Wiltshire Council
Where everybody matters

12th June 2024

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Lauren Fongauffier
The Planning Inspectorate
BY EMAIL

Dear Mike,

Planning Appeal Ref:	APP/Y3940/W/24/3339804
Our Ref:	PL/2023/05818
Appellant:	Mr Adrian Gott, Addington Investments Ltd
Site Address:	Part of Boomerang Stables, Crooked Soley, Chilton Foliat, Wiltshire, RG17 0TL

Please accept this letter (along with the Officer Committee Report and Planning Committee Minutes – Appendix 1 below) as the local planning authority's Statement of Case for the above appeal.

The case officer's Committee Report and Minutes of the Planning Committee meeting (attached to this correspondence) for the main basis for the LPA's Statement of Case. However, some points have provided below to clarify the current planning policy situation and in response to some of the Appellant's arguments.

Firstly, it is pertinent to note that the housing delivery polices of the WCS, at the time of the Planning Committee Meeting, were considered to be out-of-date, as the LPA could not demonstrate a 5yrHLS. However, the December 2023 update to the NPPF advises that LPAs which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, only need to demonstrate a 4-year housing land supply (4yrHLS) until December 2025. At the time of writing, the LPA has a 5yrHLS of around 4.6yrs, with a local plan that is at Regulation 19 public consultation stage (the consultation ending in December 2023). Notwithstanding this, the spatial strategy of the WCS (particularly that relating to the Marlborough Community Area) is considered to remain consistent with the approach to rural housing taken by the NPPF. As such, the development plan is considered to be up-to-date and consistent with the aims of the NPPF.

At the time of the Planning Committee meeting (PCM) the assessment was undertaken with regard to the 'tilted balance' in line with the requirements of NPPF para. 11d. As the WCS is now considered to possess full weight, the LPA considers this strengthens the reasons for refusal. However, some response to the Appellant's Statement of Case is provided below.

The Appellant states that the size or tenure of a dwelling is immaterial. The council's housing delivery policies (informed by the Strategic Housing Market Assessment - SHAA) are concerned with the size and tenure types of dwellings and what types of housing may be needed (or able to be accepted) within certain areas. Within rural areas, the WCS (when taken as a whole) identifies that some provision of new dwellings outside of defined settlements will occur, but that such housing is only likely to be supported where it would be proposed to meet a clearly identified local need (likely community led schemes) or it would be a type of rural exception housing. In terms of housing type and tenure, both the WCS and NPPF taken as a whole, generally do not support large, open-market family dwellings of which there is no clear identified need arising from the WCS supporting evidence, more recent housing market assessments, the local community or evidence submitted by the Appellant.

A type of exception housing is the conversion of a rural building, supported in principle only if it complies with the provisions of WCS Core Policy 48. The Officer Report sent with the appeal questionnaire sets out the officer's assessment with regards to the conflicts with CP48. For information, the section of CP48 that relates to rural building conversions is copied below:

Proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where they satisfy the following criteria:

i. The building(s) is/are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building.

ii. The use would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.

iii. The building can be served by adequate access and infrastructure.

iv. The site has reasonable access to local services.

v. The conversion or re-use of a heritage asset would lead to its viable long term safeguarding.

Where there is clear evidence that the above uses are not practical propositions, residential development may be appropriate where it meets the above criteria. In isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.

The Appellant's argument appears to rely on the policy advice of NPPF para. 84, relating to the types of exception housing that may be suitable in isolated rural areas. As above, CP48 states that, in isolated locations, reuse of rural buildings for residential purposes may be supported by national policy so reliance on the NPPF would be correct if the location were isolated. Both the Appellant and LPA appear to agree that the appeal site is not located in an isolated location. Therefore, for the conversion to be supported, the development must comply with the requirements of WCS policy CP48, being a policy of the adopted development plan that at the time of writing possesses full weight.

