

APPLICATION FOR HOUSEHOLDER PLANNING PERMISSION

DELEGATED REPORT

APPLICATION REFERENCE:	PL/2025/08714
APPLICATION TYPE:	Householder planning permission
SITE ADDRESS:	Shanaway, Maple Drive, Firsdwn, Salisbury, SP5 1SY
DEVELOPMENT DESCRIPTION:	Retrospective Planning Application for completed external garden landscaping that has been constructed without Planning Permission
RECOMMENDATION:	That Planning Permission be REFUSED

PROPOSAL

The application seeks retrospective planning permission for building operations that have been carried out within the rear garden of the dwelling known as Shanaway.

These works comprise the removal of the existing retaining wall adjacent to the patio, the excavation of a significant volume of soil, and the construction of a new retaining wall enclosing the enlarged patio area.

SITE DESCRIPTION/CONTEXT

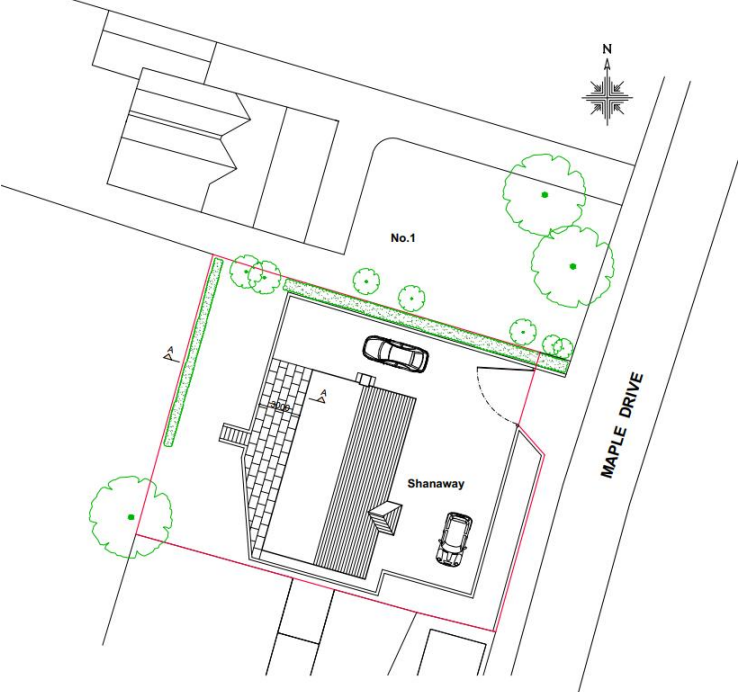
The application site comprises a detached bungalow located on Maple Drive. Outline planning permission (ref: S/2003/2644) was granted on 11 November 2004 following an appeal, with subsequent Reserved Matters approval (ref: S/2005/1086) granted by the Local Planning Authority on 26 July 2005. The property benefits from both front and rear garden areas and is served by off-street parking.

The surrounding area is characterised by residential development, primarily comprising detached and semi-detached bungalows. The application site is bordered by neighbouring residential properties to the north, south and west, with further dwellings located to the east on the opposite side of Maple Drive. Maple Drive is an unclassified road accessed via Firs Road (Class C), which serves as the main route through the village of Firsdwn.

The site lies within the built-up area of Firsdwn, which is identified as a Small Village under Core Policies 1, 2 and 23 of the Wiltshire Core Strategy. Firsdwn is located to the north-east of the Principal Settlement of Salisbury.

A Tree Preservation Order (TPO) was placed in 2005 on a sycamore tree located within the rear garden of No. 66 Firs Road. This tree lies adjacent to the application site boundary, with its root protection area extending into the rear garden of Shanaway.

The site is within the River Test catchment and falls within the New Forest protected sites 13.8km Zone of Influence. It is also located within a Special Landscape Area as defined by saved policy C6.



