

# APPLICATION FOR FULL-PLANNING PERMISSION CASE OFFICER REPORT

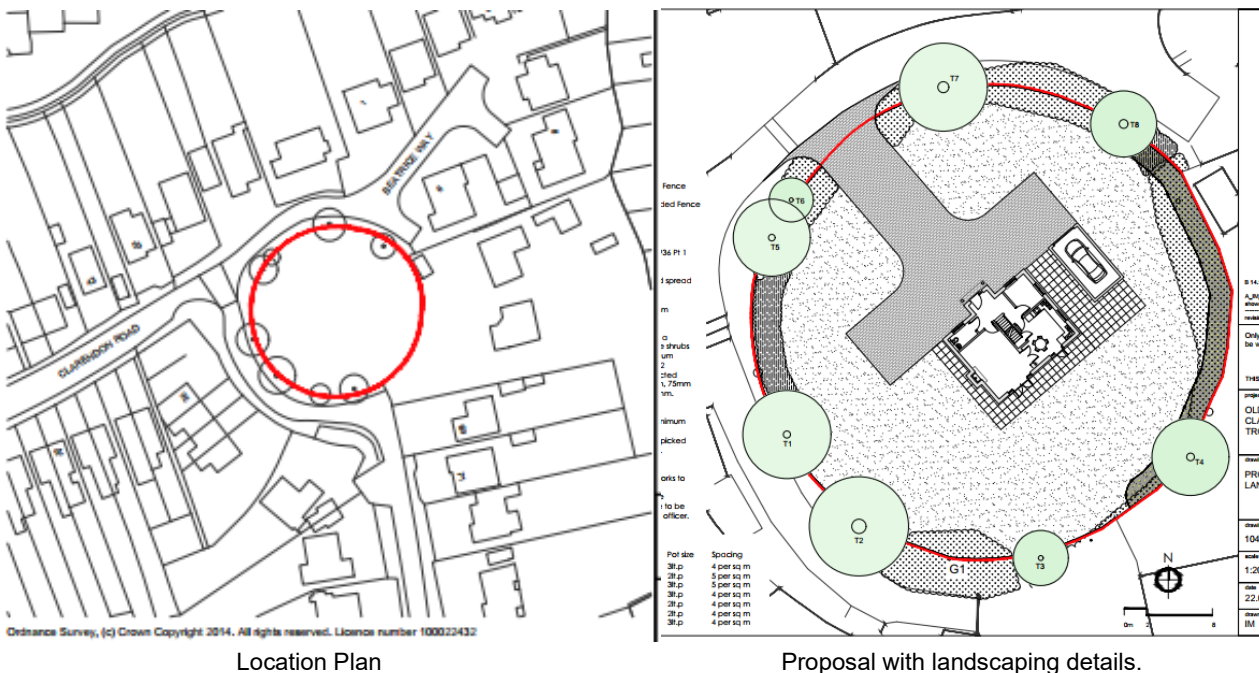
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|---------------------------------|-----------------------------------------------------------------------|
| <b>APPLICATION REFERENCE:</b>   | PL/2025/08594                                                         |
| <b>APPLICATION TYPE:</b>        | Permission in Principle                                               |
| <b>SITE ADDRESS:</b>            | Land at Clarendon Road, Trowbridge, Wiltshire.                        |
| <b>DEVELOPMENT DESCRIPTION:</b> | Erection of 1 No. self-build dwelling (Class C3) and associated works |
| <b>RECOMMENDATION:</b>          | <b>REFUSE</b>                                                         |

## SITE DESCRIPTION

The application site concerns an area of open space located along Clarendon Road, Trowbridge, which is circular in shape and is surrounded by residential properties. The site is located within the established settlement boundary limits for Trowbridge.

## PROPOSAL

The application seeks approval for Permission in Principle (PIP) for the erection of a C3 residential property with a separate garage with associated works. The applicant's plans and submitted information indicate that the dwelling would be one and a half storeys with garage, off street parking/driveway and a landscaped garden. However, the detail elements would form part of a technical consent stage (stage 2) should permission in principle be granted. The details of a house and garage are not part of the assessment of this PIP. The following snippets taken from the submitted plans show the proposal.



## RELEVANT PLANNING HISTORY

| Proposal / Summary                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15/04993/DDD - Dead Die and Dangerous Decision - DD Decision Letter Date: 22/5/2015 – Crown raise T1 chestnut tree over prow and remove damaged limbs. Crown reduce G2 chestnut by 20% and reduce dead branches. |
| 14/04469/FUL - Full planning permission Decision - Refused Date: 20/6/2014 – Erection of two dwellings and associated works, including a below ground attenuation tank for public highway surface drainage.      |

|                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PL/2023/01016 - Consent under Tree Preservation Orders Decision - Withdrawn by Council Date: – T1 Horse Chestnut - crown raise by 2m on South side of crown only, branches over driveway pruned for clearance of vehicles below. |
| W/00/00560/FUL - Full planning permission Decision - Refused Date: 11/5/2000 – Erection of two dwellings                                                                                                                         |
| W/04/00575/TPO - Work to TPO Trees Decision - Approve with Conditions Date: 26/5/2004 – Prune Chestnut tree                                                                                                                      |
| W/86/01236/FUL - Full planning permission Decision - Approve with Conditions Date: 11/11/1986 – Detached bungalow                                                                                                                |
| W/86/01250/FUL - Full planning permission Decision - Approve with Conditions Date: 11/11/1986 – Temporary residential caravan                                                                                                    |
| W/93/01505/TPO - Work to TPO Trees Decision - Approved Date: 17/1/1994 – Felling of two Hawthorn and one Birch along with repollarding one Horse Chestnut                                                                        |

## **POLICIES**

### National Context:

- National Planning Policy Framework 2024 (NPPF)
- Planning Practice Guidance (PPG) - Permission in Principle Reference ID: 58-045-20180615 (updated 15th March 2019)
- National Design Guidance

### Local Context:

#### Wiltshire Core Strategy (WCS):

- CP1: Settlement Strategy
- CP2: Delivery Strategy
- CP29: Spatial Strategy for the Trowbridge Community Area
- CP41: Sustainable Construction and Low Carbon Energy
- CP45: Meeting Wiltshire's Housing Needs
- CP50: Biodiversity and Geodiversity.
- CP52: Green Infrastructure.
- CP57: Ensuring High Quality Design and Place Shaping
- CP61: Transport and New Development
- CP64: Demand Management

### Other Documents:

- Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)
- Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)
- Wiltshire Design Guide
- Strategic Flood Risk Assessment.
- West Wiltshire Leisure and Recreation DPD
- Trowbridge Emerging Neighbourhood Plan (Status: Designation of Trowbridge Neighbourhood Area).

