TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

WRITTEN STATEMENT OF THE LOCAL PLANNING AUTHORITY

Appeal by Mr P Jenkins, Auto Services, against the decision of Wiltshire Council to refuse the granting of Planning Permission for the demolition of existing industrial building & erection of three town houses - (Re-Application of 14/02782/FUL) at Auto Services, Carsons Yard, East Street, Warminster, BA12 9NA.

PINS Reference: APP/Y3940/W/25/3364462

LPA Reference: PL/2023/02892

1.0 INTRODUCTION

1.1 This statement has been prepared by Wiltshire Council to justify the refusal of planning permission for the demolition of existing industrial building & erection of three town houses - (Re-Application of 14/02782/FUL) as located at the Auto Services, Carsons Yard, East Street, Warminster, BA12 9NA. The Delegated Report which accompanies the decision to refuse planning permission dated 29 October 2024, forms part of the Council's Statement of Case. The delegated report is attached within Appendix A to this Statement. The Decision Notice and reasons for refusal have already been sent to the Planning Inspectorate. However, for completeness sake, the reason for refusal is:

1. The site is situated within the Hampshire River Avon catchment area that is a protected European site. This proposal comprises new housing development that would result in a net increase in foul water entering the river catchment via the wastewater treatment works and an increased level of phosphorus entering the River Avon SAC. The application does not include any substantive form of mitigation to neutralise the impacts of the development, and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European site as a result of the development. The proposal therefore conflicts with Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 180, 185, 186, 187 and 188 of the National Planning Policy Framework.

2.0 Appeal Site Location.

2.1 See report in Appendix A.

3.0 Proposal

3.1 See report in Appendix A.

4.0 Relevant Policies

4.1 See report in Appendix A.

4.2 Please note that the NPPF was revised following the original decision. Paragraphs 180, 185, 186, 187 and 188 cited in the reason for refusal are now paragraphs 187, 192, 193, 194 and 195 in the December 2024 NPPF currently in place.

5.0 Relevant Planning History.

5.1 See report in Appendix A.

6.0 Council's Response to the Appellant's Statement of Case.

6.1 The planning application was fully assessed against Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The planning application was thereby fully appraised and refused on the application's own individual

planning merits, in accordance with relevant and up-to-date guidance, policy and legislation at the time of decision.

6.2 The LPA's case is contained within the case officer's delegated report (see Appendix A) and will not be repeated here. This statement will deal with the points raised in the appellant's Statement of Case that are not already covered in the delegated report.

6.3 The appellant raises the issue that the application took a long time to be determined – approximately one year. The delaying issue in question is the protection of the Hampshire River Avon Special Area of Conservation (SAC) and the applicant was kept informed of the progress on this issue. At the time of the application's submission this was a complicated and evolving issue. However, during the life of the application Natural England and the Council agreed to an off-site mitigation scheme, including a Council-run credit scheme and additionally mitigation can be achieved through 3rd-party credits if approved through Natural England, which would allow sites such as this being viable for new residential development.

6.4 The application was granted extensions of time by the appellant. These extensions of time were agreed in the hope that the situation would be resolved by the appellant submitting nutrient budgets and a mitigation strategy in line with the above Natural England and Council agreement. However, no such information was forthcoming. Consequently, the application was refused on that sole issue – a technical matter without a mitigation solution being proposed, due to a lack of information from the appellant.

6.5 The appellant questions why the Council validated the application despite a standing objection from Natural England for this type of development. The Council cannot refuse to accept a valid planning application even if the proposed scheme is contrary to local or national planning policy or otherwise objectionable based on a material planning consideration. During the life of the application, the Council agreed a way forward with Natural England through the use of off-site mitigation credits. This was communicated to the appellant, however, the appellant did not take up this opportunity to apply for the off-site mitigation credits which would have overcome the only reason for refusal and avoided the need for this appeal, and no information was submitted despite requests from the Council. Indeed the appellant's Statement of Case does not acknowledge that an off-site mitigation strategy even exists, despite being informed at the time and the information requested. The case officer's delegated report explains as follows:

This development falls within the catchment of the River Avon special area of conservation (SAC) and has the potential to cause significant adverse effects alone or in combination with other developments through the discharge of phosphorus in wastewater.

The Council has recently (through direct engagement with Natural England) revised its approach for development requiring nutrient credits for the protected Avon River catchment. A Council-led scheme of phosphorus credits is available for planned development at a fixed cost per kilogram of phosphorus, provided supply of mitigation is available. However, in some areas of the catchment (such as the Warminster community area), credits are very limited.

The Council-led scheme is one option that applicants can potentially use to achieve phosphorus neutrality. It forms part of the solution to achieving phosphorus neutral development in the catchment. Other options do exist such as securing mitigation through private providers, as well as the delivery of bespoke solutions on-site, where possible, can also be progressed by developers.

Despite repeated requests made by the case officer to the applicant's agent to progress this matter, no solution has been forthcoming. The application does not include detailed proposals to mitigate the impact of the increased nutrient pollution to the protected river and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development.

The proposal therefore conflicts with CP50 and CP69 of the WCS and relevant paragraphs in the NPPF. Paragraph 188 of the NPPF is clear 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".*

[Note: the quotation from NPPF paragraph 188 above is preserved in paragraph 195 of the NPPF as revised in December 2024].

6.6 The appellant states that this is the last remaining industrial unit in the immediate area where all others have been replaced with housing. The officer's delegated report makes it clear that there is no objection in principle to the replacement of the industrial unit with residential properties. However, the protection of the River Avon SAC, where there is no proposed acceptable mitigation strategy, is a valid material planning consideration and justly became a reason for refusal due to there being no mitigation strategy put forward by the appellant.

6.7 The appellant raises the issue that the site is 98% covered by roof or concrete, and that the proposed rear gardens would be of insufficient space to accommodate a mitigation system. However, the lack of on-site space does not obviate the need to protect the River Avon SAC and comply with the local plan policies (CP50 and CP69 – the wording can be found in Appendix C). The off-site mitigation solution was available to the appellant, who chose not to engage with that process.