Existing site plan – before development commenced



Proposed site plan – showing completed works

PLANNING HISTORY

Proposal / Summary
S/2003/0695 - Outline Planning Decision - Refused Date: 3/9/2003 – OUTLINE ERECTION OF BUNGALOW
S/2003/2644 - Outline Planning Decision - Refused Date: 1/3/2004 – ERECTION OF BUNGALOW AND CONSTRUCTION OF NEW ACCESS – Allowed at appeal 11/11/2004
S/2005/0688 - Reserved Matters Decision - Refused Date: 24/5/2005 – APPROVAL OF RESERVED MATTERS IN RESPECT OF OUTLINE APPLICATION S/2003/2644 - NEW DWELLING & ACCESS.
S/2005/1086 – Reserved Matters - Decision - Approve with Conditions Date: 26/7/2005 – NEW DWELLING AND ACCESS
S/2005/2082 - Full planning permission Decision - Refused Date: 30/11/2005 – NEW DWELLING
PL/2025/07215 - Consent under Tree Preservation Orders Decision - Refuse Date: 29/10/2025 – T1 Sycamore tree in the rear garden of 66 Firs Road - Dismantle & fell to ground level.
19/00680/TPO - Work to TPO Trees Decision - Approve with Conditions Date: 1/3/2019 – Thin crown of Sycamore up to 30% Reduce crown sail area by up to 2m and crown raise over neighbouring garden to 4m above ground level

RELEVANT POLICIES AND GUIDANCE

Wiltshire Core Strategy:

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy

- Core Policy 23: Southern Wiltshire Community Area
- Core Policy 50: Biodiversity and Geodiversity
- Core Policy 51: Landscape
- Core Policy 57: Ensuring High Quality Design and Place Shaping

Saved Policies from Salisbury District Council Local Plan:

- C6: Special Landscape Area

The National Planning Policy Framework (NPPF)

The Planning Practice Guidance (PPG)

National Design Guide

Wiltshire Design Guide

CONSULTATION RESPONSES

Firsdown Parish Council: object – with the following text received:

'Firsdown Parish Council objects for the following reasons:

The application contains no evidence of involvement of building control oversight and advice given the wall is over 1m tall. (The structural element of the wall is 2m tall with further height on top due to glass panels). Building control guidelines say walls over ~0.9m should have engineer design.

The application contains no evidence of structural or civil engineer calculations to cover the wall strength, construction materials and foundations to ensure safety. The application contains no drainage details for the wall in order to determine how water in the land behind and the infill, will pass through the wall and where this water will be discharged to.

The Parish Council believes that the boundary of the applicant and 1 Maple Drive falls under the Party Wall Act 1996 section 1 (new building on the boundary line between neighbouring pieces of land) and particularly section 6 (excavation near neighbouring buildings) which states: excavate, or excavate for and construct foundations for a new building or structure, within 3 metres of any part of a neighbouring owner's building or structure, where any part of that work will go deeper than the neighbour's foundations or excavate, or excavate for and construct foundations for a new building or structure, within 6 metres of any part of a neighbouring owner's building or structure, where any part of that work will meet a line drawn downwards at 45° in the direction of the excavation from the bottom of the neighbour's foundations

No evidence has been provided by the applicant that the Party Wall Act does not apply, and if it does apply, there is no evidence that the applicant's obligations under the Act have been met.'

Arboricultural Officer – comment – with the following text received:

'The excavations which have taken place have removed soil from the rooting area of a protected Sycamore tree in the neighbouring garden to the west. No Arb Information has been provided with this application so its difficult to be sure on the extent of the encroachment into the root protection area (RPA), however, tree roots have clearly been severed. The damage caused cannot be undone but it is essential for the future wellbeing of the tree that no further excavation takes place. An application to reduce the tree by 1/3 has been submitted and agreed in order to reduce the sail area of the canopy to protect against the tree being windthrown.'

Local ward member – in the event on an approval the local member called the application to committee and provided the following comment:

'Concerned that this development is in contravention of the Party Wall Act given works in close proximity to the neighbouring property. This has raised concerns relating to the stability and safety of the development and potential impact on the neighbouring property. This requires professional, independent input from building control/surveyor to ensure concerns are addressed.'

REPRESENTATIONS

One objection was received from the immediate neighbour to the north of the site:

'We are very concerned that the work that has been carried out has now left a ten foot drop just a few feet from the exterior walls of our property. The excavation next door is extensive and has essentially created a huge pit in the natural landscape that is the entire area of the applicants back garden . We are extremely concerned that the stability of the footings and foundations of our bungalow will be affected , especially over time , as the retaining walls that have been built visually seem more decorative than structural and as my wife and I are both in our 80's we are frightened that the land will move causing damage/subsidence to our home. It is hard to imagine the sheer scale of the project without seeing it , we are very concerned.'

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In accordance with this statutory requirement, this application has been assessed against the relevant policies of the Development Plan, including the adopted Wiltshire Core Strategy (2015) and, where applicable, any made Neighbourhood Plans.

Principle of development

The works at the site are now complete. A retrospective planning application was submitted on 3 November 2025 during the latter stages of the construction process, following the Local Planning Authority's Enforcement Team becoming aware of the unauthorised works and advising that planning permission was required.

