Wiltshire Council reference: PL/2023/10654
Planning Inspectorate reference: APP/Y3940/W/24/3342139

Town and Country Planning Act 1990

Section 78 Appeal by Miss Amy Hallett / Homes Nuovo Ltd
Site address: Land Adjacent to A350, West Ashton Road, Trowbridge, BA14 6AF

Appeal against refusal of permission for Outline consent for 4No. dwellings with all matters reserved apart from access.

Statement of Case by Wiltshire Council as Local Planning Authority
Senior Planning Officer: Genevieve Collins MA MRTPI

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1. Introduction

1.1. The Council's case is covered within the Case Officer's delegated report sent under the Council's completed questionnaire and is not reiterated in detail here (but is attached for ease of reference at **Appendix B**).

1.2. Proposed lawful requirements and suggested conditions are attached at **Appendix A** without prejudice. The original application form with certificates is contained at **Appendix C**. The Decision Notice is attached at **Appendix D.** Emails between the LPA and the agent as well as two neighbouring occupiers during the application relating to procedural concerns regarding extent of the red line site plan and ownership of the land are attached at **Appendix E**. Emails between the agent and the LPA relating to required additional information are contained at **Appendix F**. Emails between the agent and the LPA relating to determination of the application and the opportunity to withdraw are contained at **Appendix G**. The LPA costs claim rebuttal statement is attached at **Appendix H** and a counter claim for costs Statement on behalf of the LPA is contained at **Appendix I**.

1.3. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

2. Comments on Appellants Statement of Case

Procedural Matters

2.1. It is noted that the Appellant's Statement of Case comprises a Full Statement entitled 'Written Representation' from Poulsom Architectural Design and Planning Services.

2.2. Additionally, it is noted that the Appeal Form is accompanied by Certificate B referencing a Ms Johnson care of agent Cooper & Tanner as an owner of the appeal site however this person was not formally notified of the original application despite the LPA querying this. Please see a copy of the original application form and certificate contained at **Appendix C.** There were also other concerns raised by neighbours that the application site (now appeal site) is partly owned by them and despite the LPA requesting further detail on this and the correct certificate being issued as part of the live application the applicant decided not to do this.

2.3. During the planning process the applicant was advised that there were procedural concerns with the application pertaining to the extent of the red line and land ownership and the associated required certificates and formal notices.

2.4. Following concerns about land ownership, the Appellant amended the site's red line parameters, and a second round of full consultation was issued. As a result, further concerns were raised by neighbours that the red line was still inaccurate, and the neighbours indicated that the application site still included neighbouring land without formal notification.

2.5. As evidenced within the appendices, the LPA requested that the Appellant either withdrew the application or notify the adjacent landowners and submit a revised certificate B or C to address this procedural irregularity and restart the application. The Appellant however refused to do this and disputed the landownership claims of neighbouring occupiers.

2.6. There were, and remain, significant procedural concerns with this appeal and the original application that at the time of writing this Statement, have not been resolved. Emails relating to this matter are attached for information at **Appendix E**.

2.7. As can be seen from the emails attached at **Appendices E and F**, the Appellant was offered the opportunity to regularise the position with regard to landownership certificates as part of the application, but that offer was declined. At no point did they advise that correct formal notification had been served on the party now included on the appeal form or on the neighbouring occupiers. It is not the fault of the LPA that the applicant failed to do this in good time as part of the original submission of the application or during the application; they were given the opportunity to do so or to

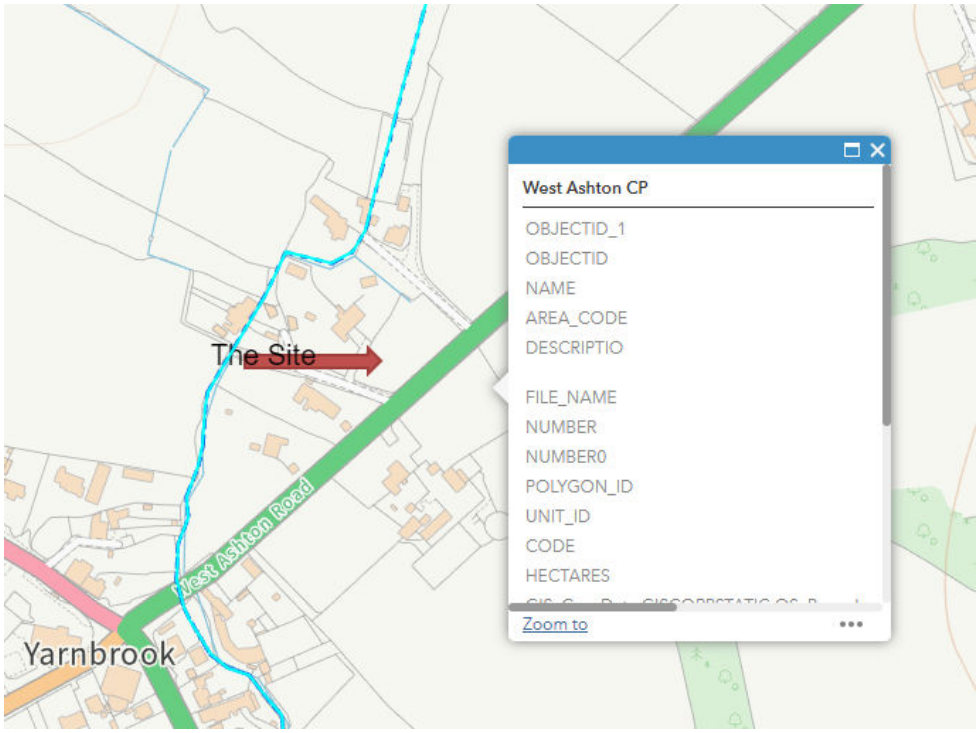
withdraw the application and resubmit at a later date when the outstanding issues had been fully addressed. This too was declined.

2.8. A costs claim has been submitted by the Appellant. A rebuttal to this has been submitted (see attached at **Appendix H**) and a counter costs claim has been submitted by the LPA since there is very clear unreasonable behaviour on the part of the Appellant's agent (attached at **Appendix I)**.

Technical Considerations relating to the Appellant's Statement of Case

Principle of Development

2.9. At paragraph 2.5 of the Appellant's submission in support of this appeal, it is argued that the case officer wrongly assessed the site location as West Ashton however West Ashton Parish Council and two local residents confirmed in their formal representations that the site is in West Ashton not Yarnbrook. Furthermore, it is clear from the Council's policy map boundaries layers that this site is located within the Parish of West Ashton (see the extract from the Council's policy mapping below):



2.10. Either way both West Ashton and Yarnbrook are both defined as small villages in policy CP29 (Spatial Strategy for the Trowbridge Community Area) for the purposes of CP1 and CP2. As such the principle of infill at small villages set out in CP2

applies in any event.

2.11. The Appellant's submissions made within paragraphs 2.8-2.12 set out the Appellant's view of why they consider the proposal is infill.

2.12. Adopted Core Policy 2 of the WCS states that development at small villages will only be supported where they seek to meet housing needs provided that the proposed development:

"i. Respects the existing character and form of the settlement

ii. Does not elongate the village or impose development in sensitive landscape areas;

iii. Does not consolidate an existing sporadic loose knit areas of development related to the settlement"

2.13. It is furthermore material to record that following the changes to the NPPF in December 2023, the Council can demonstrate a sufficient housing supply (see officer's report attached at **Appendix B** for more detail) and there are therefore no unmet housing needs. As such there is no evidence of any housing deficit which this proposed development would meet and the Appellant does not dispute this.

2.14. Furthermore, it is considered that the proposal would consolidate an existing sporadic loose knit area of development related to the settlement contrary to CP2 of the WCS.

2.15. Additionally, Policy CP2 sets out that development at small villages will be limited to infill within the existing built area of the village. WCS paragraph 4.34 must be fully understood which defines infill "*as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling*". This definition is generally accepted by the Courts and Planning Inspectors alike.

2.16. The appeal site does not satisfy the meaning of infill windfall when read against WCS para 4.34 associated to policy CP2 because it is not infilling a small gap within a built-up area. At over 0.2ha in area and having a frontage of almost 60m along a busy rural road, the appeal site is neither small nor in a built-up area. The appealed development therefore conflicts with the settlement strategy set out in policies CP1 and CP2 and is unacceptable in principle.

<u>Reliance on Private Car and Highway Safety</u>

2.17. Section 3 of the Appellant's appeal grounds relate to the second refusal reason.

This refusal reason is set out in full in the attached decision notice (at **Appendix D**) and the reasons for the LPA reaching this conclusion are set out in the attached officer report (see **Appendix B**). Suffice to say that the senior highway engineer of the Council raised significant concerns on the reliance to be placed on private motor vehicles for all 4 properties which would conflict with policies CP57, CP60 and CP61 of the WCS but also crucially in relation to the possible impact on highway safety.

2.18. The access that is highlighted within the appeal submission is not a complete and formed access and does not obviously connect to the highway at present. It is clearly not an operational access sufficient to serve 4no dwellings off a busy route in close proximity to a significant roundabout, especially with no details or plans provided.

2.19. Insufficient information was submitted with the application to show that the site could be accessed safely. The NPPF is clear at paragraph 115 that applications should be refused where there is an unacceptable impact on highway safety, and as such in accordance with the NPPF the application was refused.

2.20. The Council's refusal to accept further information and undertake further consultation during the latter stage in the application assessment is explained within the case officer report attached at **Appendix B** and the emails attached at **Appendices F and G** and the costs claim rebuttal attached at **Appendix H**.

Ecology Matters

2.21. The appeal site is located within a consultation zone for bats associated with the Bath & Bradford on Avon Bats SAC as well as Salisbury Plain Special Protection Area and therefore this appealed development has the potential to result in significant adverse impact on the special features of those sites. A Habitat Regulations Assessment (HRA) under Section 63 of the Habitats Regulations must be carried out by the relevant Competent Authority (i.e. the planning inspector for this appeal) to determine the potential significant effects and the suitability of any measures proposed to avoid or mitigate those effects.

2.22. This appeal also needs to be considered in light of the Council's Trowbridge Bat Mitigation Strategy SPA. It currently provides the best available evidence on which to consider the implications of the Habitats Regulations on planning applications in the Trowbridge area where they have potential to impact on the Bath and Bradford on Avon Bats SAC.

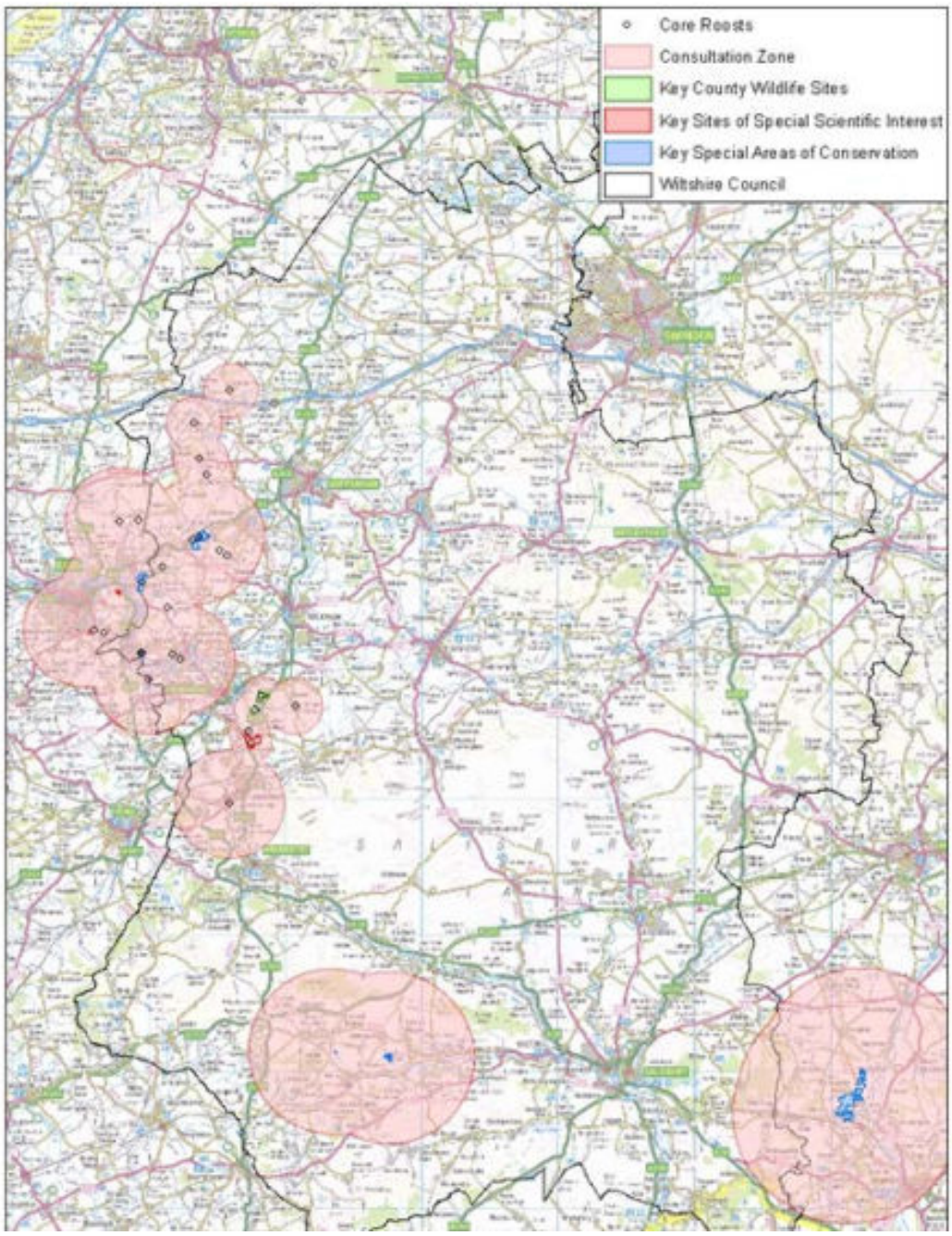
2.23. This application cannot be screened out of an appropriate assessment as it lies within the 'red zone' of the TBMS. In the Strategy this zone is identified as one where development is at high risk of leading to loss of habitat of critical importance to SAC bats both alone and in-combination with other plans and projects. Developments in this zone also have a high risk of leading to recreational impacts on woodlands used by breeding Bechstein's in combination with other developments. In addition, this particular development site lies along flight routes used by Bechstein's bats during radio-tracking studies undertaken to support the proposed Ashton Park development in 2013.

2.24. With regard the comments in the accompanying appellants appeal statement, the site is labelled as being within an SAC consultation zone as it is within an area considered to be of significant importance to bats associated with a SAC. This is described in the Bat SAC Developers' Guidance which can be found on the Council's planning pages:

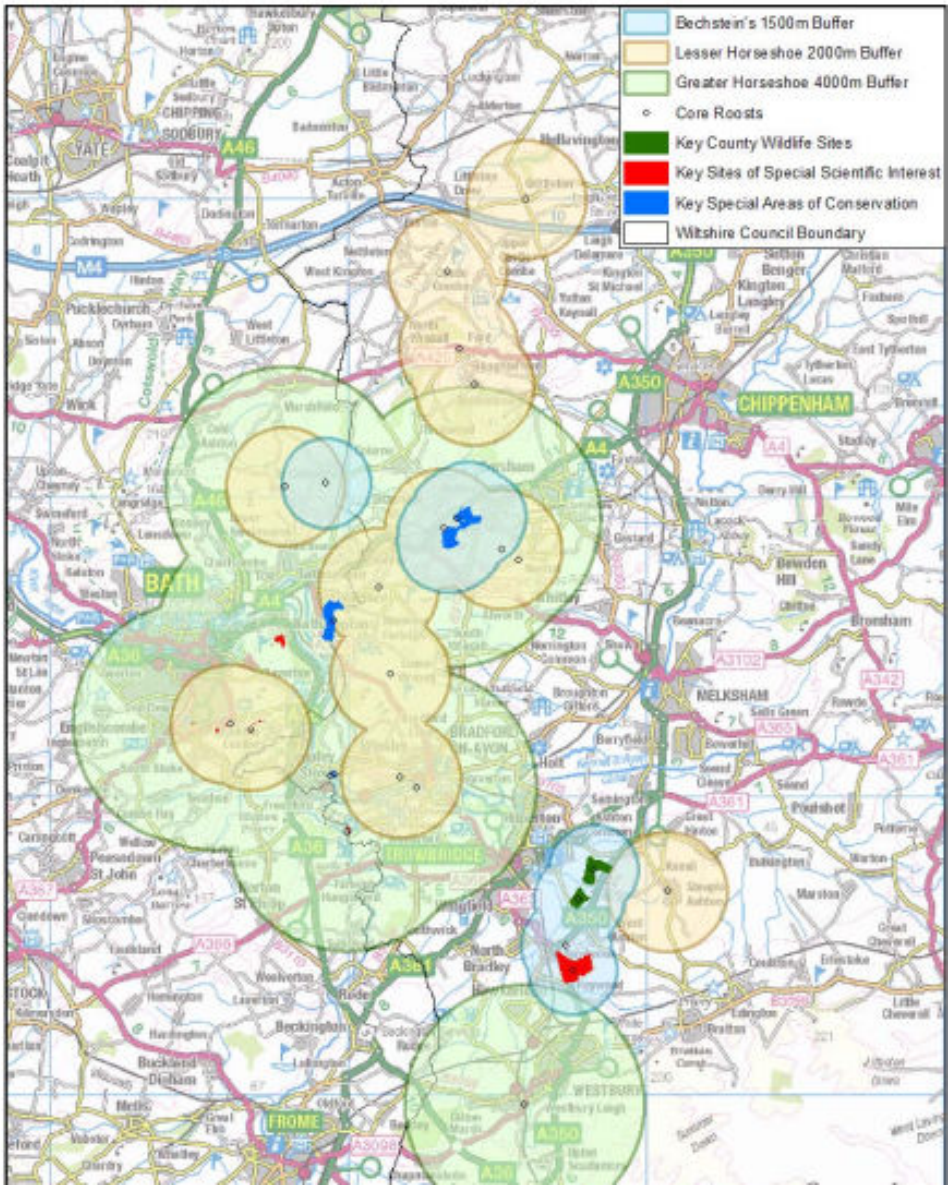
(https://www.wiltshire.gov.uk/planning-bio-ecological-survey).