6.8 The appellant has not provided any information to appropriately inform a proposed mitigation scheme as part of this appeal, and therefore the original problem remains unaddressed. Without a bespoke mitigation strategy for the site, we cannot do the required Appropriate Assessment to fulfil the Habitat Regulations for an HRA. Therefore we cannot condition this

issue because we are not able to condition for surveys related to SACs as this would be in contravention of the Habitat Regulations, under which the AA/HRA needs to be completed prior to decision. The reason for refusal remains valid as the proposed 3No. houses would result in a net increase in foul water entering the river catchment via the wastewater treatment works and an increased level of phosphorus entering the River Avon SAC.

6.9 The lack of on-site space to accommodate a bespoke treatment plant for the additional housing is not a barrier to development, as the off-site mitigation scheme can be entered into. As above, the appellant has not done so.

6.10 In terms of how the Council has dealt with this issue in a wider sense, the original application, and its refusal on 29th October 2024, was not alone nor was it treated differently to other similar applications during that time period.

6.11 As an example, application ref. PL/2023/10079 was for the *Conversion of existing garage building to 4 No. two bedroom dwelling houses* in a location also within the centre of Warminster. That was refused for the same reason – harm to the River Avon SAC – but prior to the off-site mitigation agreement between Natural England and the Council, as there was no room for an on-site bespoke treatment plant on that site either. Following the off-site mitigation scheme being agreed with Natural England, the applicants for that scheme then resubmitted the same application with proposed off-site mitigation, and that scheme was approved on 7th April 2025.

6.12 This is the process that the current appellants could follow. Their application could be resubmitted including detailed information regarding the nutrient budget for the proposed houses, and the proposed mitigation strategy to cope with that level of additional nutrients being created. Such information could be used to complete an AA/HRA which, in conjunction with an appropriate condition, would ensure that no harm is caused to the River Avon SAC.

7.0 Conclusion

7.1 The appealed development still has not addressed the need to mitigate the harm to the River Avon SAC. Therefore, there is no mechanism to ensure that the mitigation required would be achievable. A condition alone, without a prior calculated nutrient budget and mitigation strategy, would not suffice as all parties need to be aware of the level of mitigation needed, and consequently consider whether it is achievable by undertaking an AA/HRA, which must be done prior to a decision.

7.2 The Inspector is therefore respectfully invited to dismiss this appeal because the proposed development is not acceptable in national and local planning policy terms and would result in harm to the River Avon SAC.

7.3 Without prejudice to the outcome of the case, if the Inspector is minded to allow the appeal and to grant planning permission, the Council would suggest that due regard is given to the suggested conditions as detailed within Appendix B.

Appendices

List of documents relating to the planning application, the subject of the current appeal:

Appendix A Planning Officer's delegated report.

Appendix B Suggested planning conditions if the Planning Inspector is minded to allow the appeal.

Appendix C Wiltshire Council's adopted policies, relevant NPPF paragraphs.