Section 55(1) of the Town and Country Planning Act 1990 defines development as the carrying out of building or engineering operations in, on, over or under land. Section 55(1A) confirms that “building operations” include structural alterations and other operations normally undertaken by a person carrying on business as a builder.

The works undertaken at Shanaway, comprising excavation, removal of the existing retaining structure and construction of a new retaining wall, clearly fall within the definition of building operations and therefore constitute development for the purposes of Section 55 of the Act. All work was carried out by persons ‘carrying on business as a builder.’

The Local Planning Authority is therefore satisfied that the operations carried out within the rear garden require planning permission.

Design and impact on the character and context of the area, and Special Landscape Area

Core Policy 57 of the Wiltshire Core Strategy seeks to ensure that development is of a high design quality, responding positively to local context, character and distinctiveness.

In this case, the works are located within the rear garden of the host dwelling and are not highly visible from the public realm, aside from limited and glimpsed views from within the street scene. The site does not occupy an elevated or prominent position within the wider landscape.

The development has resulted in the enlargement of an existing patio area and the replacement of a retaining wall using materials that broadly reflect those already present on site. As such, when considered purely in visual terms, the proposals do not give rise to any significant harm to the character or appearance of the area.

Having regard to the above, the proposal is considered to accord with the design principles set out in Core Policy 57 of the Wiltshire Core Strategy and the guidance contained within the Wiltshire Design Guide.

Saved Policy C6 of the Salisbury District Local Plan relates to the protection of Special Landscape Areas, which are designated to recognise the intrinsic character and quality of the local countryside and its visual amenity. In this instance, whilst the application site lies within a designated Special Landscape Area, the works are confined to the rear garden of an existing residential property and have limited visibility from the public realm. As such, the development does not give rise to any significant harm to the wider landscape character or visual qualities of the area. Accordingly, no conflict with Saved Policy C6 is identified.

Amenity (including Land Stability)

Point (vii) of Core Policy 57 of the Wiltshire Core Strategy requires that development does not result in unacceptable harm to the amenities of neighbouring occupiers. At a national level, paragraph 135(f) of the National Planning Policy Framework (NPPF) requires that planning decisions secure a high standard of amenity for existing and future users.

In the context of householder development, amenity is typically assessed with reference to impacts such as overlooking, loss of privacy, overshadowing, loss of light and overbearing impact. In this instance, the proposal does not give rise to any significant adverse impacts in respect of these conventional considerations. The works have reduced, rather than increased, land levels, and no concerns have been raised in respect of these matters.

However, the assessment of amenity is not limited to these traditional impacts. Both Core Policy 57 and the NPPF require consideration of the wider living conditions of neighbouring occupiers, including the safe and reasonable enjoyment of residential property. This includes circumstances where development gives rise to an unacceptable level of risk or uncertainty, including risks associated with land stability where development materially alters ground conditions in proximity to neighbouring land.

In this case, the works have involved the excavation of a substantial volume of land along the northern boundary shared with No. 1 Maple Drive, and the installation of a new retaining wall directly adjacent to that boundary. This represents a significant and abrupt alteration to the established land levels, where previously both sites shared a consistent ground profile. The relationship is further intensified by the fact that No. 1 Maple Drive is positioned at a higher level relative to the excavated land within Shanaway.

Concerns regarding land stability and the adequacy of the retaining wall have been raised by neighbouring occupiers, the Parish Council and the local ward member. These concerns relate to the potential for ground movement, structural failure and the implications for the neighbouring dwelling given its proximity to the excavated boundary.

National Planning Practice Guidance (PPG) makes clear that land stability is a material planning consideration. It provides guidance on how to ensure that development is suitable for its ground conditions and how risks arising from unstable land or subsidence should be addressed through the planning system. The PPG states that the planning system has an important role in ensuring that development is appropriate to its ground conditions, minimising the risk and effects of land instability on property and the public, and preventing development from taking place in unstable locations or without appropriate precautionary measures. Accordingly, land stability is not solely a matter for separate regulatory regimes such as Building Regulations, but is a relevant planning consideration where development has the potential to affect the stability of land and neighbouring property.

Following a site visit, the case officer considers that these circumstances engage the above PPG guidance. The extent of excavation and the introduction of a new retaining structure immediately adjacent to the boundary give rise to legitimate planning concerns regarding the long-term stability of the land and its effect on the neighbouring property.

The application as originally submitted was accompanied by a location plan, site plan, elevation drawings and sections. However, these drawings pre-date the submission of the structural engineer's report and do not include any details of a structural solution to address land stability or the adequacy of the retaining wall.