2.25. This is the reason the consultation zones do not appear on the Natural England online mapping resource known as MAGIC, as they are bespoke constraints to Wiltshire planning policy. The guidance offers detailed explanation and insight into which development would need surveys and in which locations and explains the process required by the Habitat Regulations. The extracts below from this Developers Guidance on Wiltshire Council planning pages shows the important key areas for each species:

Plan 1 Bat Consultation Zone based on Core Areas (see Plans 2 and 3 for inset maps). The plan includes the Mottisfont bat SAC consultation zone which extends into Wiltshire[7].



Plan 2 Inset map of the Bradford-on-Avon Bat SAC Core Roosts showi Core Areas (i.e. buffers) for each species



2.26. As such there is clear guidance and a link to a checklist live on the Wiltshire Council ecology webpages under Ecology and Planning Applications that would have been easy to find had it been reviewed properly by the Appellant's planning agent.

2.27. Additionally, the Appellant was advised of the importance of the site to protected species of the SAC early in the application process and furthermore it was clearly referenced as a critical issue (which required a s.106 legal agreements to secure developer contributions to secure the necessary mitigation) for previous applications on neighbouring properties which are directly quoted by the Appellant in their own Statement. There is therefore no reason why the Appellant and especially the

appointed planning agent, should not have known about the importance of this land in relation to the protected species of the SAC and there is no reason why sufficient information could not and should not have been provided at the outset as part of the planning application process.

2.28. Currently this application does not comply with CP50 of the WCS, the NPPF provisions, the TBMS or the Habitat Regulations. Before this appeal can be lawfully allowed, an appropriate assessment needs to be completed by the planning inspector and evidencing a conclusion of 'no adverse effects on the integrity of the Bath and Bradford on Avon Bats SAC' being reached. Otherwise, the appeal must be dismissed.

2.29. Insufficient information has been submitted to enable an HRA to be undertaken by the LPA at this stage in the appeal.

2.30. The lack of information and mitigation means that the proposal does not demonstrate no net loss of biodiversity on site and the proposal does not meet the legal requirements of the Habitat Regulations. The proposal is therefore clearly contrary to CP51 of the WCS and paragraphs 180(d), 186(d) and 191(c) of the NPPF as well in contravention of the Habitats Regulations.

2.31. The Appellant's agent was made aware of this within good time. They stated that they would put this information in with an appeal rather than withdraw the application and resubmit because they did not want to lose their 'free go'. See emails appended within **Appendices F and G**. The Appellant failed to submit the required information to undertake a Habitat Regulation Assessment despite being made aware of this and the courts have been clear that such matters as ecology surveys affecting European Protected Species cannot be left to conditions. The LPA had no other option but to refuse this application on this basis. The behaviour by the Appellant's agent on this matter is further grounds for a costs award.

Archaeology Issues

2.32. The Appellant states within section 5 of their submission that this can be left to reserved matters. It is considered that this is not possible as the principle of development relies on an understanding whether there is any archaeological potential of the site at the outline stage. This is good practice and is set out clearly within the NPPF at paragraph 200 which states that "*Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to*

submit an appropriate desk-based assessment and, where necessary, a field evaluation".

This position was supported by the Assistant County Archaeologist who formally objected to the application. He stated the following as part of his formal consultation reply:

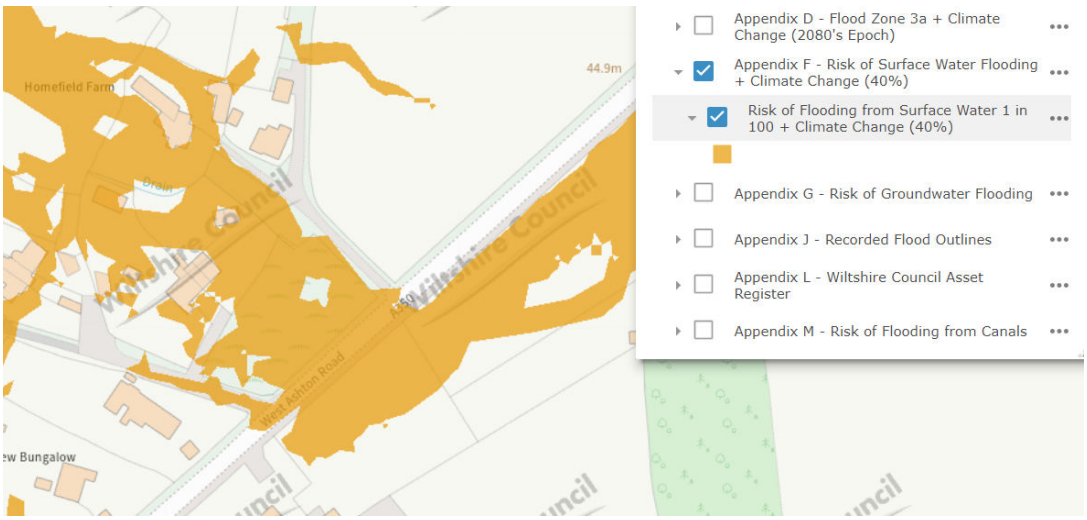
"The site of the proposed new dwellings is located in an area populated by later medieval field systems and enclosures with patches of later prehistoric and Romano-British activity. There is potential for as-yet unrecorded sub-surface archaeological features and/or deposits to survive within the site, features and deposits that would be severely impacted by groundworks associated with the proposed development.

I would therefore advise that a geophysical survey is carried out across the site prior to the determination of this application. Once this survey has been conducted and a report prepared on the results that has been submitted to Wiltshire Council Archaeology Service (WCAS) for review and approval, I will then be in a position to determine whether any further work, in the form of a trial trench evaluation of the site, needs to be carried out prior to determination, or whether the monitoring of groundworks by an archaeologist can be secured via a condition to be attached to any planning permission that may be issued".

The Appellant's agent was advised of this position during the course of the application and declined to provide the information as requested and as such the application was refused on this basis as set out in the officer report (attached at **Appendix B**) and in the decision notice (attached at **Appendix D**).

Flood Risk and Drainage

2.33. The Appellant's view contained within section 6 of their appeal submission relies on there being no need for an FRA based on the site being zoned as Flood Zone 1. The Council accepts that the appeal site is within Flood Zone 1, however the Council's Strategic Flood Risk Assessment (SFRA) (which is publicly accessible) and based on EA data available online, clearly shows that the site is at risk of surface water drainage as shown on the extract from the SFRA below:



2.34. The NPPF states at paragraph 173 that "*When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment*".

2.35. Footnote 59 to NPPF paragraph 173 furthermore states that "*A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3.* ***In Flood Zone 1, an assessment should accompany all proposals involving:*** *sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems;* ***land identified in a strategic flood risk assessment as being at increased flood risk in future***;".

2.36. This appeal site has been clearly identified (as shown on the above extract) as land identified in a strategic flood risk assessment as being at increased flood risk in future. As such, the application should have been supported by a proportionate Flood Risk Assessment and despite the applicant being easily able to find this information out and being requested to provide one during the course of the application, no FRA was submitted with the application in clear conflict with requirements of the NPPF.

2.37. It is appreciated that the LLFA raised no objection in principle, but the case officer was not content with this view for the following reasons. Whilst surface water details can be conditioned, the absence of a FRA especially when there is a water culvert on site and the proposal is for a more vulnerable use (ie residential) with some adjacent residential occupiers near to a very busy highway such as this site, it is important to have sufficient information to determine the flood risk and set out mitigation parameters at the outline stage to ensure the site can be adequately drained, to ensure that there is no risk to the safety of users of the highway, or to

the health, safety and property of neighbouring occupiers and future occupiers, and to ensure that flooding would not be increased elsewhere. Whilst there was no in principle objection from the Council's drainage team, the case officer representing the Council was not satisfied that sufficient information had been provided in accordance with the NPPF to ensure a safe development could be accommodated even if the principle of the development were to be found sound.

Other Matters

2.38. It is noted that the Appellant includes a request for costs based on unreasonable behaviour at the end of the supporting statement. This has been replied to (see costs claim rebuttal at **Appendix H**) and a counter cost claim for unreasonable behaviour in the form of an unnecessary appeal submission has been submitted by LPA (see attached at **Appendix I**).

3. Conclusion

3.1. The Council has carefully considered the Appellant's grounds for appeal but is of the opinion that they do not raise any further issues which would cause it to modify the Council's decision. For all the reasons set out in the Council's evidence, the Inspector is respectively invited to dismiss this appeal.

3.2. Without prejudice, if, however the Inspector is minded to allow this appeal, a list of suggested conditions is attached to this statement (at **Appendix A**).

Appendix A - Lawful Requirements and Suggested Conditions

Appendix A – Lawful Requirements and Suggested Conditions

Lawful Requirements

Should the planning inspector be minded to set aside the stated RFR, and completes an HRA, in accordance with the Council's adopted TBMS, this appeal requires a s.106 to secure a developer contribution towards the mitigation of impact on bat habitat under the TBMS of £777 per dwelling to mitigate the recreational pressure on protected bat habitats in accordance with the Habitat Regulations, the Trowbridge Bat Mitigation Strategy and CP50 of the WCS

Conditions

1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 An application for approval of the reserved matters specified in Condition 3 below, must be made to the Local Planning Authority before the expiration of three years form the date of this permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990.

3 No development shall commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

a) The scale of the development;
b) The layout of the development;
c) The external appearance of the development;
d) The landscaping of the site.

The development shall be carried out in accordance with the approved details. The reserved matters shall be submitted as a single phase, unless otherwise agreed by the Local Planning Authority.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4 The development hereby permitted shall be carried out in accordance with the approved plans (to be added by the inspector)

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

5 No development shall commence until details of the access, turning area and parking spaces have been submitted to the LPA and agreed in writing. This development shall then be completed in accordance with the details shown on the approved plans. These areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety

6 No development shall commence within the area edged in red on the Location Plan until:

a) A written programme of archaeological investigation, which should include on-site work (i.e. trial trenching) and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

7 No development shall commence beyond slab level until an energy statement has been submitted to the LPA and agreed in writing with the reserved matters application, demonstrating the inclusion of renewable energy technology on site.

REASON: to comply with policy CP41 and in the interests of climate change.

8 No development shall commence on site until a scheme for the discharge of surface water from the site has been submitted to and agreed in writing by the local planning authority. This should include detailed drainage calculations which demonstrate that discharge rates from the whole developed area (2.507ha) of the site do not exceed:

- 1 in 1 year storm event - 1.65 l/s
- 1 in 30 year storm event - 4.14 l/s
- 1 in 100 year storm event - 5.15 l/s

REASON: To ensure that the development does not increase local flood risk (as a result of increase impermeability and sub-catchment transfer)

NOTE:
As part of discharging draft condition no. 8 detailed drainage information

must include:

- Calculations and drawings for the drainage system design showing conveyance routes are designed to convey without flooding the critical 1 in 30 year + climate change rainfall event.
- Calculations and drawings for the drainage system design showing attenuation features are designed to attenuate without flooding the critical 1 in 100 year rainfall event + climate change.
- Calculations should include an allowance for increased surface water runoff, as a result of urban creep, in accordance with LASOO guidance.

9 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals. Lighting levels shall be in accordance with those defined on the approved Lighting Parameter Plan (Ref 150202 PP 04 Rev Q).The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

10 A post-installation lighting survey must be conducted (in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy) and submitted to the Local Planning Authority. This survey must demonstrate that the lighting levels comply with the approved Lighting Parameter Plan.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

11 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
ii. A description of management responsibilities;
iii. A description of the construction programme;
iv. Site working hours and a named person for residents to contact;
v. Detailed Site logistics arrangements;
vi. Details regarding parking, deliveries, and storage;
vii. Details regarding dust mitigation;
viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the

highway network;

ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;

x. Details of how surface water quantity and quality will be managed throughout construction;

xi. Details of the safeguarding measures to deal with the following pollution risks:
- the use of plant and machinery
- wheel washing and vehicle wash-down and disposal of resultant dirty water
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes

xii. Details of safeguarding measures to highway safety to include:
- A Traffic Management Plan (including signage drawing(s))
- Routing Plan
- Details of temporary/permanent Traffic Regulation Orders
- pre-condition photo survey - Highway dilapidation survey
- Number (daily/weekly) and size of delivery vehicles.
- Number of staff vehicle movements.

xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

a. Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
b. Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of ‘alternative space for recreation’.
c. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
d. Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, badger and dormice.
e. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
f. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
g. Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

11. Prior to the start of construction ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

Appendix B - Officer Report

CASE OFFICER'S REPORT

APPLICATION REFERENCE NO:	PL/2023/10654
SITE ADDRESS:	Land adjacent to A350, West Ashton Road, Yarnbrook, Trowbridge, BA14 6AF
PROPOSAL:	Outline consent for the consent of 4No. dwellings with all matters reserved apart from access.

Proposal and Site Description

This application seeks outline consent for 4 dwellings with all matters reserved except for access.



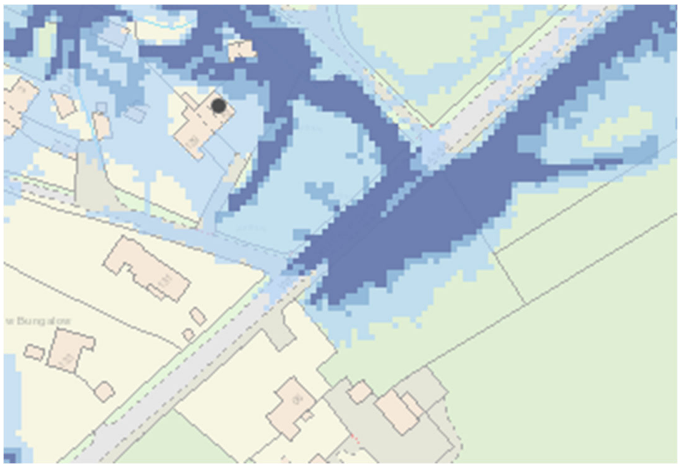
The proposed site location

The site comprises vacant agricultural land located to the north of the A350 southeast of Trowbridge. It is situated in West Ashton (adjacent to Yarnbrook), which is designated as a small village within the Wiltshire Core Strategy (WCS, 2015). The site is located within the Avon Vale Countryside Character Area. There are no heritage assets on site but there is archaeological potential.

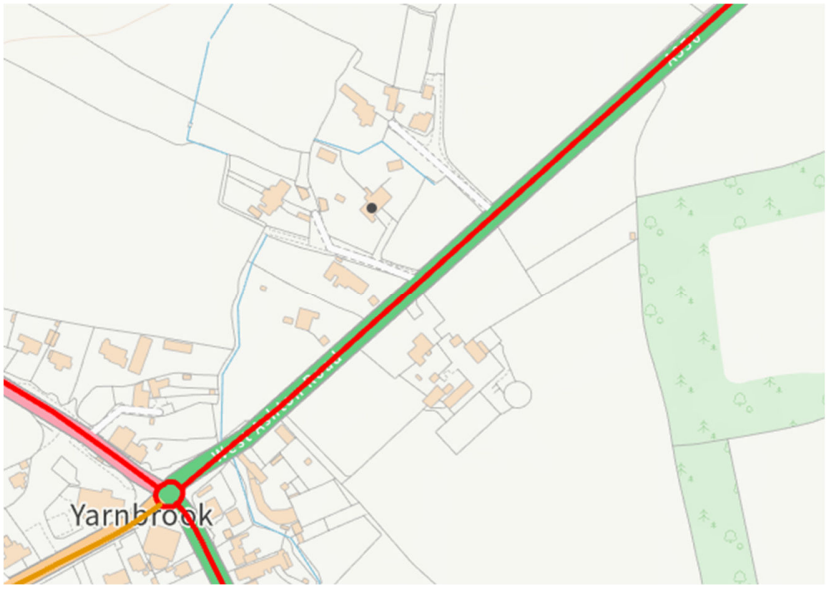
It is located within the Bath and Bradford on Avon Bat Special Area of Conservation (SAC) and within the red zone of the Trowbridge Bat Mitigation Strategy Area. It is located within the buffer zone of the Salisbury Plan Special Protection Area for recreational impact on birds. From the Council's historic records, the following species are identified within the area:

• Myotis bechsteinii – Bechstein's bat
• Plecotus auritus – Brown Long eared bat
• Milvus milvus – Red kite

It is within 20m of a watercourse and within Flood Zone 1 with no evidence of groundwater flooding on site but there is evidence on the Council's SFRA of 1 in 30yrs, 1 in 100yrs, 1 in 1000yrs surface water flooding risk sown on the snip below.



The A350 fronts the site; this highway is a recognised Freight Route Network: West Ashton Road – Strategic Primary route. The proposal is within close proximity of the Yarnbrook roundabout; a very busy road and junction.



The site is bounded by two Public Rights of Way on either side (shown in purple on the snippet form the policy layers below).



The PROW

Policies

National Context:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Local Context:

Wiltshire Core Strategy (WCS) adopted 2015
WCS - CP1 Settlement strategy
WCS - CP2 Delivery strategy
WCS – CP29 Trowbridge Community Area
WCS - CP45 Meeting Wiltshire's Housing Needs
WCS - CP50 Biodiversity and geodiversity
WCS - CP51 Landscape
WCS - CP52 Green Infrastructure
WCS - CP57 Ensuring high quality design and place shaping
WCS - CP60 Sustainable transport
WCS - CP61 Transport and development
WCS - CP64 Demand management
WCS - CP67 Flood risk

West Ashton Neighbourhood Plan (made June 2021)
Policy 1a; Policy 2; Policy 3; Policy 6a; Policy 6b; Policy 7; Policy 8

When adopting the WCS, some policies remain saved from the West Wiltshire District Local Plan (1st Alteration) (WWDLP) U1a – Foul water drainage

The Habitat Directive and Habitat Regulations

The Trowbridge Bat Mitigation Strategy SPA

Key Issues
Principle of Development
Design
Residential Amenity
Archaeology
Ecology
Highways
Flood Risk

Relevant Planning History
None.

