

# Swindon Borough Council

## Planning Committee

**Tuesday, 12 January 2016**

Council Chamber, Civic Offices

At 5.30 p.m.

### **Conservative Councillors**

*Colin Lovell  
Vera Tomlinson  
Nick Martin  
Alan Bishop  
Kevin Parry  
Eric Shaw  
Cathy Martyn  
Timothy Swinyard*

### **Labour Councillors**

*Abdul Amin  
John Ballman  
Teresa Page  
Peter Watts  
Paul Baker  
Steph Exell*

### **Liberal Democrat Councillors**

*Stan Pajak*

(Copy to all other Members of the Council – For Information)

**Committee Officer:** Iain Tucker (Telephone 01793 463605)  
email: [itucker@swindon.gov.uk](mailto:itucker@swindon.gov.uk)

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street,  
Swindon, SN1 2JH (Telephone 01793 445500)

**PLEASE NOTE: AN ADDITIONAL INFORMATION SHEET CONTAINING ANY INFORMATION RECEIVED AFTER PUBLICATION OF THIS AGENDA WILL BE PLACED IN COUNCILLORS' PIGEONHOLES FOR DELIVERY ON THE FRIDAY IMMEDIATELY BEFORE THE MEETING.**

**PUBLIC COPIES OF THE ADDITIONAL INFORMATION SHEET WILL BE AVAILABLE ON THE COUNCIL'S WEBSITE AND FROM APPROXIMATELY 5.30 PM IN THE COUNCIL CHAMBER.ON THE DAY OF THE MEETING**

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## **AGENDA**

### **1. Apologies for Absence**

### **2. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

### **3. Minutes (Pages 1 - 3)**

To receive the minutes of the meeting held on 8<sup>th</sup> December 2015

**4. Public Question Time**

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

**5. Determination of Planning and Related Applications** (Pages 4 - 6)

**6. S/15/1585/HC Erection of 3 storey building comprising ground floor retail (Class A1) and 14 no. apartments (Class C3) with access, parking, and amenity areas and associated works.Redhouse Village Centre, Millgrove Street, Redhouse** (Pages 7 - 25)

**7. S/15/1687/JROD Erection of 1no. replacement dwelling with associated works.Partridge Barn, Watchfield Road, Coleshill** (Pages 26 - 37)

**8. Marlborough park S106 agreement** (Pages 38 - 44)

**9. Protocol for Dealing with Planning and Related Applications** (Pages 45 - 70)

**Date of Despatch:** 23 December 2015

**Key:**

**Officers:**

HP - Head of Planning

**Public Question Time** - Swindon Borough Council remains committed to increasing its accountability to the public and to promoting active citizenship. 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from the public about the work of the Committee (except for confidential matters, and matters relating to planning and licensing applications). We will give priority to those who submit questions in writing at least two days before the meeting. Questions must be relevant, clear, and concise. You may not use Public Question Time as an opportunity to make speeches or statements.

Questions in writing should be sent to the Committee Officer whose contact details appear on the agenda above or to the Director of Law and Democratic Services, we will publish it, along with the answer, alongside the Minutes. The process associated with asking a public question is set out in the "Public Question Time at Council Meetings Protocol and Guidance" available on the Council's Website.

(<http://ww5.swindon.gov.uk/moderngov/ecCatDisplay.aspx?sched=doc&cat=13338&path=0>) or from the Committee Officer named above.

**Access Arrangements** – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.



**WELCOME TO THE PLANNING COMMITTEE  
OF SWINDON BOROUGH COUNCIL**

**NEW GUIDELINES - PLEASE READ**

**IF YOU HAVE COME TO SPEAK ABOUT AN APPLICATION THAT INTERESTS YOU PLEASE READ THE FOLLOWING GUIDELINES. THEY EXPLAIN HOW THE COMMITTEE DEALS WITH EACH ITEM. THESE GUIDELINES ONLY APPLY TO APPLICATIONS LISTED ON THE MAIN SCHEDULE IN THE AGENDA**