Appendix A

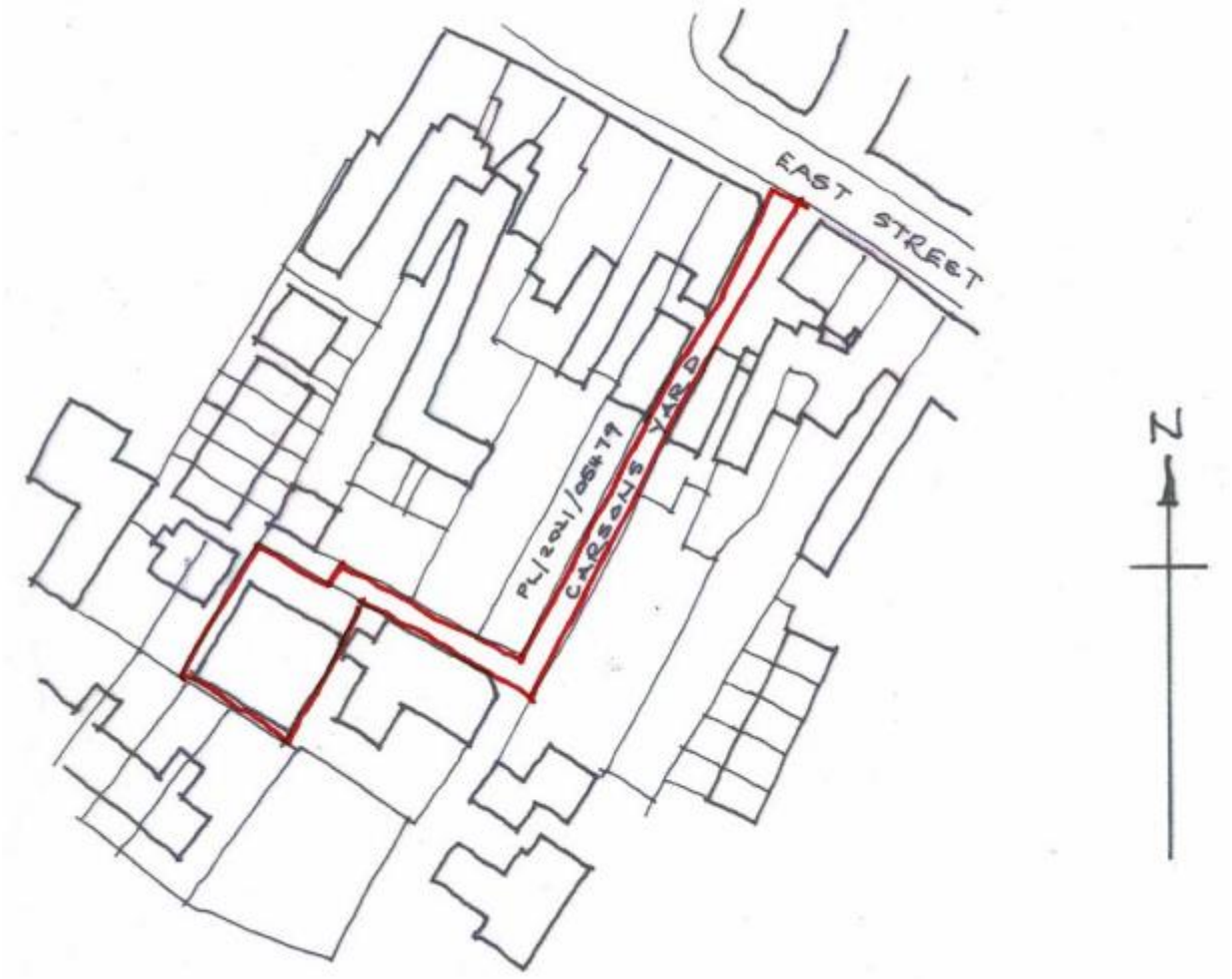
CASE OFFICER'S REPORT

Application Reference: PL/2023/02892
Application Type: Full planning permission
Consultation Ends: 26/09/2024
Case Officer: Jonathan Maidman

Site Address: Auto Services, Carsons Yard, East Street, Warminster, BA12 9NA
Proposal: Demolition of existing industrial building & erection of three town houses - (Re-Application of 14/02782/FUL)
Recommendation: Refuse

SITE DESCRIPTION AND PROPOSAL

The application site is located within Carsons Yard, East Street in Warminster. The following submitted plan and aerial view from Google (with red circle added by the case officer) show the site:





The application site is occupied by a simple concrete block building with timber roof trusses, steel clad gables and roof covering and area of hardstanding. It has long been used for vehicle servicing and repairs and the following shows the existing premises:



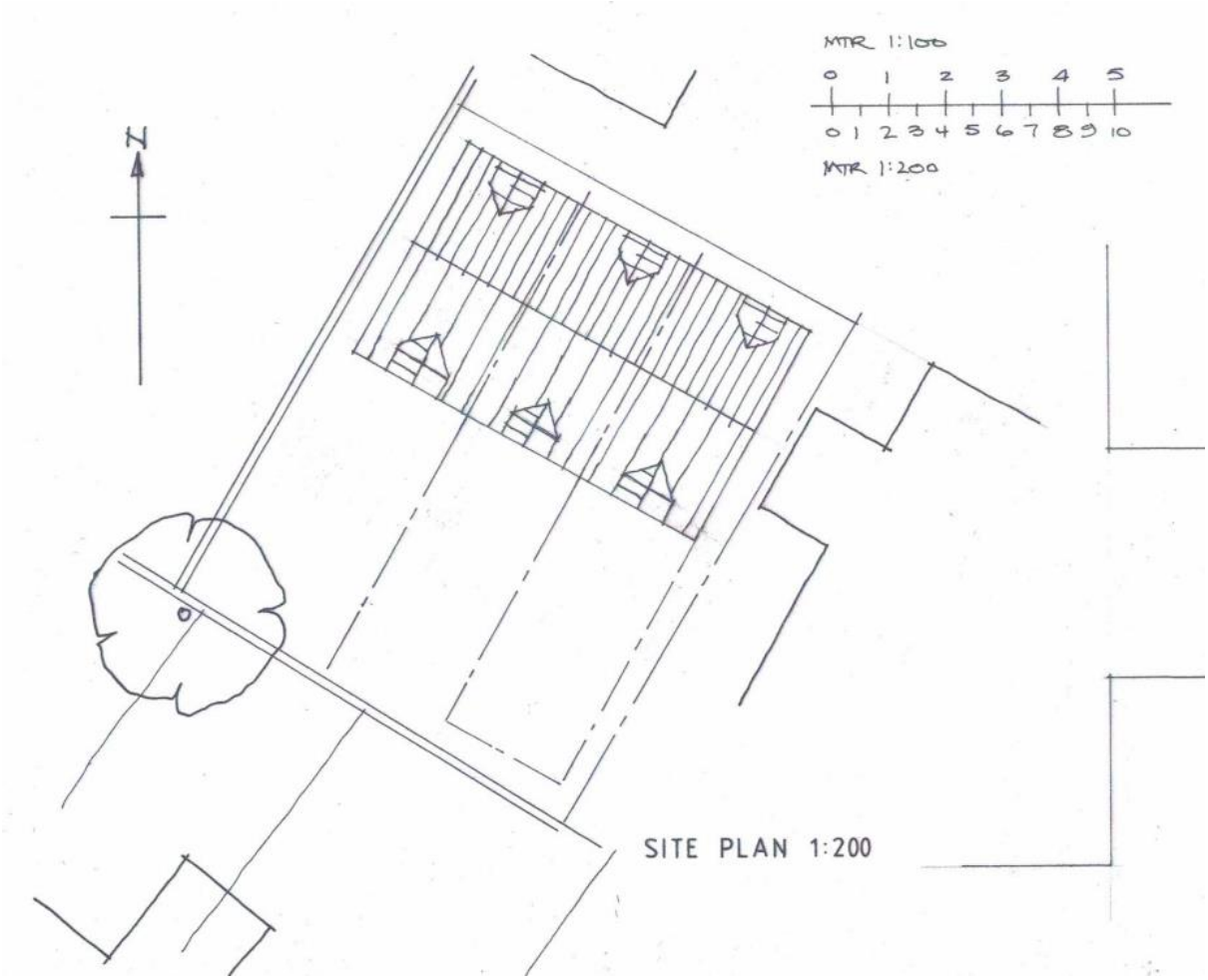
The building once formed one of a number of small businesses located in surrounding buildings however the character of the area has significantly changed in the last 15 years. Some sites have been redeveloped and buildings have changed use in a piecemeal fashion over the years to residential.

The building subject of the current application is the single remaining industrial building within

Carsons Yard.

The applicant's agent advises that the existing building is an old, outdated workshop which is clearly not built to modern standards. If it remains it will soon require extensive refurbishment of the timber roof structure and general upgrading with insulation required to the walls and roof covering.