Consultation Responses
West Ashton Parish Council: Object on the following grounds:
The application is inaccurate as it is situated in West Ashton, not Yarnbrook. There are apprehensions regarding the potential rise in traffic and congestion due to the proposed access changes. The newly suggested access point is deemed inappropriate for both exiting and entering the primary route. Furthermore, no provisions for speed limit reductions have been outlined to address these concerns. The preservation of the existing habitat, particularly concerning the current hedging, has not been addressed, and we request a comprehensive plan for its protection.
Archaeology: Object on the grounds of insufficient information
Highways: Object on the grounds of highway safety and poor accessibility
Ecology: No Comment – no response received at the time of writing the report
Drainage: No objection

Representations
4 representations received from neighbouring occupiers objecting to the proposal on the following grounds:

- Local surface water and drainage problems
- Frequent flooding
- The location is not Yarnbrook but West Ashton
- A350 is very busy
- Highway safety
- No footways for pedestrians
- Dangerous for children and families
- The proposed site includes land not in the applicant's ownership and no formal notification of the application has been received.

- After two requests (sent as registered letters on January 7th 2024 and 25th 2024) to the Agent to correct an error in the Redline boundary on Application PL/2023/10654 I have been left with no alternative but to object for this planning Permission. I subsequently note that the same error is included in the blue line boundary as well. A small part of the ditch included within the application is under the ownership title of Homefield Farm. Homefield farm has maintained the ditch for over 40 years and the fence line has never moved. Diagram included showing the error.
- There is no principle of development. The site is contrary to the sustainability policies in the Wiltshire Core Strategy and the site is located outside of the existing village policy boundary

Procedural Matters
Representations received from neighbouring occupiers raised concerns stating that the red line of the application site is incorrect. The Local Planning Authority (LPA) discussed this matter with the agent / applicant and the red line was revised and the application reconsulted on in full.

Following the reconsultation further representations were received from neighbouring occupiers stating that the red line was inaccurate and that some of land belonged to neighbouring occupiers not the applicant. This was investigated further by the case officer but it is not clear as to where the ownership boundaries fall.

During these discussions the agent confirmed that the applicant secured an option to purchase the land and provided a red line title pan showing the area to which the option to purchase relates. This red line title plan appeared to contradict other title plans and elderly deeds copies of which were received from neighbouring occupiers during the two rounds of consultation. As such it remains unclear as to who actually has a legal interest in the land.

Moreover, whilst the red title plan provided by the agent does relate to the red line application site plan submitted with the application, the associated deeds also sent through by the agent state that someone else known as Kathryn Johnson of a different address, is the freeholder of the land. There is no indication on the application form or certificates that Kathryn Johnson was formally notified.

The application does contain a signed Certificate B stating that Wiltshire Council Highways Authority has an interest in the land and that the Highways Authority has been notified of the application. No other parties were included on this certificate or formally notified.

The evidence seen by the LPA would indicate that there is a high possibility of other people with interests in the land to which the application relates who are freeholders and or leaseholders with more than 7 years left to run and who have not been formally notified.

As such the LPA consider that the proper procedural requirements in this application may well have not been met and it is not clear therefore whether the application has met all the required legal requirements of the Development Management Procedure Order governing validity of applications. The applicant suggests that it has however but refuses to clarify the matter or provide additional evidence. They have also refused to withdraw the application or notify any additional parties.

There are other inadequacies with the planning submission and a fundamental policy conflict in principle and as such the application is recommended for refusal on grounds of insufficient information and fundamental conflict with the development plan. The agent has been notified of this but refused to withdraw the application, preferring instead to appeal the decision to seek "*a second opinion from the Planning Inspectorate*".

The applicant also considers that they should have been provided with additional time to submit additional information to address concerns raised with regard to drainage and highways and have further formal consultation on this additional information. They do not accept that a second round of consultation was undertaken on the revised red line plan and insist that the application has been prejudiced by such a refusal to accept further information.

Planning Practice Guidance states at Paragraph: 061 Reference ID: 14-061-20140306 that
"It is possible for an applicant to suggest changes to an application before the local planning authority has determined the proposal. It is equally possible after the consultation period for the local planning authority to ask the applicant if it would be possible to revise the application to overcome a possible objection. It is at the discretion of the local planning authority whether to accept such changes, to determine if the changes need to be reconsulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted".

In many situations the LPA accepts additional information and reconsults accordingly however, in this particular case, a number of other issues remain outstanding other than simply highways and drainage matters. The procedural concerns that have been raised by the case officer and neighbours have not been addressed or rectified, the principle of development is considered unacceptable. Moreover, there is still no information provided or referred to relating to ecology to address the highly sensitive biodiversity position of the site and comply with habitat regulations and insufficient information has been submitted to address the outstanding the archaeological concerns despite the applicant being made aware of this.

Accordingly, it is considered reasonable to refuse to accept additional information relating to highways and drainage and proceed to determine the application on the basis of the existing submission.

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.

Principle of Development:
West Ashton is designated as a small village at Policy CP29 of the adopted Wiltshire Core Strategy (WCS). The WCS confirms that small villages do not have defined settlement limits and under policy CP1, the development plan requires any new housing development to be 'managed' strategically by Core Policy 2.

Following the recent revised NPPF on 20 December Wiltshire Council no longer needs to demonstrate or defend a 5-year housing land supply. Instead, the Government has through the new NPPF, make it very clear that development should be informed by a plan based system and the Government has embed within the new NPPF its support for Councils that have progressed with new Local Plans and with Wiltshire Council having reached Regulation 19 stage for the Wiltshire Plan, this authority is now regarded as an NPPF paragraph 226 compliant authority – which requires a minimum of 4-years' worth of housing over 4 years.

The Council's last published Housing Land Supply Statement demonstrated a 4.6 years supply, and having recently liaised with the Council's monitoring and evidence team, the early signs ahead of finalising the housing delivery calculations and the publication of the next HLS, the supply is likely to be closer to 4.8 years supply.

In recognition that the advancing new Local Plan has not yet been examined, full weight must be afforded to the Council's adopted strategic policies contained within the Core Strategy which for new housing includes CP1 – the Council's settlement strategy and CP2 – the Council's delivery strategy, and pursuant to West Ashton, CP29 – The spatial strategy for the Trowbridge Community Area.

Given that there is no housing land supply shortfall, the planning balance as set out within NPPF paragraph 11 is no longer titled in favour of supporting speculative housing development. Recent appeal decisions confirm this see ref: PL/2022/09397 - Land south of Pound Lane, Semington, BA14 6JP - APP/Y3940/W/23/3329064 dated 09 Feb 2024. Moreover, the location of the site within the Bath and Bradford on Avon Bat SAC means that the site would also not benefit from any presumption in favour of sustainable development in any event.

The Wiltshire Core Strategy (WCS) sets out a 'Settlement Strategy' and 'Delivery Strategy' for development across the county. WCS Core Policy 1 refers to the Settlement Strategy, and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. The Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. West Ashton is identified as a small village, and it is without a defined development boundary.

WCS Policy CP2 sets out that development at small villages will be limited to infill within the existing built area of the village. WCS paragraph 4.34 must be fully understood which defines infill "as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling. Exemption to this will only be considered through neighbourhood plans."

Case law and appeal decisions also tend to consider infill to be the infilling of a small gap within a built-up area. The A350 has very limited frontage access in this vicinity and it is considered that this location is not a 'built up area'. Moreover, the application site is circa 0.23 hectares with the southern part of the site and road frontage extending almost 60metres along the A350. At this size and with there being no housing to the immediate east and only loose knit sporadic development to the north,

the site is not considered a small infill gap, and it would not accord with the Council's infill policy for windfall housing provisions.

Core Policy 2 of the WCS states that developments at small villages will only be supported where they seek to meet housing needs (see above commentary of housing supply provided that the proposed development:
i. Respects the existing character and form of the settlement
ii. Does not elongate the village or impose development in sensitive landscape areas
iii. Does not consolidate an existing sporadic loose knit areas of development related to the settlement

Currently there is no evidence of any local housing need which this proposed development would meet. Furthermore, the proposal would consolidate an existing sporadic loose knit area of development related to the settlement contrary to CP2 of the WCS. Additionally, the site is considered not to meet the meaning of windfall within supporting text at 4.34 of policy CP2 because it is not infilling a small gap within a built-up area. At over 0.2ha and a frontage of almost 60m on a busy open rural road the site is neither small nor in a built-up area.

As such the proposed development conflicts with the settlement strategy set out in policies CP1 and CP2 and as such is considered unacceptable in principle and should be refused on this basis.

Archaeology
The NPPF outlines government policy for planning. It sets out three overarching objectives for the planning system in the interests of achieving sustainable development – an economic objective of building a strong economy; a social objective of fostering well-designed, beautiful and safe places and an environmental objective of protecting and enhancing our natural, built and historic environment.

Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' sets out policies concerning heritage and sustainable development and requires a balanced approach to decision making with harm weighed against the public benefits resulting from proposals.

National Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance."

The site of the proposed new dwellings is located in an area populated by later medieval field systems and enclosures with patches of later prehistoric and Romano-British activity. There is potential for as-yet unrecorded sub-surface archaeological features and/or deposits to survive within the site, features and deposits that would be severely impacted by groundworks associated with the proposed development.

The applicant has not provided sufficient information or mitigation to demonstrate that there would be no archaeological harm caused as a result of the development and as such the proposal is contrary to policy CP58 of the WCS and Section 16 of the NPPF and should be refused on this basis.

Design and Visual Impact:

Core Policy 57 requires 'a high standard of design in all new developments. of particular relevance is paragraph (iii) which requires development 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'.

The NPPF states at 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. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 135 states Planning ... decisions should ensure that developments:
a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
f) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 139 states that development that is not well designed should be refused.

As this is an outline application with all matters reserved save for access there is little to assess in terms of design impact at this time. It is noted that there is no information or indication of any intention of sustainable construction or low carbon energy. In the event however, that the development was considered acceptable, there is no evidence to suggest that a high-quality design solution could not be achieved on site at detailed stage in a subsequent reserved matters application.

Neighbour Amenity:

Core Policy 57 of The WCS states that 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 through having 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).

As this is an outline application with all matters reserved save for access there is little to assess in terms of residential impact at this time. In the event that the development was considered acceptable it is feasible that a scheme could be achieved on the site which does not result in material harm to or significant detrimental impact on residential amenity at detailed stage in a subsequent reserved matters application. It is important to note however that the crucial relationship would be how proposed dwellings on the site would respond to the immediate neighbours at numbers 131, 129 and 125 Weston Ashton Road in order to avoid loss of light and loss of privacy in terms of intervisibility and overlooking.

Highways Safety:
Paragraph 114 (b) of the NPPF requires that in assessing... specific applications for development, it should be ensured that...safe and suitable access to the site can be achieved for all users.

Paragraph 115 of the NPPF states that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.

Paragraph 116 (c) of the NPPF also states that ...applications for development should create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles.... and respond to local character and design standards.

CP57 (ix) of the WCS requires new development to ensure "that the public realm including new roads and other rights of way are designed to create places of character which are legible, safe and accessible..." and CP57 (xiv) requires development to meet "the requirements of CP61 (Transport and New Development)".

CP61(ii) of the Wiltshire Core Strategy requires new development to be “capable of being served by safe access to the highway network” and within the supporting text for CP61, the Council recognises that it is critically important for good planning and safe highway interests for new development to benefit from a suitable connection to the highway “that is safe for all road users”.

CP62 of the Wiltshire Core Strategy states that ‘Outside of built-up areas, proposals that involve a new direct access onto the national primary route network will not be permitted in order to assist with traffic flow and reduce risk’

CP64 requires sufficient parking to be provided in new development in line with residential parking standards and requires a reduction in reliance on the use of the private car where possible.

The site is located in an area of poor accessibility other than by the private motor vehicle. The site is located outside of the existing village policy boundary and officers have concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any residents and visitors. This proposal is thus contrary to sustainability policies Core Policies 57, 60 and 61 of the WCS and the National Planning Policy Framework 2023 Section 9 which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives.

Concerns have also been raised by Highways officers about the proposed access on to the A350, which is part of the National Primary Route Network (PRN) in Wiltshire. Wiltshire Core Policy 62 precludes new development being accessed directly from the PRN outside of built up areas. As the A350 has very limited frontage access in this vicinity, it is considered this location is not a 'built up area'. Furthermore, the additional access, located between two access lanes that are also part of Public Rights of Way Network, would, in my view, result in too many accesses being created in close proximity on a PRN Class I route outside of a built up area, to the detriment of highway safety and the throughflow of traffic on the A350.

Visibility splays have been shown at the proposed access based on 2.4m x 160m, however, these splays would require the removal of a significant amount of hedgerow and there is no evidence to show that this has been properly assessed as to the impact/extent of hedgerow that would be lost.

The proposed access is only 4.1m wide, which is insufficient to act as a shared vehicular access, with an absolute minimum of 4.5m being required. As the access is from the PRN, an upgraded access width is required of at least 5m width, to ensure vehicles are not required to wait on the A350 to turn. The proposed footways shown around the radii are also a concern, as they terminate at the end of the radii, thus leaving pedestrians walking within the highway verge/carriageway, which poses further highway safety concerns.

Finally, officers are aware of the watercourse culvert passing through the site and this culvert continues under the A350, with evidence of this in the adjacent verge. As this area has been subject to flooding in the past, (this is supported by anecdotal evidence from residents, historic flood data and the SFRA data) insufficient evidence and insufficient assessment has been provided to ensure that the proposed development would not increase the likelihood of flooding on the A350.

To conclude, the proposal would result in unsustainable development and high reliance on private motor vehicles contrary to policies CP57, CP60, CP61 and CP62 of the WCS and paragraphs 108 and 110 of the NPPF. The proposal would also result in unacceptable impacts on highway safety in this location and the development is therefore contrary to CP57 (ix) and (xiv) and CP61 of the WCS as well as paragraphs 114 and 116 of the NPPF and should be refused in accordance with paragraph 115 of the NPPF.

Ecology:

CP50 of the WCS adopted 2015 states that "development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There

is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term.

Where it has been demonstrated that such features cannot be retained, removal or damage shall only be acceptable in circumstances where the anticipated ecological impacts have been mitigated as far as possible and appropriate compensatory measures can be secured to ensure no net loss of the local biodiversity resource, and secure the integrity of local ecological networks and provision of ecosystem services".

The NPPF states at paragraph 180 (d) that "Planning decisions should contribute to and enhance the natural and local environment by… minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

Paragraph 186 of the NPPF states that "when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

Paragraph 188 of the NPPF confirms that "the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site".

Paragraph 191 c) of the NPPF states that "planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on…the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should …limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation".

The Council's ecologist has not formally commented on this application at the time of writing however it is considered that the case officer is sufficiently aware of the policy, the legislation and the site and its constraints to undertake an appropriate, meaningful and robust assessment in this particular case.

The application is not supported by any ecology information, surveys or impact assessment or proposed mitigation. The site is within consultation zones for Bechstein's, lesser horseshoe and greater horseshoe associated with the Bath & Bradford on Avon Bats Special Area of Conservation (SAC). There is insufficient information about how the development may impact on these species and offers no mitigation opportunity.

The proposals do not demonstrate how impacts could be managed using the mitigation hierarchy and do not demonstrate how the proposals will achieve no net loss of biodiversity.

Given the information available the proposals would conflict with Core Policy 50 of the Wiltshire Core Strategy which requires all development to demonstrate no net loss of biodiversity and encourages developments to seek opportunities to enhance biodiversity.

Bats
The site is within consultation zones for Bechstein's, lesser horseshoe and greater horseshoe associated with the Bath & Bradford on Avon bats Special Area of Conservation (SAC). The ecology report does not address this.

The site could provide suitable habitat for foraging and commuting bats, including SAC bats. The ecology report has not been supported by sufficient survey effort to determine how the bats are using the site and what bat species are present.

The precautionary principle must therefore apply which would assume that all SAC species are present on site. Furthermore, an increase of artificial lighting on retained habitat could interrupt potential commuting and foraging corridors.

Trowbridge Bat Mitigation Strategy
This application needs to be considered in light of the Council's Trowbridge Bat Mitigation Strategy SPA. It currently provides the best available evidence on which to consider the implications of the Habitats Regulations on planning applications in the Trowbridge area where they have potential to impact on the Bath and Bradford on Avon Bats SAC.

This application cannot be screened out of an appropriate assessment as it lies within the 'red zone'. In the Strategy this zone is identified as one where development is at high risk of leading to loss of habitat of critical importance to SAC bats both alone and in-combination with other plans and projects. Developments in this zone also have a high risk of leading to recreational impacts on woodlands used by breeding Bechstein's in combination with other developments. In addition, this particular development site lies along flight routes used by Bechstein's bats during radio-tracking studies undertaken to support the proposed Ashton Park development in 2013.

Currently this application does not comply with the TBMS. Before this application can be lawfully approved, an appropriate assessment needs to be conducted and a conclusion of 'no adverse effects on the integrity of the Bath and Bradford on Avon Bats SAC' reached.

