# CASE OFFICER'S REPORT

| | |
|---|---|
| **Application Reference:** | PL/2023/08321 |
| **Application Type:** | Full planning permission |
| **Consultation ends:** | 14 December 2023 |
| **Case officer:** | Verity Giles-Franklin |
| **Site Address:** | 7 and 7A Trowbridge Road, Westbury, Wilts, BA13 3AY |
| **Proposal:** | Erection of single storey extension to front elevation, changes to fenestration on front and rear elevations, installation of roof mounted solar PV panels, external works to improve accessibility and security and decommission of septic tank to allow foul drainage connection to existing mains services. New access ramp and rail plus retractable bollards |
| **Recommendation:** | Approve with Conditions |

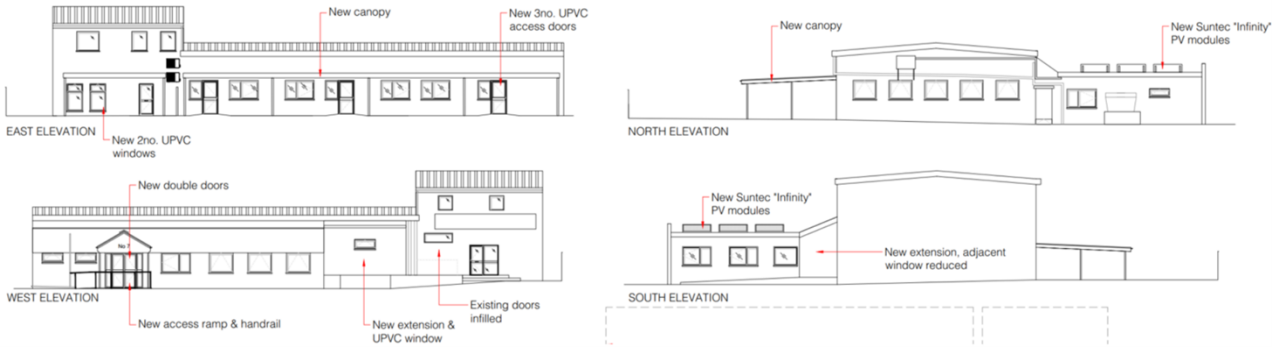
**Proposal and Site Description:** This application is seeking planning permission for alterations and extensions to an existing children's nursery at 7-7a Trowbridge Road, Westbury. The proposals include: the construction of a single storey extension on the front elevation to provide two additional WCs; the installation of a new ramp with handrail to the main entrance on the front elevation; the construction of a new canopy on the rear (east) elevation to provide cover over the new rear doors leading to the outside space; the installation of photovoltaic panels on part of the existing roof; and alterations to the existing fenestration including the installation of new uPVC doors and windows on the east elevation and infilling an existing set of doors on the west elevation.

The proposal also seeks to replace the existing boundary wall to the front of the buildings with 1.2m high bow-top railings; install three retractable bollards at the site entrance; install 1.8m high bow-top railings to demarcate the route of the public right of way to the south of the site; decommission the existing septic tank; and provide new foul water connection to a Wessex Water sewer.

Extracts of the existing and proposed elevation drawings are provided below:




*Existing elevations plans*




*Proposed elevation plans*

The application site is located off the A350, on the approach into Westbury town centre. The site neighbours residential properties to the south and east, with a car hand wash facility to the north. The application site is located within the buffer zones for the Salisbury Plain Special Protection Area 6400m, the Westbury Leigh greater horseshoe bat 4km and within the grey hatched zone of the Trowbridge Bat Mitigation Strategy (TMBS).

