

**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990**

**PROVISION OF TENNIS COURT ON GARDEN LAND AT
DOVE HOUSE, THE STREET, LITTLE SOMERFORD, WILTSHIRE, SN15 5JW**

**PLANNING STATEMENT
(Including Heritage Commentary)**

Prepared by

**Simon Chambers, BSc (Hons) MA MRTPI
Director
LPC (Trull) Ltd**

Our Reference: SWLC.LPC6217

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1.0 INTRODUCTION

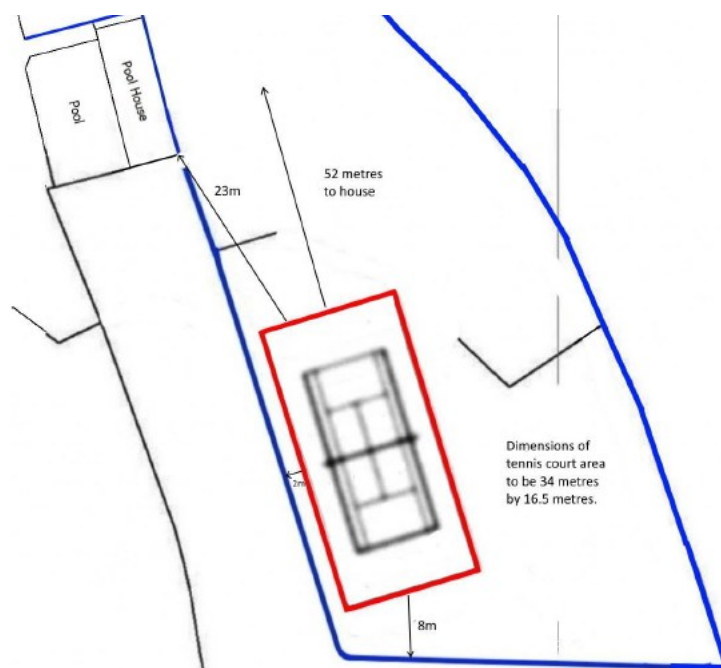
- 1.1 LPC (Trull) Ltd have been instructed by the owners of Dove House, The Street, Little Somerford, Wiltshire, to present a new application for the provision of a private tennis court in their garden.
- 1.2 It is the purpose of this overarching Planning Statement to review the site's planning history and explain how the siting of the proposed tennis court, on sanctioned garden land, will preserve the area's prevailing residential character and appearance and will thus be satisfactorily assimilated. By reference to both national and local planning policy it will be explained how this householder application is not contentious and indeed sits full square with Government's encouragement for personal health and activity.

2.0 PLANNING BACKGROUND

- 2.1 By pre-application ENQ/2023/00002 opinion was sought to support a new tennis court at Dove House. There were concerns though that the tennis court would be situated outside the previous residential curtilage of Dove House, in what was then described as 'open countryside'.



- 2.2 Concerns were also expressed that the proposal could detract from the setting of the adjacent listed building and the character of the Conservation Area.
- 2.3 The pre-application advice published though more positively indicated that the court should be sited closer to the pool and pool house in the neighbour's garden, as evident in the aerial photograph on the previous page (and labelled in the plan extract inserted below). It was agreed though that the extent to which the court could be sited north was limited by the need to avoid existing trees and planting. The case officer also recommended that the court netting should be black and restricted in height as far as possible, and that screening should be an integral element of the proposal.
- 2.4 By application PL/2023/06637 permission was then sought for a tennis court measuring approximately 34m by 16.5m, and finished with a porous green synthetic grass, and 2m high black mesh fencing at the highest point. The position shown below as proposed was described as 3m further north than the pre-application submission.



