Development Services

Wiltshire Council

County Hall

Trowbridge

BA14 8JF

14th February 2024

The Planning Inspectorate

Room 3D

Temple Quay House

2 The Square

Bristol

BS1 6PN

Dear Sirs,

Town and Country Planning Act 1990
Appeal by Niko Elezi
Site Address: The Flat, 81 Wilton Road, SALISBURY, SP2 7ER

Appeal Ref: APP/Y3940/W/23/3331437

LPA ref: PL/2023/04958

Local Planning Authority Statement of Case in respect of the above appeal in respect of retrospective conversion of existing basement to 1 bedroom flat

The Local Planning Authority wish to comment on the appellant's statement in respect of this appeal and to amplify the findings of the Officer Report, as follows.

The LPA accepts that the flat conversion has been granted a Final Certificate in respect of the Initial Notice for the conversion of a basement to a one bed flat by an Approved Inspector in respect of Building Regulations, but this does not mean that planning permission for the conversion will necessarily follow.

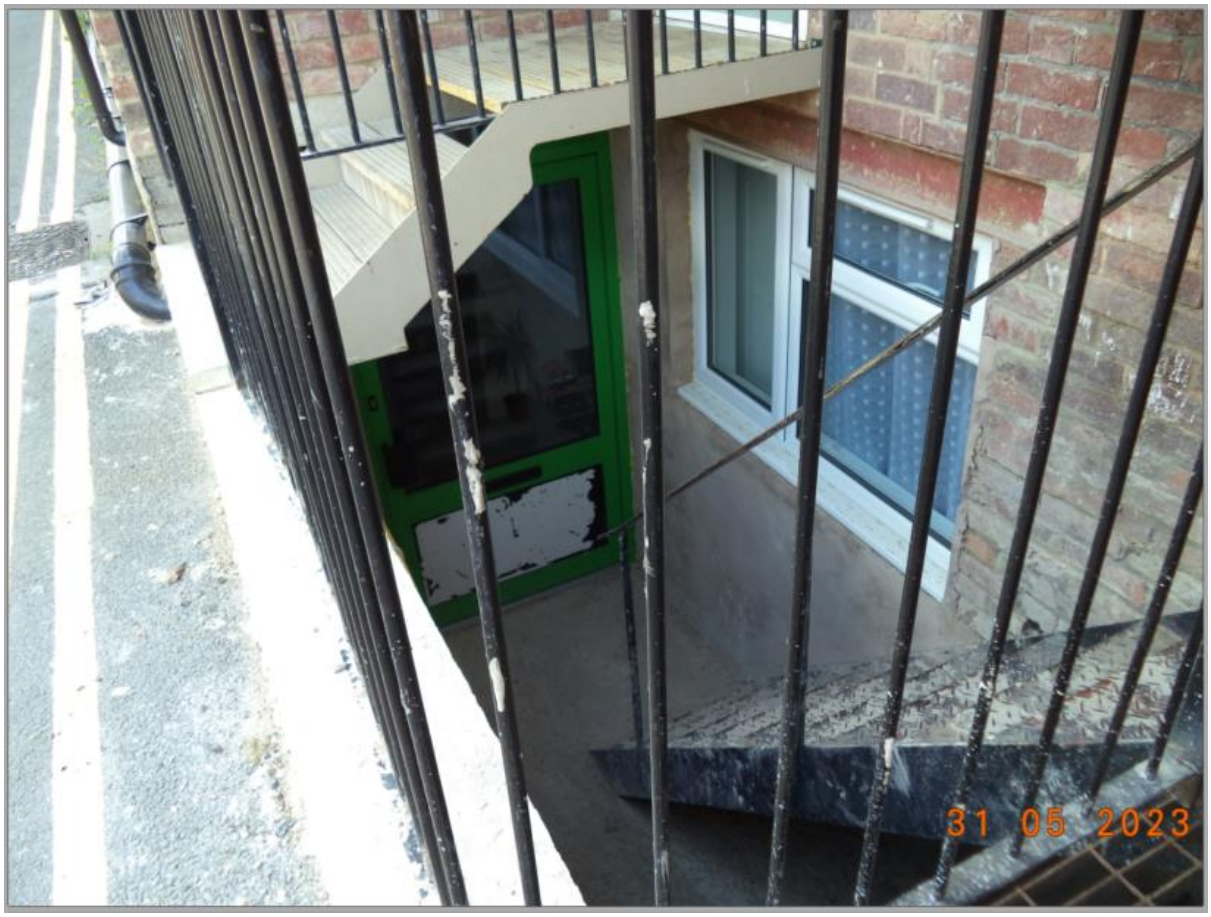
The Planning Authority assess whether the retrospective conversion is acceptable to meet the criteria against which planning applications are judged, and these are different to the more technical requirements of the Building Regulations. As has been set out in the Officer Report, attached as Appendix A to this letter, Policy CP57 of the adopted Wiltshire Core Strategy requires that:- "a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new