The case officer's Committee Report submitted with the Appeal Questionnaire sets out the main considerations relating the criteria i-v. In addition to the officer's assessment, members of the Planning Committee raised significant concerns over the loss of the commercial use of the building, mainly that it was not redundant or disused (and indeed appeared to be required to support the viability of the Boomerang Stables enterprise occupying it at the time of the PCM). It is a fact that the building was in use as part of the aforementioned equestrian enterprise at the time of the Planning Committee Meeting. At the meeting, a public speaker explained that the building was fully occupied, the menage in daily use (fully booked) and both were needed to maintain the viability of the existing business (Boomerang Stables) and to support owners of horses in the locality and wider NWD. The speaker also offered the opinion, that the loss of these faiclities would be detrimental to both the viability of the rural business, to the equestrian community within the NWD due to the loss of well-used equestrian facilities that are generally oversubscribed at other sites with waiting lists for stable spaces and use of specialist facilities.

Members considered the existing use was clear evidence that an employment use (the existing equestrian enterprise being considered a rural employment use) was a practical proposition. Further to this, members considered the loss of the building would be harmful to the rural economy, not only due to the loss of facilities able to be used by the existing business, but also due to knock on affects to wider rural businesses that provide support and services to the Boomerang Stables enterprise (such as feed suppliers, farriers, trainers, coaches etc.).

The Appellant considers the business first approach of CP48 to be inconsistent with the NPPF. However, when viewed as a whole the NPPF can be reasonably interpreted as being a document that supports rural businesses of all types (para.), seeks protection of the open countryside for a number of reasons including its economic benefits (para. 180) and only supports new housing in rural areas where it is responsive to local circumstances and reflects local needs (para.82). As such, the aims of CP48 are considered to be not only consistent with the NPPF (when taken as a whole) but crucially are to be given full weight in the decision making since the publication of the December 2023 NPPF.

In addition to the views of the Committee Members, it is of note that the NWD management plan recognises the importance of horse ownership and equestrian businesses to the NWD rural economy. The LPA therefore, requires evidence to demonstrate that the building was redundant. Evidence which the applicant cannot produce since the building was in a viable use. The statement that the existing building is redundant, as the landowner had effectively chosen to make it so by evicting the commercial tenants, is not considered to be reliable evidence to demonstrate that the building is not suitable for business reuse in line with the aims of WCS Core Policy 48. The LPA recognises that planning powers cannot prevent a private landowner from choosing who may, or may not occupy a building. However, the actions/intentions of the landowner (in this case) do not provide any evidence that the building is redundant and/or cannot be reused for the purposes sought by CP48.

Had the location been considered to be sustainable and other matters acceptable, officers would have been highly likely to have required clear evidence that the building was not viable for commercial or business reuse before considering whether a residential conversion could be supported. Such evidence may take the form of marketing information (to demonstrate the building had been advertised for sale/lease at a realistic market value for an acceptable period) and potentially the submission of a report by a rural business consultant, both being independently reviewed by the LPA before a conclusion on compliance with CP48 could be reached.

It is of note that the LPA are aware that the Boomerang Stables enterprise no longer occupies the Appeal site and have lost access to the facilities within it. The LPA is considering a planning application (ref: PL/2024/03206) for the construction of an outdoor menage and equine storage building on land under the control of the business (to the north of the appeal site). The LPA consider this provides evidence that the facilities provided within the appeal site are not redundant and could be reused for purposes in line with CP48 (since the only reasonable conclusion to draw from the current application to attempt to replace them, is because they were well-used facilities needed to support the existing business and equestrian community within the area).

The introduction of concerns over the structural integrity of the existing building at the Planning Committee meeting was not intended to introduce material to sway members of the committee to a particular decision. The applicant had erroneously stated within the application documentation that the building was supported by a steel frame steel frame and had not provided a structural survey to support the application to confirm this. That the building is supported by a concrete frame (not a steel frame) was information that was only discovered at a site visit by the case officer shortly before the committee meeting. The provision of a structural survey is generally a requirement for rural building conversion applications, to satisfy the requirement of part i. of CP48. Such a report was not requested as officers had considered the principle of the development was not supported by the development plan or other material considerations.

It was deemed pertinent to disclose the information (about the concrete frame) to the members of the committee. They were given the option to defer the decision to allow for the submission of a structural survey. However, it was stated that, in the event members of the committee did not consider the principle of the development to be acceptable, such a delay would be unnecessary as a report could not justify the development with regards to the issues surrounding the proposed residential use of the building and lack of reasonable access to services.