- 2.5 During the determination of the above application various changes were discussed, highlighting of course that there was no blanket opposition to providing a tennis court. Indeed, the application listed the following tennis courts already present in the village contextually (inserted on the next page),

one of which is in the grounds of the Listed house next door (Manor Farm) and also evident in the arial photograph referred to earlier. There is a second court towards the top of the image too. Additionally, by simply expanding that view to the west there is a third tennis court evident

- Manor Farm, The Street, Little Somerford, SN15 5JW
- Church Farm, The Street, Little Somerford, SN15 5JW
- Pound House, The Street, Little Somerford, SN15 5JW
- Coach House Farm, Little Somerford, SN15 5BH
- Malthouse Farm, East End Lane, Little Somerford, SN15 5JX
- Kingsmead Mill, Little Somerford, SN15 5JN



2.6 The application was refused, although it is noteworthy that the Conservation Officer agreed there was no harm to the setting of the nearest Listed Buildings. The objection as reported in the officer's delegated report was that the proposed would, 'impact upon the Conservation Area, as the siting of a tennis court would form a very domestic incursion into swathe (sic) of otherwise open countryside character that provides the Conservation Area edge and backdrop for the historic village centre'. There were two reasons for refusal which are reproduced below for ease of reference.

Reason for refusal 1

The proposed development, by reason of its incongruous domestication of agricultural land and failure to respond positively to existing townscape, would result in an unacceptable encroachment into the open countryside to the detriment of the rural character of the Little Somerford contrary to Core Policies CP1, CP2, CP48 and CP57 of the Core Strategy and the National Planning Policy Framework December 2023.

Reason for refusal 2

The proposed development, by its location further away from the host dwelling and other nearby buildings, and encroaching upon the open and

rural part of the Little Somerford Conservation Area, would be harmful to the character and appearance of the Somerford Conservation Area. In addition, the proposal fails to demonstrate public benefits to outweigh such harm. The proposal therefore would be contrary to Core Policies CP57 and CP58 of the Core Strategy, Planning (Listed Building and Conservation Areas) Regulation 1990 (as amended) and Section 16 of the National Planning Policy Framework December 2023.

- 2.7 More recently, by application PL/2025/08924 planning permission was approved to use the full extent of the land in the applicant's ownership shown edged red on the plan extract inserted below, as part of the single domestic garden associated with Dove House.



- 2.8 The change of use was conditional (No4) on the control of the normal rights to erect a means of enclosure up to 2m in height. Indeed, as the conditional wording employed referred to all means of enclosure (including a fruit cage for instance) and gates etc being restricted.

Condition 4

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending that Order with or without modification), no gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the plans hereby approved.

REASON: To safeguard the character and appearance of the area.

- 2.9 Additionally, the proceeding condition (No 3) also removed all Class E and F permitted rights, as indicated below, and clearly intended to restrict the laying of a hardsurface as a two-dimensional change in the approved garden.

Condition 3

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending those Orders with or without modification), no development within Part 1, Classes E and F shall take place on the land hereby permitted as residential garden land.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for such additions.