- 1. THE COMMITTEE CHAIR CALLS THE ITEM**
- 2. PLANNING OFFICER PRESENTS THE APPLICATION**
- 3. WARD COUNCILLORS MAY SPEAK**
- 4. APPLICANTS AND/OR AGENT (5 MINUTES MAXIMUM IN TOTAL) WHO HAVE NOTIFIED THEIR INTENTION TO SPEAK ON THE ITEM TO THE COMMITTEE CLERK BY 12 NOON THE DAY BEFORE THE MEETING.**
- 5. PUBLIC SPEAKERS (INCLUDING PARISH COUNCIL )- WHO HAVE NOTIFIED THEIR INTENTION TO SPEAK ON THE ITEM TO THE COMMITTEE CLERK BY 12 NOON THE DAY BEFORE THE MEETING.**  
  
**(MAXIMUM 5 MINUTES EACH UP TO 2 SPEAKERS, IF MORE THAN 2 THEN MAXIMUM 10 MINUTES TOTAL SPEAKING TIME FOR ALL SPEAKERS)**
- 6. COUNCILLORS WHO HAVE DECLARED PERSONAL OR PREJUDICIAL INTERESTS MAY SPEAK**
- 7. MEMBER ONLY DISCUSSION, INCLUDING ANY FURTHER QUESTIONS TO OFFICERS OR ANYONE ELSE WHO HAS SPOKEN**
- 8. A PLANNING OFFICER WILL CLOSE THE ITEM BY COMMENTING ON ISSUES RAISED BY MEMBERS**
- 9. VOTE**
- 10. CHAIR BRIEFLY EXPLAINS DECISION IF NECESSARY**
- 11. NEXT BUSINESS**

**THE 10 MINUTE MAXIMUM PUBLIC SPEAKING PERIOD WILL BE YOUR ONLY OPPORTUNITY TO SPEAK, UNLESS MEMBERS OF THE COMMITTEE WISH TO ASK YOU QUESTIONS UNDER GUIDELINE 7.**

**SPEAKERS WHO MERELY REPEAT POINTS ALREADY MADE BY OTHERS MAY BE ASKED TO STAND DOWN.**

**IF THERE IS MORE THAN ONE PERSON WISHING TO ADDRESS THE COMMITTEE EITHER AS AN OBJECTOR OR SUPPORTER, THEY ARE EXPECTED TO NOMINATE A REPRESENTATIVE FROM THE SPEAKERS LISTED TO REPRESENT THEIR COLLECTIVE VIEWS.**

**THE CHAIR AND THE COMMITTEE HAVE THE DISCRETION TO DEPART FROM THESE GUIDELINES, BUT WILL IN MOST CASES EXPECT ALL PARTIES TO ABIDE BY THEM.**

**PLANNING COMMITTEE**

**TUESDAY, 8 DECEMBER 2015**

PRESENT: - Councillors Abdul Amin, John Ballman, Colin Lovell (Chair), Teresa Page, Vera Tomlinson, Peter Watts, Nick Martin, Alan Bishop, Kevin Parry, Eric Shaw, Cathy Martyn, Stan Pajak, Timothy Swinyard and Steph Exell.

Apologies for absence were received from Councillors Paul Baker.

**86. Declarations of Interest**

There were no declarations of interest

**87. Minutes**

Resolved – That the minutes of the meeting held on 10<sup>th</sup> November 2015 , be confirmed and signed.

**88. Exempt Items - Exclusion of Press and Public**

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 10 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned

**89. Public Question Time**

There were no public questions

**90. Determination of Planning and Related Applications**

The Committee considered: -

- (a) Applications for permission to develop;
- (b) Recommendations of the Head of Planning, Regulatory Heritage and Libraries;
- (c) The views of interested persons set out in the report circulated with the Committee Agenda;
- (d) The comments of Councillor Crabbe in respect of application numbered S/15/1104
- (e) The comments of the following interested persons:-

<u>App No.</u>	<u>Name</u>	<u>Address/Organisation</u>
S/15/1104	Mark Campbell	Wroughton Parish Council 41 Langton Park
	Mike Hayward	
	Chris Kennedy	
	Andrew Prous	

Resolved – That permission to develop be granted in respect of application numbered S/15/1104, subject to the conditions listed in the Committee Report, as amended below:

Amended Condition:

7. The childminding facility (Class D1) hereby permitted shall be operated by and in conjunction with the occupiers of Cradlebridge House, and not be operated by any other person.