This planning application seeks to demolish the existing industrial building and redevelop the site with three, 2-bed townhouses. Each dwelling would be two-storey, positioned close to the frontage of the site. Each property would have a small rear garden and no parking provision. The following proposed plan shows how the site would be laid out:



It should be noted that planning permission for the redevelopment of the site with three, 2-bed townhouses was approved in May 2014 (Ref: 14/02782/FUL) however no commencement was ever made on this permission. The plans for this permission are essentially the same as those now under consideration in this current application.

POLICIES

National Planning Policy Framework (NPPF)

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport

11. Making effective use of land
12. Achieving well-designed and beautiful places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Wiltshire Core Strategy (WCS)

Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 3: Infrastructure Requirements
Core Policy 31: Spatial Strategy for the Warminster Community Area
Core Policy 35: Existing Employment Sites
Core Policy 41: Sustainable Construction and Low Carbon Energy
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 50: Biodiversity and Geodiversity
Core Policy 56: Contaminated Land
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment
Core Policy 60: Sustainable Transport
Core Policy 61: Transport and New Development
Core Policy 62: Development Impacts on the Transport Network
Core Policy 64: Demand Management
Core Policy 67: Flood Risk
Core Policy 69: Protection of the River Avon SAC

West Wiltshire District Plan (WWDP) 1st Alteration 2004 (Saved Policies)

U1a: Foul Water Disposal

Other

The Planning (Listed Building and Conservation Areas) Act 1990

The Wiltshire Design Guide Supplementary Planning Document ('the WDG SPD') - adopted March 2024

Wiltshire Local Transport Plan 2011-2026

Warminster Neighbourhood Plan (made November 2016)

RELEVENT PLANNING HISTORY

13/03298/FUL: Demolition of existing building; erection of 4 No. two bedroom town houses - **Refused** in November 2013 for the following reasons:

1. *The applicant has not submitted evidence to justify the loss of the existing employment floorspace represented by this development in accordance the requirements of policy E5 in the West Wiltshire District Plan 1st Alteration 2004.*

2. *The proposed development, because of the siting, layout, design, land levels and consequent poor relationship to the property and existing buildings to the south east represents a cramped*

form of development and would be harmful to the amenity of future occupants, contrary to policies H1, C31a and C38 of the West Wiltshire District Plan 1st Alteration (2004).

14/02782/FUL: Demolition of existing metal building and construction of three two bedroom town houses (Resubmission of 13/03298/FUL) - **Approved** in May 2014 subject to conditions but never commenced and the time in which the development could be started has long since expired.

CONSULTATIONS AND REPRESENTATIONS

Warminster Town Council: *"At the meeting of their Planning Advisory Committee on 20 November 2023, it was resolved that Warminster Town Council had **no objection** to the planning application".*

WC Conservation Officer: *"…this site is just outside the CA boundary which I assume has been drawn to deliberately exclude this building, which is clearly of little aesthetic merit and no historic interest. I note also that there are no comments from the conservation officer in respect of the 2014 application, and no reference to the setting of the CA in the previous officer report. The existing building detracts from the CA, the proposed 3 units could make a neutral/positive contribution to the setting providing suitable materials are used".*

WC Drainage: ***"Object"*** -

"The drainage team in their capacity as Lead Local Flood Authority have the below objections to the application; these must be overcome before a drainage objection can be removed:

1. No drainage strategy has been submitted, therefore the LLFA cannot comment on any proposals at this stage.

Any proposals should be designed in accordance with the Non-statutory Technical Standards for Sustainable Drainage Systems, the latest SuDS Manual (C753), Wiltshire Council's Soakaway Guidance and Betterment Policy.

The surface water drainage strategy should include/demonstrate the following:

- *Existing brownfield runoff rates for the site.*
- *Greenfield runoff rates for the site*
- *Post development runoff rates in accordance with Wiltshire Council's betterment policy, as outlined below.*

"With regards the control of surface water discharges from brownfield sites, Wiltshire Council requires post development discharges to be as close as reasonably practicable to greenfield runoff for both peak flow and volume."

- *A detailed plan showing the existing drainage features on the site and how the proposed drainage strategy will be implemented.*
- *A detailed topographical survey that clearly identifies the existing drainage features on the site as well as level contours to show overland flow routes.*
- *If infiltration is proposed, soakage tests in accordance with BRE 365 to demonstrate that infiltration is feasible.*
- *Calculations to demonstrate the attenuation requirements for the 1 in 100 year plus climate change event to support the proposed strategy.*
- *Consent for any outfalls from the proposed drainage systems into a public sewer or other drainage system not owned by the applicant.*

- *Evidence that the impact upon existing drainage systems is mitigated by discharging the flow throughout the management train rather than relying upon a single point of discharge.*
- *SuDS source control measures to manage water quantity and maintain water quality have been implemented wherever possible and throughout the management train so the development is not reliant upon large attenuation features close to the points of discharge.*
- *SuDS have been selected to provide a wide range of benefits including amenity, biodiversity and maintaining water quality.*
- *Adequate measures during construction to control pollution to existing watercourses and groundwater.*
- *The strategy mimics the existing drainage characteristics of the site by retaining and utilising any existing drainage features.*
- *Existing flood flow routes through the site have been maintained or where they will be affected, adequate measures to intercept and safely control flows through the site have been provided to ensure flood risk is not increased elsewhere.*
- *If infiltration is proposed, it is implemented in manner that does not create an offsite impact, particularly if there are reports of groundwater flooding in the area.*
- *Surface water can be safely managed within the proposed development, up to and including a 1 in 100 year plus climate change event.*
- *All proposed drainage features are outside flood zones 2 and 3 and where they are adjacent to an ordinary watercourse, they are not located within the EA surface water flood maps. Where drainage features are located adjacent to flood zones 2 and 3, they must be above the 1 in 100 year plus climate change flood level. This information can be provided by the EA.*
- *Exceedance routes that minimise the risks to people and property.*

Conditions:

Following the removal of the drainage objection, the drainage team have the following conditions which need to be addressed by the applicant:

1. *No development shall commence on site until clear arrangements are in place for ownership and ongoing maintenance of SuDS over the lifetime of the development.*

REASON: To ensure that the SW drainage performs as designed and to avoid flooding due to lack of maintenance.