## **CONSULTATION RESPONSES**

Trowbridge Town Council: Objects "...on the grounds that nothing has changed to the detriment of the residents as set out in the 2014 Planning Inspectorates report. There is more evidence of recreational use eleven years later, through the fact that there has been maintenance carried out by a resident. Additionally, the plan is for one dwelling which is worse than two dwellings in the previous application, which was deemed to be an inappropriate reason to grant planning when weighing up the loss of green space against the benefit of additional properties. Furthermore, primarily this would be a loss of vital amenity space to the residents within the area.'

Wiltshire Council Highways Officer: The site can be accessed via the publicly maintained section of Clarendon Road or PROW, TROW 41 and I understand that the Rights of Way team have also been consulted. The site is shown as having the ability to provide adequate off-street parking to meet Wiltshire's current parking standards.

The access into the site is proposed off the public highway section of Clarendon Road and as such, adequate visibility must be provided from the proposed vehicle access, this will involve much of the vegetation around the site boundary being removed or replanted 1m back from the sight lines.

To prevent a highway objection, a plan [is requested] showing what visibility will be provided from the proposed vehicle access."

Public Rights of Way. No objections "...the proposed access to the site is via the public vehicular highway. Public footpath TROW41 runs to the west of the site.

Wiltshire Council Ecologist: Objects: 'Insufficient information has been submitted. In carrying out its statutory function, the LPA must be reasonably sure that the proposal will not result in significant adverse effects on protected habitats or species. The information outlined above must therefore be submitted and reviewed by the LPA's ecology team prior to determination of the application. I therefore maintain a holding objection until all the issues listed above have been suitably addressed.'

'If the applicant considers that the development would not be subject to the biodiversity gain condition, Schedule 7A of the Town and Country Planning Act 1990 the applicant must provide a statement as part of the planning application setting out the reasons why they believe this is the case. Submission of a completed metric calculation tool may be necessary to evidence the statement'.

Wiltshire Council Arboriculturist: Objects: "As this is a PIP application, the Tree Officer objects to this proposal due to the lack of arboricultural information provided at submission, and therefore failing to appropriately consider the protected trees on site, which will be significantly affected by the works required to facilitate the construction of the dwelling and associated works.

At the very least, an Arboricultural Impact Assessment, prepared in accordance with BS5837:2012, with tree survey, tree constraints plan and tree protection plan should be provided to demonstrate the impact of the proposed dwelling on the protected trees. It is noted that, as well as the dwelling being constructed, there is also the driveway, fencing and a patio to be installed, all of which will require excavation of some level.

Wiltshire Civic Society: 'The circular nature of the site suggests it was always intended to be retained as open space. It is indeed an attractive focal point within the surrounding residential development. • It is true that the site is not within a Conservation Area, nor close to heritage buildings, but it easy to predict that the proposed dwelling, and its future occupants will wish to provide security and fencing around the

*perimeter.*

- *That will disrupt the visual amenity of the locality'.*

**REPRESENTATIONS** 50 third party representations of objection were received, raising the following summarised points:

- The site is a valued green space which the local community can enjoy.
- It is known as 'The Green', 'The Old Tennis Courts' and 'The Circle'.
- Is important for health, mental wellbeing and social development.
- The land provides a provides a habitat for wildlife, birds, bats, insects and small mammals.
- The site is known to be utilised by bats.
- The land also contributes greatly to the character and amenity of the neighbourhood; its loss would harm the character of the neighbourhood.
- Building work of the kind planned could damage roots to these trees and lessen habitats for birds.
- Green areas are vital for insect life, bees, butterflies and moths and to allow wild grasses to flourish and contribute towards maintaining these species.
- The community of Clarendon Road and Beatrice Way utilise this area for social functions and greatly contributes to community wellbeing and cohesion.
- Loss of this land would result in harm to the resident's' amenities.
- Core Policy 52 encourages green infrastructure, also Green & Blue Infrastructure Strategy for Wiltshire' adopted in February 2022 sets out its importance.
- Understood by residents that the land had been gifted to them for over 56 years. Local residents' property deeds identify this an 'ornamental garden' and not a tennis court, for the benefit of all residents.
- This green area is heavily utilised by residents who also maintain the land's upkeep for no financial reward, have done so for in excess of 27 years. Grass is cut on a six-week cycle.
- The proposed dwelling is not worth the detriment that the loss of land and wildlife would bring to the community.
- Proposal is contrary to policy: CP51, CP52, CP57, LP2, NPPF paragraphs 99, 130, and 174, all of which seek to safeguard valued local green space.
- Draft Wiltshire Local Plan (Regulation 19 Draft 2020–2038) – Policy 84: Public Open Space and Play Facilities: reinforces the protection of existing open space and recreation sites, requiring that “development proposals should not result in the loss of open space or recreational land unless it can be demonstrated that the site is surplus to requirements.” Proposed development fails to meet such tests and is contrary to policy.
- Current proposal is for a similar scheme as within (14/04469/FUL), albeit for two houses, was dismissed at appeal in 2014 ref: APP/Y3940/A/14/2223923.
- The Inspector concluded that the scheme was not “sustainable development”, and that the loss of the important amenity and recreation function of the land “would not be outweighed by the contribution the proposed development would make to the supply of housing in Trowbridge.”
- Nothing has fundamentally changed at the site since this 2014 appeal decision. The site, locally called “The Green”, continues to fulfil the same amenity function to the local residents.
- The Planning Inspector in 2014 concluded that the loss of open amenity land outweighed the limited housing benefit, even though the Council had a housing shortfall at the time. The current PiP application does not demonstrate any material change in planning circumstances to justify overturning that well-considered decision. The site remains a valued green space within the Clarendon Road community.
- The points within the 2014 planning refusal and appeal dismissal have not been addressed or overcome within the current application.
- Proposal would be contrary to saved policy LP2 of the West Wiltshire Leisure and Recreation Development Plan Document 2009 (Protection and enhancement of existing open space or sport and recreation provision) and the policies in the National Planning Policy Framework.