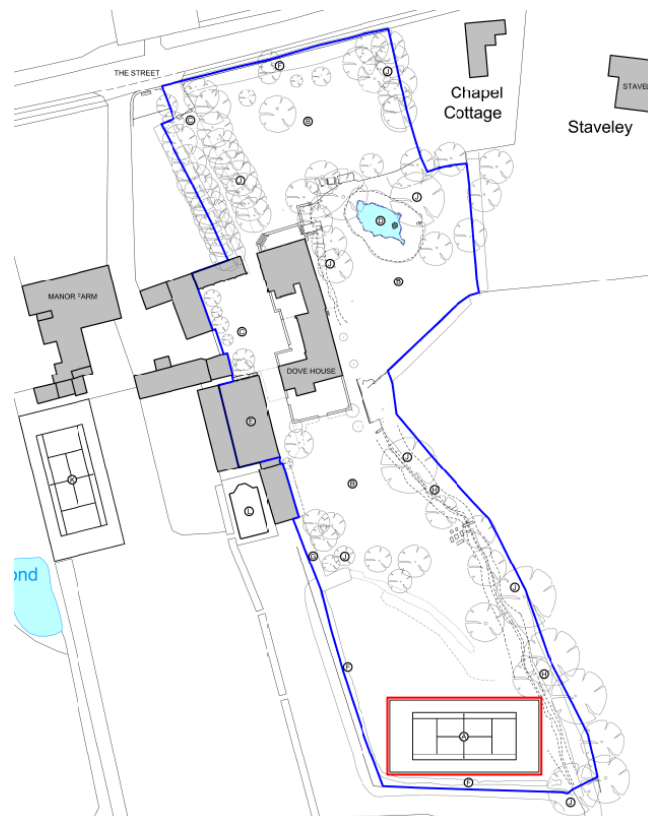
- 2.10 The officer's delegated report said that the change of use application was fully cognisant of the previous application for a tennis court and the suggested incongruity between the court and its location/character and appearance. The land in question was though said to be, 'already segregated from open agricultural fields by way of the mature hedgerow to the eastern boundary'. It was also said to be apparent that the land was not farmed, or viable for such use. The need for these controls seems to have therefore been conflated with the previous premise that the land was open countryside and ignored the sanctioned residential garden status and the normal rights that attracts.
- 2.11 The change of use was considered to lead to a neutral impact upon the Conservation Area and nearby Listed Buildings and Non-designated Heritage Assets and was therefore supported. The reason for the imposition of condition Nos 3 and 4 referred to earlier was therefore not reasonably justified on an exceptional basis, beyond the simple reasons given for their individual imposition, to assess in more detail any individual impacts. This application obviously provides the detail sufficient to demonstrate that the garden is no different from its nearby neighbours, being segregated from the village's rural setting.

3.0 THE PROPOSAL

- 3.1 Without those conditional limitations referred to in the previous section it would of course be a matter of permitted household development for the applicants to provide a new hardsurfaced tennis court in their garden, with a 2m high mesh fence. The application therefore seeks to test those exceptional grounds that purportedly justify the loss of these rights, given the residential character and amenity of the area would normally be deemed to be protected. It is indeed important to note that the NPPF at policy DM6: 2.

c. states very clearly that conditions should not be used to, 'Restrict national permitted development rights unless there is clear justification to do so'.

- 3.2 The application seeks to provide a new tennis court, with a green, synthetic grass surface (porous) and blank mesh 2m high fencing. The court will be sited as shown at the bottom of this page, and measures 34m by 16.5m. as a typical domestic facility. It has a green synthetic grassed surface to help assimilate on lawned part of the garden where it is situated. The siting chosen also retains the clustered tree planting to the north etc that helps to diffuse any views, albeit of course the 2m high black mesh fencing is actually lower than the typical boundary planting present.



4.0 PLANNING POLICY COSIDERATIONS

4.1 The NPPF highlights that planning law (section 70 [2] of the Town and Country Planning Act 1990 and section 38 [6] of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

4.2 The relevant development in this case is the adopted Wiltshire Core Strategy (WCS) adopted in 2015 and from which, as well as the site's previous planning appraisal, the following policies are considered to be relevant to the proposed development.

CP1 Settlement Strategy
 CP2 Delivering Strategy
 CP13 Spatial Strategy: Malmesbury Community Area
 CP50 Biodiversity and Geodiversity
 CP51 Landscape
 CP57 Ensuring high quality design and place shaping
 CP58 Ensuring the Conservation of the Historic Environment

4.3 Key issues

- Principle of development
- Heritage assets
- Landscape impact
- Residential amenity
- Ecology

4.4 The National Planning Policy Framework (NPPF) provides the Government's planning policies for England and explains how they should be applies. Together with the online Planning Practice Guidance (NPPG) these are material planning considerations. Indeed, the latest NPPF says it is a material consideration of critical importance.

4.5 The following sections are also considered relevant to this development proposal:

Section 3: Decision making;

Section 4: Achieving sustainable development;

Section 14: Achieving well-designed places;

Section 17: Pollution, public protection and security;

Section 19: Conserving and enhancing the natural environment.