A public right of way (PRoW), a footpath reference WEST2 is located along the southern boundary of the application site, as illustrated in the below extract taken from the council's mapping system. The route of WEST2 is shown by the bold purple line:




**Policies**

National Context: National Planning Policy Framework (NPPF); Planning Practice Guidance (PPG)

Local Context: The adopted Wiltshire Core Strategy (WCS) 2015, namely core policies: CP1 - Settlement Strategy; CP2 - Delivery Strategy; CP32 - Spatial Strategy: Westbury Community Area; CP41 -
Sustainable construction and Low-Carbon Energy; CP57 - Ensuring High Quality Design and Place Shaping; CP60 - Sustainable Transport; CP61 - Transport and New Development; CP62 - Development Impacts on the Transport Network; CP64 - Demand Management; CP67 - Drainage

Wiltshire Local Transport Plan 2011-2026 Car Parking Strategy

Draft Westbury Neighbourhood Plan 2022-2036 - currently at examination

Trowbridge Bat Mitigation Strategy Supplementary Planning Document (SPD), adopted January 2020

Saved policy U1a (Foul Water Disposal) of the West Wiltshire District Plan 1st Alteration, adopted June 2004

Saved policy Policy CR1 of the West Wiltshire Local Development Framework Leisure and Recreation Development Plan Document, January 2009

**Key Issues:** Design and visual impact; neighbouring amenity; highways and rights of way; drainage

**Relevant Planning History**

The following planning history is of most relevance to this application:

19/08121/FUL - Change of use from B1 (light industrial) to D1 (non-residential institution)

20/03829/VAR - Variation of conditions 4 & 5 of planning permission 19/08121/FUL to allow for an increase in the number of children allowed to use the site and to allow opening on 4 no. Saturdays during the year for promotional activities - Approved with conditions

**Consultation Responses**

Westbury Town Council: No objection

Wiltshire Council Drainage: No comments received

Wiltshire Council Highways: Initially requested a plan illustrating the on-site car parking bays. On receipt of a proposed parking layout drawing, no highway objections were raised.

Wiltshire Council Public Protection: No objections but have requested a condition restricting the hours of construction and demolition given that the site is located close to existing residential properties.

Wiltshire Council Rights of Way: Initially raised an objection, for the following reasons:

"*Public footpath WEST2 runs through the site along its southern boundary. The section of path affected by the proposal is currently bordered by a high chain link fence and hedge on the south side but is unenclosed on the north side where it runs through a hard surfaced car parking area. The applicant is proposing to erect 1.8 metre high bow top railings on the north side of the path restricting the available width of path to approximately 2 metres. The railings will be imposing and will restrict the width making it less attractive and uninviting. This will have a detrimental effect on the use and enjoyment of the path which is contrary to NPPF para 100, the Equality Act 2010 and the Wiltshire Council Rights of Way Improvement Plan 2015-2025 (ROWIP). Where a path is enclosed on both sides a minimum width of 3 metres is required. I must therefore object to the proposal.*

*My preference would be for the path to remain unenclosed. The applicant has not provided any information to state why the railings are required. If they wish to segregate the path from the car parking area I would suggest that markings on the ground to delineate the footpath as well as marked parking bays would be adequate. Alternatively the use of bollards would also be a possible solution*".

Revised plans were submitted on 20 November 2023 to illustrate part of the footpath being increased to 3m wide, however the rights of way officer confirmed that their objection still remains as the proposal involves enclosing a further section of the footpath that is currently unenclosed.

**Representations**

Third-party Representations: No letters of objection received

**Planning Considerations and 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.

Design and Visual Impact: Policy CP57 of the adopted WCS requires a "*high standard of design*" for all new developments including extensions and alterations to existing buildings. This policy requires developments to "*create a strong sense of place through drawing on the local context and being complementary to the locality*" with applications being accompanied by appropriate information to demonstrate how the proposal would "*make a positive contribution to the character of Wiltshire*". Criterion iii of CP57 requires proposals to respond "*positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting*".

In addition to the above, the latest iteration of the Framework has a greater focus on delivering high-quality design and sets out in paragraph 131 that the *"creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve*". Paragraph 135 moreover sets out a series of six criteria to ensure development is of high quality over the lifetime of the development, is visually attractive and sympathetic to the local character and history, and creates a strong sense of place.

The proposal involves removing the existing brick wall to the front of the nursery and replacing this with 1.2 metre high box-top railings with 1.8 metre high bow-top railings to be installed along the southern boundary of the site, to define the route of the public right of way. Whilst the loss of the brick wall to the front of the building is unfortunate given that this particular part of the town is characterised by brick boundary walling abutting the public highway, the wall to the front of the nursery is not of significant merit and the proposed design and height of the railings is not considered to be substantially harmful to the appearance of the area to warrant the refusal of the application. It is noted that the nearby Lidl store has a combination of railings and brick walling to the north of the site. Therefore, the use of railings in the area is not entirely out of character.

