

Deadline	24th September 2010		
Application Number:	S/2010/1129		
Site Address:	QUEEN ELIZABETH GARDENS MILL ROAD SALISBURY SP2 7RU		
Proposal:	THE WORKS FORM PART OF THE ENHANCEMENT OF QUEEN ELIZABETH GARDENS AND INCLUDE: <ul style="list-style-type: none"> • THE CREATION OF A ROSE GARDEN NEAR LONG BRIDGE. • THE CREATION OF A MAIN ENTRANCE ADJACENT TO LUSH HOUSE CAR PARK. • THE CREATION OF TERRACED LAWN SEATING. • THE REMOVAL OF TREES TO FACILITATE THE WORKS AND REPLANTING OF TREES,AND ASSOCIATED WORKS. 		
Applicant/ Agent:	INDIGO LANDSCAPE ARCHITECTS		
Parish:	SALISBURY CITY COUNCIL - ST PAULS		
Grid Reference:	413886.265345871	129836.605999947	
Type of Application:	FULL		
Conservation Area:	SALISBURY	LB Grade:	
Case Officer:	LUCY FLINDELL	Contact Number:	01722 434541

Reason for the application being considered by Committee:

Councillor Clewer has requested that this item be determined by Committee due to:
Visual impact upon the surrounding area,
Design – bulk, height, general appearance,
Environmental/highway impact

1. Purpose of Report

To consider the above application and to recommend that planning permission be
GRANTED subject to conditions

Neighbourhood Responses

107 letters received objecting to the proposal

A petition signed by **460** signatories

No letters of support received

5 letters commenting on the application received

2. Main Issues

The main issues to consider are :

1. The extent of the planning considerations
2. The impact on the character and appearance of the Conservation Area
3. The impact of the proposed tree works
4. The impact on public rights of way
5. The impact on the River Avon Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), and on protected species
6. The impact on flooding and the water environment
7. The impact on archaeology
8. Crime and Disorder and Impact on adjacent residential amenity

3. Site Description

Queen Elizabeth Gardens is one of the main recreation spaces within Salisbury City centre, located on the City's south west side, adjacent to the Harnham water meadows and the Rivers Nadder and Avon. Salisbury Cathedral is to the south east of the Gardens.

The Town Path (also known as the Long Bridge) is an important pedestrian and cycle link to Harnham, and runs through the western part of the Gardens.

Although the proposals include the whole of the Gardens, the planning application boundaries relate to two separate and distinct parts of the Gardens. One area is around Lush House Public Conveniences, and the other is immediately to the south of Mill Road, adjacent to the River Nadder and the Town Path (in the north western part of the Gardens). The reason for limiting the planning application to only two parts of the site is because only certain aspects of the proposals require planning permission.

In planning terms, the entire site is within Salisbury's Conservation Area, the Central Area and within the Landscape Setting of Salisbury and Wilton area. Saved policy R6 of the Salisbury District Local Plan relates specifically to the Gardens (describing them as an 'Urban Park').

As well as the Grade I listed Cathedral to the south west of the site, there are listed buildings to the west (Fisherton Mill, Grade II*), north (Harcourt House, Grade II), north west (6 The Hermitage, Crane Bridge Road, Grade II) and south (Harcourt Medical Centre, grade II). None of these are within the application site.

Part of the Gardens is an Area of High Ecological Value and an Area of Archaeological Significance. The Rivers Avon system (including the Nadder) is a Site of Special Scientific Interest and a Special Area of Conservation. In terms of flood risk the site falls within Flood Zones 3 (high risk) and 2 (medium risk).

4. Planning History

Application number	Proposal	Decision
S/1998/1921	Various tree works	No objection raised, 29 th December 1998
S/2009/1132	Various tree works	No objection raised, 15 th September 2009
S/2009/1129	The works form part of the	Withdrawn 09/02/2010

Southern Committee 07/10/2010

	<p>enhancement of Queen Elizabeth gardens and include: The creation of a main entrance adjacent to Lush House car park. The creation of a pedestrian meeting space and a look out desk near Long Bridge The creation of terraced lawn seating And associated works</p>	
--	--	--

5. The Proposal

Overall, there are a number of elements with which the City Council aim to improve the Gardens.

The specific elements most relevant to the planning application are as follows:

5.1 The 'Main Entrance'

The applicant argues that the area adjacent to Lush House carpark and public conveniences is currently poorly defined and lacks proper structure or paths or a clear entrance into the gardens.

A strongly defined entrance is proposed formed by 3 wedge shaped paths defined and contained with hedging, bedding plant display and low key lighting. A subsidiary paved entrance space is proposed at the south west corner of Lush House carpark.

5.2 The Rose Garden

It is also proposed to re-design the western-most segment of the Gardens, currently a triangular rose garden. The applicant argues that the 'triangle' Rose Garden is one of the least successful parts of the Gardens, and it is proposed that this area would be completely re-designed to provide a new rose garden, defined 'node' space (i.e. a hub where a number of paths meet) and seating area.

5.3 The Terracing

Also proposed is the creation of three lawn terraces. At their nearest point they would be 15m from the nearest point on Mill Road and they would replace the current 'zig-zag' wall.

The terraces would provide seating, facing towards to the south. This is intended to provide a defined focus for events and performances (for instance music events). The events area itself is outside of the application site.

The terracing would be constructed of continuous pre-cast concrete step units with timber seats to create more formalised bench seating. Grounds of fastigiated trees will be planted to reinforce the curved form of the terraces. These trees would (it is argued by the applicant) compensate for trees removed to create this new feature.