Section 20: Conserving and enhancing the historic environment

5.0 PLANNING ASSESSMENT

5.1 Principle of Development

5.1.1 The NPPF provides a presumption in favour of sustainable development at policy S3, and this framework has been described a default yes to development. Development proposals should be approved unless the benefits of doing so would be **substantially** outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework. In that regard, as the application site has been previously described as 'countryside', in the interests of expediency, I've treated it without prejudice, as outside the settlement, and subject to policy S5. Policy S3 2 however does of course indicate that where development proposals fall partly within and partly outside a settle both policies S4 and S5 should be applied. In that regard policy S4 raises no basis to consider the proposal will have a substantial adverse impact.

5.1.2 Policy S5: 1.a. is supportive in principle of outdoor sport in this location. It is of course subject to the limitations at S5: 2., 'In applying this policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances'. The following table, inserted on the next page, lists the potential grounds for refusal in the face of the default yes for such sustainable development, where the presumption in favour should apply.

#	Policy	Topic	Refusal trigger
1	TC3(4)	Town centres	Fails the sequential test, or would have a significant adverse impact on one or more of the considerations in policy TC4
2	TR6(4)	Transport	Would have a severe adverse impact on the transport network (capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety
3	HC5(1)	Hot food takeaways	Within reasonable walking distance of schools and other places where children and young people congregate (unless within a designated town centre); or where evidence shows a concentration of such uses is having an adverse impact on local health, pollution or anti-social behaviour
4	L3(4)	Density	Does not make efficient use of land in accordance with L3(2)
5	GB6(2)	Green Belt	Inappropriate development – should not be approved except in very special circumstances
6	DP3(3)	Design	Conflicts, without clear justification, with DP3(1) (context), relevant aspects of the principles in DP3(2), or explicit design standards in the development plan
7	N4(2)	Protected Landscapes	Major development within a Protected Landscape – should be refused other than in exceptional circumstances and where in the public interest
8	N6(1)(a)	International biodiversity sites	Proposals affecting a habitats site – should be refused unless appropriate assessment concludes no adverse effect on integrity, derogation tests are satisfied, or an Environmental Delivery Plan and nature restoration levy apply
9	N6(2)	Irreplaceable habitats	Loss or deterioration of irreplaceable habitats (e.g. ancient woodland, ancient or veteran trees) – should be refused unless wholly exceptional reasons exist and a suitable compensatory strategy is in place
10	HE6(5)	Designated heritage assets	Substantial harm to, or total loss of, significance of a designated heritage asset – consent should be refused unless the harm is necessary to achieve substantial public benefits that outweigh it, or all four alternative conditions are met
11	M5(1)	Peat extraction	Extraction of peat at new or extended sites – should be refused
12	M5(2)	Coal and onshore oil/gas	Surface or underground coal workings, or onshore oil and gas extraction – should be refused unless necessary for one of the specified purposes
13	F6(1)(a)	Flood risk (rivers/sea)	Use is incompatible with the risk from river or sea flooding as set out in Annex F, table 3 – should be refused
14	F7(2)	Flood safety	Development in a location at risk of flooding – should be refused unless the most vulnerable development is in areas of lowest risk, the development is safe throughout its lifetime, residual risk is safely managed, the development is flood resistant and resilient, and flood risk is not increased elsewhere
15	F9(1)(3)	Coastal change	Development within a Coastal Change Management Area (including new residential) – should not take place unless it would be safe over its planned lifetime, reflects the Shoreline Management Plan with no unacceptable impact on coastal change processes, and provides wider sustainability benefits

5.1.3 The principle of residential development, within the now established lawful domestic curtilage is acceptable, subject to its acceptable assimilation contextually and under those other key issues raised previously, and which are addressed under the following sub-headings. Indeed, it should be stressed that NPPF Policy DP3 supports healthy developments, which sits full square with the desire to add personal health facilities, particularly as there are other examples throughout the village.