The appeals submitted as examples are not considered to reflect the local policies relevant to this decision so the LPA considers they cannot be relied upon a material considerations in the assessment of the Appeal.

The structural survey and drainage strategy submitted with the appeal have been reviewed and the conclusions reached are not disputed by the LPA. However, full details of the exact drainage systems to be installed are required to be agreed and implementation secured by condition if the appeal is allowed.

In conclusion, the Appellant is considered to remain in a position where they cannot provide evidence to demonstrate the proposal complies with the aims of WCS CP48, most notably criteria iv and that no clear evidence can be produced to demonstrate that an employment, tourism, cultural and/or community use is not a practical proposition and the LPA kindly asks that the Appeal id dismissed.

Should the Inspector be minded to allow the Appeal. A set of suggested (without prejudice) conditions are set out as follows:

1. **Standard Three Year Time Limit;**
2. **Approved Plans;**
   The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

   - INSERT ONCE AGREED

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

3. **Demolition and Construction Management Plan**
   The development hereby approved (including demolition) shall not commence until details of a Demolition and Construction Management Plan have first been submitted to and agreed in writing by the local planning authority. As a minimum, the written details shall include:
   - Pre-consultation, demolition and construction working method statements for protected/priority

species, such as nesting birds, bats and reptiles;
- 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;
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW);
- Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence;
- Dust and noise control measures for the demolition and construction phases of the development;
- Location(s) for the storage of demolition debris/materials and details for the reuse in the construction phase;
- Surface water management (to include pollution prevention measures) for the demolition and construction phases of the development.

The demolition and construction phases of the development shall proceed strictly in accordance with the approved details.

REASON: To ensure that construction of the development proceeds in a sustainable manner and that suitable pollution control measures are employed during the demolition and construction phases of the development in accordance with the aims of Core Policies 41, 50, 51 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

4. **Bat and Bird Boxes**
Prior to the commencement of any works, including vegetation removal and demolition,
details of the number, design and locations of bat roosts and nesting opportunities for birds shall be submitted to the local authority for approval. The approved details shall be implemented before occupation of the final works. This condition will be discharged once photographic evidence of installed features has been submitted to and approved by the local planning authority.

REASON: To provide mitigation/enhancement for biodiversity in accordance with the aims of Core Policy 50 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

5. **External materials and finishes;**
Notwithstanding the submitted details, construction of the development hereby approved shall not commence until a schedule of all external materials and finishes (to include hard-surfaced areas as well as all new buildings and those to be converted) have first been submitted to and approved in writing by the local planning authority.

As a minimum, the schedule shall include a description of the material, supplier/manufacturer name, details of the colour/application of external finishes (paint, wood stain etc.) and a photographic sample of the material/finish.

The development shall be completed and maintained in accordance with the approved details thereafter.

REASON: To preserve the character of the site and special characteristics of the North Wessex Downs National Landscape in accordance with the aims of Core Policies 51 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

6. **Site Planting Scheme (details and implementation);**
Notwithstanding the details of the submitted documents, no development shall commence until details of site planting scheme have been submitted to and approved in writing by the local planning authority, the details of which shall include (as a minimum):

a) a detailed plan identifying existing trees and hedges to be retained and/or removed;

b) a planting plan showing locations, species, supply/planting sizes and densities, and details of after-care;
c) confirmation of the biodiversity enhancement measures incorporated into the site planting scheme.

All so-approved planting shall be carried out no later than the first planting and seeding season following the first occupation of any part of the development or the substantial completion of the development whichever is the sooner.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

Any trees or plants (including existing trees and hedges to be retained) which, within a period of five years from first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development, to provide some biodiversity enhancement and to protect the privacy of future occupiers and neighbours of the development in accordance with the aims of Core Policies 50, 57 and 58 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

7. **Boundary enclosures;**
The dwellings hereby approved shall not be occupied or brought into use until boundary enclosures have been installed in accordance with details that shall first be submitted to and approved in writing by the local planning authority. As a minimum, the details shall include locations, heights and materials/external finishes of all existing boundary enclosures to be retained or replaced and all new boundary enclosures to be constructed/installed. The development shall be completed and maintained in accordance with the approved details thereafter.