development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire." It also requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself. This requirement to ensure that the amenities of the existing and future users are of a high standard is also set out in paragraph 135(f) of the National Planning Policy Framework (December 2023). Section H.2.of the National Model Design Code 2021 states that:- "186. A considerable amount of time is spent daily in the home environment. Internal home quality and its immediate surroundings are key determinants of the health status of the general population and those from vulnerable and protected characteristics groups.
187. The built environment has a significant impact on people's health and wellbeing. This relates across the design code with regard to walkable neighbourhoods, access to greenery and recreation, attractive buildings and public spaces, space standards, and strong communities. There are also specific elements relating to the impact of the design of homes and buildings that affect wellbeing including daylight, aspect and privacy, noise mitigation, security and access to private outdoor space."

The above is amplified by the guidance in section H.2.i, which states that:-

"188. Good quality housing creates a pleasant indoor environment with adequate levels of natural lighting, and sunlight, without problems of overheating, good quality ventilation, privacy from overlooking and minimal noise impact. In preparing design codes, consideration needs to be given to:
*Internal layouts that maximise access to natural daylight.
*Appropriate levels of glazing to ensure adequate internal lighting without problems of overheating. (see Section R1)
*Dual aspect apartments particularly on north facing blocks.
*Application of privacy distances and their effect on layout.
*Front gardens and privacy strips."

The flat, the subject of this appeal, is wholly situated below ground level with one window serving the bedroom, which is situated below the access steps to the flat above, as shown on the photographs below. There is no natural light to the kitchen and living room space within the flat, other than that from the door into the basement, which is at the bottom of the access steps leading down to the property from the street above.



Access steps to the flat and the window situated below the steps to the flat above



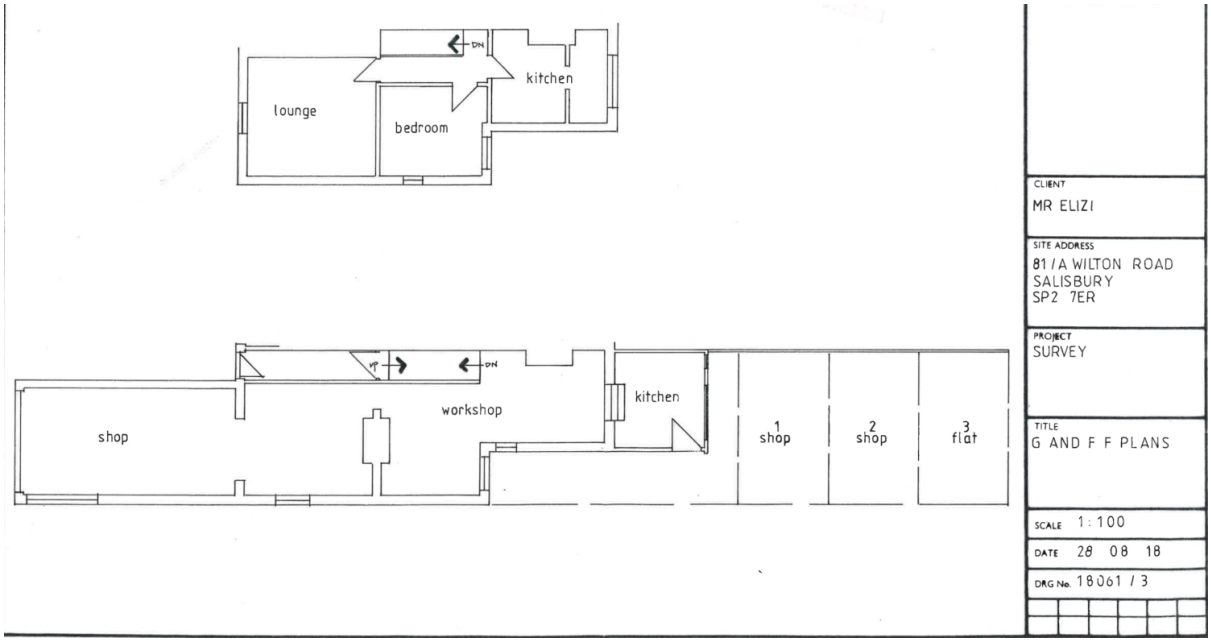
Photo of the flat entrance from across the street showing the window to the flat only partially visible