Queen Elizabeth Gardens is perfectly located and well suited to certain events including Salisbury's

annual 'Music in the Parks' concert series. The applicant argues that the proposed seating would work very well for these concerts as well as offering potential for different types of event where remaining seated for longer periods might be practicable and desirable.

Part 4 of the General Permitted Development Order permits the temporary use of open land for

specified purposes of limited duration. It should be noted that the application does not include a proposal to change the use of this part of the park to an 'entertainment venue'. On a day to day basis the tiers will effectively replace the diagonal wall arrangement that currently exists in the park providing seating.

5.4 Other works

The more "general works" which don't require planning permission are:

5.5 Lighting Proposals

The proposed lighting at the main entrance works as 'feature lighting', in context with the existing lighting along Mill Road and consists of linear walk over-lights and tree uplighters. The walk-over lights run along the wedges of paving, to guide people into the centre of the space. They are intended as way finding elements rather than illumination and will emit a low level of light.

Tree uplighters are proposed for the three trees in the main entrance. Luminaries for these lights will be carefully selected and angled to catch the stem and crown of the trees and will not create any significant light spill.

It is intended that any lighting at the main entrance will be operated with a time switch to switch off at 9pm; however the applicants are very open to discussing alternative timing arrangements as may be agreed.

Lighting is also proposed in the Rose Garden.

The proposed lighting bollards, in the Rose Garden partly replaces two light columns along Town Path which will be removed as part of the proposed works. The light will be directed downwards.

The lights along the extension of Town Path and along the River Nadder would be operated to the same times as current lighting along Town Path.

The applicant advises that any lighting proposed will be low key and carefully angled to achieve the intended effect without creating unnecessary light spill. The impact of the proposed lighting from a distance will be minimal and the rest of the park will remain unlit.

In relation to the existing path network, many of the existing paths are inadequate in width and create difficulty for wheelchair users or those with prams to pass each other. Some are located in areas hidden by dense vegetation creating security concerns.

5.6 Footpath Changes

The applicant argues that a number of the current footpaths in the park are worn away, too narrow or both. There are also clearly desire lines that are not being met by the current network of paths.

A new hierarchy of paths is to be provided with all primary paths widened to 2m in width and re-surfaced in a durable buff/stone coloured macadam-based finish.

They consider that the proposed scheme places importance on the location, hierarchy, finish and function of the various footpaths in the park, with a subtle differentiation in the materials used for the proposed footpaths suggesting primary and secondary routes through the path, for example. In combination, the new network of paths would allow for easier access to the park as

well as easier and safer movement within the park for all users.

5.7 Proposed Planting

In relation to planting and habitats, the applicant argues that much of the Garden's planting (especially the shrub planting) is now over-mature and tired in appearance. It is proposed to overhaul and replace the planting, including around the entrance and seating areas to create year round interest and a sense of identity for the space. It is also proposed to use bold herbaceous planting along the whole of Mill Land and Crane Bridge Road to properly demarcate the park from the pavement

5.8 Safety & Security

It is also proposed to improve safety and security. Some areas have become concealed and overgrown by vegetation and more hidden from general view, leading to some anti-social behaviour. These areas have been re-designed, to minimise future problems, by removing the contained and hidden spaces and (in some cases) realigning footpaths and relocating planting areas. The Sensory Garden (near Harcourt Bridge, outside of the application area) will be opened up towards the river to improve surveillance.

5.9 Differences to the withdrawn scheme

The application is revised from a previous scheme that was withdrawn (S/2009/1129). This application had proposed the creation of a 'look out' deck and pedestrian meeting space adjacent to Long Bridge. This would have consisted of a deck extending from the bridge to the south east, over part of the river Nadder and its bank (including part of the pebbles and gravel known as the 'beach').

The deck would have obstructed the route of bridleway 22 which is now no longer affected.

The previous scheme proposed a 'raised lawn' in the rose garden area, but following concerns expressed by the Environment Agency in relation to flooding, this has been revised to be a low level lawn.

6. Planning Policy

The following policies are considered relevant to this proposal:

Adopted Salisbury District Local Plan (saved policies)

G1, G2	General Development Criteria
R6	Urban Parks
R17	Development affecting Public Rights of Way
C7	Landscape Setting of Salisbury and Wilton
C11	Areas of High Ecological Value
C12	Protected species
C17	Flood plains
C18	Development affecting the enjoyment etc of a river
CN5	Development affecting the setting of a listed building
CN8	Development in Conservation Areas
T1	Tourist facilities

National Government Guidance – Planning Policy Statements and Guidance Notes

PPS1	Delivering Sustainable Development
PPS5	Planning for the Historic Environment
PPS9	Biodiversity and Geological Conservation
PPG17	Planning for Open Space, Sport and Recreation
PPS25	Development and Flood Risk

7. Consultations

Natural England

This is Natural England's formal consultation response under Regulation 48(3) of the Habitats Regulations 1994.

Under Regulation 48(3) of the Habitats Regulations 1994 and based on the information supplied, it is our view that, either alone or in combination with other plans or projects, there is not likely to be significant effect on the important interest features of the River Avon Special Area of Conservation (SAC), or any of the features of special scientific interest of the River Avon System Site of Special Scientific Interest (SSSI).

The development lies adjacent to the River Nadder, part of the River Avon System SSSI and the River Avon SAC.