REASON: To ensure that future occupiers benefit from sufficient levels of privacy and the development does not cause harm to the special landscape character of the North Wessex Downs National Landscape in accordance with the aims of Core Policies, 51 and 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

8. **Surface water drainage;**
The development hereby approved shall not be occupied or brought into use until all impermeable surfaces (the roof of the building, new hard-surfaced areas) have been connected into a system for the disposal of surface water in accordance with details that shall first be submitted to and approved in writing by the local planning authority. As a minimum, the written details shall confirm how the scheme has been designed in accordance with Sustainable Drainage Systems (SuDS) principles ro prevent increased risk of flooding on and off site and shall provide design specifications for the proposed construction and maintenance of the system. Thereafter, the development shall be maintained in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority to ensure the development can be adequately drained using SuDS without increasing flood risk on or off-site in accordance with the aims of Core Policies 50 and 67 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

9. **Foul drainage;**
The development hereby approved shall not be occupied or brought into use until it has been connected to a foul drainage system in accordance with details that shall first be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be maintained in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority to ensure the development can be adequately drained without causing pollution in accordance with the aims of Core Policies 50 and 67 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

10. **Implementation of site accesses, parking and turning areas (prior to occupation);**
The dwellings hereby approved shall not be occupied or brought into use until the vehicular accesses, car/cycle parking and turning areas have been constructed/laid out in full in the locations shown on approved plan no. 2076-031 Rev.A. Thereafter, the development shall be maintained in accordance with the approved details.

REASON: To ensure that sufficient off-road areas for parking and turning of vehicles and safe access to the public highway are provided in accordance with the aims of Core Policies 57 and 64 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

11. **External lighting;**
Notwithstanding the details of the submitted documents, no external lighting shall be installed, or existing external lighting replaced within the site of the development hereby approved unless full details of the new/replacement lighting design, measures to prevent light spill and to protect biodiversity have been submitted to and approved in writing by the local planning authority.

Thereafter, the development shall be maintained in accordance with the approved details.

REASON: To preserve the landscape character of the North Wessex Downs National Landscape and biodiversity value of the surrounding area in accordance with the aims of Core Policies 50, 51 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

12. **Use of stables for domestic keeping of horses ancillary to the main dwelling;**
The use of the stables and associated yard hereby permitted shall only be for the keeping of horses ancillary to the associated dwelling and at no time shall the land be subdivided from the residential plot and/or used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

REASON: In the interests of highway safety and to protect the living conditions of nearby residents in accordance with the aims of Core Policies 18, 57, 60, 61 and 64 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

13. **Manure Management;**
The stables and associated yard hereby permitted shall be operated in accordance with the details of a Manure Management Strategy that shall first be submitted to and approved in writing by the local planning authority.

REASON: To protect the living conditions of nearby residents and to prevent pollution in accordance with the aims of Core Policies 14 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

14. **Removal of PD rights for householder developments Classes A-E;**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re- enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouse(s) hereby permitted or within their curtilage.

REASON: In the interests of the amenity and landscape character of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements in accordance with the aims of Core Policies, 51 and 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

APPENDIX 1 – Extract from the Minutes of the Planning Committee Meeting of 6th October 2023.

PL/2023/05818: Boomerang Stables, Crooked Soley, Chilton Foliat, RG17 0TL

Public Participation
- Ms Victoria Hellyer spoke in opposition to the application.
- Mr Steven Abbott (Steven Abbott Associates LLP) spoke on behalf of the Applicant, in support of the application.

The Planning Officer, David Millinship, introduced a report which recommended that the application for the re-use a former equestrian barn to create two dwellings, driveways, landscaping and related infrastructure be refused. He explained that the proposals included plans to erect a stable block within one of the gardens comprising 10 stables, a tack room, store and hay room; to erect a barn and garage within the same curtilage and to erect a garage within the other curtilage, a resubmission of PL/2022/08607. Key details were stated to include the principle of development, landscape, visual, highway, ecological and environmental impacts as well as the impact on neighbouring amenity.

It was noted that the site was of distinctively rural character within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). There were nearby footpaths to the public highway network, but vehicular access was via single tracked roads.
Attention was drawn to late representations on behalf of the Applicant and from Wiltshire Council's Drainage Consultant, included in Agenda Supplement 1. The Planning Officer confirmed that neither of these representations changed their recommendation.