Further photo of the flat entrance from Longland

The LPA are firmly of the opinion that the flat, as converted, provides an unacceptably poor living environment for the occupiers of the flat due to the lack of sufficient natural light to the dwelling, total lack of an outlook from the unit, and a poor relationship with the flat above where persons entering this flat will have a direct line of sight into the flat below. This situation is borne out by the above photographs showing net curtains across the only window to the flat, further reducing the amount of natural light into the dwelling. This unacceptable level of residential amenity is contrary to the provisions of Policy CP57 of the Wiltshire Core Strategy, Paragraph 135(f) of the NPPF and the guidance contained in the National Model Design Guide. Wiltshire Council will be adopting it's own Design Guide at the next Full Council meeting at the end of February 2024, which echoes the statements of the National Guide in respect of amenity for residents of new dwellings.

The Highways Authority maintains its objection to the parking space shown on the area of pavement immediately to the north of the flat, and none of the previous planning applications submitted by the appellant in respect of the building known as 81 Wilton Road have included this area of pavement as part of the application site, indeed a previous application (LPA ref.no. 19/07555/FUL) shows the parking associated with the building before its extension and conversion to flats when it was a shop on the ground floor with a flat above with no reference to a parking space on the pavement to the north of the shop unit. The survey plan is set out below:-



The Inspector is respectfully requested to dismiss the above appeal for the reasons set out in the original Officer Report, set out as Appendix A to this statement, and amplified above.

Enc. Appendix A – Officer Report in respect of the planning application PL/2023/04958

CASE OFFICER'S REPORT

Application Reference: **2023/04958**
Date of Inspection: **n/a**
Date site notice posted: **n/a**

SITE ADDRESS: **The Flat, 81 Wilton Road, Salisbury, SP2 7ER**
PROPOSAL: **Retrospective conversion of existing basement to 1 bedroom flat.**

POLICIES

Wiltshire Core Strategy

CP1 – Settlement strategy
CP2- Delivery strategy
CP50 – Biodiversity and geodiversity
CP57 – Enduring high Quality of Design and Place Shaping
CP61 – Transport and new development

NPPF/PPG
Section 12 – high quality of design

CONSULTATION RESPONSES

Salisbury City Council – SCC objects to this application and agree with the Highway Department comments. Additionally, SCC object for its use as a habitable space due to there being no windows and lack of amenities, SCC would seek Wiltshire Council planning officer comments.

WC Highways – I refer to the above planning application for retrospective permission for the conversion of the existing basement to a 1 bedroomed flat.

It is proposed that a parking space is available to the front of the dwelling for the use of the flat. This area is public highway and forms part of the footway to Wilton Road and therefore parking is not prohibited on this area of footway. Whether or not vehicles have used or use this area for parking is irrelevant as no permissions have been given or would be given for a parking area in this location for the following reasons:

• There is no formal dropped kerb for vehicle use in this location
• There is a lamp column adjacent to the area which is at risk of damage if a vehicle uses this area for parking
• There is a tactile paved dropped kerb adjacent to this area for pedestrian use to cross Longland
• Visibility of Longland is totally obscured by the structure of 81 Wilton Road
• Vehicles using this area to park would have to make excessive manoeuvres at the junction of Longland and Wilton Road, the A36 trunk road

I therefore recommend that this application be refused for the following reason:

The parking space as proposed is located on the public footway and is likely to result in excessive manoeuvring on the highway, close to an existing junction with consequent risk of additional hazard and inconvenience to all users of the road to the detriment of highway safety.