Reason: The childminding facility and residential uses taking place within the same property are interlinked using shared parts of the dwelling and as such it is not considered suitable for use as a childminding facility with no relationship to the occupation of Cradlebridge.

## **91. Assisted Living Housing Local Development Orders**

On consideration of (a) a report of the Head of Planning, Regulatory Services, Heritage and Libraries seeking approval of the Committee to adopt Local Development Orders which would grant planning permission upfront for assisted living bungalow schemes at two sites in Swindon; (b) the comments of Councillor Moffatt and (c) the comments of Andria Thomas, Beaufort Green, Swindon:

Resolved – That this Committee agrees that:

(1) The Local Development Orders (LDOs) at the following sites are formally adopted;

(a) Land at end of Linden Ave / Sycamore Grove, Pinehurst

(b) Land behind Bembridge Close / Beaufort Green, Park North

(2) A Local Development Order at Land behind Abbey View Road / Church Walk North, Moredon will not be pursued;

(3) The Head of Planning, Regulatory Services, Heritage and Libraries undertake all action as necessary to confirm and publicise the adoption of the LDOs; and

(4) The Head of Planning, Regulatory Services, Heritage and Libraries be authorised to make minor drafting changes to the content of the documents if required prior to publication.

## **92. Planning Agreements**

The Director of Law and Democratic Services submitted a report concerning the current position in relation to Deeds of Planning Obligation (i.e. Section 106 Agreement or Section 106 Unilateral Undertaking) authorised by the Council in its role as local planning authority.

Resolved – That the report be noted

## **93. Enforcement**

The Director of Law and Democratic Services submitted a report concerning the current position in relation to Planning Enforcement Action authorised by the Council in its role as local planning authority.

Resolved – That the report be noted.

## Determination of Planning and related Applications

**Planning Committee**

**Date: 12<sup>th</sup> January 2016**

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Author:	Head of Planning and Regulatory Services
Wards:	All Wards
Locality Affected:	All Locality Area
Parishes Affected:	All Parish Area

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### **1. Purpose and Reasons**

- 1.1 To determine the planning and related applications in the Committee reports that follow this report in the Committee Agenda, as may be amended by the additional information sheet circulated before the meeting

### **2. Recommendations**

The Committee is recommended to:

- 2.1.1 determine the applications set out in the Committee agenda in accordance with the recommendations set out in the reports, including, where relevant, the additional information.

### **3. Alternative Options**

- 3.1 The Committee could choose not to determine the Planning applications

### **4. Implications, Diversity Impact Assessment and Risk Management**

Financial and Procurement Implications

- 4.1 There would be financial implications if, following a refusal to grant planning permission or the grant of conditional permission, costs are awarded against the Council on appeal. However, this would only happen if the Council was adjudged to have acted unreasonably

Legal and Human Rights Implications

- 4.2 There are no staffing implications. No comments have been received from relevant trade unions, unless specified in the attached schedule.
- 4.3 Human Rights considerations have been taken into account in compiling the reports. It is considered that the recommendations of the reports are compatible with Convention rights and that in accordance with the principle of proportionality any interference with the Convention rights of individuals is justified by the overall benefit to the community.

### **5. Appendices**

- 5.1 Appendix 1 - Documents which may be relied on in the preparation of the application reports

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Further information on the subject of this report can be obtained from Contact Person, Direct Dial Telephone Number, [Employee@swindon.gov.uk](mailto:Employee@swindon.gov.uk).

# **Determination of Planning and related Applications**

**Planning Committee**

**Date: 12<sup>th</sup> January 2016**

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- 5.2 Schedule of planning and related applications reported to this Committee for the first time.