- Wiltshire Council does not have a 5-Year Housing Land Supply, a recent proposal for 2500 dwellings has been granted outline planning permission at Ashton Park, just a short distance away. The contribution this one house on "The Green" will make in this context must be considered to be negligible.
- Offers no overriding public benefit that would justify the permanent loss of open land.
- Additional traffic would further degrade the road surface.
- Ashford Homes built on other inappropriate sites.
- Proposed entrance would cause root damage to the protected tree already there.
- Private land ownership matters relating to the site, land sold "illegally".
- Drainage attenuation tanks installed underground on the site.
- Town Councillor involved with the planning application.
- Application form has two errors, it states it is a self-build, but the applicant appears to be closely related to the landowner, Ashford Homes.
- Site is described as agricultural land, which is incorrect, application been made under false pretences?
- Tyre swing cut down numerous times.

## **ASSESSMENT**

### **Background**

The application seeks Permission in Principle (PIP) for one self-build dwelling on the site. This is a process introduced in 2018 as an alternative to full or outline planning permission for small housing sites, which separates the consideration of matters of principle (this first stage) from the technical details (a later second stage). A PIP application cannot be a development that is major, household, habitats or Schedule 1 EIA development.

This PIP application establishes whether a site is suitable in-principle for residential led development (i.e. minor development that is less than 10 dwellings). The scope of any PIP and therefore in consideration of it, is limited to location, land use and amount of development. Conditions cannot be imposed. The application submits that there is a high unmet need for self builds within a nationwide context and also within the Trowbridge locality.

The requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 apply in that the application is to be determined in accordance with the development plan unless material considerations indicate otherwise.

As stated in Paragraph: 001 Reference ID: 58-001-20180615 of the Planning Practice Guidance (PPG) the *"permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development."*

*The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed".*

Therefore, as a stage 1 submission, it is only the principle of the development that can be assessed at this stage. In addition to the above, PPG paragraph: 012 Reference ID: 58-012-20180615 is clear that the *"scope of permission in principle is limited to the location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage"*.

### **Policy Position**

Core Policy 1 'Settlement Strategy' of the WCS outlines a settlement strategy which identifies the settlements where sustainable development can take place to improve the lives of all those who live and work in Wiltshire.

Core Policy 2 'Delivery Strategy' of the WCS outlines there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances (in circumstances as permitted by other policies within this plan, identified in paragraph 4.25).

Trowbridge is a Principal Settlement as identified by CP29 of the WCS where the site is within the settlement boundary limits for Trowbridge.

The NPPF is a material consideration in the decision-making process. The NPPF sets out the Government's planning policy for England and places sustainable development at the heart of the decision-taking process incorporating objectives for economic, social and environmental protection. These objectives seek to balance growth and local community needs against protection of the natural, built and historic environment.

At the time of assessing/determining this application, Wiltshire Council can only demonstrate 2.42 years housing land supply, which is considered a significant shortfall when compared against the NPPF requirement of 5 years supply (plus a 5% buffer).

This PIP application seeks permission for one dwelling, which would make a very modest contribution towards addressing the housing land supply deficit and this must be factored into the planning balance.

#### Relevant Planning History.

The site planning history reveals two applications that sought permission to construct additional housing.

The first relevant application reference W/00/00560/FUL was refused by the Council for a two-storey dwelling which was not appealed. The refusal wording is set out below:

*'The proposal would result in the loss of an area of land that currently fulfils an important amenity and recreational function. Therefore, the proposal is in conflict with Policy H1 of the West Wiltshire District Plan 1<sup>st</sup> Alteration Deposit Draft July 1988'.*

The second application was W/14/04469/FUL which sought permission for the 'erection of two dwellings and associated works, including a below ground attenuation tank for public highway surface drainage'. The application was refused for the following reasons:

*'The proposal would result in the loss of an area of land that currently fulfils an important amenity and recreation function. Therefore, the proposal is in conflict with Policy H1 of the West Wiltshire District Plan 1<sup>st</sup> Alteration 2004; Policy LP2 of the West Wiltshire Leisure and Recreation Development Plan Document 2009 and the National Planning Policy Framework 2012'.*

As was previously the case, officers consider the open site to contribute positively as a public amenity asset, and there is a strong case to make that it was designed as part of the housing estate and has a visual and public amenity function for the immediate locality and residents, which was central to the determinations made by the Council for the aforementioned 2000 and 2014 refused applications.

It is also noteworthy to reflect upon the 2014 refusal which was appealed and subsequently dismissed for reasons that remain valid in 2025.

It is also clearly evident from the volume of third-party opposition to the application that the area of land still fulfils an important social and amenity function and contributes towards the social sustainability of the estate.

The following extracts are taken from the planning appeal inspector's decision letter for the refused 2014 application (to which appeal reference: APP/Y3940/A/14/2223923 refers) which sets out the reasons why two dwellings on this site were not considered acceptable in planning terms.

