DELEGATED REPORT

Application Reference:	PL/2023/05797
Application Type:	House Holder Planning permission
Site Address:	23 Fairmead View, Box, SN13 8ND
Proposal:	Proposed elevated car port with garden room beneath
Recommendation:	Planning Permission be GRANTED

PROPOSAL

The application is for the creation of a parking space with garden room beneath.

The site is to steeply sloping garden belonging to the property across a track opposite the property, the garden room roof will form the flat surface for a car space opposite the property level with the track.

The car space will project approximately 7 metres and be approximately 3.3 metres wide. A stair will lead from the track to the garden to the southeast side of the made up car space. The room to be created underneath will have class doors to the front (south) elevation and be approximately 3.3 metres in width by approximately 4 metres deep. The retaining elevations for the car space and garden room are proposed in faced reconstituted stone to match retaining walls of neighbouring car spaces. At the south elevation the proposal is approximately 3.3 metres in height to the top of the parapet wall boundary of the parking area, the internal height of the garden room is approximately 2.4 metres.

The proposal is described as a carport however, it is not to be an undercover area to park a car, it is a parking area that will be constructed by building up and retaining ground close to the track to make it level with the roof of a building at lower level with the roof approximately also forming part of the parking space.

The materials are recon stone to match existing car ports, the roof constructed of block and beam will be finished in block paving and the doors to the garden room are proposed in powder coated black aluminium.

The proposal is understood to be made for use ancillary accommodation to the existing dwelling.

SITE DESCRIPTION/CONTEXT

The property known as no. 23 Fairmead View is a mid- terrace property off the High Street in the village of Box. No. 23 Fairmead View is a two-storey dwelling of ashlar stone elevations to the front and a concrete tiled roof.

Fairmead View is situated at 90 degress to the High Street and parallel to Mill Lane to the rear of the terrace. The properties have rear gardens before Mill Lane with further gardens to the front across an unmade track which is also a footpath no. BOX 16. The front gardens lie roughly opposite each property and extend to approximately 36 metres dropping away steeply from the track and footpath. Beyond are allotment gardens (west).

Numerous parking areas have been created on the southwest side of the track (PROW BOX 16) which due to land levels have been built up from the gardens.

The site is located within the Cotswold's AONB, The Western Wiltshire Green Belt, and Box Conservation Area. Grade II listed Woodstock Cottages (1-3 Mill Lane), lie approximately 40 metres to the north-west and Box Primary School and School House lie approximately 80 metres to the south-west.

The Public Right of Way BOX 16 runs along the lane to the front of the property which bisects the front gardens from the dwellings of Fairmead View. There are no other site-specific constraints.

The property is located within Box a village with the Corsham Community Area.

PLANNING HISTORY

- 07/0599/FUL – Single storey rear extension – Approved
- 11/03682/FUL – Rear dormer – Approved.
- No. 22 Fairmead View - 19/0761/FUL – Car Port - Approved
- No. 24 Fairmead View - PL/2021/04952/FUL – Extensions and car port – Approved.

POLICIES

Wiltshire Core Strategy 2015 (WCS)
Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 11: Spatial Strategy for Corsham Community Area
Core Policy 51: Landscape
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the conservation of the Historic Environment
Core Policy 61: Transport and Development
Core Policy 64: Demand Management

National Planning Policy Framework 2023 (NPPF)
Section 2: Achieving sustainable development
Section 5: Delivering a sufficient supply of homes
Section 6 Building a strong, competitive economy
Section 12: Achieving well designed places
Section 13: Protecting Green Belt Land
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

ISSUES

- Principle of Development
- Scale and design
- Landscape and visual impacts – including impact on AONB
- Green Belt
- Heritage
- Residential amenity
- Highways
- Footpath

CONSULTATION

The Box Parish Council – No objection subject to conditions:

The Box Parish Council has no objections in principle but there are concerns about whether they have a right of access over the right of way. The garden room should also remain ancillary to the existing property.