## **APPENDIX 1**

### **DOCUMENTS WHICH MAY BE RELIED ON IN THE PREPARATION OF THE APPLICATION REPORTS**

1. The approved Development Plan, consisting of
  - Swindon Borough Local Plan 2026, (2015), and the Swindon Borough Local Plan 2026 Policies Map (2015)
  - Wiltshire and Swindon Minerals Core Strategy, (2009)
  - Wiltshire and Swindon Minerals Development Control Policies DPD (2009)
  - Wiltshire and Swindon Aggregate Minerals Site Allocations Local Plan, (2013)
  - Wiltshire and Swindon Waste Core Strategy, (2009)
  - Wiltshire and Swindon Waste Development Control Policies DPD, (2009)
  - Wiltshire and Swindon Waste Site Allocations Local Plan, (2013)
  - Swindon Central Area Action Plan, (2009)
2. Adopted Supplementary Planning Guidance Notes, Supplementary Planning Documents and Development Control Guidance Notes
3. The National Planning Policy Framework, (2012); and policy statements, guidance and DCLG circulars that support the National Planning Policy Framework
4. Ministerial Statements and other guidance material to the consideration of applications
5. Relevant appeal decisions and case law
6. Relevant planning history, case files and related correspondence including the views of statutory consultees
7. Any emerging relevant Development Plan Documents



This Plan is for illustrative purposes only and is not intended to provide accurate representation of the development.  
In all cases references should be made to the submitted plans.



S/15/1585

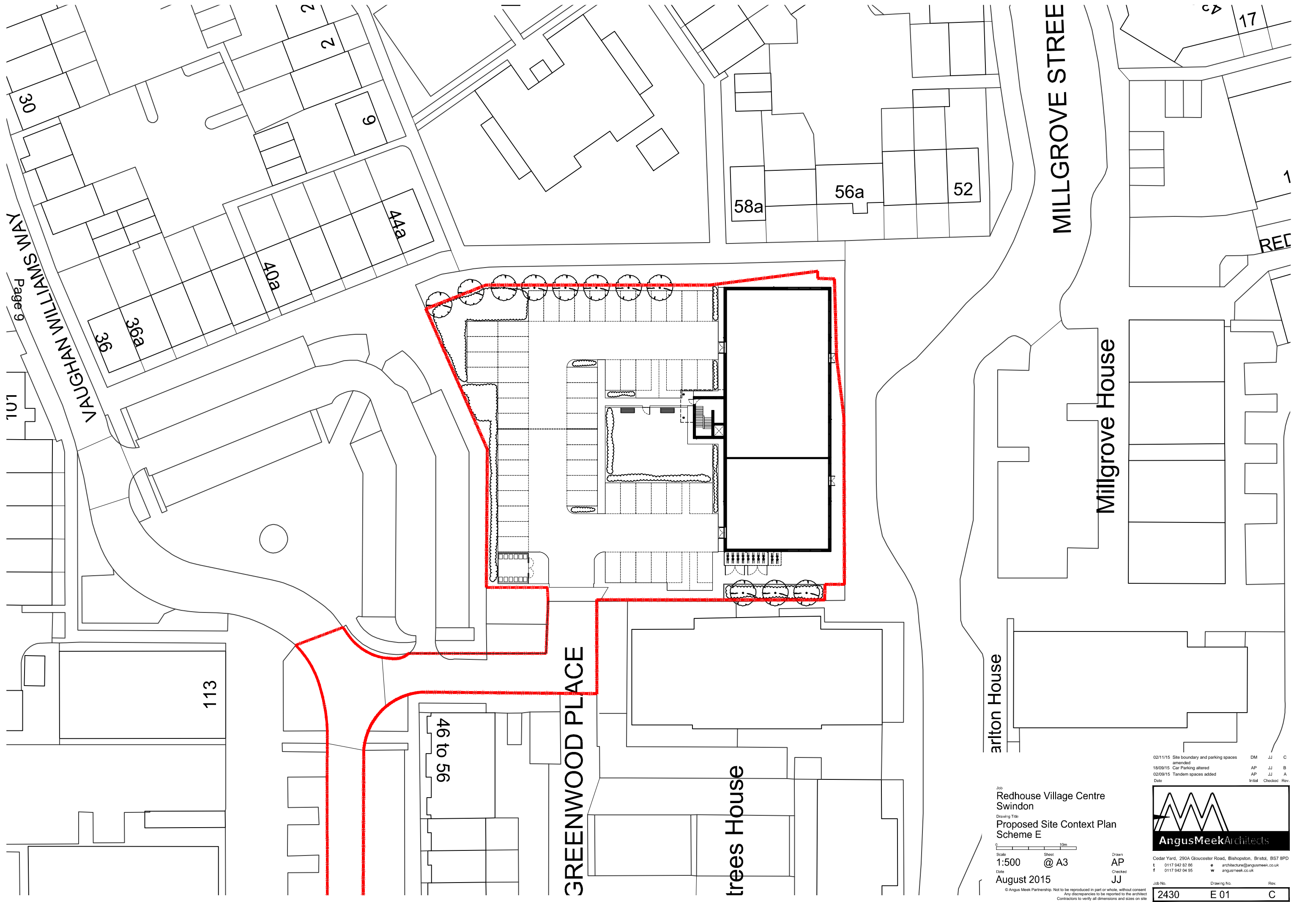
Erection of 3 storey building comprising ground floor retail (Class A1)  
and 14 no. apartments (Class C3) with access, parking, and amenity areas and associated works.