5.2 Impact on the Heritage Environment

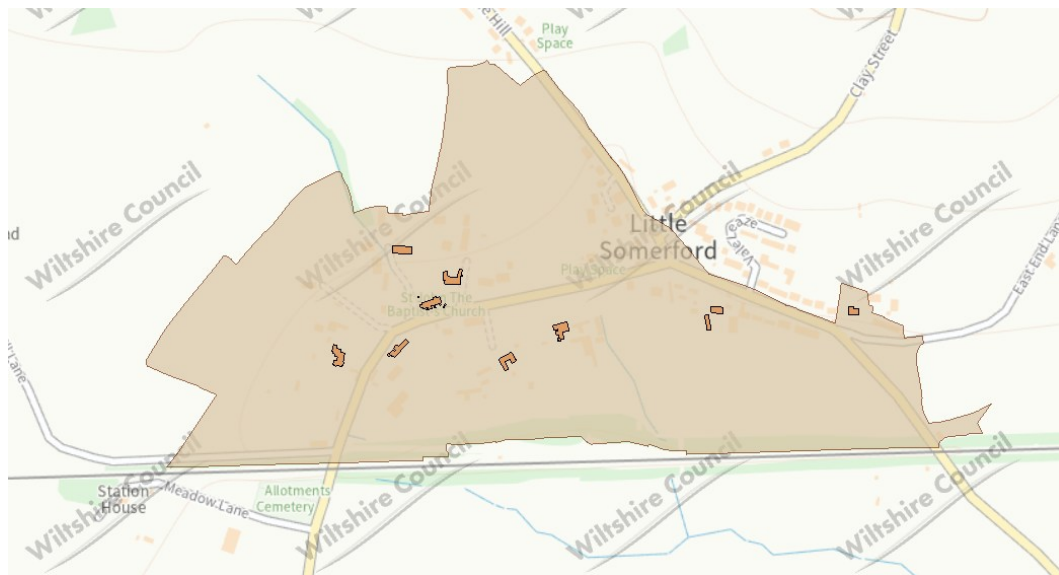
5.2.1 NPPF Policy HE6: 6. above refers to ‘substantial harm to, or total loss of significance of a designated heritage asset’. The previous refusal for a tennis court **and** the change of use of the land was agreed not to harm the setting of the nearest Listed Buildings. The delegated decision report stated, ‘*The site forms part of an established field (see Tithe and early OS Mapping) beyond the residential established boundary. It is some distance from the listed buildings 50 metres to the curtilage Dove House and 100 metres to rear of Manor Farmhouse, therefore it is considered the proposal would not harm the setting of the listed buildings.*’ However, in terms of the Conservation Area the application was said to ‘*form a very domestic incursion into swathe of otherwise open countryside character that provides the Conservation Area*

edge and backdrop for the historic village centre and this is harmful to the character and appearance of the Little Somerford Conservation Area'. The scale of the harm was not described.

- 5.2.2 Nevertheless, quoting from the officer's report further it can be seen that the planning balance was made in terms of whether the harm was outweighed by public benefits. It reasonably follows therefore that by making this assessment the harm was considered to be 'less than substantial' as the previous NPPF applied such a test and is thus lower than the basis for refusal referred to above, relating to 'substantial' harm.
- 5.2.3 The Conservation Area designation was originally said to include a large swathe or buffer to the rear of dwellings on The Street and their curtilages and gardens including Dove House and Manor Farmhouse (formerly listed as Manor House) . It includes historic field plots evident on Tithe mapping (Plots 35,46, 47 48 & 49 all identified as pasture on the Tithe map apportionment) and continuing to 1st Edition OS mapping 1844 -1888 (Plots 120, 121,122,127,129 and 133) and 3rd Ed 1898-1939 with established hedgerow boundaries. The Conservation Area boundary runs down the railway embankment and well-established tree line to the embankment. This now provides a substantial planted land buffer beyond my client's garden to the south.
- 5.2.4 Toward Church Farm this buffer is reduced as the historic development encroaches further south after Manor Farm including the listed Somerford House and Church Farmhouse and their associated farm buildings. To the east of Manor Farm the 'field plots' become deeper between the railway embankment and the rear of the properties on to The Street. The green field buffer to the rear of the Street was previously said to be a significant feature of the character and appearance of the Conservation Area. The garden though is of course no longer a 'field' and agreed to be segregated from the open fields.
- 5.2.5 The Manor Farmhouse is a late 17th century farmhouse two storey, it has significance from its architectural and historic interest and its central position in the Conservation Area. Dove House is formed partly from a range of

outbuilding/barns that formed a courtyard of agricultural buildings adjoining Manor Farmhouse to its east side. The barns were converted post 1951 and are therefore curtilage listed. Their significance comes from their physical relationship forming part of the setting of Manor Farmhouse and the historic barns that make up Dove House also have some significance preserving the historic siting and some historic fabric.