Following a site visit and ongoing concerns, the case officer requested further information to address the issue of land stability. In response, the applicant instructed a qualified structural engineer to prepare a structural assessment of the retaining wall.

The submitted structural report concludes that the retaining wall, as constructed, is inadequate to provide long-term stability, with failures identified in relation to sliding, overturning and bearing capacity. The report identifies that substantial strengthening works are required, including the construction of a further retaining structure in front of the existing wall, in order to achieve a satisfactory and stable outcome.

Whilst the structural assessment indicates that there is no immediate risk of undermining the neighbouring property at No. 1 Maple Drive, this does not alter the clear professional conclusion that the retaining wall, as constructed, is inadequate to provide long-term stability. The report confirms that the existing structure fails key stability checks and requires substantial additional works to achieve an acceptable and robust solution.

In this context, the absence of an immediate risk does not equate to the development being acceptable in planning terms. Rather, it demonstrates that the development currently exists in an unsatisfactory and transitional state, reliant on further intervention to ensure its long-term stability. The Local Planning Authority must be satisfied that development is safe and suitable over its lifetime, not simply that it avoids immediate failure.

Furthermore, there remains a paucity of information before the Local Planning Authority as to how the required strengthening works would be carried out, and what form the final, stable solution would take. In the absence of a clearly defined and secured structural scheme, the Local Planning Authority is unable to properly assess the impacts of the development or be satisfied that land stability can be achieved without harm.

Accordingly, the identified inadequacies, combined with this paucity of information, give rise to an unacceptable degree of uncertainty and risk in respect of land stability. This uncertainty directly affects the living conditions of neighbouring occupiers and weighs significantly against the proposal.

Following receipt of the structural report in January 2026, the applicant advised that they intended to undertake further works in accordance with the engineer's recommendations and that revised plans would be prepared and submitted. However, despite several months having elapsed, no revised drawings or details have been submitted to demonstrate how the identified deficiencies would be addressed.

The Local Planning Authority has sought to engage positively with the applicant to resolve these concerns. The case officer agreed an extension of time and has allowed the application to remain under consideration for an extended period to provide the applicant with sufficient opportunity to commission the necessary technical reports and submit revised plans addressing the structural deficiencies identified. This approach was taken in the interests of securing a satisfactory and acceptable outcome in planning terms.

However, despite this extended timeframe, which now exceeds eight months since the application was first submitted, no revised submission has been made. In the absence of a clearly defined and deliverable structural solution, the Local Planning Authority considers that it is no longer reasonable to delay determination of the application further.

As such, the application seeks retrospective approval of development which the applicant's own supporting evidence confirms is inadequate in its current form and dependent on further unspecified works to achieve an acceptable outcome. Given that national planning guidance explicitly identifies land stability as a matter which the planning system must address, the Local Planning Authority must be satisfied that development will not give rise to instability or associated harm. In this case, that requirement is not met.

The Local Planning Authority cannot be satisfied that the development would not adversely affect the stability of neighbouring land or the living conditions of adjacent occupiers. The Council has considered whether these matters could be addressed through the imposition of planning conditions. However, given the extent of the works required, which would introduce a materially different form of development, and the absence of any detailed or submitted scheme, it would not be reasonable or enforceable to secure an acceptable solution by condition.

Furthermore, the Wiltshire Design Guide requires that development creates safe and secure environments and functions effectively over its lifetime. Given that the retaining structure is demonstrably inadequate and reliant on further intervention, the development fails to meet these expectations.

Taking all of the above into account, the proposal results in an unacceptable impact on the living conditions of neighbouring occupiers by reason of the risk and uncertainty arising from inadequate land stability. The development therefore conflicts with Core Policy 57 (vii) of the Wiltshire Core Strategy, paragraph 135 of the National Planning Policy Framework, and the principles of the Wiltshire Design Guide.

Arboricultural Impact

A Tree Preservation Order (TPO) protects a sycamore tree located within the rear garden of No. 66 Firs Road, positioned adjacent to the northern boundary of the application site. The root protection area (RPA) associated with this tree extends into the rear garden of Shanaway.

During the course of the building operations, and following the Local Planning Authority advising that planning permission was required, the applicant's attention was drawn to the presence of the TPO tree and the extent of its RPA. It is understood that excavation works were subsequently halted in the immediate vicinity of the tree in order to avoid further encroachment into, or damage to, the RPA.