Council Rights of Way Officer – No objection, but raises following comments:

The parking space would be accessed by a public footpath (BOX16). This is not recorded as a public vehicular highway. The only recorded public rights along it are on foot. In order to drive a vehicle along here, the applicant would require a demonstrable private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the footpath. The applicant is advised to take private legal advice to ensure they have a right of access. Assuming the applicant has a private vehicular right of access I would have no objections subject to the following informatives:

Informatives

The applicant should note that no construction / demolition vehicle access may be taken along BOX16 without prior consultation with the Rights of way Countryside Access Officer (CAO). Where appropriate any safety/mitigation/reinstatement measures must be approved by the CAO. It is an offence under section 131A of the Highways Act 1980 to disturb the surface of a public right of way without lawful authority to do so. The Highway Authority have the power to take enforcement action as necessary.

The applicant should note that it is a criminal offence to obstruct a public right of way under section 137 of the highways Act 1980 and therefore no materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way BOX16 whilst development takes place, without prior consultation with, and the further permission of, the highways authority at Wiltshire Council.

The applicant should note that in order to access the site with a mechanically propelled vehicle (MPV), they will require a private right of vehicular access. Without this private right they would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the footpath. The applicant is advised to take legal advice to ensure they have a right of access.

Council Highway Engineer – No objection, but raises following comments and suggests informatives:

The site is located on a Private section of highway, Fairmead View, this is also a PROW footpath BOX16. There are no proposed alterations to the access with the public highway. The proposals would provide an area of parking on the roof of the proposed garden room at the lower garden level. The parking area proposed is in an area where the only access is off a private road and public right of way BOX16, which accesses directly from the A4 High Street. A number of vehicles appear to access parking over this PROW in a similar way. Provided the applicant has access rights over the private road and PROW then I would not consider the proposals of detriment to the surrounding highway network, and would therefore not wish to raise an objection to the proposals with regard to highways subject to the following informatives.

INFORMATIVE

No construction / demolition vehicle access may be taken along [PROW] without prior consultation with the Wiltshire Council Rights of Way Warden. Where appropriate any safety/mitigation/reinstatement measures must be approved by the Wiltshire Council Rights of Way Warden.

Reason: To ensure the public right of way remains available and convenient for public use.

No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way whilst development takes place.

Reason: To ensure the public right of way remains available and convenient for public use.

Access over public footpath/bridleway

The application indicates access to the application site will be over land which is subject to a public footpath/bridleway. Section 34 of the Road Traffic Act states that "...if without lawful authority a person drives a motor vehicle-

(b) on any road being a footpath or bridleway

He is guilty of an offence"

Lawful authority is taken to mean the express permission of the owner of the land. The applicant should ensure that all necessary rights in respect of vehicular access to the

REPRESENTATIONS

The application was publicised by individual neighbour notification no third-party representations have been received.

ASSESSMENT

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a key material planning consideration. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Principle of Development

Decisions on planning applications are made in accordance with the policies contained in the Wiltshire Core Strategy and government guidance.

The principle of domestic extensions, alterations and/or outbuildings within the curtilage of existing dwellings is considered acceptable, providing those proposals are complaint with the requirements of relevant policies within the development plan.

Green Belt

There is no relevant local development plan policy on Green Belt and as such the NPPF, Section 13 is the only policy consideration on this matter. This sets out a negative planning approach and is one of the most restrictive planning policies in England. It sets out that development, except for specific exclusions at paragraphs 149 and 150 of the NPPF, is inappropriate. Furthermore, it states that inappropriate development is, by definition, harmful. It explains that development should not harm the defining characteristic of the Green Belt which is its openness.

The proposed development is for a detached garden room building with the carparking area formed above. The proposal is development within the Green Belt. The NPPF explains that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also confirms that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Section 13 paragraphs 149 of the NPPF list several forms of development that would not be considered inappropriate in the Green Belt, none of which apply in this instance. The NPPF establishes that new buildings are inappropriate unless they fall within the exceptions listed within paragraph 149. None of the exceptions specifically refer to curtilage buildings.