Similarly, the site is within the buffer zone for recreational impact on Salisbury Plain Special Protection Area. Again, this requires information to inform an appropriate assessment and there is none. As such a Habitat Regulations Assessment cannot be completed for the Salisbury Plain SPA

Habitat Regulations Assessment
The application site is located within a consultation zone for bats associated with the Bath & Bradford on Avon Bats SAC as well as Salisbury Plain Special Protection Area and therefore has potential to result in significant adverse impact on the special features of those sites. A Habitat

Regulations Assessment (HRA) under Section 63 of the Habitats Regulations must be carried out by the relevant Competent Authority (the LPA) to determine the potential significant effects and the suitability of any measures proposed to avoid or mitigate those effects.

Insufficient information has so far been submitted to enable the HRA to be undertaken, which must be completed, and the conclusion agreed with Natural England prior to the application being determined.

The lack of information and mitigation means that the proposal does not demonstrate no net loss of biodiversity on site and the proposal does not meet the legal requirements of the Habitat Regulations. The proposal is therefore contrary to CP51 of the WCS and paragraphs 180(d), 186(d) and 191(c) of the NPPF as well in contravention of the Habitats Regulations and it is recommended that the application should be refused on this basis.

Drainage and Flood Risk:
Policy CP67 of the WCS requires that all new development will include measures to reduce the rate of rainwater runoff and improve rainwater infiltration to soil and ground (sustainable urban drainage) Paragraph 165 of the NPPF states that Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 173 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Footnote 59 of paragraph 173 states that A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

Paragraph 175 of the NPPF confirms that Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59.

The application site is located within Flood Zone 1 with no evidence of ground water flooding. Notwithstanding this it is located within 20m of a watercourse and there is evidence from the Council's Strategic Flood Risk Assessment (SFRA) that the site is subject to a 1in 30yrs, 1 in 100yrs and 1in 1000 years risk of surface water flooding. The possibility of flooding on the site is also supported by the Council's Senior Highways Engineer and anecdotal evidence in the form of the representations from neighbouring occupiers who confirm that the site floods and there is an issue with drainage.

No Flood Risk Assessment or drainage strategy for surface water or foul has been provided with the application. It is noted that the Councils Drainage Team have raised no objection to the proposal on the basis that SuDS can be dealt with at Reserved Matters stage, nevertheless the case officer and highways officer remain sufficiently concerned that there is a risk of the proposed development increasing flooding on to the highway and elsewhere.

Notwithstanding that the drainage officer has raised no objection, in the absence of a sufficient Flood Risk Assessment demonstrating that the proposal would not result in an increase of flood risk on the highway and elsewhere, it is considered that the proposal fails to meet requirements of CP67 of the WCS and is also contrary to paragraphs 165, 173 and 174 of the Framework, and until the proposal can be proven to be free from such flood risk, the development cannot be considered sustainable and refusal is recommended on this basis.

Conclusion:
The applicant has failed to complete the necessary procedural requirements for planning applications involving land not within their ownership and control, and that the Council is not satisfied that sufficient evidence has been presented to demonstrate that an appropriate development can be achieved on the site. The proposed development would not constitute an appropriate infill development, and would result in a harmful development contrary to policy CP2 of the adopted WCS and the made Weston Ashton Neighbourhood Plan.

The proposals are contrary to Wiltshire Core Policy 62, which states that new development should not be accessed directly from the National Primary Route Network outside built-up areas, unless an over-riding need can be demonstrated.

The proposal is contrary to the sustainability policies contained in the Wiltshire Core Strategy (Core Policies 57, 60 and 61) and the National Planning Policy Framework 2023 Section 9, paras 104, 105, 110-112, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. The proposed development would result in a multiplicity of accesses onto the public highway, in an area that has limited frontage access from the A350, which is part of the National Primary Route Network and which would be likely to increase the risk of hazards and inconvenience to all users of the road. The application does not include sufficient information to enable the LPA to determine whether acceptable access arrangements can be satisfactorily accommodated, nor whether the development would increase the likelihood of flooding on the A350 as a result of the impact to the existing drainage culvert.

The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways, lighting and crossing facilities with consequent additional hazards to all users of the road. As a consequence, the proposal would result in unsustainable development and high reliance on private motor vehicles contrary to policies CP57, CP60, CP61 and CP62 of the WCS and paragraphs 108 and 110 of the NPPF. The proposal would also result in unacceptable impacts on highway safety in this location and the development is therefore contrary to CP57 (ix) and (xiv) and CP61 of the WCS as well as paragraphs 114 and 116 of the NPPF and should be refused in accordance with paragraph 115 of the NPPF.

The application is not supported by a site-specific flood risk assessment or drainage strategy, and as such, the Council cannot support the application as there is substantive concern pertaining to flood risk and use vulnerability and is therefore in conflict with adopted core policy 67 as there is insufficient evidence to satisfy the Council that the proposal would not lead to site drainage issues and/or off-site flooding. The development is equally contrary to paragraphs 165, 173 and 174 of the Framework, and until the proposal can be proven to be free from such flood risk, the development cannot be considered sustainable.

The applicant has not provided sufficient information or mitigation to demonstrate that there would be no archaeological harm caused as a result of the development and as such is contrary to policy CP58 of the WCS and Section 16 of the NPPF.

The applicant has failed to submit adequate information to enable an HRA to be undertaken and agreed with Natural England prior to the application being determined. The lack of information and sufficient mitigation means that the proposal does not demonstrate no net loss of biodiversity on site and the proposal does not meet the legal requirements of the Habitat Regulations.

The proposal is therefore contrary to the CP50 of the WCS, the Trowbridge Bat Mitigation Strategy and paragraphs 180(d), 186(d) and 191(c) of the NPPF as well as in contravention of the Habitats Regulations and must be refused in accordance with paragraph 186(a) of the NPPF.

In light of all of the above, the proposal is recommended for Refusal.

Recommendation: Refuse

Appendix C - Original Planning Application Form & Ownership Certificates

Development Management, Economic Development and Planning,
County Hall, Bythesea Road, Trowbridge, BA14 8JN
Tel: 0300 456 0114 Email: developmentmanagement@wiltshire.gov.uk

Wiltshire Council

Application for Outline Planning Permission with some matters reserved

Town and Country Planning Act 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Address Line 1

Land adjacent to A350

Address Line 2

West Ashton Road

Address Line 3

Town/city

Yarnbrook, Trowbridge

Postcode

BA14 6AF

Description of site location must be completed if postcode is not known:

Easting (x)

386965

Northing (y)

155120

Description

Land adjacent to A350 West Ashton Road, Yarnbrook, Trowbridge

Applicant Details

Name/Company

Title

.

First name

.

Surname

.

Company Name

. Homes Nuvo Limited

Address

Address line 1

. c/o Agent

Address line 2

.

Address line 3

.

Town/City

.

County

.

Country

.

Postcode

Are you an agent acting on behalf of the applicant?

- [x] Yes
- [ ] No

Contact Details

Primary number

Secondary number

Fax number

Email address

Agent Details

Name/Company

Title

Miss

First name

Amy

Surname

Hallett

Company Name

Poulsom Architectural Design and Planning Services

Address

Address line 1

35 Curtis Orchard

Address line 2

Address line 3

Town/City

Broughton Gifford

County

Country

United Kingdom

Postcode

SN12 8PX

Contact Details

Primary number

Secondary number

Fax number

Email address

Description of the Proposal

Please indicate all those matters for which approval is sought as part of this outline application (tick all that apply)

- [x] Access
- [ ] Appearance
- [ ] Landscaping
- [ ] Layout
- [ ] Scale

Note: if this application is approved, the matters not determined as part of this application will need to be the subject of an "Application for approval of reserved matters" before the development may proceed.

Please note in regard to:

- **Fire Statements** - From 1 August 2021, planning applications for buildings of over 18 metres (or 7 stories) tall containing more than one dwelling will require a 'Fire Statement' for the application to be considered valid. There are some exemptions. View government planning guidance on fire statements or access the fire statement template and guidance.
- **Public Service Infrastructure** - From 1 August 2021, applications for certain public service infrastructure developments will be eligible for faster determination timeframes. See help for further details or view government planning guidance on determination periods.

Description

Please describe the proposed development

Outline consent for the consent of 4No. dwellings with all matters reserved apart from access.

Has the work already been started without planning permission?

- ○ Yes
- ⊘ No

Site Area

What is the measurement of the site area? (numeric characters only).

0.18

Unit

Hectares

Existing Use

Please describe the current use of the site

Scrub land

Is the site currently vacant?

- [x] Yes
- [ ] No

If Yes, please describe the last use of the site

Scrub land

When did this use end (if known)?

dd/mm/yyyy

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated

- [ ] Yes
- [x] No

Land where contamination is suspected for all or part of the site

- [ ] Yes
- [x] No

A proposed use that would be particularly vulnerable to the presence of contamination

- [ ] Yes
- [x] No

Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicular access proposed to or from the public highway?

- [x] Yes
- [ ] No

Is a new or altered pedestrian access proposed to or from the public highway?

- [x] Yes
- [ ] No

Are there any new public roads to be provided within the site?

- [ ] Yes
- [x] No

Are there any new public rights of way to be provided within or adjacent to the site?

- [ ] Yes
- [x] No

Do the proposals require any diversions/extinguishments and/or creation of rights of way?

- [ ] Yes
- [x] No

If you answered Yes to any of the above questions, please show details on your plans/drawings and state their reference numbers

Refer to drawing 309/102

Vehicle Parking

Does the site have any existing vehicle/cycle parking spaces or will the proposed development add/remove any parking spaces?

- [x] Yes
- [ ] No

Please provide information on the existing and proposed number of on-site parking spaces

Vehicle Type:
Cars

Existing number of spaces:
0

Total proposed (including spaces retained):
8

Difference in spaces:
8

Materials

Does the proposed development require any materials to be used externally?

- [ ] Yes
- [x] No

Foul Sewage

Please state how foul sewage is to be disposed of:

- [x] Mains sewer
- [ ] Septic tank
- [ ] Package treatment plant
- [ ] Cess pit
- [ ] Other
- [ ] Unknown

Are you proposing to connect to the existing drainage system?

- [x] Yes
- [ ] No
- [ ] Unknown

If Yes, please include the details of the existing system on the application drawings and state the plan(s)/drawing(s) references

Wessex Water mains sewer running through site close to A350. Refer to attached Wessex Water plan.

Assessment of Flood Risk

Is the site within an area at risk of flooding? (Check the location on the Government's Flood map for planning. You should also refer to national standing advice and your local planning authority requirements for information as necessary.)

◯ Yes
⊘ No

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

⊘ Yes
◯ No

Will the proposal increase the flood risk elsewhere?

◯ Yes
⊘ No

How will surface water be disposed of?

☑ Sustainable drainage system

☑ Existing water course

☑ Soakaway

☐ Main sewer

☐ Pond/lake

Trees and Hedges

Are there trees or hedges on the proposed development site?

⊘ Yes
◯ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

◯ Yes
⊘ No

If Yes to either or both of the above, you may need to provide a full tree survey, at the discretion of the local planning authority. If a tree survey is required, this and the accompanying plan should be submitted alongside the application. The local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

Biodiversity and Geological Conservation

Is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

To assist in answering this question correctly, please refer to the help text which provides guidance on determining if any important biodiversity or geological conservation features may be present or nearby; and whether they are likely to be affected by the proposals.

a) Protected and priority species

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

b) Designated sites, important habitats or other biodiversity features

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

c) Features of geological conservation importance

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

Supporting information requirements

Where a development proposal is likely to affect features of biodiversity or geological conservation interest, you will need to submit, with the application, sufficient information and assessments to allow the local planning authority to determine the proposal.

Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the local planning authority has been submitted.

Your local planning authority will be able to advise on the content of any assessments that may be required.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

◯ Yes
⊘ No

Have arrangements been made for the separate storage and collection of recyclable waste?

◯ Yes
⊘ No

Residential/Dwelling Units

Does your proposal include the gain, loss or change of use of residential units?

⊘ Yes
◯ No

Please note: This question is based on the current housing categories and types specified by government.

If your application was started before 23 May 2020, the categories and types shown in this question will now have changed. We recommend that you review any information provided to ensure it is correct before the application is submitted.

Proposed

Please select the housing categories that are relevant to the proposed units

☑ Market Housing
☐ Social, Affordable or Intermediate Rent
☐ Affordable Home Ownership
☐ Starter Homes
☐ Self-build and Custom Build

Market Housing

Please specify each type of housing and number of units proposed

Housing Type:
Houses

1 Bedroom:
0

2 Bedroom:
0

3 Bedroom:
4

4+ Bedroom:
0

Unknown Bedroom:
0

Total:
4

Proposed Market Housing Category Totals	1 Bedroom Total	2 Bedroom Total	3 Bedroom Total	4+ Bedroom Total	Unknown Bedroom Total	Total
	0	0	4	0	0	4

Existing

Please select the housing categories for any existing units on the site

- ☐ Market Housing
- ☐ Social, Affordable or Intermediate Rent
- ☐ Affordable Home Ownership
- ☐ Starter Homes
- ☐ Self-build and Custom Build

Totals

Total proposed residential units	4
Total existing residential units	0
Total net gain or loss of residential units	4

All Types of Development: Non-Residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?
Note that 'non-residential' in this context covers all uses except Use Class C3 Dwellinghouses.

- ○ Yes
- ⊘ No

Employment

Are there any existing employees on the site or will the proposed development increase or decrease the number of employees?

◯ Yes
⊘ No

Hours of Opening

Are Hours of Opening relevant to this proposal?

◯ Yes
⊘ No

Industrial or Commercial Processes and Machinery

Does this proposal involve the carrying out of industrial or commercial activities and processes?

◯ Yes
⊘ No

Is the proposal for a waste management development?

◯ Yes
⊘ No

Hazardous Substances

Does the proposal involve the use or storage of Hazardous Substances?

◯ Yes
⊘ No

Trade Effluent

Does the proposal involve the need to dispose of trade effluents or trade waste?

◯ Yes
⊘ No

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

⊘ Yes
◯ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

⊘ The agent
◯ The applicant
◯ Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

◯ Yes
⊘ No

Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:
(a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

◯ Yes
⊘ No

Ownership Certificates and Agricultural Land Declaration

Certificates under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Please answer the following questions to determine which Certificate of Ownership you need to complete: A, B, C or D.

Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?

◯ Yes
⊘ No

Can you give appropriate notice to all the other owners/agricultural tenants? (Select 'Yes' if there are no other owners/agricultural tenants)

⊘ Yes
◯ No

Certificate Of Ownership - Certificate B

I certify/ The applicant certifies that:

⊘ **I have/The applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land or building to which this application relates; or**
◯ **The applicant is the sole owner of all the land or buildings to which this application relates and there are no other owners* and/or agricultural tenants**.**

*** "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.**

**** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990**

Owner/Agricultural Tenant

Name of Owner/Agricultural Tenant:
Wiltshire Council Highways

House name:

Number:

Suffix:

Address line 1:
Customer Services, County Hall, Bythesea Road

Address Line 2:

Town/City:
Trowbridge

Postcode:
BA14 8JN

Date notice served (DD/MM/YYYY):
05/12/2023

Person Family Name:

Person Role

◯ The Applicant
⊘ The Agent

Title

Miss

First Name

Amy

Surname

Hallett

Declaration Date

05/12/2023

☑ Declaration made

Declaration

I/We hereby apply for Outline planning permission: Some matters reserved as described in the questions answered, details provided, and the accompanying plans/drawings and additional information.
I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.
I/We also accept that, in accordance with the Planning Portal's terms and conditions:
- Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website;
- Our system will automatically generate and send you emails in regard to the submission of this application.

☑ I / We agree to the outlined declaration

Signed

Russell Poulsom

Date

2023/12/05

Appendix D - Decision Notice

Wiltshire Council

The Town and Country Planning Act 1990

Refusal of Outline Planning Permission (Some Matters Reserved)

Application Reference Number: PL/2023/10654

Decision Date:9th February 2024

Applicant:	Homes Nuvo Limited c/o agent
Particulars of Development:	Outline consent for the consent of 4No. dwellings with all matters reserved apart from access.
At:	Land adjacent to A350, West Ashton Road, Yarnbrook, Trowbridge, BA14 6AF

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

In pursuance of their powers under the above Act, the Council hereby REFUSE TO GRANT PERMISSION for the development referred to in the above application and plans submitted by you, for the following reason(s):

Refusal Reason(s): (5)

1 The applicant has failed to complete the necessary procedural requirements for planning applications involving land not within their ownership and control, and the Council is not satisfied that sufficient evidence has been presented to demonstrate that an appropriate and policy compliant development can be achieved on the site.

The proposed development would not constitute an appropriate infill development, and would result in a harmful development contrary to policy CP2 of the adopted WCS and the made Weston Ashton Neighbourhood Plan.

2 The proposals are contrary to Wiltshire Core Policy 62, which states that new development should not be accessed directly from the National Primary Route Network outside built-up areas, unless an over-riding need can be demonstrated.

The proposal is contrary to the sustainability policies contained in the Wiltshire Core

Strategy (Core Policies 57, 60 and 61) and the National Planning Policy Framework 2023 Section 9, paras 104, 105, 110-112, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives.

The proposed development would result in a multiplicity of accesses onto the public highway, in an area that has limited frontage access from the A350, which is part of the National Primary Route Network and which would be likely to increase the risk of hazards and inconvenience to all users of the road.

The application does not include sufficient information to enable the LPA to determine whether acceptable access arrangements can be satisfactorily accommodated, nor whether the development would increase the likelihood of flooding on the A350 as a result of the impact to the existing drainage culvert.

The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways, lighting and crossing facilities with consequent additional hazards to all users of the road.

As a consequence, the proposal would result in unsustainable development and high reliance on private motor vehicles contrary to policies CP57, CP60, CP61 and CP62 of the WCS and paragraphs 108 and 110 of the NPPF. The proposal would also result in unacceptable impacts on highway safety in this location and the development is therefore contrary to CP57 (ix) and (xiv) and CP61 of the WCS as well as paragraphs 114 and 116 of the NPPF and should be refused in accordance with paragraph 115 of the NPPF.

3 The applicant has failed to submit adequate information to enable an HRA to be undertaken and agreed with Natural England prior to the application being determined.

