your ownership you should ensure the necessary consents have been obtained from all persons having an interest in the land. If you intend carrying out works in the vicinity of the site boundary you are also advised that it may be expedient to take your own independent advice with regard to the requirements of the Party Wall Act, 1996.
16. The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) for further details.

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

**Application Submissions**  
**Application File N/12/01264/FUL**  
**Wiltshire Core Strategy Adopted January 2015**  
**National Planning Policy Framework**

**Planning Practice Guidance  
CIL Charging Schedule**