Para 149 states a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt and gives exceptions a.) to g.)

It is acknowledged that some local authorities define outbuildings in close proximity (generally within 5 m) to the main dwelling as being part of the dwellinghouse for the purposes of their Green Belt Policies, the NPPF in fact does not make this distinction in para 149 relating to a new building. It is also accepted that case law has established that a domestic outbuilding may in some circumstances be regarded as an extension to a dwelling provided that it forms a normal, domestic adjunct (para 149(c)). In this particular case, it is considered to be reasonable to regard the proposal as being an extension to the dwelling to which it relates for the purposes of paragraph 149(c).

A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open: the essential characteristics of green belts are their openness and their permanence. In this case, the level of detachment from the main house in combination with the scale and mass of the proposed building as well as its prominence in the wider landscape would materially add to the intensity of the development on the site. The proposed building is set into the steeply banked garden landscape below the host dwelling and approximately 3 metres from the host dwelling. It is set between two existing similar raised carparking spaces which ensure it would not be visible in wider views and would not be seen to encroach into the open space of the countryside. It is considered the building forms a close adjunct with the host dwelling as may be regarded as an extension to the dwelling, in addition it would not detract from the openness of this part of the Green Belt.

There is some allowance given for extensions as long as the extension or alteration does not result in disproportionate additions over and above the size of the original building. The original building is considered to be as existing on 1 July 1948 or if constructed at a later date, as it was built originally.

Section 13 to the NPPF does not define what constitutes “disproportionate” and the LPA has not adopted any policy which prescribes a floorspace or % increase what or what is not regarded as acceptable in the Green Belt

The development proposes the development of a garden room with parking space above. The design, siting and materials are considered as individually acceptable, however the total amount of additions need to be considered as to whether they would exceed what is considered to be disproportionate additions over and above the size of the original building.

No.23 Fairmead View has previously been extended by a rear single storey extension and a rear roof dormer. The design, siting and materials for the garden room and car parking are considered as individually acceptable, however the total amount of additions need to be considered as to whether they would exceed what is considered to be disproportionate additions over and above the size of the original building.

By a visual assessment the previous extension of the property for the rear ground floor extension and rear dormer and the proposed garden room can be seen to be close to development that would exceed the scale of the original dwelling as at 1948. Accordingly, the cumulative additions and increases to the *original* building are perhaps at the upper limit of what could be considered as not being disproportionate and for that reason the decision is finely balanced.

However, in this instance, the submission drawings suggest that the existing form, materials and character of the building would be somewhat maintained, with the proposed garden room is sited on lower ground and blends with existing built form. The materials, scale, siting and discreet positioning of the garden building and parking space, are because of the above (and on very fine balance) considered to not be a disproportionate extension to the original building and would therefore meet with the exception set out in paragraph 149(c) to the NPPF and therefore does not constitute inappropriate development in the Green Belt.

The property is located within the built-up area of the village of Box and the proposal is located to similar development and close to the associated built form of the site in general. The development does not encroach into the countryside or lead to further sprawl of the built-up area. The building is closely associated with the dwelling that it has been considered as an extension to the dwelling which is considered under para 149c of the NPPF as an exclusion to development that is inappropriate in the Green Belt.

The proposal is considered to be proportionate to the host dwelling and therefore not inappropriate development which would harm the openness of the Green Belt in respect of Section 13 Para 149 of the NPPF.

Scale and design

WCS Core Policy 57 requires development to respond positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, elevational design, materials amongst other things. Sections 12 of the NPPF expects a good standard of design.

The applicant also proposes to create a level parking area, similar to that recently approved at neighbouring property 22 Fairmead View (application reference 19/00761/FUL*) and no. 24 Fairmead View*. It is also evident that a number of other properties towards the northern end of the terrace have also formed level parking areas which appear to be well established.