The lack of information and sufficient mitigation means that the proposal does not demonstrate no net loss of biodiversity on site and the proposal does not meet the legal requirements of the Habitat Regulations.

The proposal is therefore contrary to the CP50 of the WCS, the Trowbridge Bat Mitigation Strategy and paragraphs 180(d), 186(d) and 191(c) of the NPPF as well as in contravention of the Habitats Regulations and must be refused in accordance with paragraph 186(a) of the NPPF.

4 The applicant has not provided sufficient information or mitigation to demonstrate that there would be no archaeological harm caused as a result of the development and as such is contrary to policy CP58 of the WCS and Section 16 of the NPPF

5 The application is not supported by a site-specific flood risk assessment or drainage strategy, and as such, the Council cannot support the application as there is substantive concern pertaining to flood risk, highway safety and and use vulnerability and is therefore in conflict with adopted core policy 67 as there is insufficient evidence to satisfy the Council that the proposal would not lead to site drainage issues and/or off-site flooding. The development is equally contrary to paragraphs 165, 173 and 174 of the Framework.

Parvis Khansari **~ Corporate Director, Place**

NOTES

1. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to refuse permission, they may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - Appeal a planning decision: Overview - GOV.UK (www.gov.uk)).

Appendix E - Emails Between Officer, Agent & Neighbouring Occupiers Raising Concerns About Site Ownership And Extent of Red Line Boundary

Collins, Gen

Subject: FW: Planning Application PL/2023/10654
Attachments: EPSON003.PDF

-----Original Message-----
From:
Sent: Monday, January 8, 2024 5:29 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Planning Application PL/2023/10654

Gen,

Thank you for your time today. As discussed please find below a PDF version of the letter I sent (registered post) to the Agent for the above application. If it makes things easier I am happy for you to say you had a query regarding red lines for this application. I am away attending a funeral for the next two days but I am back on Thursday if you wish to discuss further.

Regards

Collins, Gen

Subject: RE: RE: RE: RE: Planning application PL/2023/10654

Sent: Monday, January 15, 2024 3:58 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: RE: RE: RE: RE: Planning application PL/2023/10654

Dear Gen Collins
With reference to the plan that you received today. On examination with older plans it shows that the hedge that runs along the east of my property belongs to me (the blue area). There was also a legal dispute on the access to my property from the A350 and this at the time was classed as owner less.There were several requirements as to size and position of this access.
Sorry to trouble you

On 15 Jan 2024, at 14:47, "Collins, Gen" <gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk> > wrote:

Dear Mr

I have re-read the title deeds and understand that the blue land relates to unregistered land that has been conveyed to you. Clearly there may be some legal issue with this but this is not a planning matter for me to determine. It is clear that you have some interest in this parcel and without being formally notified it leaves the validity of the application in doubt and I will cover this in my forthcoming report.

Many thanks for contacting me
Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk>

From: Collins, Gen
Sent: Monday, January 15, 2024 2:35 PM
To:
Subject: RE: RE: RE: RE: Planning application PL/2023/10654

Dear Mr

I have received the photocopied plan and titles deeds. Please confirm why the plan has the blue on it? I think you are right that this does demonstrate part of the application site is within this land. It's tricky because the houses and general arrangement of built from at this location has changed somewhat but I can just about make out when comparing the site plan and your documents that there is some overlap. Thank you for raising this matter with me. I will address it in my report.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management

Place Directorate

Tel: 01225 770259
Ext: 15259

From:
Sent: Monday, January 15, 2024 1:15 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: RE: RE: RE: RE: Planning application PL/2023/10654

Dear Gen Collins
The document is A3 I will take it to the
County hall and see if they can photo copy it
Regards

On 15 Jan 2024, at 12:16, "Collins, Gen" <gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk> > wrote:

Dear
I am not in county hall until Thursday afternoon. Would it be possible for you to take a photograph of the title plan and boundary area relevant to this application and email it to me? Otherwise we will have to either scan it or take a photo of it at County Hall.

Thanks
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk>

From:
Sent: Monday, January 15, 2024 12:13 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: RE: RE: RE: Planning application PL/2023/10654

Dear Gen Collins
The deeds to my go back to the 17 century. I have the document that show that I have a straight line boundary which is to large for me to copy it. I
Will bring it round if that ok
Regards

On 15 Jan 2024, at 11:43, "Collins, Gen" <gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk> > wrote:

Dear

Are you able to send me a copy of your title deeds to demonstrate that you own this land please?

Thanks

Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk>

From:
Sent: Sunday, January 14, 2024 11:57 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: RE: RE: Planning application PL/2023/10654

Dear Gen Collins
Thank you for your reply
I have attached two pictures a plan and visual of the hedgerow.
I also have a concern over flooding and I have had my garden flooded up to the house twice in the last twelve months. The first was a burst water main and the second was heavy rain. We are told this will only get worse.
The proposed development is water logged most of the winter and the water table is very high. The A350 road is often flooded even though Wiltshire have cleaned the gullys. My garden gets flooded both from the road and the culvert as the storm drainage is not up to keeping water at bay. The ground is clay and soakaways do not really work. Any development would increase the flooding and danger to my property.
Thank you for your time
Regards

On 13 Jan 2024, at 11:00, "Collins, Gen" <gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk> > wrote:

Dear

Could you email about it please and send me plan showing where your boundary is and in relation to the revised red line please? I need the evidence to send to the agent. They will be appealing any refusal and I will need the evidence from you to present to the planning inspectorate as well.

Thanks
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk>

From:

Sent: Friday, January 12, 2024 3:11 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: RE: Planning application PL/2023/10654

Dear Gen
I can see the change that was made to my neighbours boundary but it effects mine in a different way. Could I see you to explain?
Regards

On 12 Jan 2024, at 14:08, "Collins, Gen" <gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk> > wrote:

Dear

Thank you for the email. I have recently been discussing the accuracy of the red line boundary with the agent of the application because someone else alerted me to this issue. Following these discussions, I have received a revised site plan and reconsulted on this. The red line now shown on the revised site plan is as follows:

Please would you confirm if this red line is now accurate or whether you believe this still includes part of your property?

Many thanks
Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk <mailto:gen.collins@wiltshire.gov.uk>

From:
Sent: Friday, January 12, 2024 1:51 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk <mailto:Gen.Collins@wiltshire.gov.uk> >
Subject: Planning application PL/2023/10654

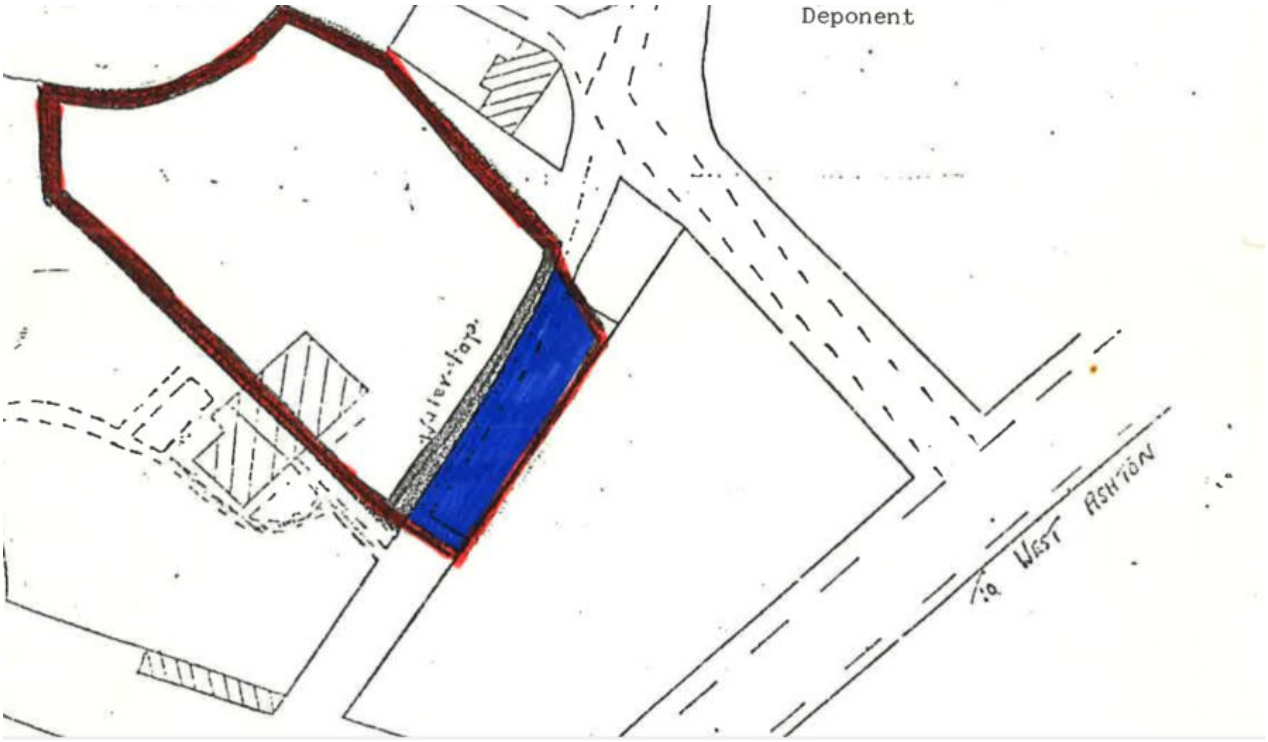
Attention Gen Collins
I live in 125 Yarnbrook Rd BA14 6AF
There is a triangle of land to the left hand front corner of the land in front of my property leading to the colvert. If you look the red line that is shown on the plan does not follow the hedge line that is my boundary. The boundary in approximately a straight line and does not ver off.
Regards

Collins, Gen

From: Collins, Gen
Sent: 16 January 2024 13:23
To: Amy Hallett
Cc: Russell Poulsom; Green, Kenny
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Hello Amy

This seems to conflict with a title plan shown to me by the neighbour as part of their deeds (an extract of which is below) which suggests that the top north eastern corner of the site and red line plan was already owned by him so I am confused.



Is it ok for me to send him this title plan you have sent me?

Thanks
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
Wiltshire Council

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 16, 2024 10:35 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Russell Poulsom <enquiries@poulsom.co.uk>; Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Hi Gen,

I have attached the official Land Registry drawing which confirms that the red line plan submitted on 9th January 2024 is correct.

Kind regards

Amy Hallett MSc, BSc (Hons)

On Mon, Jan 15, 2024 at 11:21 AM Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

> Dear Russell and Amy
>
> I have received an email from another neighbour stating that the proposed revised red line includes their land too. I wont be accepting further red line amendments to this application and will address this in the recommendation for refusal.
>
> Regards
>
> Gen
>
> **Gen Collins (LLB (Hons) MA MRTPI)**
>
> **Senior Planning Officer (Central Team)**
>
> Development Management
>
> Place Directorate
>
> Wiltshire Council
>
> Tel: 01225 770259
>
> Ext: 15259

Email: gen.collins@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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From: Russell Poulsom <enquiries@poulsom.co.uk>
Sent: Tuesday, January 9, 2024 6:16 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>; Amy Hallett <amyhallett3@gmail.com>
Subject: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from enquiries@poulsom.co.uk. Learn why this is important

Good evening Gen,

Please see attached revised drawings showing the red boundary amendments to the top of the site near the culvert.

I trust the attached can supersede the previous issued drawings.

--

Kind regards

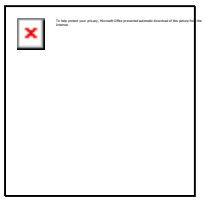
Russell Poulsom

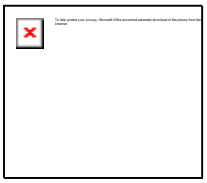
Director

Poulsom Architectural Design and Planning Services

Mobile - 07769728671

Email - enquiries@poulsom.co.uk





35 Curtis Orchard, Broughton Gifford, Wiltshire, SN12 8PX

Registration No. 13163851

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Collins, Gen

From: Amy Hallett <amyhallett3@gmail.com>
Sent: 16 January 2024 13:47
To: Collins, Gen
Cc: Russell Poulsom; Green, Kenny
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Hi Gemma,

By all means. Our client has just recently secured an option on the land so their searches (including the Land Registry plan) are very current.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

> On 16 Jan 2024, at 13:23, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:
>
> Hello Amy
>
> This seems to conflict with a title plan shown to me by the neighbour as part of their deeds (an extract of which is below) which suggests that the top north eastern corner of the site and red line plan was already owned by him so I am confused.
>
> <image004.png>
>
> Is it ok for me to send him this title plan you have sent me?
>
> Thanks
> Gen
>
> **Gen Collins (LLB (Hons) MA MRTPI)**
> **Senior Planning Officer (Central Team)**
> Development Management
> Place Directorate
> **<image001.png>**
>
> Tel: 01225 770259
> Ext: 15259
> Email: gen.collins@wiltshire.gov.uk
> Web: www.wiltshire.gov.uk
>
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> <image002.png>
>
> <image003.gif>
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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 16, 2024 10:35 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Russell Poulsom <enquiries@poulsom.co.uk>; Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Hi Gen,

I have attached the official Land Registry drawing which confirms that the red line plan submitted on 9th January 2024 is correct.

Kind regards

Amy Hallett MSc, BSc (Hons)

On Mon, Jan 15, 2024 at 11:21 AM Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

> Dear Russell and Amy
>
> I have received an email from another neighbour stating that the proposed revised red line includes their land too. I wont be accepting further red line amendments to this application and will address this in the recommendation for refusal.
>
> Regards
>
> Gen
>
> **Gen Collins (LLB (Hons) MA MRTPI)**
>
> **Senior Planning Officer (Central Team)**
>
> Development Management
>
> Place Directorate
>
> **<image001.png>**
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> Tel: 01225 770259
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<image002.png>

<image003.gif>

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From: Russell Poulsom <enquiries@poulsom.co.uk>
Sent: Tuesday, January 9, 2024 6:16 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>; Amy Hallett <amyhallett3@gmail.com>
Subject: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Good evening Gen,

Please see attached revised drawings showing the red boundary amendments to the top of the site near the culvert.

I trust the attached can supersede the previous issued drawings.

--

Kind regards

Russell Poulsom

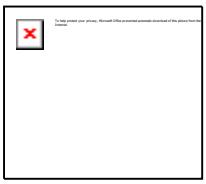
Director

Poulsom Architectural Design and Planning Services

Mobile - 07769728671

Email - enquiries@poulsom.co.uk





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Collins, Gen

From: Collins, Gen
Sent: 16 January 2024 14:00
To: Amy Hallett
Cc: Russell Poulsom; Green, Kenny
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Amy,

Having reviewed the documents and file given that you say the applicant (Homes Nuvo Ltd) has secured an option to purchase the land, I take it therefore that the applicant is not the current owner. The current owner is indicated on the title deeds as a Ms Kathryn Johnson of 5 Honeysuckle Close? Ms Johnson is not included within the list of those with an interest in the land who have been formally notified on the application form.

Please clarify?

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
Wiltshire Council

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Web: www.wiltshire.gov.uk

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Cc: Russell Poulsom <enquiries@poulsom.co.uk>; Green, Kenny <Kenny.Green@wiltshire.gov.uk>
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>
> **Gen Collins (LLB (Hons) MA MRTPI)**
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I trust the attached can supersede the previous issued drawings.

--

Kind regards

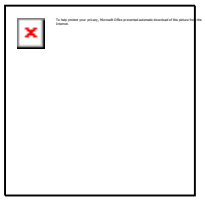
Russell Poulsom

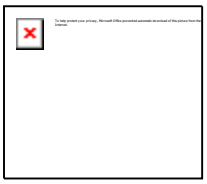
Director

Poulsom Architectural Design and Planning Services

Mobile - 07769728671

Email - enquiries@poulsom.co.uk





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Collins, Gen

Subject: PL/2023/10654

Sent: Tuesday, January 16, 2024 7:21 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: PL/2023/10654

Dear Gem Collins
Sorry I haven't replied to you I have been out for the day As I explained I have many documents reference my house I cannot trace a reference you requested all I can find is WT57518

1) I have a conveyance dated 2 /12/1946 showing the area under dispute but it shows it as ownerless land but gives 125 full access over it

2) There is an access of title dated 2/12/1946 giving similar information

3) On the 12 /10/1978 I have a Statutory Declaration From a Mr Alcock confirming the right of way over this land

4) There was a Court Case on the 14 /10/1980 between 125 and 129 which set out that part of the land was ownerless.

5) There is a statutory declaration 14/6/1986 from Mr Alcock showing the land as 125 property

6) On the 10th June 1986 there was a Statutory Declaration with reference to the Statutory Declaration Act 1835

7) On the 25/8/2019 I filled a CA16 form to confirm the boundary of my property

I hope the above information

If you would like me to bring any of these documents to please let me know

Regard

Collins, Gen

Subject: FW: Red Lines
Attachments: EPSON004.PDF

Sent: Thursday, January 25, 2024 12:20 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Red Lines

> You don't often get email from _____ _____

Gen,

As discussed the Redline is still inaccurate and I have today written again to the agent asking for it to be corrected. Please find a copy of the letter below. If they do not correct the error I will put an objection into the system. I would appreciate it it if the letter was not made public but I will do this if their error is not corrected.

As I said I am unsure of how accurate a red line has to be has to be for a planning application but for your reference only I include an extract from the Land Registry Website.

Land registry

https://www.gov.uk/government/publications/how-to-read-a-title-register-and-title-plan/how-to-read-a-title-plan

Red edging on a title plan

The red edging on a title plan shows the extent of the registered land. It will often follow boundary features that are shown on the OS map, such as walls, hedges and fences. While a legal boundary often follows these features, too, even in these cases it might not be obvious exactly where the legal boundary is - for example, does it run through the middle of a hedge or to one side of it?

When we prepare a title plan, we try to show the legal boundaries as best we can. However, we are limited by the scale and accuracy of the OS map itself. Sometimes the title deeds and other information we're provided with do not show the true position of a boundary accurately.