REPRESENTATIONS

One letter of objection has been received, commenting that the applicant does not own the land shown as parking on the application, nor owns or controls other land within the application

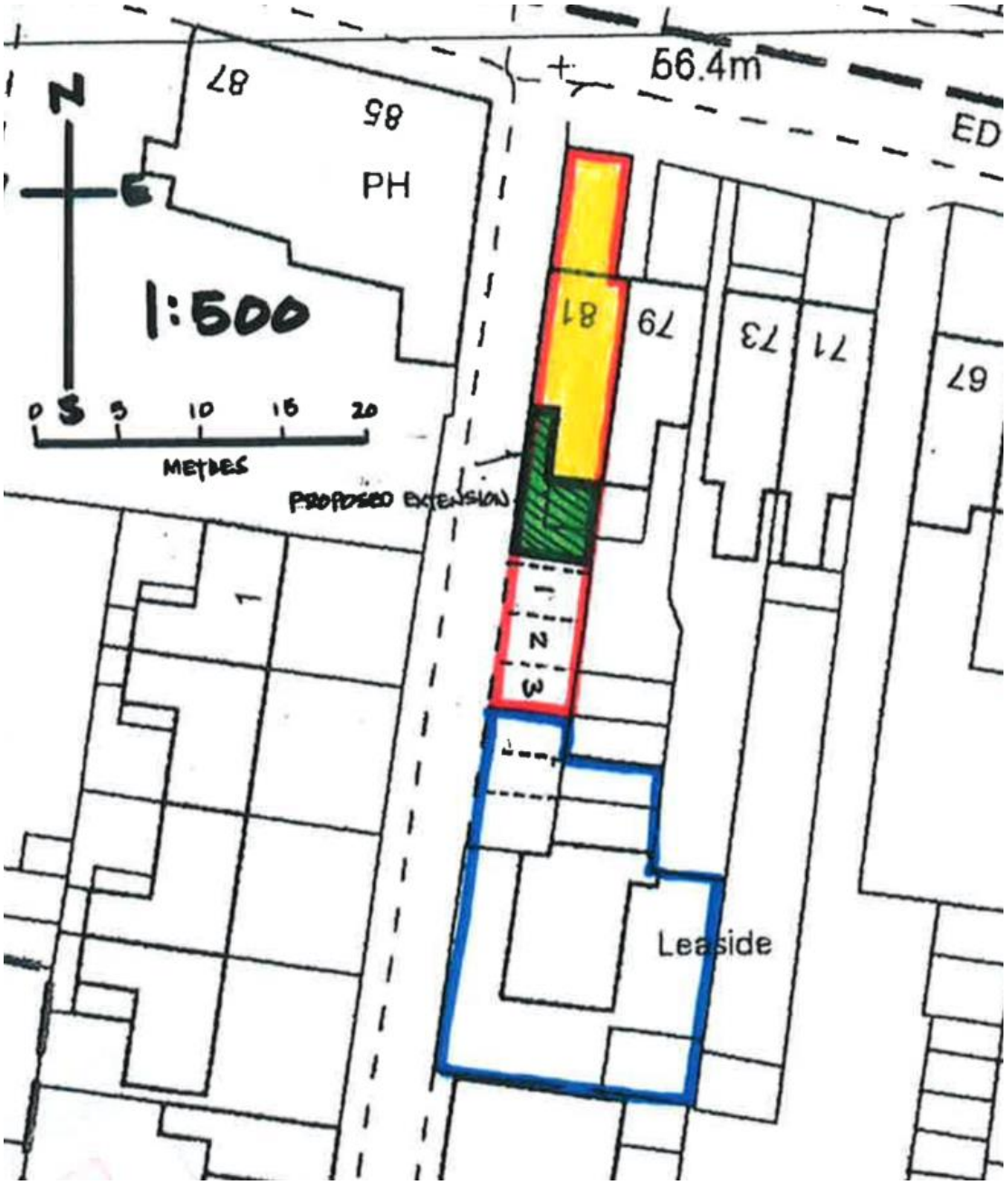
red line. Concerns over a lack of party wall application, and the problems caused by the existing flats in the premises with regard to waste, as well as a concern over safety of occupiers of the flat exiting straight into the highway.