2. *No development shall commence on site until a construction management plan, which shall include monitoring of, and measures to retain, the existing vegetation across the site, together with details of drainage arrangements during the construction phase, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.*

REASON: There's a statutory duty to ensure that surface water quality and quantity is managed throughout construction and as not to increase flood risk, or pollution of watercourses".

WC Ecology: *"**Objects**" -*

"River Avon SAC (Hampshire Avon Catchment) Habitat Regulations Assessment
This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. Appropriate Assessment 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.

The development should seek to achieve nutrient neutrality via a bespoke mitigation scheme.

A positive conclusion to the Habitats Regulations Assessment must be achieved and requires certainty that the development proposals will not have an adverse effect on the integrity of the European site. Currently the application does not demonstrate how the impacts of these increases in phosphorus will be mitigated. The following information is required:

- *A completed phosphorus nutrient budget must be submitted using the latest excel unlocked spreadsheet. Information on calculating the phosphorus budget can be found here: https://www.wiltshire.gov.uk/planning-bio-phosphorous-nitrogen-mitigation*

- *Nutrient mitigation strategy confirming how measures have been adopted to avoid and mitigate phosphorus burdens.*

- *Evidence demonstrating that the strategy and development proposals submitted for planning have been reviewed by Natural England and found to be compliant with the Habitats Regulations in the first instance. We advise that developers contact Natural England through their charged advice service: https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals*

- *Drawings clearly showing the location of mitigation.*

- *A SuDS schedule that sets out the different treatment drains and long-term management to achieve best practice phosphorus removal must be submitted. Wiltshire Council commissioned CIRIA guidelines for sustainable urban drainage systems (SuDS) designed to minimise the amount of phosphorus that arises from urban run-off have now been published.*

- *Please note that adopting the SuDS schedule is in line with Core Policy 69 of the Wiltshire Core Strategy, Protection of the River Avon SAC. This policy states that 'development will need to incorporate measures during construction and operation to avoid and prevent pollution' and that 'development will be required to undertake proportionate measures to demonstrate that the proposals would have no adverse effects upon the SAC'.*

- *The Council, as the competent authority needs to have certainty that the development proposals will not have an adverse effect on the integrity of the European site. Currently the application does not include detailed proposals to mitigate the impacts of these increases in phosphorus and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European site as a result of the development.*

- *The applicant should be directed to the Guidance Note for Completing Agreements Under S.111 of the Local Government Act 1972.*

Salisbury Plain Special Protection Area (SPA) Habitat Regulations Assessment
This application lies within the 6.4km zone of influence of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into Appropriate Assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects.

A strategic Appropriate Assessment (AA) has been prepared pertaining to development within the 6.4km zone of influence that could result in a likely significant effect on the SPA as a result of an

increase in recreational / visitor pressure. The AA reached a conclusion of no adverse effects on the integrity of the SPA or its qualifying features provided that the council's mitigation strategy continues to be implemented. Annual stone curlew monitoring and protection measures continue to be secured by the Council.

In July 2024 Natural England (NE) confirmed that the 2024 strategic AA for Salisbury Plain SPA continues to be supported by NE".

WC Highways: *"**No comment**".*

WC Public Protection: ***"No objection subject to conditions"*** -

We note the conclusions of the desk study submitted in respect of land contamination and support the recommendations therein. We would like to see the following condition applied should you be minded to give planning permission; it is understood that Step (i) has already been complied with.

1. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

Reason: Core policy 56, To reduce the risks associated with land contamination

I also recommend the following conditions are included:

CONSTRUCTION PHASE

2. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of

amenity are achievable

3. No burning of waste shall take place on site at any time.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable".

Neighbours: **Four comments received** from properties near to the application site **raising the follow concerns**:

- No parking provision and thus creating on-road parking pressures elsewhere in the vicinity
- Insufficient access
- Loss of privacy/overlooking
- Drainage
- Disruption during works
- Potential damage to neighbouring sites
- Insufficient infrastructure in Warminster to accommodate new housing

PLANNING ISSUES

- Principle of development
- Impact on the character and appearance of the area
- Impact on the setting of heritage assets
- Highway issues
- Neighbour amenity
- Drainage
- Land contamination
- Ecology

Principle of development

As already indicated, planning permission for the redevelopment of the site with three townhouses was previously approved in May 2014 (Ref: 14/02782/FUL). However, no commencement was ever made on implementing this consent, and the time in which a start could be made lapsed some years ago. This permission does however obviously form part of the planning history, and its existence is a material consideration.

There has been no material change in the application site in the intervening years (apart from the existing building continuing to deteriorate) however several surrounding sites have seen considerable change. The immediate area is now characterised by residential properties and the application site is somewhat of an anomaly, essentially now surrounded by dwellings. The site is not within a principal employment area as defined in the WCS but is within the defined settlement boundary for the market town of Warminster.

It is also important to note that when the decision on the previous application was made, it was issued before the adoption of the current WCS which was adopted in January 2015. Notwithstanding this, the policies in the WCS were considered in the determination of 14/02782/FUL as it had progressed significantly towards adoption, and they are referred to in the case officer's report and were given weight.

A previous application (ref: 13/03298/FUL) for a similar redevelopment (albeit for four townhouses)

was refused in November 2013 in part due to the lack of sufficient evidence being submitted to justify the loss of the existing employment floorspace.