Notwithstanding this, the Council's Arboricultural Officer has advised that, given the extent of excavation undertaken prior to this point, it is highly likely that some level of harm to the RPA has already occurred. Whilst the cessation of works in this area has served to limit further potential damage, it does not negate the likelihood that the rooting environment has been adversely affected by the development.

On the basis of the above, it is considered that some harm to the TPO-protected tree has occurred, albeit that further harm has been minimised through the cessation of excavation works within the immediate RPA.

Other matters – Party Wall Act 1996

Concerns have been raised by neighbouring occupiers and the Parish Council in relation to the Party Wall Act 1996. However, matters relating to the Party Wall Act fall outside the scope of the planning system and are not material planning considerations in the determination of this application. Such matters are private civil issues between landowners.

Notwithstanding this, it is acknowledged that the underlying concerns raised in this regard relate to the potential effects of the development on neighbouring land and property. These matters have been fully considered by the Local Planning Authority within the assessment of residential amenity, particularly in relation to land stability. As set out above, these concerns have been given significant weight in the determination of the application and form a key part of the reason for refusal.

Biodiversity Net Gain

Householder planning applications are exempt from the requirement to deliver Biodiversity Net Gain under Schedule 7A, Section 4(2)(a) of the Town and Country Planning Act 1990, as inserted by the Environment Act 2021.

CONCLUSION

The application seeks retrospective planning permission for significant engineering operations undertaken within the rear garden of the dwelling, including extensive excavation works and the construction of a retaining wall along the boundary with a neighbouring property.

In visual and design terms, the development is not considered to result in significant harm to the character or appearance of the area, given its location within the rear garden and limited visibility from the public realm. However, this does not outweigh the substantive issues identified in respect of residential amenity and land stability.

The assessment has concluded that the development gives rise to an unacceptable impact on neighbouring amenity by reason of the risk and uncertainty associated with land stability. The scale of excavation and the alteration of established ground levels in close proximity to the shared boundary introduce a relationship which requires careful consideration through the planning system.

The applicant's own structural engineer has confirmed that the retaining wall, as constructed, is inadequate to provide long-term stability and that further substantial works are required to achieve an acceptable solution. Despite being afforded a prolonged period to address these deficiencies, including the agreement of an extension of time, no revised scheme has been submitted to demonstrate how the necessary works would be carried out or their impacts assessed.

National Planning Practice Guidance makes clear that land stability is a material planning consideration and that the planning system has an important role in ensuring development is suitable for its ground conditions, and in minimising the risk and effects of land instability on property and the public. In this case, given the scale of excavation and the proximity to the shared boundary, land stability is a central consideration in the assessment of the proposal. As a result, the Local Planning Authority is being asked to regularise development which is demonstrably inadequate in its current form and reliant on further unspecified works to achieve

compliance. In these circumstances, and having regard to national planning guidance on land stability, the Local Planning Authority cannot be satisfied that the development would not adversely affect the stability of neighbouring land or the living conditions of adjacent occupiers.

The Council has considered whether the identified issues could be addressed through the imposition of planning conditions. However, given the extent and nature of the works required, and the absence of a clearly defined and assessed solution, it is not considered reasonable or enforceable to secure an acceptable outcome by condition.

Accordingly, the proposal is considered to conflict with Core Policy 57 of the Wiltshire Core Strategy, paragraph 135 of the National Planning Policy Framework, land stability as per the PPG, and the principles set out within the Wiltshire Design Guide. No material considerations have been identified that would outweigh this conflict. The application is therefore recommended for refusal.

RECOMMENDATION: That Planning Permission be REFUSED.

The submitted structural assessment confirms that the retrospective retaining wall as constructed, is inadequate to provide long-term stability and requires substantial additional works to achieve an acceptable solution. Furthermore, there remains a paucity of information as to how the required strengthening works would be carried out and what form the final, stable solution would take.

In the absence of such information, the Local Planning Authority cannot be satisfied that the development would not give rise to ground instability or adversely affect the stability of neighbouring land, and thereby have a likely unacceptable impact on the living conditions of neighbouring occupiers by reason of risk and uncertainty associated with land stability.

Consequently, the development, by reason of the extent of excavation works and the construction of a retaining wall adjacent to the shared boundary with the neighbouring property at No. 1 Maple Drive, fails to demonstrate that the land can be adequately and safely retained. As a result, based on the current information submitted, the Local Planning Authority must conclude that the proposal is likely to have an adverse impact on general amenity, in conflict with aims Core Policy 57 (vii) of the Wiltshire Core Strategy, paragraph 135 of the National Planning Policy Framework, and the principles of the Wiltshire Design Guide.