This proposal also seeks planning permission for alterations and extensions to the existing children's nursery building. The proposed alterations are required to accommodate revisions to the internal layout in order for the nursery to have improved functionality. The new fenestration and door openings would be of a design to match and complement the existing appearance of the building and the proposed canopy to the rear is considered to be of a suitable design and size. The proposed solar panels, whilst raised from the existing roof, would not be visually harmful. The proposal is therefore considered to be built of appropriate materials and to a suitable design that would preserve the character and appearance of the area, in compliance with CP57 of the adopted WCS and the requirements of the Framework.

Neighbour Amenity: Core policy CP57 requires in criteria vii for developments to 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, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)*".

Criterion f) of paragraph 135 of the Framework meanwhile requires the creation of "*places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*".

The proposed alterations to the existing fenestration and new openings are not considered to introduce any harmful overlooking to neighbouring properties. The proposed canopy and extension are considered to be of a suitable size and design which would not impact nearby neighbours. As such, the proposed development would not have an adverse impact on the amenity of neighbouring properties, due to its location and design.

Highways Safety and Rights of Way: Criterion xiv of CP57 requires proposals to satisfy the requirements of CP61 (Transport and New Development). CP61 requires new developments to be "*located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives*". CP61 also requires in criterion ii that

proposals would be "*capable of being served by safe access to the highway network*". In addition, CP64 requires adherence to the council's adopted residential parking standards.

In addition to the above, CP52 of the adopted WCS states that *"development shall make provision for the retention and enhancement of Wiltshire's green infrastructure network, and shall ensure that suitable links to the network are provided and maintained"*. Saved Policy CR1 'Footpaths and Rights of Way' of the West Wiltshire Leisure and Recreation DPD, states that the "*public rights of way network will be protected from development for other land uses and extensions and improvements will be sought, where appropriate, as part of development proposals*".

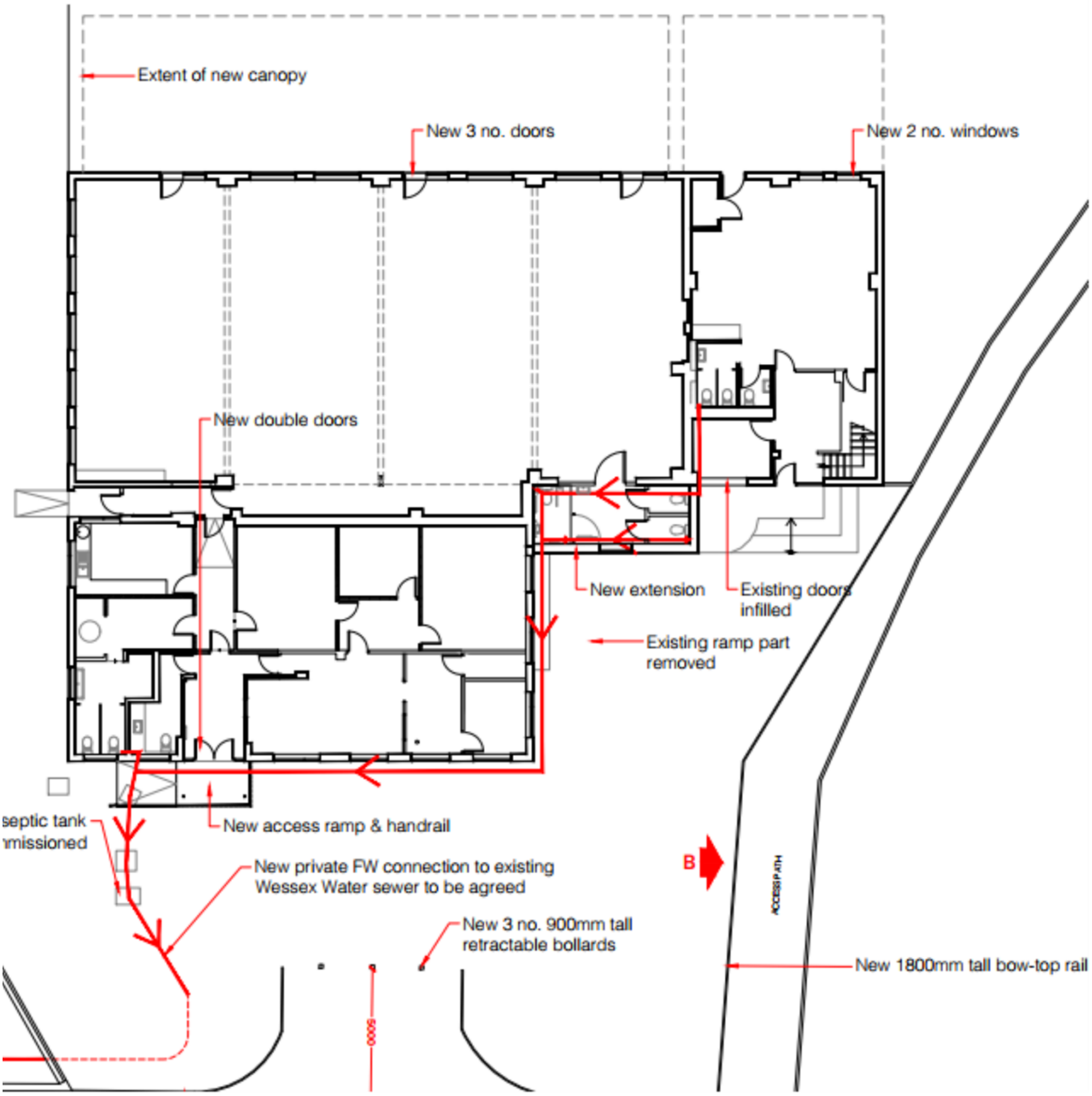
The proposed railings along the sites frontage would be replacing existing low brick walling and 3 retractable bollards are proposed at the vehicular access to the site, but set back from the existing bellmouth to ensure vehicles can leave the public highway before accessing the site. Following revised plans to confirm the on-site car parking arrangement, no objections have been raised by the council's highways department.