ASSESSMENT

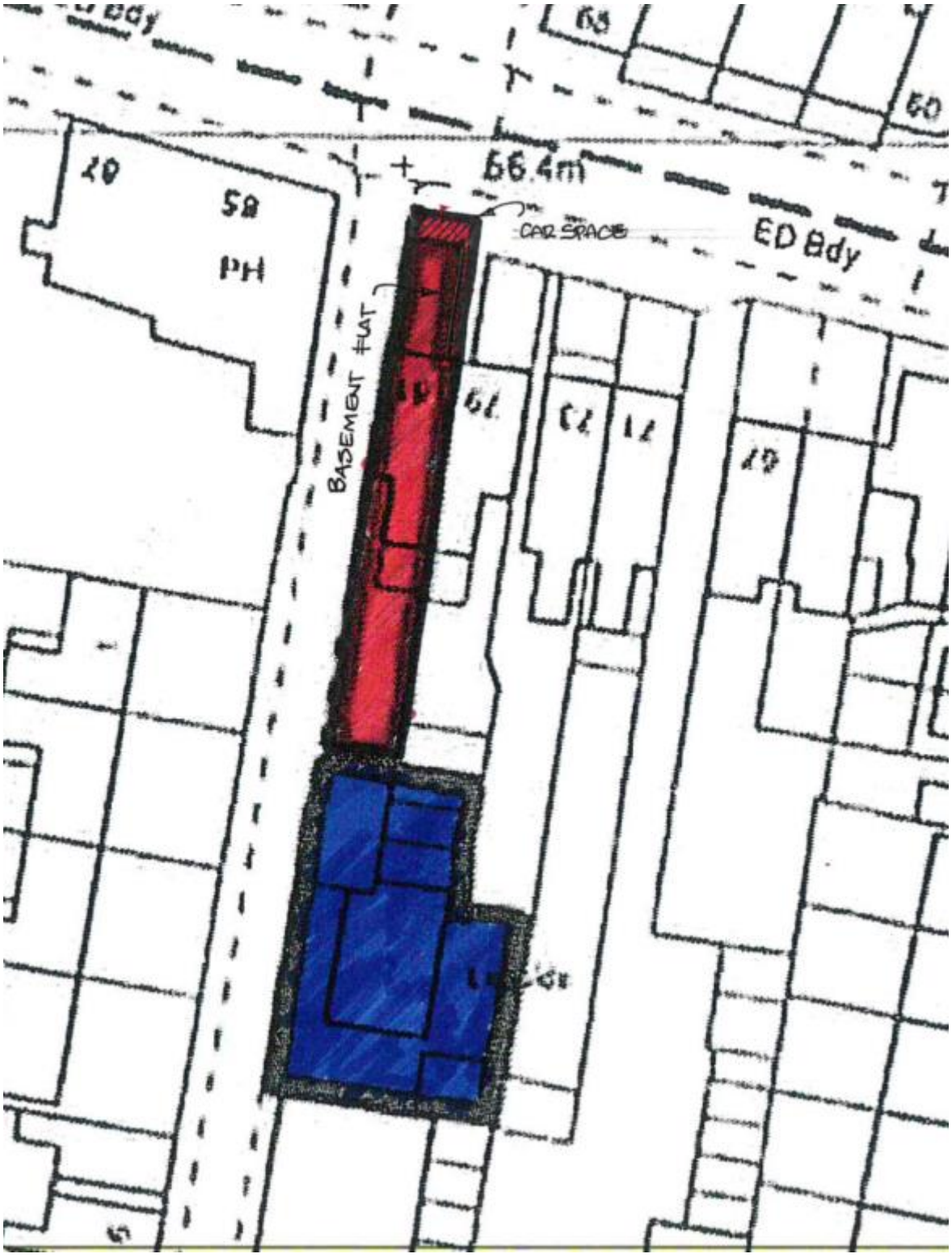
This retrospective application relates to the conversion of an existing basement that used to serve the previous shop on the premises into a one bedroomed flat.

The building is located on the corner of Wilton Road and Longland, a narrow residential street to the south that is a no through road. The newly created Tesco Express is on the other corner of the junction with Longland.

The premises was previously a shop unit on the ground floor with a basement below and a flat above. Permission has been granted recently (19/07555/FUL and 18/08501/FUL) to construct a two storey extension to the rear of the building and to convert the shop on the ground floor to two 1-bed flats utlitising the extension, and to increase the size of the flat on the first floor. 3 parking spaces were to be provided to the rear of the property off Longland. No mention is made of a basement to the premises on the earlier applications and the red line did not include the area fronting Wilton Road, now claimed as a car parking space, as can be seen below:_ Block Plan for 19/07555/FUL



Block plan for current application:-



A recent photo of the site frontage shows the area of land between the back edge of the building and the highway, and there is a lamp column in the footpath that would obstruct the use of this area as a parking space, as shown below:-



The basement has already been converted into a one-bedroomed flat without the benefit of planning permission.