*"6. Turning to the first aspect of the main issue, the appellant argues that the appeal site cannot reasonably be argued as fulfilling an important amenity and recreation function. The thrust of the appellant's case is that the site's contribution is limited to that of visual amenity in the outlook from nearby dwellings and for passers-by, and this would largely be maintained by the development of two houses. Furthermore, there is no legitimacy in terms of ownership, previous use or national and local policy for regarding the land as any form of recreational resource for local residents.*

*7. I acknowledge that the land is not in public ownership; that no formal steps have been taken to secure it for public use, and that since its demise as a site for tennis courts there has been no formal recreational activity. **However, it is self-evident that it is physically 'open space' in a residential area, whilst there is a variety of other information that suggests its status and function might well be more than one of providing visual amenity.*** (officer emphasis added)

*8. Planning permission for a similar form of development was refused in 2000 on the grounds that the land fulfilled an important amenity and recreation function contrary to Policy H1 of the then Local Plan and its replacement draft. As indicated in paragraph 5 above, that policy remains in force as a Saved Policy and states that housing proposals within the built-up areas, including Trowbridge, will be permitted subject to provisos including 'D: They do not result in the loss of an open area or visual gap important for recreation or amenity reasons'. **Although not a saved policy, Local Plan Policy R2 designated the land as a recreational / amenity site to be safeguarded from other uses. This is therefore also relevant as a marker for the site's recreational credentials.*** (officer emphasis added)

*9. Policy R2 has now been superseded by Policy LP2 of the Leisure and Recreation DPD. This policy precludes the loss of open spaces for sport and recreation facilities if it would cause significant harm to nature conservation or the landscape and settlement character and if one of several policy tests is met. For the appellant it is argued firstly that the policy is not relevant because there is no recreational use to be lost. Secondly, in any event, because the site's contribution is limited to visual amenity, its residential development would be consistent with policy test '(i) that the site is clearly surplus to requirements in terms of its current use and there is no need for it to be used for a different form of open space or sport and recreation provision'.*

*10. I recognise that since the tennis courts were removed, the actual use of land up to and including the present day has not in any way been a formal recreation ground or an area for organised sports, albeit that Policy R2 did effectively confer a formal recreational / amenity designation.*

*However, as the Council has pointed out, **Government Planning Practice Guidance ('the Guidance') published as recently as March 2014 defines 'Open Space' as including 'all open space of public value'** and that it can take many forms, from formal sports pitches to open areas within a development.* (officer emphasis added)

*11. Clearly the site is an open area within a residential suburban area of Trowbridge and although it does make a significant contribution as a visual amenity, its public value as an informal recreation area is also in evidence from the substantial opposition to the appeal scheme.*

*Again, as the Council has pointed out, the large number of objections to a scheme as small as two residential units is a good indication of the 'public value' which the site is considered a having by local residents. There is ample anecdotal and photographic evidence of how the area has been used over a considerable period*

for informal recreation, and I note that until recently regular grass cutting has been included in the Council's maintenance schedule. I consider that from the representations received there is compelling evidence to refute the appellant's assertion (in paragraph 4.17 of the Grounds of Appeal) that 'While the appeal site has a degree of visual amenity for immediate neighbours, it offers no value to the wider community'.

**12. In my judgement, the appellant's claim of the land having no recreational value is also contrary to the thrust of policy in the Guidance that open space 'can provide health and recreation benefits to people living and working nearby as well as being an important part of the landscape and setting of built development, and an important component in achieving sustainable development'.** From the context it is evident that this statement applies to the previously mentioned 'all open space of public value' and not just formal sports pitches. Accordingly, I consider that, the appellant's views notwithstanding, the appeal scheme would not be consistent with paragraphs 73, 74 and 123 of the Framework which essentially identify the constraints which open space can have on development proposals. The emerging policy in the Wiltshire Core Strategy also offers support for the protection of open space in Core Policies 51 and 52 and it will also retain DPD Policy LP2. However, on adoption such policies will need to be weighed against the one of central tenets of the Strategy, which is to achieve adequate housing in line with the requirements of the Framework. (officer emphasis added)

**13. My conclusion on the first aspect of the main issue is that the appeal site does fulfil an important amenity and recreation function. For the appeal to succeed the recreational and amenity value of this open area would need to be outweighed by the contribution that the proposed development would make to the supply of housing in Trowbridge, together with any other advantages."** (officer emphasis added)