Planning application 14/02782/FUL was accompanied by a detailed report (dated November 2013) undertaken by a local property agent based in Warminster. The report assessed in detail the potential for re-using/re-letting the premises for commercial use and the impact of the potential loss of the existing employment site. The building itself has a GIA of 196m² and the report highlighted that the existing building was badly in need of updating and repair and fell far below modern standards. Furthermore, it highlighted that it had very poor/limited welfare and staff facilities, narrow and inconvenient access from East Street and limited parking provision. All of these factors and the significant investment required to bring the building up to modern standards (which would likely necessitate demolishing the existing and replacing it or as a minimum completely replacing the roof structure and adding insulation to walls) with potential limited returns meant that there was no realistic likelihood that this would occur. In the case officer's report for 14/02782/FUL, the following comments were made:

"The previous application provided no justification for the loss of the employment land that would result from re-development. The applicant has now submitted a written evaluation by Messrs Cooper and Tanner (November 2013) which, in summary, expresses doubt as to the viability of the building for sale/rental as an employment premises for the following reasons:

- *The unsuitability of the building in particular in relation to the cost-effectiveness of bringing it up to the necessary standards;*
- *The access for working/customer vehicles is unacceptable;*
- *The character of the area has fundamentally changed in recent times with surrounding development exclusively having been residential, with the potential for conflicting uses and*
- *Lack of realistic viability for rental.*

In considering these factors it is noted that the situation within Carsons Yard has evolved over the fairly recent past with a number of dwellings having been permitted to the rear of the East Street-facing buildings, as well as to the east of the application site. Remaining employment/commercial sites are restricted to the application site with the workshop to the east having recently been granted permission for a change of use to residential. The issue of the inadequacy of the access over the track leading to East Street has been long-standing and is not-conducive to use by customer vehicles and heavier traffic that might result from an alternative light industrial/commercial use on this property. Parking and manoeuvring issues are also restrictive for any business use.

Based on the above and with particular reference to the Emerging Core Strategy, it is considered that the conversion to residential use from a workshop with the loss of employment floor space can be supported. Where the applicant has now submitted a full justification prepared by a property professional, reason 1 for the previous refusal has been overcome".

It is understood that since 14/02782/FUL was granted permission, no meaningful repairs or refurbishment have been undertaken to the existing building, and the surrounding buildings are now residential.

Core Policy 35 of the adopted WCS states the following;

Core Policy 35

Existing employment sites

Wiltshire's Principal Employment Areas (as listed in the Area Strategies) should be retained for employment purposes within use classes B1, B2 and B8 to safeguard their contribution to the Wiltshire economy and the role and function of individual towns. Proposals for renewal and intensification of the above employment uses within these areas will be supported.

Within the Principal Settlements, Market Towns, Local Service Centres and Principal Employment Areas proposals for the redevelopment of land or buildings currently or last used for activities falling within use classes B1, B2 and B8 must demonstrate that they meet, and will be assessed against, the following criteria:

i. The proposed development will generate the same number, or more permanent jobs than could be expected from the existing, or any potential employment use.

ii. Where the proposal concerns loss of employment land of more than 0.25 ha in the Principal Settlements, Market Towns or Local Service Centres it is replaced with employment land of similar size elsewhere at that settlement.

iii. It can be shown that the loss of a small proportion of employment floorspace would facilitate the redevelopment and continuation of employment uses on a greater part of the site, providing the same number or more permanent jobs than on the original whole site.

iv. The site is not appropriate for the continuation of its present or any employment use due to a significant detriment to the environment or amenity of the area.

v. There is valid evidence that the site has no long term and strategic requirement to remain in employment use; the ability of the site to meet modern business needs must be considered, as well as its strategic value and contribution to the local and wider economy both currently and in the long term. It must be shown that the site is no longer viable for its present or any other employment use and that, in addition, it has remained unsold or un-let for a substantial period of time (at least 6 months), following genuine and sustained attempts to sell or let it on reasonable terms for employment use, taking into account prevailing market conditions.

vi. The change of use is to facilitate the relocation of an existing business from buildings that are no longer fit for purpose to more suitable premises elsewhere within a reasonable distance to facilitate the retention of employment.

The applicant has not submitted any additional or up-to-date information to justify the loss of the existing employment unit. Notwithstanding this, officers appreciate the limitations of the present building. The building is clearly in a relatively poor state of repair and a B2 use in such close proximity to residential properties has the potential to create noise and disturbance. Whilst the existing tenant may not create material detriment, and there is no substantive evidence one way or the other presently, the fact remains that a different tenant could lawfully use the site for B2 use which could lead to environmental and amenity detriment.

Given this and the poor access arrangements, the site is clearly not well suited for B2 uses and this is highlighted by the fact other nearby sites previously used for commercial uses have changed to residential.

In the preamble to CP35, paragraph 6.16 acknowledges that *"it is important to acknowledge that some older employment areas may no longer be fit for purpose or that their role has changed"* and

"therefore, in some circumstances it may be appropriate to allow for the redevelopment (in whole or part) of existing employment sites for an alternative use, particularly where the site is not required to remain in its current use to support the local economy in the area". The current application and proposed redevelopment of the site for residential use would appear to fall within these statements.

The case officer concludes that redevelopment of the site for residential use would on balance be a more appropriate use than what currently exists or intensified through a new B2 operator, and indeed an identical housing development proposal for the site was approved in 2014.

The site is within a sustainable location (i.e. within the settlement boundary for Warminster) within easy and convenient access to local shops and services by sustainable means such as walking or cycling. The application is judged to comply with the thrust of relevant national and local plan policies with regard to redeveloping a brownfield site in a sustainable location. There is no objection to the principle of the development subject to consideration of all material planning issues and site specific constraints.

In July 2024, the council contested an appeal for a proposal for residential development at Land off Storridge Road, Westbury (PINS reference APP/Y3940/W/24/3340811). As part of the inquiry, the NPPF requirements on housing land supply position were challenged. In the appeal decision (issued 30 August 2024) the Inspector considered that only a 3.85 years housing land supply could be demonstrated. As a result, the Council has accepted that there is an inability to demonstrate the requisite 4-year housing land supply when tested against the December 2023 NPPF iteration. The current position to be used in determining planning applications is **3.85 years supply**. This position now forms the basis for the Council's housing land supply position for decision-taking purposes.

Impact on the character and appearance of the area

The existing building is dilapidated, and it and the overall site detracts from the character and appearance of the area. As previously detailed, surrounding recent residential development has occurred and this has improved the overall appearance of the area and provided modest sized dwellings within a sustainable location.