The nature conservation importance of the river system arises from the range and diversity of riparian habitats and associated species. The SAC qualifying features include one habitat (the watercourse characterised by floating *Ranunculus* (water crowfoot) and *Callitriche* (starwort) vegetation) and five species (brook and sea lamprey, bullhead, salmon and Desmoulin's whorl snail). All are dependent upon the maintenance of high water quality and sympathetic habitat management.

Therefore whilst none of the proposals will directly effect the river or river bank adequate measures must be put in place to ensure that there is no pollution to the river from works to construct paths etc.

Wiltshire Council Ecologist

In order to comply with the Habitats Regulations the applicant will need to submit a construction method statement which demonstrates to the council satisfaction that no materials or sediment rich run-off will enter the River Avon or River Nadder during the construction works and to demonstrate that the contractor will be aware that water voles are present and that no work will be done within 5m of the water's edge in order to protect their burrows. This needs to be considered before the application is determined.

Wiltshire Council Highways

No highway objection subject to conditions and informative.

Wiltshire Council Conservation

I do not feel that the proposed works would detract from the character or appearance of the Salisbury Conservation Area

Police Liaison Officer

Note the reference in the Design and Access Statement to planting and the current overgrown situation allowing for covert activity and what is proposed in the application to remedy this. Also consider the lighting proposed, bollard and walkover lighting is appropriate for the site, it should be remembered that uniformity is more important than lighting levels to discourage pockets of darkness allowing for covert activity.

Environment Agency

An additional drawing shows that there will be no encroachment into the river bank. The existing fence line and footpath are to be set back from the river bank edge. The existing vegetation on the river bank is to be retained.

No objection subject to condition and informative that the development should be carried out in accordance with the FRA and all works within, under, over or within 8 metres of a main river channel will require prior Flood Defence Consent.

Wiltshire Council Environmental Health

We have no comments/objections concerning this application.

English Heritage

Reference to previous consultation responses to withdrawn application which highlighted how the location of the site and its role within the conservation area imposed a statutory duty to assess whether proposals preserved or enhanced that area's special architectural or historic interest. This requires an understanding of the composition of the gardens and its qualities and to appreciate how its subtleties contribute to the enjoyment of the wider area and act a transitional space to both the hard urban townscape and the softness of the water meadows it links.

Previous submissions have had difficulty in assessing this and a distinct sense of inadequacy still prevails within the design and access statement. Section 1.1 draws attention to the opportunity to assess where "enhancements" could be made but provides no evidence in conservation area terms which would help demonstrate how the proposals do actually constitute an enhancement. The Oxford English Dictionary defines "enhancement" as the heightening, intensification or extension of existing qualities, enhancement can only be confirmed when those existing qualities are themselves defined.

While the deteriorating condition of aspects of the area's landscaping does no doubt detract from its ability to fully and positively contribute to the conservation area, any change from the status quo, does not automatically represent an enhancement. Question whether reconstituted materials and earthy/buff coloured paving are "entirely in keeping with the conservation area" Regardless of the proposed changes to the planting regime and whether these and other aspects of the proposals require statutory approval of any description, the City Council as owner and applicant has a duty of care as steward of its estate to pay appropriate regard to the historic environment. The continuing attention received to applications suggests the site is profile and high significance. Appropriate historic environment input can inform and help ensure the creation of interventions most likely to secure the necessary widespread support. While we therefore do not feel that the proposals and any impact arising from them require us to offer detailed comments on their merits, we ask the authority to give particular thought as to whether it believes sufficient information has been submitted with the application to allow answers to the appropriate statutory questions.

Recommend that the issues are addressed and the application should be determined in accordance with national and local policy guidance and on the basis of the Ipa's specialist

conservation advice.

Wiltshire Council Archaeology

Concur with the recommendation made to previous application:

“There are no known archaeological sites in this area, which lies outside the extent of the medieval city. It does not appear that the suburbs were developed along Cranebridge Road, as they did along Fisherton Street to the north. There could be earlier settlement in this locality, however I understand that the majority of the works proposed will involve the raising of the existing ground levels. I therefore consider the impact of the proposals on any archaeological sites is minimal and have no comments to make on the application.”

Campaign to Protect Rural England

Object to planning proposals which do nothing to enhance this important public open space. In our view they urbanise this currently pleasing and relaxed place, which so effectively merges into the water meadows with the stunning backdrop of the Cathedral.

In particular, the proposals to plant a yew hedge at the perimeter of the space and fence off the river is unfortunate. The restrictive features which this and the proposed entrance gates will introduce, destroy the ‘openness’ which makes this garden particularly attractive and unusual. Furthermore removing mature trees and introducing floodlit saplings seems unnecessary and the latter could invite vandalism.

There is no doubt that the paths need repair (particularly on the west side).

Friends of Harnham Water Meadows Trust

Many of the previous comments have been satisfactorily addressed. Please ensure that the Harnham Water Meadows Trust is featured in the proposed interpretation boards.

8. Publicity and Representations

The application was advertised by site notices (6), press notices and neighbour notification letters to all dwellings that adjoin the application site, as is standard practice.

The expiry date for comments on the original proposals was 2nd September 2009. Any representation received to date (whether before or after the expiry date) has been considered.