The unit only has one window, to the bedroom, with the remainder of the living accommodation being wholly below ground with no access to natural light or ventilation. The window serving the bedroom is largely below the level of the adjacent road, and is partially under the stairs that lead to the front door of the flats above, as can be seen on the photo below taken from Longland looking towards the entrance to the flat. This window and door are not shown on the approved plans for the extension and conversions permitted under the 2019 permission above.



The flat has a floor space of approx. 50sqm. This floor area is just about the minimum space standards recommended by the government in its 2015 document “Technical housing standards- nationally described space standard “ where the minimum size of a 1 person flat was 37sqm, or 50sqm if it was for a 2 person flat. It is acknowledged that these standards are not statutory, but it should be noted that in 2021 the Permitted development legislation was amended to ensure that all dwellings delivered via the prior approval process had a minimum floor area of 37sqm to comply with the nationally describes space standard referred to above, and that all habitable rooms should have access to natural light.

Core Policy 57 of the WCS states “a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be

accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire. It also requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF (paragraph 130f) states that planning decisions should 'create 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.'

It is considered that this application fails to meet the above criteria, in that it will result in the occupants of the flats not having a high standard of amenity due to lack of natural light to the habitable rooms.

WCS policy CP50 (Biodiversity and Geodiversity) and the NPPF requires the Local Planning Authority to ensure protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system. Whilst the site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Avon Special Area of Conservation (SAC) catchment area. The SAC is designated for several species of wildlife that depend on pristine water quality that is typical of chalk rivers such as the Avon. It is part of a network of sites across Europe designated in order to protect these and other species vulnerable to man-induced habitat change. This SAC is particularly vulnerable to the effects of pollutants including phosphate and nitrogen which may enter the river for example at sewage treatment works or from fertilizers applied to farmland throughout the catchment. Subject to a condition in regard to water usage, it is unlikely that this proposal will have any adverse impact to the catchment area.

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)
- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinets resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021. As this application falls within the scope of the mitigation strategy and generic appropriate assessment, it is concluded that the proposed development will not lead to adverse impacts alone and in-combination with other plans and projects on the River Avon SAC.

The Highways Officer also objects to the application on the grounds that the area of land identified as a car parking space is in fact part of the public highway, and any vehicle parking on the land does not have consent to do so. Accessing the space would also cause a highway danger due to a lack of visibility to users of Longland, possible damage to the lamp column, and the convoluted manoeuvrings that a vehicle would have to make to park on this

spot. The application is therefore recommended for refusal as required by the Highways Authority.

It is understood that the flat is currently occupied by a tenant. The LPA are aware of their responsibilities to assess the impact of the refusal of planning permission, and possible subsequent enforcement action to require the flat to be removed and ceased to be used for human habitation, under the Public Sector Equality Duty, section 149 of the Equalities Act 2010.

It is agreed that any possible enforcement action to require the applicant to cease to use the application site for habitable accommodation could result in an individual or more than one person to become homeless. However it is considered that there are other premises to let that are available within the vicinity and the city of Salisbury in general, and if a reasonable period for compliance is set, for example 12 months, this would equate to the end of a short term tenancy and the occupiers would be able to find alternative accommodation in the normal way. It is also argued that the accommodation is so substandard, due to its lack of natural light to the main habitable rooms, that to allow person(s) to continue to reside there would be exploitative of anyone with a protected characteristic under the Act.

CONCLUSION

The conversion to a basement flat is not considered to be unacceptable as it will give rise to an unacceptable standard of amenity for the occupants of the property, and the proposed parking space is on public highway in an unacceptable location.

RECOMMENDATION:
Refuse for the following reasons:-

1) The proposal will fail to ensure that the occupants of the flat have a high standard of amenity due to the unit being mainly below ground with no natural light to the main habitable rooms, contrary to Policy CP57 of the Wiltshire Core Strategy, the guidance contained within the , The Town and Country Planning (General Permitted Development) (England) Order 2015 , as amended, with regard to the provision of natural light to buildings to be converted to dwellings, and the requirements of paragraph 130f of the NPPF.
2) The parking space as proposed is located on the public footway and is likely to result in excessive manoeuvring on the highway, close to an existing junction with consequent risk of additional hazard and inconvenience to all users of the road to the detriment of highway safety.