The Planning Officer highlighted the statement in his report that it was reasonable to expect that the former equestrian barn would be capable of conversion into two residential units. However, he clarified that this conclusion was based on the incorrect assumption that it was steel, rather than concrete, framed. He explained that concrete framed structures were often more challenging to convert than steel framed ones. As a result, he felt that there was insufficient evidence, without the submission of a structural report, to say that it would be capable of conversion. He noted therefore that structural integrity was another possible reason for refusing the application.

Members of the Committee then had the opportunity to ask technical questions of the Planning Officer.

Details were sought about whether the Applicant would apply for another commercial stable to meet business needs if the application to convert the former equestrian barn was approved. It was confirmed that the application site abutted a larger enterprise known as Boomerang Stables and that stables, still in operation as part of that commercial enterprise, were leased to a tenant.

In response to a query about the current use of the site, the Planning Officer noted that it was classed as sui generis, so for equestrian business and leisure use. If permission were to be granted it would become residential (C3) use.

Queries were asked about whether, if the application were to be approved, it would ever be possible to use the proposed 10 domestic stables on a commercial basis. The Planning Officer explained that they would need to apply for change of use for the block to be used commercially. However, he noted there would be a need for a planning condition to limit the use of the stables to domestic use only should Members find the principle of the development to be acceptable. It was confirmed that it was not intended for the scheme to house workers for the nearby equestrian facility, the dwellings would be open-market properties.

Further details were sought about the challenges having a concrete frame would present when converting the former equestrian barn. The Planning Officer clarified that it was explicitly stated in the Wiltshire Core Strategy, in relation to the conversion and re-use of rural buildings, that the building must be structurally sound and capable of conversion without major rebuilding. He reiterated that a structural survey would be required to ascertain this.

In reply to a further query about whether, were the application to be approved, it would be possible to condition that a full structural survey was undertaken advance of any building works, the Planning Officer acknowledged that this would be theoretically possible. However, he cautioned that he would have requested a structural survey before coming to Committee if he had been minded to recommend approval, which was not the case in this matter. The Development Management Team Leader, Karen Guest, reiterated that they would want the structural survey to be completed in advance of Committee to establish whether the scheme was compliant with Core Policy 48.

Members of the public then had the opportunity to present their views to Committee as detailed above. The Agent, Mr Stevens, speaking on behalf of the Applicant, stated as part of his speech that his client should be given the opportunity to submit a structural survey given that an incorrect assumption about the construction had been made.

Neither the local Parish Council nor Unitary Division Member were in attendance.
So the Committee had something to debate, the Chairman, seconded by Cllr Stuart Wheeler, proposed that the application be refused for the reasons outlined in the report. He clarified that the requirement for a structural survey to establish the suitability of the equestrian barn for conversion was not part of the reasons proposed in his motion.

A debate followed where issues such as the structural considerations, the planning history on the site, location, highway safety and demand for executive style dwellings were discussed.

Some Members expressed concern about the loss of a rural business and lack of conclusive evidence that the building was redundant or disused. They noted that there was evidence of demand for equestrian facilities in the area. In response to a question about the criteria that would need to be applied when assessing whether a site was redundant, the Development Management Team Leader stated that there would need to be evidence that the building had been out of use for a period of time and that a commercial site was no longer viable.

The Chairman proposed an amendment to his original motion to include an additional reason for refusal, that there was not sufficient evidence to demonstrate that the site was commercially redundant. He noted that the equestrian barn was in use for its intended purpose and emphasised that it was important to protect commercial and employment facilities in rural areas. The amendment was accepted as a friendly amendment by the seconder of the original motion, Cllr Wheeler.
The Development Management Team Leader advised that the amendment be incorporated into the wording of existing reasons for refusal rather than being listed as a third separate reason. She

noted that Core Policy 48 stated that preference would be given to retaining the existing use of buildings for the protection of rural services and community facilities.