107 letters of objection were received to the initial proposals, as well as **5** letters of comment and a petition signed by **460** signatories. The representations make the following comments (summarised into categories):

8.1 The Gardens’ character

- The Gardens are treasured, precious, pastoral, naturally beautiful, unspoilt and quiet oasis. Need to be maintained as they are, just need really good maintenance;
- Proposals will destroy character, ‘gilding the lily’, the lack of structured spaces, special entrances and restrictive fences was what made it different from other gardens and parking and make it unique’
- There is no need for any change and not into an over-urbanised, manicured, municipal park;
- The gardens are a public open space not a park;
- Native tree species and wildlife friendly planting should be used and a natural blend of trees (not geometric design) with countryside views across the water meadows and

cathedral;

- Gardens should remain an extension of the water meadows;
- Bring a corridor of countryside into the town;
- The park should be left as it is;
- The Gardens are a natural open space and should be kept as a natural lead into the water meadows;
- The Gardens are enjoyed by a range of age groups and proposals do little to enhance usage;
- The Gardens are an important tourist attraction; very good play park;
- The Gardens are unique in having no 'formal' entrance, making them more inviting, do not want a Main Entrance;
- Cheap maintenance works only required - some pruning needed, removal of self-sown trees;
- Loss of peace and tranquillity;
- Care needed for the Gardens with beds appearing neglected;
- No removal of trees unless dead;
- No angular shaped flower beds, informal planting only;
- More seating by the river but otherwise leave alone;
- Local residents dread the gardens being transformed from a quiet, natural space to a periodically noisy, formalised area out of character with the gentle, riverside location;
- What is to be 'conserved' – should protect the natural environment (not just water voles but other fauna and flora including 'wildlife corridors') and associated visual aspects of naturalness and natural history;
- Park is small but has a sense of space, all constructions are on a suitable scale for the space available and gardens appear larger than reality, proposals will diminish the apparent area of the gardens especially hedges and railings separating the gardens from the city and the water meadows – need to be low and a visual or pedestrian barrier;
- Want a much more natural environment, proposal will restrict flow of countryside into the city and create a town-like park;
- Lighting in the trees will make a dramatic showpiece of the entrance;
- A rose garden would bring colour, rejuvenated flower beds;
- Rose garden inappropriate adjacent to long bridge path to the country;
- Want to be able to recognise Constable's painting of Salisbury's water meadow;
- Proposals not maintainable to the proposed build standard. Council only maintains with basic materials and results in instant degradation;
- Area adjacent to Harcourt Medical Centre should be cleared to avoid anti-social behaviour

8.2 The Terracing

- Existing raised area inadequate; proposal improves seating areas for relaxation opportunities for views, contemplation or occasional entertainment;
- In favour of gardens being used for events, but terracing unnecessary;
- Difficult and expensive to maintain;
- Too big, too regimented
- The impact of noise from undertaking the proposed works;
- Concerns about noise and disturbance from events, noise volume should be restricted;
- Will take up picnic area/play area for football/cricket space for events that are poorly attended;
- Inclement weather presents very few occasions for outdoor entertainment;
- Zig Zag walls and seats act as a flood barrier;
- Intention to turn the park into an entertainment venue
- Churchill Gardens or Victoria Park would be better for the amphitheatre, more space and not surrounded by resident housing;

8.3 Other aspects of the proposals

- Don't want raised flower beds, lighting in trees or more street furniture;
- Cleaner, safer and more clearly defined entrance area to the gardens is proposed;
- Newly designed rose garden and proposed increase in width of footways to 2m will enable overall fuller usage of the western end of the gardens;
- Steel cable fencing inappropriate and should be hardwood timber;
- Bespoke railings not in keeping;
- Interpretative panels can be intrusive;
- Want lowest level of lighting directed at ground;
- Yew hedging will destroy open area aspect, how high will they grow;
- More litter bins required;
- Paths, sensory garden and children's play area do need attention;
- Will have highway safety, traffic and privacy;
- Area around toilet block needs improvement;
- Don't want river fenced off – how will ducks and swans get into the gardens?
- Yew hedges poisonous;
- Destruction of stone walling;
- Felling of trees;
- Should be no steps;
- Loss of park benches and views from;
- Proposed footpath surfacing 'gravel in resin' conflicts with cyclists;
- Gravel beach forms part of bridleway and should be left alone;
- Object to public art displays and would be better in marketplace;
- No mention about parking arrangements or improvements to play park;
- Too many trees will spoil views across the water meadows;
- Contrary to policies C7 and CN8 of local plan;
- Area becomes waterlogged in winter, is in a floodplain, virtually completely flooded 8 years ago;
- Paths too wide;
- Footpath between Town Path and Harcourt Bridge should be widened to pedestrians and cycle path and suggest new pedestrian crossing at Harcourt Bridge, new bridge adjacent to the entrance, new pedestrian crossing and new hard-standing for ice cream van;
- Lighting along paths is trip hazard;
- Replacement of high level light from Town Path with ground level illumination will be inadequate;
- Car park and vehicles will lose screening
- The new entrance is too large and angular;
- Alignment of paths is poor – around the amphitheatre rather than direct access to the car park, and demand for path from public toilets to footbridge;
- Improvements to run down area adjacent to the car park, removal of overgrown vegetation and opening up sensory garden improving surveillance;
- Wider paths might allow vehicles to drive into gardens
- Footbridge from Long Bridge to Mill Road should be made 'shared use';
- Other highway improvements could be made;
- The designs all show a hard-edged and un-natural park with angles, geometric curves, unlike the natural looking landscape of the Gardens;
- Lack of maintenance at present;

8.4 Expenditure

- The need to cut expenditure on non-essential items, and not something which is

unnecessary and unwanted;