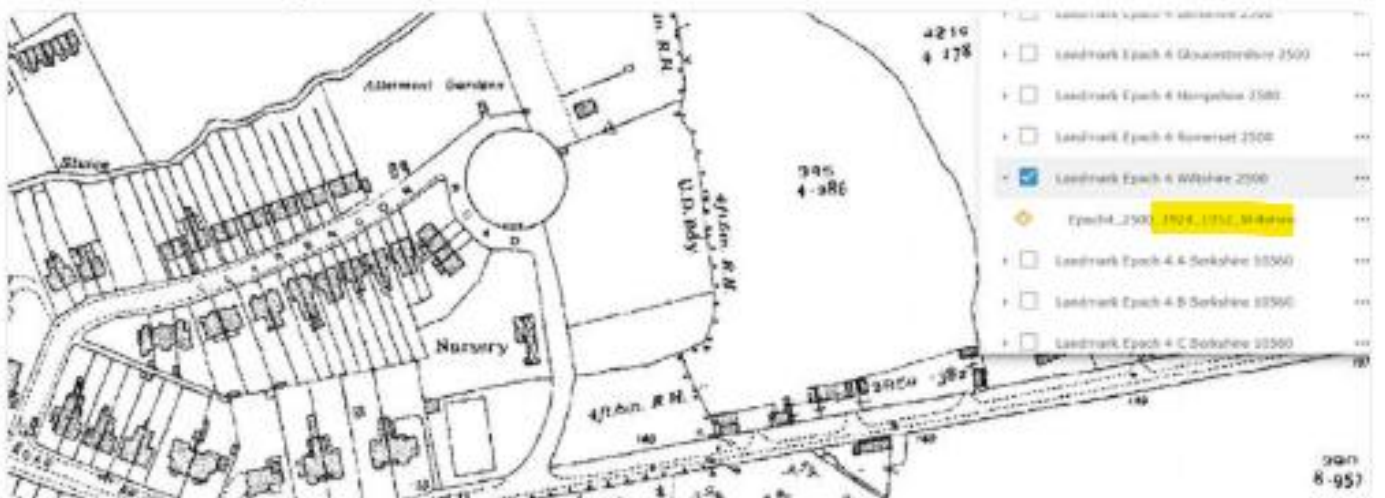
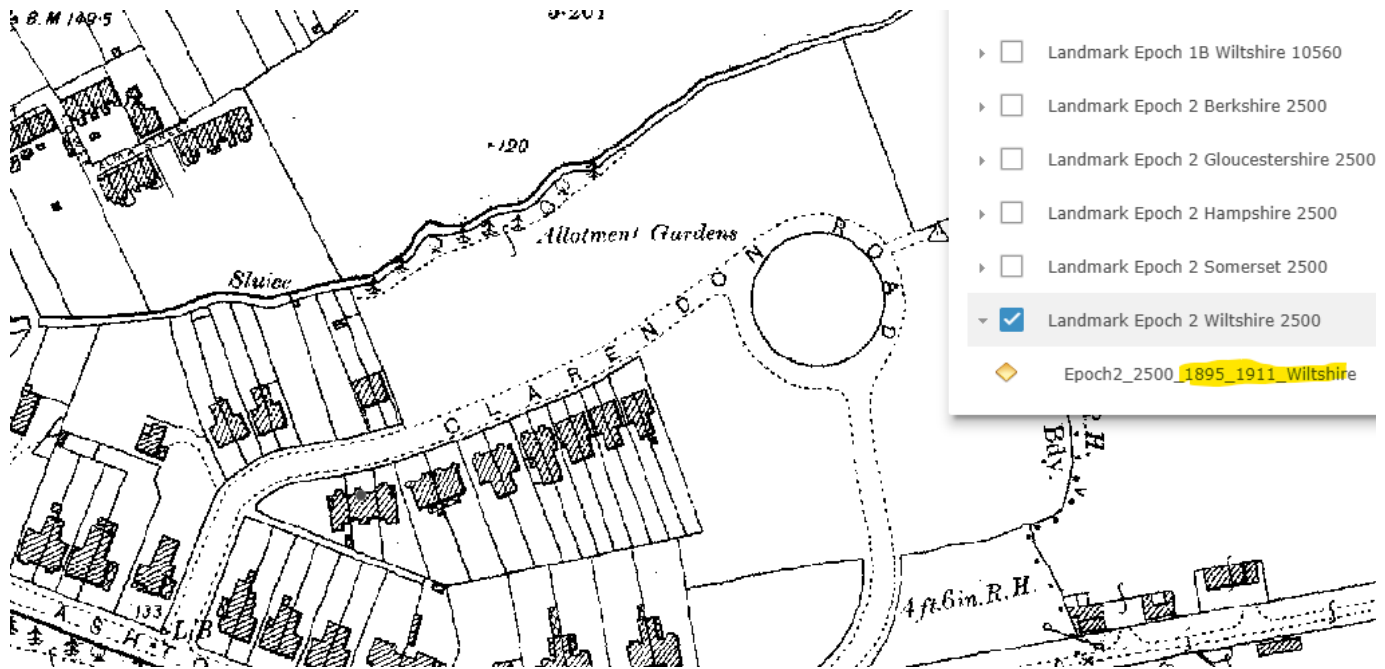
Officers recognise there is significant housing supply shortfall at the time of assessing this PIP application and also recognise there would be benefits by allowing one more house to be added to the supply of housing, however the weight to be afforded to a single house is only considerable moderate and the harm caused to local residents and the character of the area through the loss of the open space would materially outweigh the benefits. Officers have visited the site and have taken on board both the applicants' arguments as well as the local community submissions, and officers still hold true the conclusions reached by the planning inspector for the aforesaid appeal which were as follows:

**".. the land does fulfil an important amenity and recreation function. This use, although for informal recreation and without the express consent of the landowners, is not outweighed by the contribution that the proposed development would make to the supply of housing in Trowbridge.**

The appeal scheme would accordingly be in harmful conflict with the adopted Wiltshire Core Strategy, Policy LP2 of the West Wiltshire Leisure and Recreation Development Plan Document dated 2009, and Government policy set out within the National Planning Policy Framework.

The following inserts reveal some historic map benchmarking for the application site.

## Historical Map Background.



The above map regression process serves to show that the circular piece of land was present from as early as 1895, evidences the site having an historic / well -established designed function and more recently having a clear public amenity value (albeit now in private ownership).

## Proposal Appraisal.

The site lies within the settlement boundary limits for Trowbridge. Core Policy 1 and Core Policy 29 defines the town of Trowbridge as Principal Settlement. Core Policy 2 states that within the limits of development there is a presumption in favour of sustainable development, unless there are material considerations which determine otherwise.

An important and main consideration is the planning history (W/00/00560/FUL and 14/04469/FUL) including the appeal dismissal for the latter case. Notwithstanding the appeal dismissal it is necessary to consider what has changed since that appeal decision was issued 11 years ago.

From site observations, the site has not significantly altered in its appearance. The proposal now submitted is for a permission in principle – which is an application type that did not exist when the previous applications were made and determined. The submission is now for 1 self-build dwelling, with the self-build being

referenced in the application description. Officers have noted that surface water attenuation features have been installed on the site.