It was then:
Resolved

That the application be REFUSED for the following reasons:

1 – The proposed development would result in the creation of two large open-market five-bedroom dwellings, that are not considered to meet the circumstances of rural exception housing, would not meet any identified local need and would be located in an area that cannot provide reasonable access to essential services and facilities. The existing building is not redundant or disused and no clear evidence has been submitted to demonstrate that reuse for employment, tourism, cultural or community uses are not practical propositions. The proposal conflicts with the development strategy for the area as set out within Core Policies 1, 2, 14 and 48 of the adopted Wiltshire Core Strategy. It would also fail to accord with the planning policy advice of paragraphs 79 and 80 of the National Planning Policy Framework, which seek to locate rural housing where it would respond to local circumstances and reflect local needs unless exception policies apply.

2 – The application site is in a location that cannot provide reasonable access to services and facilities, where the occupants of the development would have few options for sustainable transport alternatives and would be heavily reliant on the use of private motor vehicle transport contrary to Core Policies 60 and 61 of the adopted Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

Informatives:
The application has been considered in line with paragraph 38 of the NPPF that:

Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

The application is not considered to provide any improvements to the economic, social or environmental conditions of the area. The Applicant has been kept up-to-date with the assessment and has been given opportunities to provide additional information and responses to the Case Officer's correspondence.

I trust this information is of assistance to you.

Yours sincerely,

D J Millinship

David Millinship
Planning Officer
Tel. 01225 770220

Wiltshire Council

Appendix 1 – Draft Condition Schedule

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   REASON: to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   - Site Location Plan (Land Registry reference no. WT216937);
   - Proposed Site (Block) Plan – SW0041-PP-B-02 Rev.A;
   - Ventilation Plan – drawing no. 1758 Rev.B (LeighTec);

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

3. Notwithstanding the submitted details, no boundary enclosures shall be erected/installed within the site unless details of the locations, heights and materials (to include any external finishes) have first been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be maintained in accordance with the approved details.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting the special character of the conservation area in accordance with the aims of Core Policies 57 and 58 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

4. All extraction equipment shall be so sited, designed and maintained so that the sound level does not exceed 5dB below the existing background level as measured and assessed in accordance with BS4142:2014+A1:2019. Background levels are to be taken as 15 minute LA90 at the boundary of the nearest residential noise-sensitive receptors.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

5. A post installation assessment of the acoustic impact arising from the extraction equipment shall be submitted to the Local Planning Authority and approved in writing. As a minimum the acoustic impact assessment shall demonstrate that the rated level of noise is at least 5dB below the existing background level and is protective of local amenity. Any attenuation measures required to achieve compliance shall be carried out prior to the first use of the extraction equipment and thereafter be maintained in accordance with the approved details.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

ALTERNATIVE CONDITION 5 WORDING SHOULD THE EXTRACTION SYSTEM HAVE BEEN INSTALLED

5. Within three months of the date of this decision, an assessment of the acoustic impact arising from the extraction equipment shall be submitted to the Local Planning Authority to demonstrate that the rated level of noise is at least 5dB below the existing background level and is protective of local amenity. Any attenuation measures required to achieve compliance shall be carried out prior to the

submission of the acoustic impact assessment and use of the extraction equipment and thereafter be permanently retained.

REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

6. The pub garden use hereby permitted, shall not take place between the hours of 22:00hrs and 08:00hrs (the following day). During the aforementioned hours the pub garden shall be vacated and closed to the public.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

7. No sound reproduction or amplification equipment (including public address systems and loudspeakers) which is audible at any of the site boundaries shall be installed or operated in the pub garden hereby approved without the prior written approval of the Local Planning Authority.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

8. The extraction equipment shall be installed to suppress and disperse any fumes and/or smell created from the cooking operations on the premises and in accordance with the EMAQ technical guidance for the “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” DEFRA 05.09.2019 Grease and odour control measures shall thereafter be maintained in accordance with the guidance.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting neighbouring residential amenities in accordance with the aims of Core Policy 57 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

9. No external lighting is permitted to be installed onto the development hereby approved unless full details have first been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be maintained in accordance with the approved details.

   REASON: To ensure the development is completed to a satisfactory design in the interests of protecting the special character of the conservation area and neighbouring residential amenities in accordance with the aims of Core Policies 57 and 58 of the Wilshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

INFORMATIVES

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

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

The applicant is requested to note that this permission does not extend to the display of advertisements within the site. Advertisement consent must be sought for the display of the display of the signage shown on the submitted plans. Failure to do so may result in enforcement action being taken by the local planning authority.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.