- The money could be spent on better things e.g. speed hump removal, town path/ footpath improvements, gully cleaning, children's play park, park wardens, other parks, youth centre etc;
- If money is ring-fenced should be used for improved maintenance, minor improvements and replacement planting;
- Issues of Council Tax expenditure;
- The availability of funding is assured and is not a planning issue. The gardens need uplift and revitalising investment to cope with new pressures and for future generations to enjoy;

8.5 Crime and Disorder

- Narrow pathways, high hedges and dense bushy places are notorious stretches for antisocial behaviour;
- Proposals may attract anti-social behaviour
- Concerns regarding anti-social behaviour and vagrants using Gardens;
- Lighting will discourage wildlife, encourage vandalism and unnecessary energy expenditure;

8.6 Application handling and other comments

- Any plans to enhance and suburbanise gardens are not wanted by local residents;
- more than 100 residents attending the Salisbury City Council meeting in March 2010 registering opposition;
- Objections raised during previous consultations haven't been taken into account/ignored (local residents and English Heritage advisor);
- Very little changes to the plans;
- Received no questionnaire in public consultation
- Thought that proposals had been abandoned due to lack to public support
- Lack of site notices;
- Area to south west of river is not included within the proposals and could benefit from 'opening up'
- The application was submitted when people were on holiday;
- Missing plans of bespoke railings;
- Approving this application would be ignoring the wishes of the electorate;

9. Planning Considerations

9.1 The extent of the planning considerations

In considering this planning application, it should first be made clear what aspects should be assessed.

This application should be considered in the same way as any other application for planning permission, even though it is made by a public body. It is perhaps confusing as to where responsibility lies in the new local government structure that was created from 1st April 2009. The applicants in this case are Salisbury City Council, not the unitary Wiltshire Council. The City Council is an entirely separate body from Wiltshire Council, in the same way that other parish or town councils are separate and distinct from the Wiltshire Council as the Local Planning Authority.

The City Council should be viewed in the same way as any other applicant (although they do

have certain additional rights – see below). If their scheme is unacceptable *solely in land use planning terms*, permission should be refused. If there are no good planning reasons to withhold consent, permission must be granted, regardless of any other, non-planning concerns. The City Council can appeal against refusal to the Secretary of State in the same way as any other applicant.

Significant concern has been raised about the cost of the proposal. This is not, however, a land use planning consideration. Instead it is a matter for the applicants. The fact that the applicants are a public body does not change this principle.

If there is public concern that the scheme is too expensive (particularly in the current economic climate) this is a matter entirely for the applicant and their democratically-elected members. It is not a concern of the unitary Council as Local Planning Authority and not a reason to refuse planning permission. The applicant will doubtless be aware of the concerns raised by objectors to the planning application.

Secondly, much has been made of the argument that the proposals are ‘not needed’. Whether a particular form of development is ‘needed’ is not in itself a reason to refuse planning permission. Again, it is for the applicants to decide whether their proposal is required or not, or whether it does what it is intended to do.

It might be the case that, if there is some planning harm, then the justification for the proposal would be a consideration, to see if the justification outweighed the harm, but there first has to be planning harm identified. A disputed need is not, in itself, a reason to refuse permission, other than in very specific circumstances (for example supermarket development).

The impact on the character and appearance of the area clearly *is* an important planning consideration, and if the proposal is felt harmful on these grounds then that might be a reason to refuse consent, or to consider whether the benefits outweigh that harm.

Thirdly, it should also be made clear that the planning application relates only to the areas identified in the two red lined areas. Any works outside of that area (including tree works) do not form part of this application. The applicants have defined the boundaries of the planning application to focus only on those aspects that needed consent. Indeed a separate tree application (reference S/2009/1131) has been submitted and approved, covering tree works throughout the rest of the Gardens.

Fourthly, even within the red lines of the application site, regard has to be given to what works could be undertaken by the applicants without requiring planning permission. To require planning permission, works have to amount to ‘development’ as defined in the Planning Act. While ‘development’ does include things such as physical structures and engineering operations, it does not include tree or hedge planting. It is therefore not possible to refuse consent for much of the proposed landscaping, path creation or planting, because this doesn’t need planning permission.

Furthermore, the City Council does have the right (under the General Permitted Development Order) to undertake certain works as ‘permitted development’, i.e. development that does not require planning permission. These include the erection of buildings or the undertaking of works or equipment (measuring no more than 200 cubic metres or 4m in height) required for the purposes of any function exercised by the City Council. They also have the right to erect various forms of street furniture (including public seats and similar structures) without planning permission, and to erect any means of enclosure including the A frame railings provided it does not exceed 2m in height (1m if adjacent to a highway used by vehicular traffic).

The development works that require planning permission within the two red lined areas of the application include the excavation works to create the new rose garden, the raised flower beds to the main entrance and lawn terracing.

Finally, a number of respondents have commented that, if there is a great deal of objection from local residents, permission cannot be granted. However, Government guidance is clear that the scale of local opposition is not, of itself, a reason to refuse planning permission. Of course the reasons that people object may amount to a planning reason.

It is on this basis, having regard to the background and context above, that the application should be considered, focusing only on the aspects that require consent and only on land use planning considerations.

9.2 The impact on the character and appearance of the Conservation Area

Particular concern is raised that the 'enhancement' works generally, represent an urbanisation of what currently has a semi-rural character and there is significant concern from local residents that the works will have a detrimental effect on the Conservation Area, the Cathedral's setting, the water meadows and the character of the area generally. It is argued that the proposals treat the area as if it were a 'normal' urban park, rather than gardens.