The applicant proposes to construct the lower retaining wall from bath stone faced blockwork to the retaining side elevations and forming a garden room with glazed doors to the south elevation of aluminium frames finished in black powder coated aluminium. The parking space is considered to be in keeping with similar development along the track, when viewed from High Street the elevations will be set among the established street scene. The glass doors will be at lower level and while they form the south elevation they are to the gardens established gardens.

The Box Parish Council has no objections in principle but there are concerns about whether they have a right of access over the right of way which is discussed later in this report. The Box Parish Council also comment that the garden room should also remain ancillary to the existing property. The application is made on house holder application forms the garden room is considered as ancillary accomodation to the existing dwelling, however, a condition can be added to any planning permission to ensure that any change to the use of the garden room will require a separate planning permission because any change of use would need to be considered against other planning polices.

In summary, it is concluded that the proposed development responds positively to the existing built form and remains considerate to the surrounding properties. On this basis it is considered that the proposals comply Core Policy 57 of the Wiltshire Core Strategy Development Plan, and are therefore considered acceptable.

The proposal is considered to be in keeping with the host dwelling and the setting of the area in general in terms of scale, siting, mass, materials and design in accordance with CP 57 of the WCS.

Landscape and visual impacts – including impact on AONB

Core Policy 51 states that development should protect, conserve and where possible, enhance the landscape character. Section 15 of the NPPF expects decisions to ensure the protection and enhancement of valued landscapes.

The property is set within the village among neighbouring properties. The proposal is sited into the steeply sloping garden land and between two similar retaining structures to form parking where there are further similar structures in the form of patios, garden buildings and parking spaces. The proposal will be seen in the context of existing buildings within the settlement of the existing built environment and as such is not considered to cause harm to the openness and scenic beauty of the AONB.

As such the proposal is considered to conserve the landscape setting of the AONB in accordance with CP 51 of the WCS.

Heritage

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for works which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

Core Policy 58 states that development should protect, conserve and where possible enhance the historic environment. Section 16 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Conservation Area

The property is within the Box Conservation Area. The proposal is located between two previously approved parking areas as such the proposal is considered to integrate within the setting of the Conservation Area and to not to harm the significance of the heritage asset.

Listed Buildings

There are listed buildings close by, Woodstock Cottages to the north west and The School to the south west. The proposed level parking area follows the pattern of previously approved development adjacent to the site, and is similar in size, scale and design to those already constructed. Given the existing development, the proposed parking area is not considered to appear out of character and remains in keeping with the expected pattern of development. The proposed materials are in keeping and blend to the surrounding built environment.

Due to the intervening distances, proposed design and setting of the proposal is considered not to harm the nearby listed buildings.

There is considered to be no harm to the heritage assets as a result of the development which is found to be in accordance with CP 58 of the WCS.

Residential amenity

Core Policy 57 states that development should have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants and ensuring that appropriate levels of amenity are achievable within the development itself. Section 12 of the NPPF also states that planning decisions should create places with a high standard of amenity for existing and future users.

The neighbouring properties most sensitive to the proposal will be no.s 22 and 24 Fairmead View to either side of the proposal. There are existing similar developments of raised parking belonging to no. 22 and no. 24 Fairmead View. The proposal will sit between the existing retaining walls and form a parking area as exists for no. 22 and no. 24, the properties have similar size gardens extending beyond the raised parking areas to approximately 30 metres to the boundary with the allotments beyond. The proposal will introduce a garden room beneath the parking, neighbouring gardens have a range of existing outbuildings and seating areas to the gardens the parking area replaces in part an existing patio.

There are considered to be no unacceptable impacts upon the amenities of neighbouring occupiers from overbearing, overshadowing or overlooking as a result of the development.

No representations have been received from neighbouring occupiers.

The proposal is considered not to give rise to any unacceptable impacts upon neighbouring occupiers from overlooking, overbearing or overshadowing and is found to be in accordance with CP 57 of the WCS.

Access and parking

Wiltshire Core Strategy policy CP61 states that new development should be capable of being served by safe access to the highway network. Core Policy 64, states that provision of parking associated with new residential development will be based on minimum parking standards.