The size and positioning of the proposed townhouses is as previously approved. They would integrate with modern surrounding dwellings and not appear discordant. Proposed materials (i.e. red brick for elevations, profiled concrete tiled roofs and upvc doors and windows) would largely match surrounding buildings. Precise details of materials could be agreed by condition.

It is concluded that the development would improve the overall character and appearance of the area.

Impact on the setting of heritage assets

The site is not within the Warminster conservation area however is only just outside of the designated boundary. The following excerpt from the council's mapping system shows the extent of the conservation area in dark green, and listed buildings are shown outlined in black and hatched with the application property identified by a black dot in its centre:



For the reasons detailed in the previous section of this report, it is concluded that the proposals would represent a visual improvement when compared with the existing appearance. The setting of the conservation area would therefore be enhanced.

Given the positioning of listed buildings with other intervening buildings, it is not considered there would be any harm to the setting of these heritage assets.

The application is judged acceptable from a conservation perspective and complies with relevant policy, in particular CP58 of the WCS.

Highway issues

The site is within a sustainable location (i.e. within the settlement boundary for Warminster) with easy and convenient access to shops and services. Concerns from some neighbours that residents with vehicles will buy and occupy the proposed dwellings and create parking problems in the vicinity are noted however the local planning authority has previously accepted 'car free' redevelopment schemes for adjacent sites and also did for the application site when approving 14/02782/FUL. Anyone interested in the proposed properties would be aware of this when potentially purchasing and it would likely deter people who own vehicle(s).

The NPPF encourages the promotion of sustainable travel modes that limit future car use. For the above reasons it is concluded that the development should not have to provide car parking space in this highly sustainable location.

Vehicular access to the site is limited. As no car parking is proposed, the proposed development would likely result in a reduction of vehicle movements into Carson's Yard when compared with those generated by the existing industrial use.

Paragraph 115 of the NPPF is clear 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".* Given the existing and proposed use and specific site circumstances, the case officer is satisfied that the application is acceptable from a highway's perspective.

Neighbouring amenity

There will clearly be an impact on surrounding properties as a result of the development. Rear facing windows (particularly at first floor level) in the proposed dwellings would permit some overlooking to

the rear gardens and rear facing windows of No's. 49 and 50 Ridgeway to the south-west. The case officer assessed this in consideration of 14/02782/FUL and made the following comments; *"The rear garden spaces would be 11m deep with neighbouring rear gardens of some 13m in depth beyond. The dwellings on these neighbouring properties would therefore be approximately 24m distant, a wholly acceptable separation space in terms of privacy considerations".* Whilst these properties would clearly be impacted, the degree of overlooking/loss of privacy as a result of the proposals is not to such a level that officers consider materially harmful.

There would also be some impact on neighbouring properties either side from side facing windows. These windows would serve WC's and bathrooms in the proposed new dwellings. To ensure no harmful overlooking arises to adjacent residential properties, conditions could be imposed requiring these windows to be permanently obscure glazed and restrictions placed on opening arrangements. A further restrictive condition could be imposed removing permitted development rights for any additional windows in the side facing elevations.

The site is within the settlement boundary for Warminster, in a location where dwellings are positioned in close proximity to each other. There is a relatively high degree of mutual overlooking. Subject to the imposition of conditions, it is concluded that the proposed development would not be demonstrably harmful to any neighbouring properties through loss of privacy, light or being materially overbearing. The application is judged to comply with CP57 of the WCS.

The use of the site for residential is also likely to represent an improvement in terms of noise and disturbance when compared with the existing lawful use for B2.

Concerns raised by some neighbours about disruption during construction works and potential damage to neighbouring sites is noted. As with any development site, a degree of disruption is inevitable and unavoidable. This would however only be for a limited period of time and there is no reason to suspect that the proposed works would result in any significant disruption when compared with similar schemes of this nature. Conditions proposed by Public Protection would ensure that works were undertaken during reasonable hours and no fires occur on site which would likely have a significant detrimental impact on neighbours. Any damage which may occur to neighbouring land/buildings during the course of undertaking works would be a civil matter.

Drainage Matters

The site is identified as being in flood zone 1 (i.e. at the lowest risk of flooding). It is also not identified as being at risk from surface water flooding. As with much of Warminster, there is a risk of groundwater flooding however it is not high risk.

The existing site contains a building and hard surfacing to the frontage (which appears to be non-permeable). Whilst not shown on the plans, each of the three properties would be afforded a rear garden. It is not detailed how this would be surfaced, it could be grass but alternatively could be hard surfaced. The response from WC Drainage is noted however given the existing situation on site, it is not considered that the proposals would make the situation any worse from a drainage perspective. The proposed redevelopment of the site should be able to notably improve surface water drainage by incorporating sustainable drainage systems (SuDS). Hard surfaces could easily be permeable and there are opportunities for soft landscaping in rear gardens. Further information is required however suitable drainage condition(s) attached to any planning permission could satisfactorily address drainage matters and ensure a betterment in drainage terms when compared with the current situation. Refusal of the application on drainage grounds could certainly not be sustained.

Land Contamination

The historical use of the site is such that it could be contaminated. The application is accompanied by an 'Environmental Desk Study and Preliminary Risk Assessment'. This report concludes that there is potential for soil contamination. Further assessment is required in the form of an intrusive site investigation, concentrating on areas where there could be some degree of unacceptable risk; such as proposed gardens areas, or where there currently could be made ground deposits, or where hazardous materials may have once been stored or used.

The Council's Public Protection Officer has assessed the submitted information and concurs with the submitted report. Condition(s) requiring further site investigation and any potential remedial works could address the land contamination issue.

Ecology

The composition and location of the existing building is such that it is unlikely to be used by bats. Nesting birds may however potentially be present. These matters could be addressed by appropriately worded conditions/informatives on any permission.

This development falls within the catchment of the River Avon special area of conservation (SAC) and has the potential to cause significant adverse effects alone or in combination with other developments through the discharge of phosphorus in wastewater.

The Council has recently (through direct engagement with Natural England) revised its approach for development requiring nutrient credits for the protected Avon River catchment. A Council-led scheme of phosphorus credits is available for planned development at a fixed cost per kilogram of phosphorus, provided supply of mitigation is available. However, in some areas of the catchment (such as the Warminster community area), credits are very limited.