The starting point for considering planning applications is the development plan. Local Plan Policy R6 specifically designates the area as an 'Urban Park'. However, it is considered that the Gardens do have a particularly semi-rural character, marking the transition between the built-up part of the city (Mill Road) and the open water meadows further to the south. The site is within the Salisbury Conservation Area, and therefore policy CN8 applies, making clear that special attention should be given to 'preserving or enhancing' the Conservation Area's character.

The draft Salisbury Conservation Area Appraisal refers to the important relationship between the city and the riverside at the Queen Elizabeth Gardens.

Of the elements of the scheme that require planning permission (the excavation works to create the new rose garden, the raised flower beds to the main entrance and lawn terracing), it is considered that this relationship will be maintained. This revised proposal is considered acceptable. English Heritage has questioned the thoroughness of the design and access and heritage statement, although they have deferred to the advice of the Council's Conservation Officer. The Conservation Officer considers that the proposals will not detract from the character and appearance of the conservation area and in light of these comments; it is considered that a refusal of permission on Conservation Area grounds would be difficult to defend at appeal.

9.3 The impact of the proposed tree works

Queen Elizabeth Gardens currently has a numerous and varied tree population. Species range from Willows and Poplars close to the river to more ornamental Thorns, Pears, Magnolias and Conifers throughout the rest of the park.

As part of a longer term tree planting strategy a number of tree works are proposed now which fall within the planning application. They relate to three groups of trees. These are as follows:

Group I (Willow) - Numerous young Willow trees next to two mature Willows are blocking the view towards the Cathedral and it is proposed that thinning of younger trees and crown lifting on the older Willows is proposed to open up views.

Group 2 (Thorn, Pears, Willow) - Creation of lawn terraces and the associated groundworks would require the removal of some trees. Re-planting with is proposed with 15 longer lived trees (argued by the City Council to be more appropriately scales)

Tree 3 (Poplar) - Removal is proposed to allow for creation of new main entrance area. Replacement planting with 5 'human scale' ornamental trees, additional maple trees within woodland garden and large oak tree.

A separate Tree Works application (reference S/2009/1132) was submitted for proposed treeworks outside of the planning application boundary. That application was approved (under delegated powers). The report of Wiltshire Council's arboriculturalist made clear that the trees are considered to be of poor quality and not worthy of a tree preservation order and therefore no objection has been raised.

In relation to tree works within the planning application site, the Council's arboriculturalist made clear that he considered the works to be acceptable in the previous withdrawn scheme:

'I have no objection to this application. The thinning of the group of Willows (referred to as Group 1) is reasonable arboriculture practice to allow the better trees to thrive. Group 2 are poor quality specimens that are largely over-mature and not worthy of protection. The Poplar adjacent to the toilet block is a reasonably good example but it is surrounded by better trees that will be opened up and become more visible. In addition, the area will be replanted with 5 smaller scale trees. My only concern is that the extent of the thinning of the Willows is not specified. Therefore, I would suggest you apply a condition to request that a schedule of proposed works is submitted and approved before development commences.'

9.4 The impact on public rights of way

An issue that has become apparent during the course of the previous application was the impact on public rights of way. Local Plan policy R17 relates specifically to rights of way, and makes clear that improvements and increased use of rights of way will be encouraged. It says that closures or diversions will not be permitted unless an alternative route is available, which is as attractive and is not significantly longer than the original route.

In particular, there are two rights of way that cross the river to Harnham (the public footpath over the Long Bridge and a bridleway which runs parallel to and immediately south of The Long Bridge, running through the river). The bridleway is part of the historic use of the area by horses (horses often used to drink at the 'beach'), and some of Constable's paintings famously depict horses and cart crossing the stream at this point. The bridleway has 'enhanced rights' for use by carts and horse drawn vehicles. The 'look out' deck that was previously proposed would have intruded into the bridleway, but it has now been withdrawn in this resubmitted scheme.

9.5 The impact on the River Avon Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), and on protected species

A water vole survey has been submitted and a construction method statement. This is considered to provide enough information to determine the application on the grounds that the scheme will not have an adverse impact to water voles and pollution prevention methods during construction. The Environment Agency has advised that in view of the information submitted with the application and following a site visit by their Biodiversity Officer they advise that a further Water Vole survey is not required.

9.6 The impact on flooding and the water environment

The applicant has supplied a site specific Flood Risk Assessment (FRA) in support of the development proposal. On the basis of this document, the Environment Agency has advised that the details provided adequately demonstrate that the proposed scheme will not exacerbate flood risk and is in accordance with the requirements of PPS25. They advise that the proposed scheme and associated landscaping works will not unduly interfere with flood conveyance and that appropriate compensatory flood storage is included within the proposal. They have raised no objection to the proposed scheme on flood risk grounds subject to a condition requiring the development be in accordance with the FRA.

9.7 The impact on archaeology

The Council's Archaeologist has advised that there are no known archaeological sites in this area, which lies outside the extent of the medieval city. It does not appear that the suburbs were developed along Cranebridge Road, as they did along Fisherton Street to the north. There could be earlier settlement in this locality, however as the majority of the works proposed will involve the raising of the existing ground levels, the Council's archaeologist considers that the impact of the proposals on any archaeological sites is minimal.