The land continues to serve a meaningful community / amenity purpose as evidenced by the received third-party comments.

Further support for the retention of designated recreational spaces can be found in Paras 96(a) and (c) of the NPPF which states:

*'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: (a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;'* (Office emphasis added.)

And to:

*'(c) Enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.'* (Officer emphasis added).

In addition to the above, NPPF Paragraph 103 adds further support and emphasis for the retention of the space for the continued retention of the land for amenity and health purposes:

*"Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.*

NPPF Paragraph 104 reinforces the importance of community-based leisure land and states:

*Existing open spaces, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

For this proposal there is no evidence the applicant can provide suitable substitute public amenity land to make up for the loss being proposed.

Policy LP2 of the West Wiltshire Leisure and Recreation DPD sets out that proposals that result in the loss of open spaces or sport and recreation facilities will only be permitted if this would not cause significant harm to nature conservation interests, to the landscape or settlement character and at least one of the following policy tests are satisfied:

- "(i) The site that will be lost is clearly surplus to requirements in terms of its current use, and there is no need for it to be used for a different form of open space or sport and recreation provision; or*
- (ii) The development will result in the enhancement of other existing spaces or facilities - this will represent a greater benefit to the community served by the provision that will be lost than retaining the previous facilities; or*

*(iii) The development will result in replacement provision that will be at least as accessible, at least equivalent in terms of attractiveness and quality, and capable of accommodating and sustaining at least the same levels and types of use as the provision that will be lost; or*

*(iv) The proposed development is ancillary to the use of land used for sport and physical recreation and will not adversely affect either the level of use it can sustain or the quality of provision."*

No such information has been received, and with the proposal resulting in the loss of open recreational/amenity space that has bene and continues to be of local value to the local community, the proposal is fundamentally flawed.

**The applicant argues that because the grass is mown by private individuals and not by the Council, the public status of the land has been lost. The Council does not agree with this assertion for all the reasons set out above, which has bene tested successfully on appeal.**

#### Emerging Wiltshire Local Plan:

The emerging Wiltshire Local Plan has reached Regulation 23 stage. The examination is programmed to have more hearing sessions through 2026 and as such, the weight to be attributed to the emerging local plan is limited at this stage given that no hearing sessions have examined the Council's proposed new strategy and/or the emerging specific policies.

#### 5 Year Housing Land Supply:

The Wiltshire Housing Land Supply Statement (June 2025) provides the latest position on the Council's ability to demonstrate a five-year supply of deliverable housing land, which is a material consideration in the determination of planning applications. At the time of assessing this application, the Council can demonstrate a 2.42 years supply, which is openly accepted to constitute as a significant shortfall when tested against the NPPF 5-year requirement.

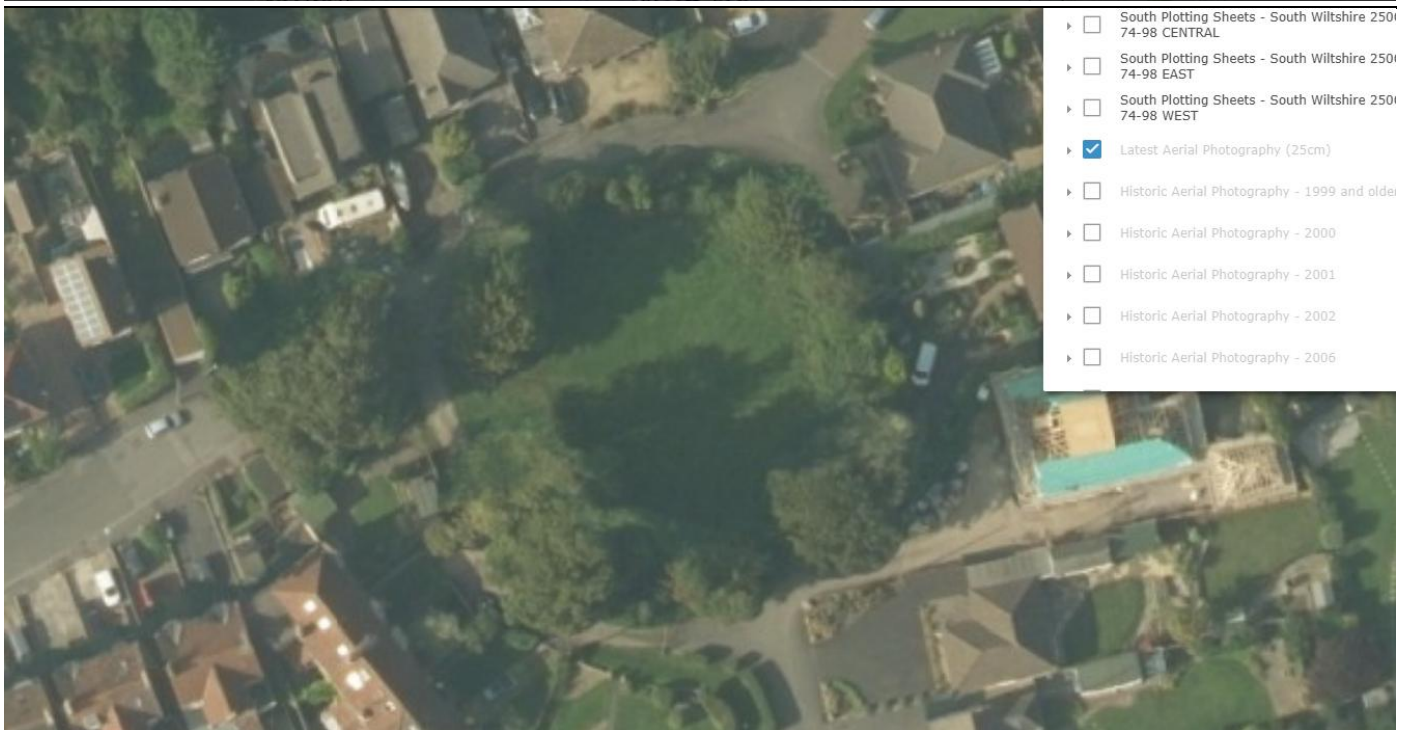
The absence of a five-year housing land supply is a material consideration in the determination of this application. In accordance with Paragraphs 78 and 11(d) of the National Planning Policy Framework (NPPF), for applications involving the provision of housing, where there is a shortfall in the supply of deliverable housing sites, the most important policies for determining the application need to be considered as out of date.