If you are the tenant of a leasehold property such as an apartment on the first floor of a building, you might find the red edging on your title plan shows the outline of the building rather than your apartment. This is because we produce our plans on small-scale OS maps that do not allow for intricate detail. It's very important to read the register and title plan together with the lease to understand the agreement made between the original parties.

Property boundaries

You cannot treat the red edging on a title plan as identifying the exact position of a legal boundary or showing who owns a boundary feature. Even though plans are drawn to scale, you should not rely on a measurement scaled up from a title plan and related to the physical features on-site to locate the position of a legal boundary.

The law relating to boundaries is complicated, so if you need to establish the legal boundaries of your property, or if there is a disagreement with a neighbour about them, you may wish to consult a legal adviser. If neighbours agree on the precise position of the legal boundary between their properties, that agreement can be recorded in the register for each neighbour's property.

Appendix F - Emails of 8th and 9th January Between the Agent & the LPA Relating to Required Additional Information

From: Collins, Gen
Sent: Tuesday, January 9, 2024 5:07 PM
To: Amy Hallett <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Dear Amy

The NPPF requires an FRA to be submitted with applications where there is evidence of on site flooding from any source including surface water flooding on a Council's SFRA as in this case. The application is also not in conformity with local and national policy for biodiversity or the habitat regulations. It is clear from the national policy, national guidance and legislation that these are fundamental requirements.

You must be aware that it is poor planning practice to add such additional information in at the appeal stage when it can be, and should be, provided up front. Further, if you do add such additional information at appeal stage, this in my view would not be reasonable as the public, and internal and external statutory consultees would not have been appropriately consulted and I will raise this issue with PINS at that time if these circumstances arise.

Further, whilst a site may broadly form part of the built form of a settlement, this does not automatically make it acceptable as an infill site. My report will set this out and will also address the appeal decision and other relevant planning history. I would also remind you that each case is required to be assessed on its own merits at that particular time with planning history as a material consideration but not an overriding factor, especially where the planning policy context has changed.

If you insist on taking this approach that is entirely your decision. I would however query whether you have run these emails by your client and whether they are happy for you to take such an approach. I would request that you do so.

I think given all of this, we will have to agree to disagree and I will be refusing the application on the basis that I have previously set out.

Regards

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
Wiltshire Council

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 9, 2024 4:18 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

It is not the applicant's error that the application was validated and is unreasonable to enclose the applicant for this error. The validation checklist also only requires an FRA if the site is in flood zones 2 or 3, neither apply on this site. We do not wish to withdraw and resubmit, only to be refused again and then the 'free go' has been used. As the application was submitted prior to 6th December then it qualifies for the 'free go'.

If you are not willing to accept the new SLP, even though there are more than 21 days left of the existing consultation period, I will supply this at appeal stage.

I have never said that I believe PINS will find favourably for the appeal, I disagree with your opinion on principle and will use the appeal process to obtain a second opinion.

It is contradictory for you to say that the site is within the built form of the village, but does not meet criterion iii) of CP2.

We will await the refusal as wish for the consultation period to expire and to see all responses, including Highways.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 12:18, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy

Thanks for the email. Are you keeping the red line the same and notifying the applicant or are you changing the red line?

If the former then the notification needs to be done 3 weeks in advance of amending the application which takes us beyond the consultation period.

If the latter, then we need to restart the application afresh due to revised red line which requires everything including consultation dates and determination dates to be revised as if this were a new application.

If I had sufficient information with regards to FRA and Ecology surveys already then I would accept the change and restart the application. However in my view this application should not have been validated without these documents as there is little point in my determining an application without sufficient information and I would request therefore that you withdraw this application and put together an application that is more robust at which point we can go to appeal over the in principle / infill disagreement.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

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Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

It seems unreasonable to not allow an updated SLP with the correct red line as there are still over three weeks left of the consultation period and therefore sufficient time to advertise without a need to extend the consultation period. I have arranged for this to be emailed across to you today.

We do not wish to withdrawal the application and will seek a second opinion regarding the principle of development at appeal.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 11:28, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
In light of the further issues raised with this application, I would strongly advise you to withdraw this application. I would advise that the LPA will not be accepting any revisions to the application as it currently stands and if the application is not withdrawn I will be refusing it on the basis of what I have at the start of February.
Please confirm how your client wishes to proceed by Friday 12th Jan.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

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To: 'Amy Hallett' <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Morning Amy

Thank you for your email. I will be including a full assessment in any planning report.

I have also received a copy of a letter that was sent to you by a neighbour. Given that he has sent this letter to you I consider it acceptable to attach it. This indicates that the red line of

the application site is incorrect and includes part of their land and it is not owned by the applicant. The application form indicates that this adjacent occupier has not been formally notified and no certificates have been included with the application and as such, in absence of any evidence to the contrary in terms of ownership, this would make this application invalid. I strongly encourage you to withdraw the application given the procedural issues, technical concerns and in principle objection.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

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Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

With all due respect, it is very unclear how you have assessed the site as contrary to criteria iii) of CP2 and have not explained the difference between this site and the other one I have referenced. This assessment is also contrary to the Officer Report commentary of the 2020 application. You have also not commented on the Inspectorate views on infill being assessed as four, which is another material consideration.

We will proceed with a refusal and seek a second opinion on principle from the Inspectorate. Once we have this we will come in with all the relevant information. If you could action the refusal early February as suggested, then that will speed everything up for all parties.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 17:09, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
I have set out my thoughts in relation to this application assessment against the current development plan and other materials considerations and I think I have been quite clear.

I have ensured ecology have been consulted and await their comments. The onus is on you as agent and applicant to provide me with sufficient information. Your due diligence should have picked these constraints up; this is simply good planning practice which you should be aware of.

Regards
Gen
Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

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You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

Can you please state the specifics as to why this consolidates sporadic loose knit development and how this site differentiates from the application further north in 2020 that I referenced? The density

and plot size would be in-keeping with the properties in the locale to help it integrate into the streetscene.

Have Ecology been consulted? It will be difficult to provide the specific information required now or in any subsequent applications/appeal if there are no formal comments from the Ecology Officer.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 16:02, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

Feel free to provide the additional information but this would be at your client's own risk in terms of additional cost and expense. I note what you say and whilst I consider that the proposal is within the physical built form of the small village (as defined by CP29 of the WCS), it has no defined limits of development and as such, the only development permitted by CP2 of the WCS at small villages is infill. CP2 states that infill is defined as the filling of a small gap within the village that is only large enough not more than a few dwellings , generally only one. I do not consider this site is a small gap or one that amounts to infill development. Furthermore I consider that it does consolidate an existing sporadic loose knit area of development contrary to CP2 and there is no evidence that it is required to meet the housing needs of the settlement or provide employment, services and facilities.

Given this in principle objection in addition to the lack of important information and the fact that the proposal is not compliant with the habitat regulations and conflicts with other aspects of local and national policy regardless of whether it is within the physical built form of the settlement I will not be recommending approval. Your client would be able to appeal any refusal. I will be determining this application in the first week of February on the basis of the information I have at that time.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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<image002.png>

<image003.gif>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 3:49 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

Thank you for coming back to me. We may be interested in providing the Ecology, Archaeology and Drainage information as I would like you to review the issue you have regarding the principle of development.

I don't know if you have had a chance to read the Planning Statement accompanying the application but the site to the north (19/0340/OUT) was granted consent in 22/07/2020. The Officer Report comments on the village boundary, stating that *"Officers now submit that the application site can be considered to be within the existing built area of the village of Yarnbrook and also meets the above tests."* Given that the roundabout, shop and public house form the village centre, the application from 2020 is further away from the village centre and therefore the live application should also be assessed as within the existing built area of the village, to ensure there is consistency in decision making.

In terms of the quantity of new dwellings, an Appeal was made against Wiltshire Council (reference: 3154507) regarding this matter. The Inspector concluded in this case that four dwellings could constitute 'a few dwellings'. This is demonstrable that four dwellings does meet the definition of infill and forms a material consideration.

As the consultation period has not expired, we would await further comment on the above and also all consultee responses before considering the next steps.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 14:59, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

This survey is required at outline and cannot be part of any REM because the archaeological potential needs to be understood at the principle stage. Before you start looking at doing such a survey though I have a couple of other concerns relating to this application.

The site is subject to significant surface water flooding according to the SFRA (see snip below) and as such would require an FRA and full drainage details given the existing culvert on site.

<image001.png>

Furthermore the site is located within the buffer zone of the Salisbury plain SPA for recreational impact and within the Bath and Bradford on Avon Bat SAC in quite close proximity to a core roost. Furthermore the proposal is located within the red zone of the TBMS. There is no ecological assessment, no bat surveys, no lighting plans etc and would fail the habitat regulations requirements as well as local and national policy. It would be hard to overcome this ecological sensitivity.

I also have some reservation about the highways impact of the proposed access here and await my highway colleagues views.

Finally the proposal is outside any settlement boundary in the open countryside. Whilst Yarnbrook is considered to be a small village where infill is permitted I am of the view that this proposal does not amount to infill as it is not the infilling of a one or two houses within a small gap.

Given the above I shall be refusing this application on this basis unless the application is withdrawn.

Given that the principle of the development is considered unacceptable, I would advise against incurring further costs for additional survey work at this stage. Your client would be proceeding at their own risk in terms of incurring additional time and expense if they wish to provide the additional information.

Please advise how your client wishes to proceed ie withdrawal or refusal by Friday 12th January.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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-----Original Message-----
From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 2:21 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Fwd: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> Dear Gen,
>
> I note the Archaeology Officer's request for a Geophysical Survey. As this is only an outline application to consider access and the principle of development, can this form part of the REM application, should approval be obtained?
>
> Kind regards
>
> Amy Hallett MSc, BSc (Hons)
> 07795 050893

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Appendix G - Emails of 9th and 12th February Between the Agent & the LPA Relating to Determination of The Application & the Opportunity to Withdraw the Application

From: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Sent: Monday, February 12, 2024 7:16 AM
To: Amy Hallett <amyhallett3@gmail.com>; Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Russell Poulsom <enquiries@poulsom.co.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Good morning, Amy,

Thanks for your email.

Gen Collins explained why the Council would move to a decision, and her email to you on 9 Feb timed at 09:46 does not require any further explanation.

Kind regards
Kenny

Kenny Green (BA, MA (Hons) MRTPI)
Development Management Area Team Leader Central Team Place Directorate
Tel: 01225 770251
Ext 15251
Email: kenny.green@wiltshire.gov.uk
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Please note that I work a compressed week and a Friday is a non working day for me.
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-----Original Message-----
From: Amy Hallett <amyhallett3@gmail.com>
Sent: Friday, February 9, 2024 11:58 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom <enquiries@poulsom.co.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Dear Kenny,

As Gen has refused to communicate further with me, are you able to direct me to the Council's policy on re-consultation following objections from consultees? I have never had an issue before with providing additional information to resolve consultee objections. I would be grateful if you could explain why this application is different.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

> On 9 Feb 2024, at 11:22, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:
>
> Amy

>
> I have already set out my views on several occasions. I would be very interested to see what PINS made of a claim of unreasonable behaviour. I would advise that in the event of an appeal the LPA will be putting in a costs claim.
>
> I will be issuing the decision notice refusing this application today as I have previously advised on several occasions. I will not be communicating with you any further on this matter today.
>
> Regards
> Gen
>
>
> Gen Collins (LLB (Hons) MA MRTPI)
> Senior Planning Officer (Central Team) Development Management Place
> Directorate
>
>
> Tel: 01225 770259
> Ext: 15259
> Email: gen.collins@wiltshire.gov.uk
> Web:> https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.w
>
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>
> -----Original Message-----
> From: Amy Hallett <amyhallett3@gmail.com>
> Sent: Friday, February 9, 2024 11:20 AM
> To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
> Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom
> <enquiries@poulsom.co.uk>
> Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road,
> Yarnbrook, BA14 6AF
>
> Hi Gemma,
>
> I do not see anywhere on the Council website which precludes a re-consultation to resolve issues raised by consultees, is there a new Customer Charter or something similar which states this?
>
> I have myriad examples where I have been allowed to resolve consultee objections as part of the planning process and a second consultation period was afforded to my client. The previous was not a re-consultation as the revised drawing could be advertised for the statutory period within the original consultation period. Consultee responses were also unavailable at this time which, if you classed this as the re-consultation, does put me at a disadvantage and you did not make me aware that this was my only opportunity for a re-consultation and additional information to be supplied. If you had, I would have waited for all consultee responses. I do feel that the LPA are acting unreasonably by not allowing me an opportunity to deal with issues that have arose from consultee responses, which is common practice at Wiltshire Council. I would be grateful if you could revisit this as I did not wish to raise issues of unreasonable behaviour with PINS.
>
> Kind regards
>

> Amy Hallett MSc, BSc (Hons)
> 07795 050893
>
>> On 9 Feb 2024, at 09:46, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:
>>
>> Hello Amy
>>
>> Im afraid this is too late. I have written this up for refusal as per my previous emails. The LPA is unwilling to accept further information and delay this application anymore. I have already consulted on this application twice. I do not intend to carry on reconsulting especially because the application has other fundamental flaws previously alluded to in my emails which are fundamental to the application and have also not been addressed.
>>
>> I will be issuing the decision notice today.
>>
>> You will be able to put in a fresh application which addresses all the outstanding issues if you so wish.
>>
>> Regards
>> Gen
>>
>> Gen Collins (LLB (Hons) MA MRTPI)
>> Senior Planning Officer (Central Team) Development Management Place
>> Directorate
>>
>>
>> Tel: 01225 770259
>> Ext: 15259
>> Email: gen.collins@wiltshire.gov.uk
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>> -----Original Message-----
>> From: Amy Hallett <amyhallett3@gmail.com>
>> Sent: Friday, February 9, 2024 9:10 AM
>> To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>; Green, Kenny
>> <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom
>> <enquiries@poulsom.co.uk>
>> Subject: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook,
>> BA14 6AF
>>
>> Dear Gen,
>>
>> I have noted the objection from Highways and no objection comment from the Drainage Officer, subject to additional information at Reserved Matters stage. We are in discussions with a Charterered Drainage Engineer to look to ameliorated the surface water objection

raised by the Highways Officer, as well as a Highways Consultant to deal with the requested increase in width to the highway.
>>
>> As we have not had a second consultation period yet, please can we agree an EOT to allow for this additional information to be received and reconsulted on. I feel it is in both parties interest to look to reduce the refusal reasons down as much as possible, prior to an appeal surrounding the differing views on the principle of development.
>>
>> Please let me know this is acceptable to you and I will arrange for the additional information to be submitted.
>>
>> Kind regards
>>
>> Amy Hallett MSc, BSc (Hons)
>> 07795 050893
>> ----------
>>
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Appendix H - LPA Costs Claim Rebuttal

Wiltshire Council reference: PL/2023/10654

Planning Inspectorate reference: APP/Y3940/W/24/3342139

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY HOMES NUVO LTD

SITE ADDRESS: LAND ADJACENT TO A350, WEST ASHTON ROAD, YARNBROOK, TROWBRIDGE, WILTSHIRE, BA14 6AF

COSTS CLAIM REBUTTAL

STATEMENT OF CASE BY WILTSHIRE COUNCIL AS LOCAL PLANNING AUTHORITY

SENIOR PLANNING OFFICER: GENEVIEVE COLLINS MA MRTPI

---

1. INTRODUCTION

1.1. As part of the Appellant's Appeal Statement of Case they include a claim of costs against the Council. The Appellant considers that the Committee behaved substantively unreasonably on several grounds in refusing the application for 4no dwellings and associated works at Land Adjacent to A350, West Ashton Road, Yarnbrook, Trowbridge, Wiltshire, BA14 6AF. This Statement is written on behalf of the LPA and sets out a rebuttal to the costs claimed by the Appellant.

2. THE APPELLANTS CASE

2.1. The Appellant considers that the LPA have acted unreasonably by virtue of not accepting additional information once a consultation period has expired. The Appellant considers this additional information would have resulted in positive changes, potentially eradicating all of the reasons for refusal, apart from the issue pertaining to the principle of development.

2.2. The Appellant considers they are now in a situation unlikely to result in a positive outcome, as the Appellant now believes that additional information cannot be submitted at Appeal stage.

2.3. The Appellant considers that if this application was approved, or allowed at appeal, the

site would not been subject to Biodiversity Net Gain and the associated costs. This includes the cost of an Ecologist to complete the BNG calculator, the cost to ensure there is a 10% net gain and the ongoing fees to the LPA for the monitoring of the site for the foreseeable future. The Appellant considers that they have been put at a significant financial disadvantage due to the Council's unfair and unreasonable behaviour during the lifetime of the application.

3. THE CASE FOR THE LPA

3.1. The Local Planning Authority (LPA) considers that it did not act unfairly or unreasonably in the course of its duties in determining the application.

Whether the LPA acted unfairly and unreasonably in the course of its duties by refusing to accept additional information and undertake further consultation.

3.2. In terms of procedural irregularity, at an early stage in the planning process the applicant was advised that there were procedural concerns with the application pertaining to the extent of the red line and land ownership and the associated required certificates and formal notices.

3.3. Following concerns about land ownership, the Appellant sort to revise the red line and a second round of full consultation was issued. As a result, further concerns were raised by neighbours that the red line was still inaccurate, and the neighbours indicated that the application site still includes their land without formal notification.

3.4. The LPA requested that the Appellant either withdrew the application or notify the adjacent landowners and submit a revised certificate B or C to cover this off this procedural irregularity and restart the application. The Appellant however refused to do this and still disputes the landownership claims of neighbouring occupiers; this matter remains unresolved at the time of writing.