9.8 Crime and Disorder and Impact on adjacent residential amenity

Concern has been expressed that there are problems in the Gardens at present with anti-social behaviour, particularly after dark. Some are concerned that the proposals will make this problem worse, particularly the creation of seating areas and lighting which, it is claimed, will encourage more undesirable people to congregate where currently they do not.

Particular concern has been expressed regarding the lighting proposals. The applicants suggest that the lighting will be turned off at 9pm, although are open to discussion about the hour. It is debatable whether lighting encourages or discourages criminal activity, and lighting that attracts those intent on undertaking criminal activity also makes them more visible and less hidden.

The police have been involved in the proposals for Queen Elizabeth Gardens from an early stage, and consider that provided the landscaping is kept low, to aid visual surveillance, they would make the situation better, not worse. In relation to the lighting, they comment that this will discourage pockets of darkness otherwise allowing for covert activity.

As explained in section 5 of this report, the application does not include a proposal to change the use of the park to an 'entertainment venue' and the physical works proposed are not considered to have an adverse impact upon adjacent residential amenity.

10. Conclusion

The planning application relates only to the areas identified in the two red lined areas. Only certain aspects of the proposals require planning permission within these areas. These include the excavation works to create the new rose garden, the raised flower beds to the main entrance and lawn terracing.

It is considered that the proposals would not cause any significant demonstrable harm to interests of acknowledged importance, in this case, the impact on the character and appearance of the conservation area, trees, public rights of way, the River Avon SSSI and SAC, protected species, flooding, archaeology, crime and disorder and adjacent residential amenity.

Recommendation

It is recommended that planning permission is GRANTED for the following reasons:

The planning application relates only to the areas identified in the two red lined areas. Only certain aspects of the proposals require planning permission (these include the excavation works to create the new rose garden, the raised flower beds to the main entrance and lawn terracing).

It is considered that the proposals would not cause any significant demonstrable harm to interests of acknowledged importance, in this case, the impact on the character and appearance of the conservation area, trees, public rights of way, the River Avon SSSI and SAC, protected species, flooding, archaeology, crime and disorder and adjacent residential amenity.

The proposal is considered to be in accordance with the aims and objectives of the following saved policies in the Salisbury Local Plan namely:

G1, G2 General Development Criteria
R6 Urban Parks
R17 Development affecting Public Rights of Way
C7 Landscape Setting of Salisbury and Wilton
C11 Areas of High Ecological Value
C12 Protected species
C17 Flood plains
C18 Development affecting the enjoyment etc of a river
CN5 Development affecting the setting of a listed building
CN8 Development in Conservation Areas
T1 Tourist facilities

And 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) No development shall commence until a schedule of tree works to the trees identified as Group 1 on drawing No 279.08 Rev B has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed details.

Reason: In the interests of visual amenity

Policy : G2 (General)

(3) No development shall commence on the site until full details of the works to be carried out on the public highway of Mill Lane have been submitted and approved in writing with the local planning authority. The works approved pursuant to the above condition shall be carried out in accordance with the approved details and to the satisfaction of the planning authority.

Reason: In the interests of Highway safety

Policy: G2 (General)

(4) The development hereby permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (Ref: PFA S335 Issue 4 dated 01.06.2010).

Reason: To prevent increased risk of flooding by ensuring minimal obstruction to flood conveyance and compensatory storage of flood water.

Policy: C17 (Floodplains)

(5) This development shall be in accordance with the following drawings:

279.L01 Lighting Main Entrance

279.L02 Lighting Rose Garden

279.08 Vegetation Retention and Removal Plan

279.10 Detailed Landscape Proposals Main Entrance and Rose Garden

279.12 Sections through Lawn Terraces

279.13 Sections through Rose Garden

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

(6) The development shall be completed in accordance with the Construction Method Statement for works near the Rivers Nadder & Avon dated 15th September 2010.

Reason: In order that the development proposals comply with the Habitats Regulations

Policies: C11 & C12

Informative:- Highways

The applicant should note that under the terms of 'The New Roads and Street Works Act 1991', any person other than a statutory undertaker must obtain a licence to carry out excavation works within a street. Licences may be obtained by application from the relevant Area Co-ordinating Engineer at Wiltshire's Highway Authority.

Informative:- Environment Agency

All works in, under, over or within 8 metres of a Main River channel will require prior Flood Defence Consent from the Environment Agency, in addition to planning permission. Such consent is required in accordance with the Water Resources Act 1991 and Byelaws legislation. We acknowledge that the applicant has previously submitted details in respect of this requirement (1) but as formal consent was not issued we recommend that further advice is sought from our Development & Flood Risk Officer in this matter – Daniel Griffin (01258 483 351).