The current housing land supply shortfall is a factor that has to considered in the planning balance and in this case, as a five-year housing land supply cannot be demonstrated, full weight cannot be afforded to the strategic policies set out within the adopted WCS. NPPF paragraph 11 is engaged and local plan policies which seek to restrict the supply of housing are to be considered 'out-of-date', however the courts have ruled that it is a matter for the decision maker to determine what weight should be afforded to such policies on a case-by-case basis.

Moreover, NPPF paragraph 232 nevertheless, makes it clear that due weight should be given to existing policies according to their consistency with the Framework. The Framework recognises the desirability of new development making a positive contribution to local character and distinctiveness and open spaces like the one that is subject to this application, which was designed as part of what is a well-established housing scheme contributes greatly too social sustainability and well-being. The loss of the public amenity asset in this case would not be suitably compensated for and there would therefore be a significant detriment to the local area and the benefits of delivering one dwelling would not outweigh such harms.

The NPPF sets out the presumption in favour of sustainable development (the 'tilted balance') at paragraph 11d) ii. which states that permission for new housing should be granted unless any adverse impacts of doing so would "significantly and demonstrably outweigh the benefits" or the 'protection policies' detailed in Footnote 7 of the Framework apply.

**In this case, officers robustly argue that the adverse impacts of constructing one house at the identified site (at a time when there is a significant housing supply shortfall) would significantly and demonstrably outweigh the benefits through the loss of what is seen as a valued community public amenity/recreational asset.**



- ▶ ☐ South Plotting Sheets - South Wiltshire 2500 74-98 CENTRAL
- ▶ ☐ South Plotting Sheets - South Wiltshire 2500 74-98 EAST
- ▶ ☐ South Plotting Sheets - South Wiltshire 2500 74-98 WEST
- ▶ ☒ Latest Aerial Photography (25cm)
- ▶ ☐ Historic Aerial Photography - 1999 and older
- ▶ ☐ Historic Aerial Photography - 2000
- ▶ ☐ Historic Aerial Photography - 2001
- ▶ ☐ Historic Aerial Photography - 2002
- ▶ ☐ Historic Aerial Photography - 2006

### Ecology Impacts

Adopted WCS Core Policy 50 requires no net loss of biodiversity on development sites. In addition, the identified site is located within the grey hatched zone of the Trowbridge & Westbury Bat Mitigation Strategy (TWBMS) Area.

An ecology appraisal has been submitted by the applicant, and this has been reviewed by the Council ecologist who objects to the application on the grounds of insufficient information as set out below:

*“Insufficient information has been submitted. In carrying out its statutory function, the LPA must be reasonably sure that the proposal will not result in significant adverse effects on protected habitats or species. The information outlined above must therefore be submitted and reviewed by the LPA’s ecology team prior to determination of the application. I therefore maintain a holding objection until all the issues listed above have been suitably addressed.”*

Officers have not sought this additional information since the principle of development is not acceptable and to avoid exposing the applicant to additional expense, the application has been assessed as submitted.

In terms of Biodiversity Net Gain, the proposed is noted to be a self-build project, which would be exempt it from such a requirement as things stand.

**If the PIP was to be supported at appeal, the applicant/appellant would be required to enter into and advance with a Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 for any Technical detailed consent submission to comply with the Council’s adopted TWBMS and to secure a financial contribution towards off-site strategic bat habitat enhancement, restoration and creation in mitigation. The same would apply to securing the development as a self-build – all before any works may commence on site, and crucially only if the PIP was to succeed at appeal. This is because of multiple appeal decisions and the PPG being clear that at the PIP stage, it is not possible to secure a planning obligation, but there is no prohibition to do so at TDC stage and prior to its subsequent approval (again, only if the PIP application succeeds at appeal).**

### Residential Amenity Impacts

Adopted Wiltshire Core Strategy Core Policy 57 includes a requirement that development should ensure a high standard of amenity for existing and future occupants (point vii). This includes safeguarding privacy, outlook, natural light, and protection from noise, disturbance, and overbearing effects.

Should this PIP proposal succeed at appeal, the applicant would be required to subject a technical details consent application that would need to be submitted to the Council to assess the design and appearance of the proposal. At this PIP stage, there are no in principle objections raised in terms of any immediate neighbouring impacts.