To the south of the site, new 1.8m high railings are proposed adjacent to the public footpath (WEST2) in order to provide clear separation between the nursery grounds and the public footpath, as the existing route of WEST2 crosses part the applicant's land to the south. Concerns have been raised by the council's rights of way department regarding the proposed use of railings to demark the footpath, due to this enclosure creating an uninviting route for pedestrians whilst also restricting the width of the footpath.

The applicant submitted revised plans in November 2023 to address comments made by the council's highways and rights of way departments, which were subject to a fresh consultation exercise. The revisions extended part of the footpath to be enclosed to 3 metres in width, however the whole route would not be 3m in width as requested by the rights of way officer due to the existing pinch point and proximity of the existing building and the existing boundary. Whilst it is appreciated that this proposal seeks to enclose part of the existing footpath that is currently open, the case officer has visited the site and the existing route of the public footpath beyond the said pinch point is significantly enclosed by timber and wire mesh fencing beyond the nursery building and the useable width is far less than 3m, therefore requiring the applicnat to commit to something that is not reasonable nor possible (fully), cannot be conditioned.

The proposed section of the PRoW to be enclosed under this application would extend from Trowbridge Road to the corner of the BebeTots building, as illustrated in the below extract of drawing no. 0160.05b. Beyond the corner of the building and [pinch point, the PRoW would be outside the red line parameters of the site and would remian enclosed by fencing - whereby the character of the PRoW changes to a very narrow and uninviting path, which at the time of the case officer's site visit, was not well maintained or lit.

The below extract illustrates that the PRoW to be enclosed as part of this application would be wider than the existing route of the footpath beyond the nursery building.




Over the course of the application determination process, a revision to the boundary of the PRoW was proposed by the council's rights of way officer, to amend the line of railings closest of the nursery building. On review of this alterative route, it was not considered the proposed amendment was substantively different from what is shown on the submitted plans and as detailed above, the proposed route of the PRoW that is to be created as part of this application is not shown to be any narrower compared to the width of the path what already exists. On this basis, there would be no significant detriment to the users of the footpath from the enclosure of an additional part of WEST2 and therefore enclosing this part of the public footpath would not form a sufficient reason on which to refuse the application on.