3.5. In terms of planning assessment, the Appellant was advised in good time (on 08/01/24 and 09/01/24 see attached emails at **Appendix A**) of the officer's view that the proposal was considered unacceptable in principle. The LPA also advised in good time that the site was in a Special Area of Conservation and required ecology assessments and surveys to be able to undertake an informed Habitat Regulations Assessment. The LPA also advised that a flood risk assessment was required due to the location being within an area at high risk of surface water flooding. The LPA also advised that a geotechnical survey was required at outline as the site is located in an area that could be subject to archaeological potential.

3.6. As a result, the Appellant was advised that refusal of the application would be recommended with a decision issued in the first week of February 2024 given the outstanding procedural issues relating to appropriate Certificates, that the development was considered unacceptable in principle and crucial technical information was omitted.

3.7. The Appellant was invited to withdraw the application. The Appellant was also invited to submit additional details if they so wished with the caveat that the time and cost of these additional details would be at their own risk given the principle of development was considered unacceptable.

3.8. The Appellant declined to withdraw the application and submit further details because they did not want to lose their free-go at resubmission and expressed a wish to seek a second opinion from the Planning Inspectorate at that time, requesting a refusal to be actioned in early February in order to "*speed things up for all parties*" as expressed in the attached emails of January 9th 2024 showing correspondence between the agent Amy Hallet and the case officer on the matter (contained at **Appendix A**).

3.9. The Appellant resisted providing the required ecological assessment, survey work, flood risk assessment work and geophysical survey and indicated that they would provide the outstanding additional information at appeal stage as demonstrated in attached **Appendix A**.

3.10. When the application was due to be formally determined just as the application was about to expire, the Appellant offered to provide additional details and requested an extension when they realised that refusal of the scheme was imminent (see attached emails of 9 February 2024 at **Appendix B**). Until this time, they did not offer any additional information and offered no extension of time to the application.

3.11. As the Inspector will be aware, LPAs are required to make decisions in a timely manner. Indeed, the NPPF states at paragraph 43 that "*the right information is crucial to good decision making particularly where formal assessments are required (such as … Habitat Regulations assessment and flood risk assessment)*" and paragraph 47 of the NPPF states that "*decisions on applications should be made as quickly as possible., and within statutory timescales*…".

3.12. By refusing to engage with the LPA, follow LPA advice and employ good planning practice, the Appellant has caused this appeal. An appeal was clearly the intention weeks before the final decision was issued as can clearly be seen from the attached emails on January 8th 2024 in **Appendix A**). The LPA are willing to engage proactively and work proactively with applicants, but such engagement was resisted during the full

course of this application until the last minute.

3.13. Moreover, it is unclear exactly what costs the Appellant is claiming for other the BNG calculations. The Appellant states that they have been put at a *"significant financial disadvantage due to the Council's unfair and unreasonable behaviour during the lifetime of the application*".

3.14. As the Inspector is likely aware one cannot claim costs at appeal for matters that have arisen during the decision-making part of an application, only for costs incurred after the decision and in relation to preparing and conducting an appeal. The LPA can see no reason as to why the Appellant has incurred such significant financial costs and what exactly these significant costs are/arise from especially as they made the intention to appeal on the principle of development quite evident.

3.15. That the only costs they feel they can claim for is for an ecologist doing a BNG assessment is tenuous. The Appellant would have had to employ an ecologist in any event to undertake the assessment and survey work required to be able to make an informed decision and habitat regulation assessment. Such a basis for a costs claim is in itself entirely unreasonable.

3.16. In lodging this appeal, the Appellant knew fully well that they have not provided sufficient information for either the LPA or the Planning Inspectorate to make a properly informed decision regarding the Habitat Regulations, flood risk and archaeology. As such it is poor practice and totally unreasonable to submit an appeal at all.

3.17. It is advised that the LPA will be submitting a counter cost claim for an unnecessary appeal on the basis of the reasons set out.

3.18. In light of the above and the evidence attached in the Appendices, it cannot be said that the LPA have acted unfairly in determining this application within the statutory time limits and within the time frame that they expressed to the applicant without consulting for a third time. It follows that the LPA have clearly not acted unreasonably. If anything, the LPA gave the Appellant ample opportunity to submit additional information or to withdraw the application and submit a free-go with the outstanding information in good time and address the procedural concerns as shown in the emails attached.

3.19. The Appellant clearly did not want to take these opportunities for their own reasons, and these were not due to having to instruct an ecologist to prepare a BNG calculation matrix.

4. CONCLUSION

4.1. The LPA has carefully considered the Appellant's grounds for costs. The LPA completed

an appropriate and thoughtful planning assessment in full accordance with established guidelines and statutory requirements.

4.2. The actions of the LPA have not resulted in the prevention and delay of a development which should have been permitted, nor has the LPA acted unfairly or unreasonably in refusing to accept and reconsult on further information. Sufficient clear and unambiguous reasoning based on existing policies of the adopted development plan and the information available at that time has been provided within the refusal reasons.

4.3. Accordingly, it is considered that the LPA has not behaved unreasonably, and no unreasonable behaviour has directly caused the Appellant to incur unnecessary or wasted expense in the appeal process. As such, the Inspector is respectfully invited to dismiss this claim for appeal costs.

APPENDIX A

Emails of 8th and 9th January 2024 between the Appellant's agent (Amy Hallet) & the LPA

From: Collins, Gen
Sent: Tuesday, January 9, 2024 5:07 PM
To: Amy Hallett <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Dear Amy

The NPPF requires an FRA to be submitted with applications where there is evidence of on site flooding from any source including surface water flooding on a Council's SFRA as in this case. The application is also not in conformity with local and national policy for biodiversity or the habitat regulations. It is clear from the national policy, national guidance and legislation that these are fundamental requirements.

You must be aware that it is poor planning practice to add such additional information in at the appeal stage when it can be, and should be, provided up front. Further, if you do add such additional information at appeal stage, this in my view would not be reasonable as the public, and internal and external statutory consultees would not have been appropriately consulted and I will raise this issue with PINS at that time if these circumstances arise.

Further, whilst a site may broadly form part of the built form of a settlement, this does not automatically make it acceptable as an infill site. My report will set this out and will also address the appeal decision and other relevant planning history. I would also remind you that each case is required to be assessed on its own merits at that particular time with planning history as a material consideration but not an overriding factor, especially where the planning policy context has changed.

If you insist on taking this approach that is entirely your decision. I would however query whether you have run these emails by your client and whether they are happy for you to take such an approach. I would request that you do so.

I think given all of this, we will have to agree to disagree and I will be refusing the application on the basis that I have previously set out.

Regards

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
Wiltshire Council

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 9, 2024 4:18 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

It is not the applicant's error that the application was validated and is unreasonable to enclose the applicant for this error. The validation checklist also only requires an FRA if the site is in flood zones 2 or 3, neither apply on this site. We do not wish to withdraw and resubmit, only to be refused again and then the 'free go' has been used. As the application was submitted prior to 6th December then it qualifies for the 'free go'.

If you are not willing to accept the new SLP, even though there are more than 21 days left of the existing consultation period, I will supply this at appeal stage.

I have never said that I believe PINS will find favourably for the appeal, I disagree with your opinion on principle and will use the appeal process to obtain a second opinion.

It is contradictory for you to say that the site is within the built form of the village, but does not meet criterion iii) of CP2.

We will await the refusal as wish for the consultation period to expire and to see all responses, including Highways.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 12:18, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy

Thanks for the email. Are you keeping the red line the same and notifying the applicant or are you changing the red line?

If the former then the notification needs to be done 3 weeks in advance of amending the application which takes us beyond the consultation period.

If the latter, then we need to restart the application afresh due to revised red line which requires everything including consultation dates and determination dates to be revised as if this were a new application.

If I had sufficient information with regards to FRA and Ecology surveys already then I would accept the change and restart the application. However in my view this application should not have been validated without these documents as there is little point in my determining an application without sufficient information and I would request therefore that you withdraw this application and put together an application that is more robust at which point we can go to appeal over the in principle / infill disagreement.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 9, 2024 11:47 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

It seems unreasonable to not allow an updated SLP with the correct red line as there are still over three weeks left of the consultation period and therefore sufficient time to advertise without a need to extend the consultation period. I have arranged for this to be emailed across to you today.

We do not wish to withdrawal the application and will seek a second opinion regarding the principle of development at appeal.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 11:28, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
In light of the further issues raised with this application, I would strongly advise you to withdraw this application. I would advise that the LPA will not be accepting any revisions to the application as it currently stands and if the application is not withdrawn I will be refusing it on the basis of what I have at the start of February.
Please confirm how your client wishes to proceed by Friday 12th Jan.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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<image003.gif>

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From: Collins, Gen
Sent: Tuesday, January 9, 2024 9:53 AM
To: 'Amy Hallett' <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Morning Amy

Thank you for your email. I will be including a full assessment in any planning report.

I have also received a copy of a letter that was sent to you by a neighbour. Given that he has sent this letter to you I consider it acceptable to attach it. This indicates that the red line of

the application site is incorrect and includes part of their land and it is not owned by the applicant. The application form indicates that this adjacent occupier has not been formally notified and no certificates have been included with the application and as such, in absence of any evidence to the contrary in terms of ownership, this would make this application invalid. I strongly encourage you to withdraw the application given the procedural issues, technical concerns and in principle objection.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 5:20 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

With all due respect, it is very unclear how you have assessed the site as contrary to criteria iii) of CP2 and have not explained the difference between this site and the other one I have referenced. This assessment is also contrary to the Officer Report commentary of the 2020 application. You have also not commented on the Inspectorate views on infill being assessed as four, which is another material consideration.

We will proceed with a refusal and seek a second opinion on principle from the Inspectorate. Once we have this we will come in with all the relevant information. If you could action the refusal early February as suggested, then that will speed everything up for all parties.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 17:09, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
I have set out my thoughts in relation to this application assessment against the current development plan and other materials considerations and I think I have been quite clear.

I have ensured ecology have been consulted and await their comments. The onus is on you as agent and applicant to provide me with sufficient information. Your due diligence should have picked these constraints up; this is simply good planning practice which you should be aware of.

Regards
Gen
Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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<image003.gif>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 4:17 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

Can you please state the specifics as to why this consolidates sporadic loose knit development and how this site differentiates from the application further north in 2020 that I referenced? The density

and plot size would be in-keeping with the properties in the locale to help it integrate into the streetscene.

Have Ecology been consulted? It will be difficult to provide the specific information required now or in any subsequent applications/appeal if there are no formal comments from the Ecology Officer.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 16:02, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

Feel free to provide the additional information but this would be at your client's own risk in terms of additional cost and expense. I note what you say and whilst I consider that the proposal is within the physical built form of the small village (as defined by CP29 of the WCS), it has no defined limits of development and as such, the only development permitted by CP2 of the WCS at small villages is infill. CP2 states that infill is defined as the filling of a small gap within the village that is only large enough not more than a few dwellings , generally only one. I do not consider this site is a small gap or one that amounts to infill development. Furthermore I consider that it does consolidate an existing sporadic loose knit area of development contrary to CP2 and there is no evidence that it is required to meet the housing needs of the settlement or provide employment, services and facilities.

Given this in principle objection in addition to the lack of important information and the fact that the proposal is not compliant with the habitat regulations and conflicts with other aspects of local and national policy regardless of whether it is within the physical built form of the settlement I will not be recommending approval. Your client would be able to appeal any refusal. I will be determining this application in the first week of February on the basis of the information I have at that time.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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<image002.png>

<image003.gif>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 3:49 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

Thank you for coming back to me. We may be interested in providing the Ecology, Archaeology and Drainage information as I would like you to review the issue you have regarding the principle of development.

I don't know if you have had a chance to read the Planning Statement accompanying the application but the site to the north (19/0340/OUT) was granted consent in 22/07/2020. The Officer Report comments on the village boundary, stating that *"Officers now submit that the application site can be considered to be within the existing built area of the village of Yarnbrook and also meets the above tests."* Given that the roundabout, shop and public house form the village centre, the application from 2020 is further away from the village centre and therefore the live application should also be assessed as within the existing built area of the village, to ensure there is consistency in decision making.

In terms of the quantity of new dwellings, an Appeal was made against Wiltshire Council (reference: 3154507) regarding this matter. The Inspector concluded in this case that four dwellings could constitute 'a few dwellings'. This is demonstrable that four dwellings does meet the definition of infill and forms a material consideration.

As the consultation period has not expired, we would await further comment on the above and also all consultee responses before considering the next steps.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 14:59, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

This survey is required at outline and cannot be part of any REM because the archaeological potential needs to be understood at the principle stage. Before you start looking at doing such a survey though I have a couple of other concerns relating to this application.

The site is subject to significant surface water flooding according to the SFRA (see snip below) and as such would require an FRA and full drainage details given the existing culvert on site.

<image001.png>

Furthermore the site is located within the buffer zone of the Salisbury plain SPA for recreational impact and within the Bath and Bradford on Avon Bat SAC in quite close proximity to a core roost. Furthermore the proposal is located within the red zone of the TBMS. There is no ecological assessment, no bat surveys, no lighting plans etc and would fail the habitat regulations requirements as well as local and national policy. It would be hard to overcome this ecological sensitivity.

I also have some reservation about the highways impact of the proposed access here and await my highway colleagues views.

Finally the proposal is outside any settlement boundary in the open countryside. Whilst Yarnbrook is considered to be a small village where infill is permitted I am of the view that this proposal does not amount to infill as it is not the infilling of a one or two houses within a small gap.

Given the above I shall be refusing this application on this basis unless the application is withdrawn.

Given that the principle of the development is considered unacceptable, I would advise against incurring further costs for additional survey work at this stage. Your client would be proceeding at their own risk in terms of incurring additional time and expense if they wish to provide the additional information.

Please advise how your client wishes to proceed ie withdrawal or refusal by Friday 12th January.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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-----Original Message-----
From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 2:21 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Fwd: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> Dear Gen,
>
> I note the Archaeology Officer's request for a Geophysical Survey. As this is only an outline application to consider access and the principle of development, can this form part of the REM application, should approval be obtained?
>
> Kind regards
>
> Amy Hallett MSc, BSc (Hons)
> 07795 050893

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APPENDIX B

Emails of 12th & 9th February 2024 between the Appellant's agent (Amy Hallet) & the LPA

From: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Sent: Monday, February 12, 2024 7:16 AM
To: Amy Hallett <amyhallett3@gmail.com>; Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Russell Poulsom <enquiries@poulsom.co.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Good morning, Amy,

Thanks for your email.

Gen Collins explained why the Council would move to a decision, and her email to you on 9 Feb timed at 09:46 does not require any further explanation.

Kind regards
Kenny

Kenny Green (BA, MA (Hons) MRTPI)
Development Management Area Team Leader Central Team Place Directorate
Tel: 01225 770251
Ext 15251
Email: kenny.green@wiltshire.gov.uk
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Please note that I work a compressed week and a Friday is a non working day for me.
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-----Original Message-----
From: Amy Hallett <amyhallett3@gmail.com>
Sent: Friday, February 9, 2024 11:58 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom <enquiries@poulsom.co.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Dear Kenny,

As Gen has refused to communicate further with me, are you able to direct me to the Council's policy on re-consultation following objections from consultees? I have never had an issue before with providing additional information to resolve consultee objections. I would be grateful if you could explain why this application is different.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

> On 9 Feb 2024, at 11:22, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:
>
> Amy

>
> I have already set out my views on several occasions. I would be very interested to see what PINS made of a claim of unreasonable behaviour. I would advise that in the event of an appeal the LPA will be putting in a costs claim.
>
> I will be issuing the decision notice refusing this application today as I have previously advised on several occasions. I will not be communicating with you any further on this matter today.
>
> Regards
> Gen
>
>
> Gen Collins (LLB (Hons) MA MRTPI)
> Senior Planning Officer (Central Team) Development Management Place
> Directorate
>
>
> Tel: 01225 770259
> Ext: 15259
> Email: gen.collins@wiltshire.gov.uk
> Web:> https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.w
>
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>
> -----Original Message-----
> From: Amy Hallett <amyhallett3@gmail.com>
> Sent: Friday, February 9, 2024 11:20 AM
> To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
> Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom
> <enquiries@poulsom.co.uk>
> Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road,
> Yarnbrook, BA14 6AF
>
> Hi Gemma,
>
> I do not see anywhere on the Council website which precludes a re-consultation to resolve issues raised by consultees, is there a new Customer Charter or something similar which states this?
>
> I have myriad examples where I have been allowed to resolve consultee objections as part of the planning process and a second consultation period was afforded to my client. The previous was not a re-consultation as the revised drawing could be advertised for the statutory period within the original consultation period. Consultee responses were also unavailable at this time which, if you classed this as the re-consultation, does put me at a disadvantage and you did not make me aware that this was my only opportunity for a re-consultation and additional information to be supplied. If you had, I would have waited for all consultee responses. I do feel that the LPA are acting unreasonably by not allowing me an opportunity to deal with issues that have arose from consultee responses, which is common practice at Wiltshire Council. I would be grateful if you could revisit this as I did not wish to raise issues of unreasonable behaviour with PINS.
>
> Kind regards
>

> Amy Hallett MSc, BSc (Hons)
> 07795 050893
>
>> On 9 Feb 2024, at 09:46, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:
>>
>> Hello Amy
>>
>> Im afraid this is too late. I have written this up for refusal as per my previous emails. The LPA is unwilling to accept further information and delay this application anymore. I have already consulted on this application twice. I do not intend to carry on reconsulting especially because the application has other fundamental flaws previously alluded to in my emails which are fundamental to the application and have also not been addressed.
>>
>> I will be issuing the decision notice today.
>>
>> You will be able to put in a fresh application which addresses all the outstanding issues if you so wish.
>>
>> Regards
>> Gen
>>
>> Gen Collins (LLB (Hons) MA MRTPI)
>> Senior Planning Officer (Central Team) Development Management Place
>> Directorate
>>
>>
>> Tel: 01225 770259
>> Ext: 15259
>> Email: gen.collins@wiltshire.gov.uk
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>> -----Original Message-----
>> From: Amy Hallett <amyhallett3@gmail.com>
>> Sent: Friday, February 9, 2024 9:10 AM
>> To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>; Green, Kenny
>> <Kenny.Green@wiltshire.gov.uk>; Russell Poulsom
>> <enquiries@poulsom.co.uk>
>> Subject: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook,
>> BA14 6AF
>>
>> Dear Gen,
>>
>> I have noted the objection from Highways and no objection comment from the Drainage Officer, subject to additional information at Reserved Matters stage. We are in discussions with a Charterered Drainage Engineer to look to ameliorated the surface water objection

raised by the Highways Officer, as well as a Highways Consultant to deal with the requested increase in width to the highway.
>>
>> As we have not had a second consultation period yet, please can we agree an EOT to allow for this additional information to be received and reconsulted on. I feel it is in both parties interest to look to reduce the refusal reasons down as much as possible, prior to an appeal surrounding the differing views on the principle of development.
>>
>> Please let me know this is acceptable to you and I will arrange for the additional information to be submitted.
>>
>> Kind regards
>>
>> Amy Hallett MSc, BSc (Hons)
>> 07795 050893
>> ----------
>>
>> This email originates from Wiltshire Council and any files transmitted with it may contain confidential information and may be subject to Copyright or Intellectual Property rights. It is intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender and delete the email from your inbox. Any disclosure, reproduction, dissemination, modification and distribution of the contents of the email is strictly prohibited. Email content may be monitored by Wiltshire Council to ensure compliance with its policies and procedures. No contract is intended by this email, and any personal opinions expressed in this message are those of the sender and should not be taken as representing views of Wiltshire Council. Please note Wiltshire Council utilises anti-virus scanning software but does not warrant that any e-mail or attachments are free from viruses or other defects and accepts no liability for any losses resulting from infected e-mail transmissions. Receipt of this e-mail does not imply consent to use or provide this e-mail address to any third party for any purpose. Wiltshire Council will not request the disclosure of personal financial information by means of e-mail any such request should be confirmed in writing by contacting Wiltshire Council.