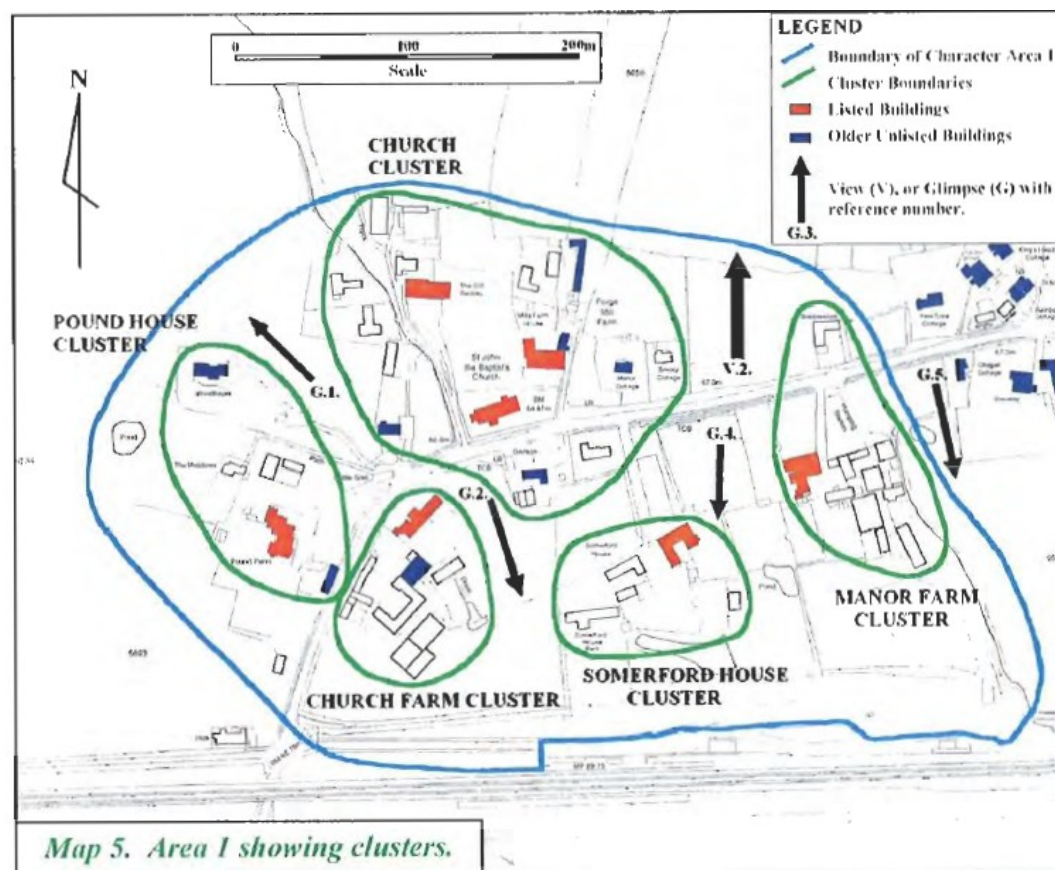
5.2.6 From the perspective of the historic environment the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990. Sections 16 (Listed Building Consent) and 66 (Planning Permission) requiring that special regard be given to the desirability of preserving listed buildings, their settings or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas. The extent of the Conservation Area and Listed Buildings are shown on the plan extract inserted below.