This however is on the basis that railings are being proposed rather than a solid boundary treatment, such as close boarded fencing. The railings would provide some natural light to the footpath and would also provide visibility of users of the PRoW, so anyone using the PRoW could

be seen through the railing from the car park and nursery building, to the point where the footpath meets the corner of the building. It is considered necessary and reasonable to impose a planning condition ensuring the boundary treatment type remains open railings only, over the lifetime of the development, to prevent the creation of an unappealing public footpath route.

In addition to the above, it is also considered necessary to impose a planning condition to ensure the dedicated route of the PRoW to be enclosed as part of this application remains accessible to users of the footpath and its full proposed width is maintained, to prevent a loss of amenity to users of WEST2.

Ecology: As stated above, the application site is located within an area sensitive to bat species. Core policy CP50 of the adopted WCS requires proposals to "*demonstrate how they protect features of nature conservation and geological value as part of the design rationale*" and requires all proposals to "*incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development*". All developments are also required to seek opportunities to enhance biodiversity with proposals.

Improving biodiversity has been enshrined within the environmental objective contained within paragraph 8 of the Framework for achieving sustainable development. The Framework also requires net gains for biodiversity to be provided including by "*establishing coherent ecological networks that are more resilient to current and future pressures*" in paragraph 180d.

It is noted that the application site is located within various buffer zones associated with bat species and within the Salisbury Plain SPA 6400km buffer. It is appreciated that the proposal seeks alterations and minor extensions to the existing building, however the subject site is located in a built up area of Westbury with little established vegetation and therefore offers minimal opportunities for protected species including bats. As a precautionary measure, an informative would be added to any planning permission granted, in the event that any evidence of bat activity is detected and to ensure the applicant is aware of the legislation around protecting bat species.

Drainage and Flood Risk: Policy CP67 of the adopted WCS also requires proposals for all new development to "*include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable*".

Furthermore, saved policy U1a of the West Wiltshire District Plan 1st Alteration 2004 states that new developments would only be permitted "*where adequate foul drainage, sewerage and sewage treatment facilities are available or where suitable arrangements are made for their provision*".

This proposal includes decommissioning an existing septic tank and connecting the foul water to Wessex Waters sewerage infrastructure. No objections are raised to this, but an informative would be imposed on any planning permission granted informing the applicant that any such connections to Wessex Water's infrastructure would require their prior consent.

**Conclusion:** Approve subject to conditions

**Conditions:** (4)

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 nos: 0160.01, Block and Location Plans, as received on 27 September 2023; 0160.02, Existing Elevations, Sections and Floor Plan, as received on 27 September 2023; 0160.04, Existing Site Plan, as received on 27 September 2023; 0160.03a, Proposed Elevations, Sections and Floor Plan, as received on 13 October 2023; 0160.06b, Proposed Roof Plans, as received on 13 October 2023; 0160.05b, Proposed Site Plan, as received on 20 November 2023; 0160.05b, Proposed Site Plan, Railings Elevations and Details and Annotated Bollard Photo, as received on 20 November 2023

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

3 The railings hereby permitted to demarcate the route of public right of way (WEST2) shall be of the railing type shown on drawing no. 0160.05b only and shall be retained and maintained as such over the lifetime of the development.

REASON: In the interests of preserving the amenity of users of the public footpath and to safeguard the character and appearance of the area.

4 The public footpath WEST2 enclosure hereby permitted shall be completed in accordance with drawing no. 0160.05b and shall be retained and maintained free of obstruction at all times thereafter.

REASON: To ensure the public right of way remains accessible for users and to prevent the loss of amenity for users of the footpath.

**Informatives:** (3)

5 All bat species, their breeding sites and resting places are fully protected by law under the Conservation of Habitats and Species Regulations 2010 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981. If bats or evidence of bats are found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or to contact the National Bat Helpline at: 0345 1300 228. Further information is available on Natural England's website at: Bats: protection and licences - GOV.UK (www.gov.uk)

6 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.

7 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to connect to Wessex Water's infrastructure. Any new connections to their network would require the prior consent of Wessex Water. Further information is available at: Wastewater (wessexwater.co.uk)