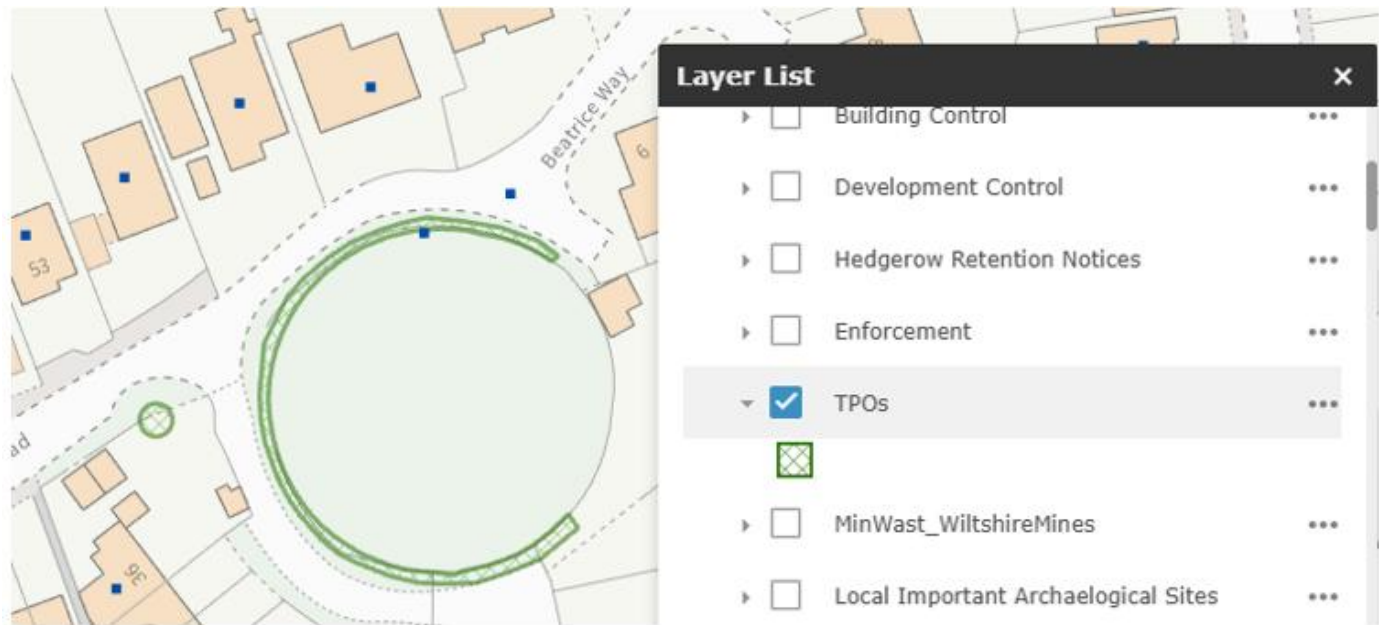
### Highway Impacts

The Council’s highway authority has advised that the site can be accessed via the publicly maintained section of Clarendon Road. The site is shown as having the ability to provide adequate off-street parking to meet Wiltshire’s current parking standards. The access to the site is proposed off the public highway section of Clarendon Road and as such, adequate visibility must be provided from the proposed vehicle access, which would involve much of the vegetation around the site boundary being removed or being replanted 1m back from the sight lines. To prevent a highway objection, a plan was sought by the highway officer to ensure appropriate visibility could be provided from the proposed vehicle access.

As with the aforesaid ecology inadequacies, since the application has been found to be fundamentally unacceptable, this additional plan was not requested by the planning case officer to avoid the applicant being exposed to additional expense for an application that was to be refused. It is seen as a matter that could be addressed at TDC stage should the PIP succeed at appeal.

Arboricultural Matters.

The Council's Tree officer has objected to the application on the grounds of insufficient information being submitted, as there are protected horse chestnut, ash and birch trees on site, secured by TPO (dated 16 January 1990 under W/90/00002/MIXED with a copy included below of the TPO first schedule) as shown by the following snippet taken from the Council's Mapping system:



FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY  
(encircled in black on map)

| <u>No on Map</u> | <u>Description</u> | <u>Situation</u>                                                     |
|------------------|--------------------|----------------------------------------------------------------------|
| T1               | Horse Chestnut     | Corner position, south side of Clarendon Road between Nos 36 and 55. |

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES  
(within a broken black line on the map)

|    |                                                       |                                                                                                                                                  |
|----|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| G1 | Group including 1 Ash<br>1 Birch and 6 Horse Chestnut | Perimeter of circular grassed amenity area, Clarendon Road. (Individual trees identified on supplementary 1:500 plan attached to this schedule). |
|----|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|

An Arboricultural Impact Assessment, prepared in accordance with BS5837:2012 is required which would examine and identify the constraints and potential impacts on the protected trees. It is noted that excavation works would be required, and alongside the highway request, concern is raised about the impacts the development may have on the established trees and character of the immediate area that would result as a consequence of the proposed construction of the dwelling and works to form a driveway and any associated works all of which have the potential to harmfully impact on the trees and their root structure.

**As set out above for other matters, this additional tree related request has not been sought from the applicant for the same reasons explained above, and should the decision to refuse be appealed, any appointed inspector would need to carefully review the TPO impacts and the inadequacy of the PIP submission.**

#### Other matters

It is accepted that the subject land is in private ownership, and third parties have commented reporting that there are covenants on the land preventing its change of use to residential. Whilst this may be the case, private covenants are civil matters. The Council is most concerned about the land use element of this PIP proposal and the harm that would result should this long-standing public amenity space be lost to a one house development.

#### **Conclusion**

As set out within this report, application is recommended for refusal since the benefits of delivering one dwelling would not outweigh the adverse harm that would result through the loss of the public amenity land that contributes significantly to the character of the local area and as expressed by so many local residents, the open space has a value that merits being retained as a public visual asset that supports social sustainability and people's general well-being.

#### **RECOMMENDATION: REFUSE**

**This application site forms part of the established development of Trowbridge that is public amenity land that has been in place since the early 1900s. The proposed loss of the open space amenity land would result in significant public detriment through the construction of a dwellinghouse and in the absence of there being any suitable local compensatory green infrastructure of equal or enhanced value being proposed as mitigation by the applicant, the proposal is found contrary to Core Policies 52 & 57 of the adopted Wiltshire Core Strategy and sections 8 and 15 of the NPPF.**

**The application has failed to submit sufficient information to enable the Council as decision maker to carry out its statutory function pursuant to bats and any boteh protected species. Given the substantive inadequacies, the Council cannot conclude that the development would not result in significant adverse effects on protected habitats or species.**

**The site contains a number of protected trees (secured by TPO dated January 1990), and the impacts of the proposed development have not been fully appraised by the applicant, and this omission is considered a fundamental failing contrary to CP57 of the Wiltshire Core Strategy and sections 8 and 15 of the NPPF.**