Appendix I - LPA Costs Claim

Wiltshire Council reference: PL/2023/10654

Planning Inspectorate reference: APP/Y3940/W/24/3342139

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY HOMES NUVO LTD

SITE ADDRESS: LAND ADJACENT TO A350, WEST ASHTON ROAD, YARNBROOK, TROWBRIDGE, WILTSHIRE, BA14 6AF

COSTS CLAIM BY WILTSHIRE COUNCIL LOCAL PLANNING AUTHORITY

STATEMENT OF CASE BY WILTSHIRE COUNCIL AS LOCAL PLANNING AUTHORITY

SENIOR PLANNING OFFICER: GENEVIEVE COLLINS MA MRTPI

---

1. INTRODUCTION

1.1. The Local Planning Authority (LPA) seeks to claim full costs against the Appellant, Homes Nuvo Ltd, in respect of the appeal made by them as referenced above.

1.2. The LPA considers that the Appellant behaved substantively unreasonably in appealing the application for 4no dwellings and associated works at Land Adjacent to A350, West Ashton Road, Yarnbrook, Trowbridge, Wiltshire, BA14 6AF.

1.3. This Statement is written on behalf of the LPA and sets out the grounds for the costs claimed by the LPA.

2. THE CASE FOR THE LPA

2.1. At an early stage in the planning process the applicant was advised that there were procedural concerns with the application pertaining to the extent of the red line and land ownership and the associated required certificates and formal notices.

2.2. Following concerns about land ownership, the Appellant sort to revise the red line and a second round of full consultation was issued. As a result, further concerns were raised by neighbours that the red line was still inaccurate, and the neighbours indicated that the application site still includes their land without formal notification.

2.3. The LPA requested that the Appellant either withdrew the application or notify the adjacent landowners and submit a revised certificate B or C to cover this off this

procedural irregularity and restart the application. The Appellant however refused to do this and still disputes the landownership claims of neighbouring occupiers; this matter remains unresolved at the time of writing.

2.4. In terms of technical planning assessment, the Appellant was advised in good time (on 08/01/24 and 09/01/24 see attached emails at **Appendix A**) of the LPA view that the proposal was considered unacceptable in principle. The LPA also advised in good time that the site was in a Special Area of Conservation and required ecology assessments and surveys to be able to undertake an informed Habitat Regulations Assessment. The LPA also advised that a flood risk assessment was required due to the location being within an area at high risk of surface water flooding. The LPA also advised that a geotechnical survey was required at outline as the site is located in an area that could be subject to archaeological potential.

2.5. As a result, the Appellant was advised that refusal of the application would be recommended with a decision issued in the first week of February 2024 given the outstanding procedural issues relating to appropriate Certificates, that the development was considered unacceptable in principle and important technical information was omitted.

2.6. The Appellant was invited to withdraw the application. The Appellant was also invited to submit additional details if they so wished with the caveat that the time and cost of these additional details would be at their own risk given the procedural irregularity and that the principle of development was considered unacceptable.

2.7. The Appellant declined to withdraw the application and submit further details because they did not want to lose their free-go and expressed a wish to seek a second opinion from the Planning Inspectorate at that time, requesting a refusal to be actioned in early February in order to "*speed things up for all parties*" as expressed in the attached emails of January 9th 2024 showing correspondence between the agent Amy Hallet and the case officer on the matter (contained at **Appendix A**).

2.8. The Appellant resisted providing the required ecological assessment, survey work, flood risk assessment work and geophysical survey and indicated that they would provide the outstanding additional information at appeal stage as demonstrated in attached **Appendix A**.

2.9. When the application was due to be formally determined just as the application was about to expire, the Appellant offered to provide additional details and requested an extension when refusal of the scheme (at their own request) was imminent. Until this

time, they did not offer any additional information and offered no extension of time to the application.

2.10. As the Inspector will be aware, LPAs are required to make decisions in a timely manner. Indeed, the NPPF states at paragraph 43 that "*the right information is crucial to good decision making particularly where formal assessments are required (such as … Habitat Regulations assessment and flood risk assessment)*" and paragraph 47 of the NPPF states that "*decisions on applications should be made as quickly as possible., and within statutory timescales*…".

2.11. By refusing to engage with the LPA, follow LPA advice and employ good planning practice, the Appellant has caused this appeal. An appeal was clearly the intention weeks before the final decision was issued as can clearly be seen from the attached emails on January 8th 2024 in **Appendix A**).

2.12. It is poor practice and totally unreasonable to submit an appeal in the full knowledge that there is insufficient information for the Planning Inspectorate to make a properly informed decision regarding the Habitat Regulations, flood risk and archaeological matters. The Appellant indicates in their own costs claim that they are aware it is unlikely that a positive decision can be reached by the Inspector.

2.13. Moreover, the agent for the Appellant states in an email of 9 January 2024 that "*I have never said that I believe PINS will find favourably for the appeal, I disagree with your opinion on principle and will use the appeal process to obtain a second opinion*."

2.14. The Appellant had thus always known, certainly since January 2024 (over a month before any decision was issued by the LPA), that an appeal could not be successful.

2.15. It is clear therefore that this appeal is entirely unnecessary and unreasonable. It is a waste of the LPAs and the Planning Inspectorate's time and resources at a time when such services are already stretched. The Appellant clearly knew this yet has still proceeded to make such an appeal and a baseless claim for costs against the LPA.

3. CONCLUSION

3.1. The LPA seeks costs on the basis that this appeal is unnecessary. Lodging such an appeal in the full knowledge that there remain procedural irregularities and insufficient information relating to important technical matters such as ecology, flooding and heritage (as evidenced by emails in **Appendix A**) such that the Planning Inspectorate is unable to make a properly informed and lawful decision is wholly unreasonable.

3.2. The LPA therefore seeks a full award of planning costs for the time and resources taken

in defending such an unnecessary appeal at the expense of deciding other applications. This claim includes but is not limited to, costs for preparing a full appeal statement, administrative costs notifying residents of the appeal and preparing a statement of rebuttal towards an unreasonable and baseless costs claim at very short notice.

APPENDIX A

Emails of 8th and 9th January 2024 between the Appellant's agent (Amy Hallet) & the LPA

From: Collins, Gen
Sent: Tuesday, January 9, 2024 5:07 PM
To: Amy Hallett <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Dear Amy

The NPPF requires an FRA to be submitted with applications where there is evidence of on site flooding from any source including surface water flooding on a Council's SFRA as in this case. The application is also not in conformity with local and national policy for biodiversity or the habitat regulations. It is clear from the national policy, national guidance and legislation that these are fundamental requirements.

You must be aware that it is poor planning practice to add such additional information in at the appeal stage when it can be, and should be, provided up front. Further, if you do add such additional information at appeal stage, this in my view would not be reasonable as the public, and internal and external statutory consultees would not have been appropriately consulted and I will raise this issue with PINS at that time if these circumstances arise.

Further, whilst a site may broadly form part of the built form of a settlement, this does not automatically make it acceptable as an infill site. My report will set this out and will also address the appeal decision and other relevant planning history. I would also remind you that each case is required to be assessed on its own merits at that particular time with planning history as a material consideration but not an overriding factor, especially where the planning policy context has changed.

If you insist on taking this approach that is entirely your decision. I would however query whether you have run these emails by your client and whether they are happy for you to take such an approach. I would request that you do so.

I think given all of this, we will have to agree to disagree and I will be refusing the application on the basis that I have previously set out.

Regards

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
Wiltshire Council

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 9, 2024 4:18 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

It is not the applicant's error that the application was validated and is unreasonable to enclose the applicant for this error. The validation checklist also only requires an FRA if the site is in flood zones 2 or 3, neither apply on this site. We do not wish to withdraw and resubmit, only to be refused again and then the 'free go' has been used. As the application was submitted prior to 6th December then it qualifies for the 'free go'.

If you are not willing to accept the new SLP, even though there are more than 21 days left of the existing consultation period, I will supply this at appeal stage.

I have never said that I believe PINS will find favourably for the appeal, I disagree with your opinion on principle and will use the appeal process to obtain a second opinion.

It is contradictory for you to say that the site is within the built form of the village, but does not meet criterion iii) of CP2.

We will await the refusal as wish for the consultation period to expire and to see all responses, including Highways.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 12:18, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy

Thanks for the email. Are you keeping the red line the same and notifying the applicant or are you changing the red line?

If the former then the notification needs to be done 3 weeks in advance of amending the application which takes us beyond the consultation period.

If the latter, then we need to restart the application afresh due to revised red line which requires everything including consultation dates and determination dates to be revised as if this were a new application.

If I had sufficient information with regards to FRA and Ecology surveys already then I would accept the change and restart the application. However in my view this application should not have been validated without these documents as there is little point in my determining an application without sufficient information and I would request therefore that you withdraw this application and put together an application that is more robust at which point we can go to appeal over the in principle / infill disagreement.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate
<image001.png>

Tel: 01225 770259
Ext: 15259
Email: gen.collins@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Tuesday, January 9, 2024 11:47 AM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

It seems unreasonable to not allow an updated SLP with the correct red line as there are still over three weeks left of the consultation period and therefore sufficient time to advertise without a need to extend the consultation period. I have arranged for this to be emailed across to you today.

We do not wish to withdrawal the application and will seek a second opinion regarding the principle of development at appeal.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 9 Jan 2024, at 11:28, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
In light of the further issues raised with this application, I would strongly advise you to withdraw this application. I would advise that the LPA will not be accepting any revisions to the application as it currently stands and if the application is not withdrawn I will be refusing it on the basis of what I have at the start of February.
Please confirm how your client wishes to proceed by Friday 12th Jan.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
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From: Collins, Gen
Sent: Tuesday, January 9, 2024 9:53 AM
To: 'Amy Hallett' <amyhallett3@gmail.com>
Cc: Green, Kenny <Kenny.Green@wiltshire.gov.uk>
Subject: RE: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

Morning Amy

Thank you for your email. I will be including a full assessment in any planning report.

I have also received a copy of a letter that was sent to you by a neighbour. Given that he has sent this letter to you I consider it acceptable to attach it. This indicates that the red line of

the application site is incorrect and includes part of their land and it is not owned by the applicant. The application form indicates that this adjacent occupier has not been formally notified and no certificates have been included with the application and as such, in absence of any evidence to the contrary in terms of ownership, this would make this application invalid. I strongly encourage you to withdraw the application given the procedural issues, technical concerns and in principle objection.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
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<image001.png>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 5:20 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

With all due respect, it is very unclear how you have assessed the site as contrary to criteria iii) of CP2 and have not explained the difference between this site and the other one I have referenced. This assessment is also contrary to the Officer Report commentary of the 2020 application. You have also not commented on the Inspectorate views on infill being assessed as four, which is another material consideration.

We will proceed with a refusal and seek a second opinion on principle from the Inspectorate. Once we have this we will come in with all the relevant information. If you could action the refusal early February as suggested, then that will speed everything up for all parties.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 17:09, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Dear Amy
I have set out my thoughts in relation to this application assessment against the current development plan and other materials considerations and I think I have been quite clear.

I have ensured ecology have been consulted and await their comments. The onus is on you as agent and applicant to provide me with sufficient information. Your due diligence should have picked these constraints up; this is simply good planning practice which you should be aware of.

Regards
Gen
Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
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<image001.png>

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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 4:17 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

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Dear Gen,

Can you please state the specifics as to why this consolidates sporadic loose knit development and how this site differentiates from the application further north in 2020 that I referenced? The density

and plot size would be in-keeping with the properties in the locale to help it integrate into the streetscene.

Have Ecology been consulted? It will be difficult to provide the specific information required now or in any subsequent applications/appeal if there are no formal comments from the Ecology Officer.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 16:02, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

Feel free to provide the additional information but this would be at your client's own risk in terms of additional cost and expense. I note what you say and whilst I consider that the proposal is within the physical built form of the small village (as defined by CP29 of the WCS), it has no defined limits of development and as such, the only development permitted by CP2 of the WCS at small villages is infill. CP2 states that infill is defined as the filling of a small gap within the village that is only large enough not more than a few dwellings , generally only one. I do not consider this site is a small gap or one that amounts to infill development. Furthermore I consider that it does consolidate an existing sporadic loose knit area of development contrary to CP2 and there is no evidence that it is required to meet the housing needs of the settlement or provide employment, services and facilities.

Given this in principle objection in addition to the lack of important information and the fact that the proposal is not compliant with the habitat regulations and conflicts with other aspects of local and national policy regardless of whether it is within the physical built form of the settlement I will not be recommending approval. Your client would be able to appeal any refusal. I will be determining this application in the first week of February on the basis of the information I have at that time.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
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From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 3:49 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Re: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> You don't often get email from amyhallett3@gmail.com. Learn why this is important

Dear Gen,

Thank you for coming back to me. We may be interested in providing the Ecology, Archaeology and Drainage information as I would like you to review the issue you have regarding the principle of development.

I don't know if you have had a chance to read the Planning Statement accompanying the application but the site to the north (19/0340/OUT) was granted consent in 22/07/2020. The Officer Report comments on the village boundary, stating that *"Officers now submit that the application site can be considered to be within the existing built area of the village of Yarnbrook and also meets the above tests."* Given that the roundabout, shop and public house form the village centre, the application from 2020 is further away from the village centre and therefore the live application should also be assessed as within the existing built area of the village, to ensure there is consistency in decision making.

In terms of the quantity of new dwellings, an Appeal was made against Wiltshire Council (reference: 3154507) regarding this matter. The Inspector concluded in this case that four dwellings could constitute 'a few dwellings'. This is demonstrable that four dwellings does meet the definition of infill and forms a material consideration.

As the consultation period has not expired, we would await further comment on the above and also all consultee responses before considering the next steps.

Kind regards

Amy Hallett MSc, BSc (Hons)
07795 050893

On 8 Jan 2024, at 14:59, Collins, Gen <Gen.Collins@wiltshire.gov.uk> wrote:

Hello Amy

This survey is required at outline and cannot be part of any REM because the archaeological potential needs to be understood at the principle stage. Before you start looking at doing such a survey though I have a couple of other concerns relating to this application.

The site is subject to significant surface water flooding according to the SFRA (see snip below) and as such would require an FRA and full drainage details given the existing culvert on site.

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Furthermore the site is located within the buffer zone of the Salisbury plain SPA for recreational impact and within the Bath and Bradford on Avon Bat SAC in quite close proximity to a core roost. Furthermore the proposal is located within the red zone of the TBMS. There is no ecological assessment, no bat surveys, no lighting plans etc and would fail the habitat regulations requirements as well as local and national policy. It would be hard to overcome this ecological sensitivity.

I also have some reservation about the highways impact of the proposed access here and await my highway colleagues views.

Finally the proposal is outside any settlement boundary in the open countryside. Whilst Yarnbrook is considered to be a small village where infill is permitted I am of the view that this proposal does not amount to infill as it is not the infilling of a one or two houses within a small gap.

Given the above I shall be refusing this application on this basis unless the application is withdrawn.

Given that the principle of the development is considered unacceptable, I would advise against incurring further costs for additional survey work at this stage. Your client would be proceeding at their own risk in terms of incurring additional time and expense if they wish to provide the additional information.

Please advise how your client wishes to proceed ie withdrawal or refusal by Friday 12th January.

Regards
Gen

Gen Collins (LLB (Hons) MA MRTPI)
Senior Planning Officer (Central Team)
Development Management
Place Directorate

Tel: 01225 770259
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-----Original Message-----
From: Amy Hallett <amyhallett3@gmail.com>
Sent: Monday, January 8, 2024 2:21 PM
To: Collins, Gen <Gen.Collins@wiltshire.gov.uk>
Subject: Fwd: PL/2023/10654 - land adj. A350, West Ashton Road, Yarnbrook, BA14 6AF

> Dear Gen,
>
> I note the Archaeology Officer's request for a Geophysical Survey. As this is only an outline application to consider access and the principle of development, can this form part of the REM application, should approval be obtained?
>
> Kind regards
>
> Amy Hallett MSc, BSc (Hons)
> 07795 050893

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