5.2.7 Although now out of date, the Little Somerford Village Design Statement and Conservation Statement, which was adopted as Supplementary Planning Guidance to the North Wiltshire Local Plan on 25th July 2002, helps underpin the earlier Conservation Area description. The railway line and embankment were said (para 2.1.5) to impart a 'sense of enclosure where once open fields

extended as far south as the River Avon'. This was said to be an important contributor to the character of the village and was described as a 'linear wood'. Para 2.2.7 said, 'Character is defined by the three main factors: the tranquil pasture-land setting, the attractive land forms and foliage which may be viewed through gaps in the settlement from many parts of the village, and the historic cluster of smaller buildings around larger ones.'

5.2.8 Interestingly, in examining the historic village cluster patterns the plan extract from the 2002 statement inserted below shows that there was a building within the subsequent garden of Dove House, extending south of the swimming pool now part of the separate garden to Manor Farmhouse. The now approved garden area for Dove House was clearly not historically open pasture land, or field plots as previously suggested in opposition to the previous siting of the tennis court in a similar position to the now demolished building.



5.2.9 NPPF Policy HE4: Securing the conservation of heritage assets, notes that; heritage assets, as an irreplaceable resource, should be conserved in a manner appropriate to their significance. To achieve this, development

proposals which would affect the significance of heritage assets, including any contribution made by their setting should: inter alia, maintain a use consistent with their conservation, and the positive contribution they can make to local character and distinctiveness, and minimising harm to the significance of the asset.

5.2.10 NPPF Policy HE5: Assessing effects on heritage assets, requires the potential effects of development proposals on the significance of heritage assets (including through effects on their setting) to be identified and considered whether such is likely to: have positive effects, no effects or result in harm. In that case the degree of harm should be identified. Policy HE6: indicates that when considering the potential effect of a development proposal on the significance of a designated heritage asset, substantial weight should be given to the asset's conservation.

5.2.11 In addition, WCS Core Policy 58 seeks development to protect, conserve, and where possible to enhance the historic environment, and WCS Core Policy 57 expects a high standard of design in all new developments. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.

5.2.12 In terms of the significance of the Conservation Area, the Little Somerford Village Design and Conservation Area Statement notes that its "character is defined by three main factors: the tranquil pasture-land setting, the attractive land forms and foliage which may be viewed through gaps in the settlement from many parts of the village, and the historic clusters of smaller buildings around larger ones". The significance of the Conservation Area is therefore considered to arise primarily from its aesthetic (fortuitous) and historical (illustrative) value. This character by definition was not harmed by the agreed extended garden use of the land in question and consequently the wider designation's value is significant, but the visually contained garden contributes very modestly to the defining factors. It should also be stressed that the applicant's have not yet instructed a garden design to augment the boundary planting and overall garden planting pending the approval for the siting of the proposed tennis court. Its containment is anticipated to be increased with new diffed planting.

5.2.13 It is proposed to construct a hard surfaced tennis court on garden land to the rear of Dove House, where there is already well-established boundary planting and retained planting can be conditionally controlled to the north within the garden too. The proposed tennis court site sits well away from Dove House and even further to the south east of Manor Farmhouse, and beyond which there is a wide/dense tree belt and the mainline railway embankment. It is located within the Conservation Area boundary which includes the former truncated field systems south of the approved gardens, down to the railway embankment. It is though garden land and not pasture land, particularly evident by the planting and lawn management. The cluster pattern referred to earlier reinforces the fact that the application site is separate from the rural land characteristics that run along the southern edge of the Conservation Area and outside the domestic groupings.

5.2.14 Returning to the previous reasons for refusal it is a matter of fact that there was no obvious objection in principle, as discussions were clearly pursued to explore the possible repositioning of the tennis court, potentially further north. The new application is different too as the prevailing character of the application site is now sanctioned as residential land (yet to be formally landscaped) and therefore it is not tenable to describe the largely two dimensional change as encroaching into the countryside. The land is now garden land so the 2m mesh fencing cannot be reasonably described as an 'incongruous' feature, even if it was visible beyond the strongly and higher planted site boundaries (see site sectional information included with application). It could of course have been erected as permitted development when the land was sited beyond the formal garden boundaries which point makes the removal of that right applicable to all land in my client's control very hard to justify. The changes proposed do not encroach into open or rural village countryside setting and the previous reasons for refusal are therefore entirely unapplicable given the change in circumstances and associated new context. The physical change contextually is therefore neutral as far as the prevailing garden character and appearance of this part of the Conservation Area, which is the correct starting point for the statutory assessment.