The parking area proposed is in an area where the only access if off a private road, which accesses directly from the A4 High Street. A number of vehicles appear to access parking in a similar way.

The Highways engineer has commented that the proposed access to the A4 remains unchanged and the proposals would not be considered of detriment to the surrounding highway network and would therefore not wish to raise and objection to the proposals with regard to highways subject to informatives.

The three informatives provided and set fully above which relate to:-

1.) that no materials, plant, temporary structures or excavations of any kind should obstruct the PROW while the development takes place to the obstruction of the PROW during construction from materials, construction vehicles

2.) that the applicant should ensure they should secure the necessary rights from the land owner in respect of vehicular access to the site

3.) No construction/demolition vehicle access may be taken along PROW BOX16 without prior consultation with the Wiltshire Council Rights of Way Warden.

The access and parking arrangements are found to be in accordance with CP 61 and CP 64 of the WCS.

Public Rights of Way

The footpath Box 16 runs the length of the track from the High Street (east) across the front of the terrace of properties to meet with Mill Lane (west). The track is unmade, the properties have pedestrian access from the track and to front doors and to the larger gardens and parking areas opposite the terrace. The development will take place off the track and PRWO Box 16, no alterations are proposed to the track. It is evident that vehicles use the track to access the parking spaces.

The informatives provided by the Council's Rights of Way officer reflect those of the Highways comments and will be added to any planning permission.

CONCLUSION

The proposal is considered to be not inappropriate development in the green belt in respect of Section 13 Para 149 of the NPPF.

The design, scale, siting and materials are found to be in accordance with CP 57 of the WCS. The proposal is considered to conserve the landscape setting of the AONB in accordance with CP 51 of the WCS. The proposal is considered not to give rise to unacceptable impacts to the amenities of neighbouring occupiers in accordance with CP 57 of the WCS. The significance of the heritage assets of the Conservation Area and neighbouring Listed Buildings are considered to be preserved in accordance with CP 58 of the WCS. Highways access and parking arrangements are satisfied in accordance with CP 61 and CP64 of the WCS.

RECOMMENDATION: That Planning Permission be GRANTED 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 development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Drawing no. AA/23/19/01 - Site location plan 1:1250 Scale and Existing Site Plan 1:200 Scale
Drawing no. AA/23/19/02 - Existing Ground Floor Plan 1:100 Scale
Drawing no. AA/23/19/04 - Existing Sections A-A, B-B and South Elevation 1:100 Scale
Drawing no. AA/23/19/11 - Proposed Site Plan 1:200 Scale
Drawing no. AA/23/19/12 - Proposed Ground Floor and Lower Ground Floor Plan 1:100 Scale
Drawing no. AA/23/19/14 - Proposed Section A-A, B-B and South Elevation 1:100 Scale
All received 14th July 2023.

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

3 The accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling, known as 23 Fairmead View, Box, SN13 8ND and it shall remain within the same planning unit as the main dwelling.

REASON: The additional accommodation is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling.

INFORMATIVES

4 No construction / demolition vehicle access may be taken along PROW BOX16 without prior consultation with the Wiltshire Council Rights of Way Warden. Where appropriate any safety/mitigation/reinstatement measures must be approved by the Wiltshire Council Rights of Way Warden. This is to ensure that the public right of way remains available and convenient for public use.

5 No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way whilst development takes place. This is so as to ensure that the the public right of way remains available and convenient for public use.

6 The application indicates access to the application site will be over land which is subject to a public footpath/bridleway. Section 34 of the Road Traffic Act states that "...if without lawful authority a person drives a motor vehicle-

(b) on any road being a footpath or bridleway

he is guilty of an offence".

Lawful authority is taken to mean the express permission of the owner of the land.

The applicant should ensure that all necessary rights in respect of vehicular access to the application site can be secured.

7 Any alterations to the 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.

8 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.

9 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996