The Council-led scheme is one option that applicants can potentially use to achieve phosphorus neutrality. It forms part of the solution to achieving phosphorus neutral development in the catchment. Other options do exist such as securing mitigation through private providers, as well as the delivery of bespoke solutions on-site, where possible, can also be progressed by developers.

Despite repeated requests made by the case officer to the applicant's agent to progress this matter, no solution has been forthcoming. The application does not include detailed proposals to mitigate the impact of the increased nutrient pollution to the protected river and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development.

The proposal therefore conflicts with CP50 and CP69 of the WCS and relevant paragraphs in the NPPF. Paragraph 188 of the NPPF is clear 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".*

The planning application was made before day one of mandatory biodiversity net gain (BNG). The application is therefore exempt from BNG requirements. Notwithstanding this, CP50 of the WCS requires that all development should seek opportunities to enhance biodiversity. Given the site is dominated by the presence of the existing building and hard surfacing, there is little if any biodiversity currently present. Had the application been acceptable in all other requests, clarity would have been sought as to how the rear gardens would have been treated and further information sought from the

applicant to demonstrate biodiversity enhancements within the development.

CONCLUSION

The application is effectively a re-submission of a scheme which was approved by the local planning authority in May 2014. Redevelopment of the site for residential use is considered acceptable in principle and a housing scheme would have the potential to deliver some visual betterment to the local area when compared to the existing B2 use.

There are no substantive highway or drainage grounds to base a refusal on, subject to the imposition of planning conditions.

The site is however within the catchment of the protected River Avon SAC and the development has potential to cause significant adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The application does not include the necessary mitigation, and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European Site as a result of the development. For this reason alone, the application is recommended for refusal.

There would be some social and economic benefits from the proposed development which weigh in favour of the application. The benefits would not however outweigh the environmental harm referenced above. Paragraph 188 of the NPPF is also clear 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".*

RECOMMENDATION: that planning permission be REFUSED for the following reason.

The site is situated within the Hampshire River Avon catchment area that is a protected European site. This proposal comprises new housing development that would result in a net increase in foul water entering the river catchment via the wastewater treatment works and an increased level of phosphorus entering the River Avon SAC. The application does not include any substantive form of mitigation to neutralise the impacts of the development, and consequently, without such detailed proposals, the Council as a competent authority cannot conclude that there would be no adverse effect on the integrity of this European site as a result of the development. The proposal therefore conflicts with Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity) and CP69 (Protection of the River Avon SAC); and paragraphs 180, 185, 186, 187 and 188 of the National Planning Policy Framework.

Appendix B

Suggested Planning Conditions.

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

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

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

Application Forms, Site Plan, North East and North West Elevations, Ground Floor Plan received on the 11th April 2023

Location Plan, Proposed South East and South West Elevations and Proposed First Floor Plan, Existing Elevations and Floor Plans and Photographs of Existing Building received on the 24th April 2023

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

3. No development shall commence on site until clear arrangements are in place for ownership and ongoing maintenance of SuDS over the lifetime of the development.

REASON: To ensure that the SW drainage performs as designed and to avoid flooding due to lack of maintenance.

4. No development shall commence on site until a construction management plan, which shall include monitoring of, and measures to retain, the existing vegetation across the site, together with details of drainage arrangements during the construction phase, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

REASON: There's a statutory duty to ensure that surface water quality and quantity is managed throughout construction and as not to increase flood risk, or pollution of watercourses".

5. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: Core policy 56, To reduce the risks associated with land contamination

6. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable

7. No burning of waste shall take place on site at any time.

REASON: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable”.

Appendix C

Extract from Wiltshire Council Core Strategy:

Core Policy 50 – Biodiversity and Geodiversity

Core Policy 50

Biodiversity and geodiversity

Protection

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.

All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.

Any development potentially affecting a Natura 2000 site must provide avoidance measures in accordance with the strategic plans or guidance set out in paragraphs 6.75-6.77 above where possible, otherwise bespoke measures must be provided to demonstrate that the proposals would have no adverse effect upon the Natura 2000 network. Any development that would have an adverse effect on the integrity of a European nature conservation site will not be in accordance with the Core Strategy.

Biodiversity enhancement

All development should seek opportunities to enhance biodiversity. Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. Such enhancement measures will contribute to the objectives and targets of the Biodiversity Action Plan (BAP) or River Basin/ Catchment Management Plan, particularly through landscape scale projects, and be relevant to the local landscape character.

Local sites

Sustainable development will avoid direct and indirect impacts upon local sites through sensitive site location and layout, and by maintaining sufficient buffers and ecological connectivity with the wider environment. Damage or disturbance to local sites will generally be unacceptable, other than in exceptional circumstances where it has been demonstrated that such impacts:

i. cannot reasonably be avoided

ii. are reduced as far as possible

iii. are outweighed by other planning considerations in the public interest

iv. where appropriate compensation measures can be secured through planning obligations or agreements.

Development proposals affecting local sites must make a reasonable contribution to their favourable management in the long-term.

Core Policy 69

Protection of the River Avon SAC

In order to avoid and reduce potential environmental effects on the River Avon SAC, development will need to incorporate measures during construction and operation to avoid and prevent pollution and mitigate potential disturbance effects; appropriate measures may include consideration of suitable buffer zones along watercourses, habitat enhancements and river access management measures. All development within 20m of the river banks should submit a construction management plan to the local planning authority to ensure measures proposed during construction are satisfactory.

Where additional sewage discharges to a STW cannot be accommodated without measures to offset phosphate loading, development will be required to undertake proportionate measures (which may include contributions towards those measures identified in the Nutrient Management Plan) to demonstrate that the proposals would have no adverse effects upon the SAC.

15. Conserving and enhancing the natural environment

187. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Habitats and biodiversity

192. To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity[68]; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation[69]; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

193. 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;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons[70] and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

194. The following should be given the same protection as habitats sites:

a) potential Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites[71]; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

195. 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.