5.2.15 Consequentially, mindful of requirements at Article 31 to The Town and Country Planning (Development Management Procedure) (England) Order 2015, such that all reasons for refusal should be complete and precise, the conditional need for planning permission does not substantiate the previous stated concerns about encroachment into the ‘countryside’ and the domestication of the land. It is now domestic by definition. The tennis court has a garden setting and strongly defined garden boundary planting (which is being retained, and will be augmented too) and is entirely in keeping with the immediate garden setting of Manor Farmhouse too where there is already a tennis court and swimming pool, evidencing the wider domestic setting, distinct from the ‘pasture’ land beyond the lawful garden areas, whose character and appearance is ‘segregated’ from the village’s rural setting beyond.

5.3 Landscape Impact

5.3.1 Policy CP51 of the WCS seeks to protect, conserve and where possible enhance landscape character and development must not have a harmful upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. In this instance, the site is not located within a local or national landscape designation.

5.3.2 As previously agreed in respect of application PL/2023/06637 the site would not be overlooked from any public vantage points, and the proposal is therefore unlikely to be visible to users of the local rural public rights of way network. There was no landscape impact objection and as previously indicated the boundary planting and garden trees to the north are intended to be retained and can be conditionally controlled and if considered necessary additional planting could also be conditionally controlled too. There remains no landscape objection to the proposal, particularly as no change of use of land is now proposed.

5.4 Residential Amenity

5.4.1 Core Policy C57 of the WCS requires new development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of

existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter).

5.4.2 In this instance, and as was the case when the proposed court was in fact closer to the neighbour, (the nearest neighbouring dwelling is Manor Farmhouse), there is no loss of residential amenity. The proposed court would now be substantially removed to the south east of the neighbour's pool house. No lighting or flood lights are proposed. Accordingly given the reasonable separation distance from the neighbouring properties and the domestic nature of the scheme. it is maintained that the application is unlikely to have significant adverse impact to be detrimental to the amenity of the neighbouring properties. Therefore, there is no objection in this regard, and the view from the application site towards Manor Farmhouse (to the left) shows there is simply no inter-visibility.



5.5 Ecology

5.5.1 Notwithstanding that the previous tennis court application and the garden change of use raised no ecological concerns the enclosed application includes a Preliminary Ecological Appraisal prepared by All Ecology.

5.5.2 The appraisal confirms that there is limited potential to support protected or notable species as part of the entire expanded garden area. The scale of development proposed though does not trigger the statutory requirement for Biodiversity Net Gain regime. In order to address the requirement for environmental enhancement at policy CP50 to the WCS section 4.0 includes potential enhancement, and although not formally required my clients would not resile from adopting those recommendations made.

6.0 CONCLUSIONS

6.1 The proposed new tennis court is typical of the village's defined clustered residential character and appearance, as evidenced by several nearby similar facilities nearby. The material change in circumstances since permission was previously resisted at Dove House sets aside the limited reasons for refusal. The extended garden has of course not yet been formally landscaped, but fundamentally it is agreed to be segregated from the open land beyond the village and has a well-defined planted boundary (including a 'linear wood' beyond to the south, up to the railway embankment).

6.2 The siting chosen and green surfaced tennis court, with low mesh fencing (lower than the established boundaries) is not an incongruous domestic feature out of keeping with the sanctioned garden use (and that of the immediate neighbour-Manor Farmhouse). Indeed, it is well contained and will have a neutral impact on the wider prevailing character and appearance of the Conservation Area so that the change will be satisfactorily assimilated. The garden provides no significance aesthetically or historically that would be lost by the discrete domestic change proposed.