Appendices:	None
--------------------	------

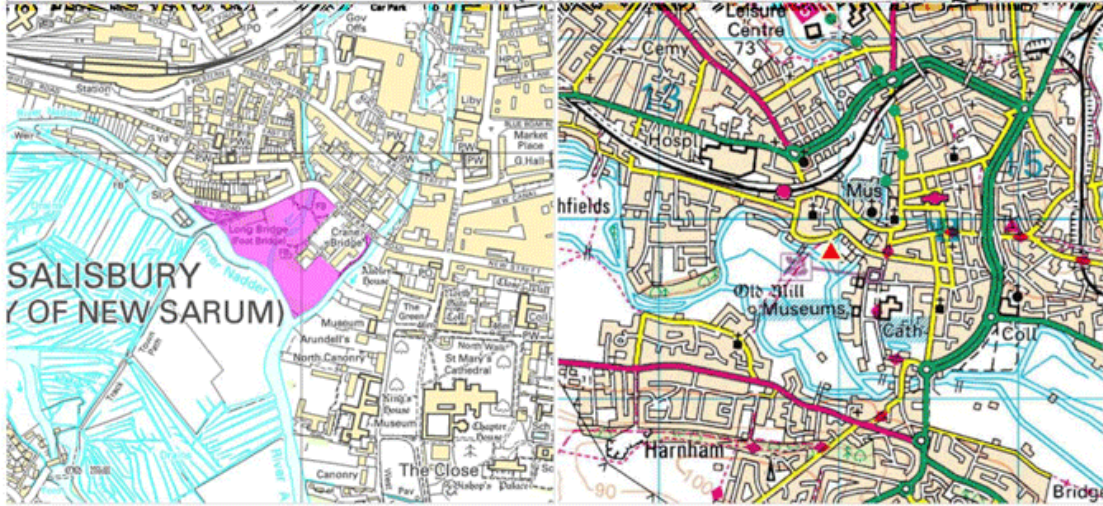
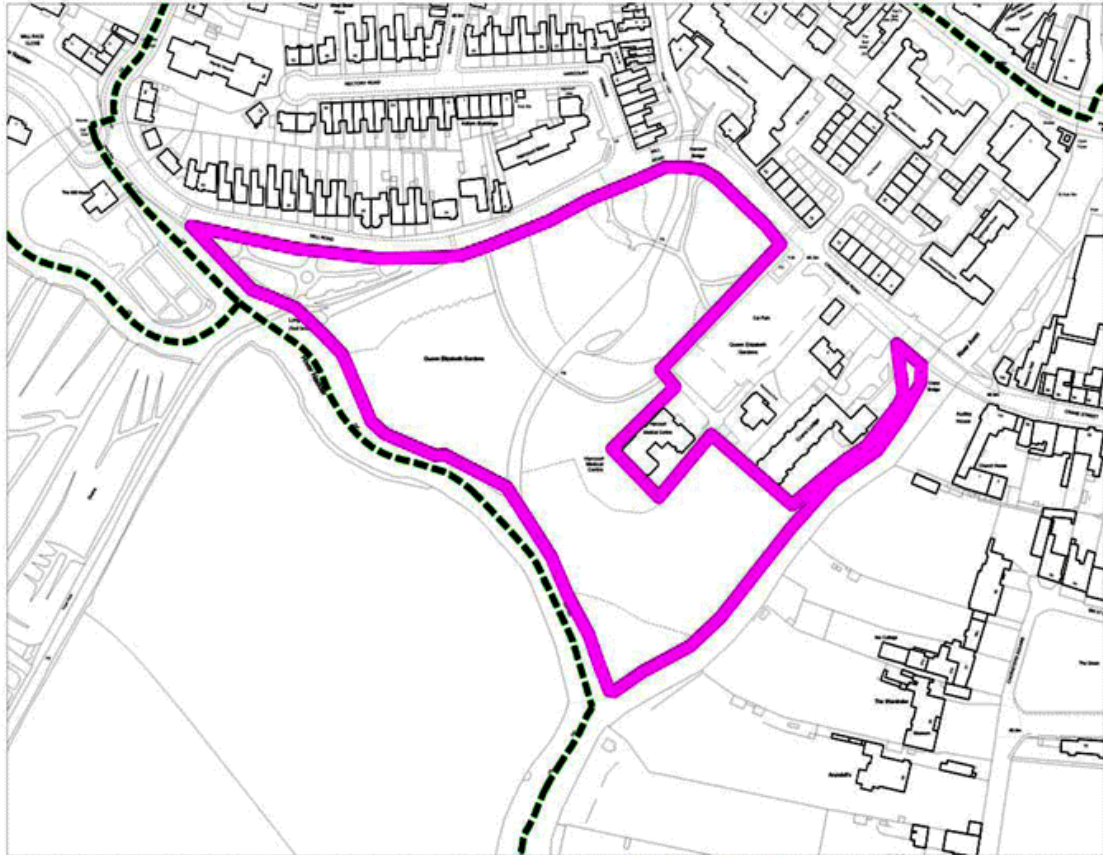
Background documents used in the preparation of this report:	Construction Method Statement for Works Near The Rivers Nadder & Avon dated 15/09/2010 Water Vole Survey and Recommendations by Wiltshire Wildlife Trust Design and Access Statement Revision C Flood Risk Assessment by PFA Consulting 279.L01 Lighting Main Entrance 279.L02 Lighting Rose Garden 279.08 Vegetation Retention and Removal Plan
---	--

	279.10 Detailed Landscape Proposals Main Entrance and Rose Garden 279.12 Sections through Lawn Terraces 279.13 Sections through Rose Garden
--	---

- THE CREATION OF A ROSE GARDEN NEAR LONG BRIDGE.
 - THE CREATION OF A MAIN ENTRANCE ADJACENT TO LUSH HOUSE CAR PARK.
 - THE CREATION OF TERRACED LAWN SEATING.
 - THE REMOVAL OF TREES TO FACILITATE THE WORKS AND REPLANTING OF TREES.
- AND ASSOCIATED WORKS.

S/2010/1129

Site Visit:



Wiltshire Council
Where everybody matters

QUEEN ELIZABETH GARDENS SP2 7RU

SCALENTS DATE:24/09/2010 10:01:33
Reproduced from Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence No. 100049050, Wiltshire Council 2009