Redhouse Village Centre Millgrove Street Redhouse Swindon



This Plan is for illustrative purposes only and is not intended to provide accurate representation of the development.  
In all cases references should be made to the submitted plans.





Page 9  
VAUGHAN WILLIAMS WAY

MILLGROVE STREET

Millgrove House

arlton House

GREENWOOD PLACE

trees House

Job  
Redhouse Village Centre  
Swindon  
Drawing Title  
Proposed Site Context Plan  
Scheme E  
Scale  
1:500  
Date  
August 2015  
Drawn  
AP  
Checked  
JJ  
© Angus Meek Partnership. Not to be reproduced in part or whole, without consent  
Any discrepancies to be reported to the architect  
Contractors to verify all dimensions and sizes on site

02/11/15	Site boundary and parking spaces amended	DM	JJ	C
18/09/15	Car Parking altered	AP	JJ	B
02/09/15	Tandem spaces added	AP	JJ	A
Date	Initial	Checked	Rev.	

AngusMeekArchitects

Cedar Yard, 290A Gloucester Road, Bishopston, Bristol, BS7 8PD  
t 0117 942 62 86 e architecture@angusmeek.co.uk  
f 0117 942 04 95 w angusmeek.co.uk

Job No. Drawing No. Rev.  
2430 E 01 C



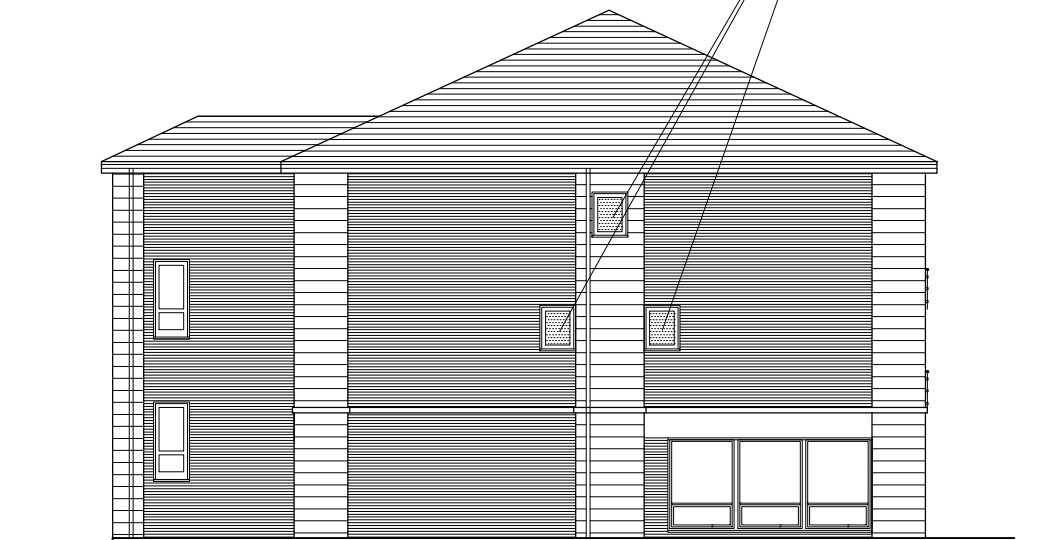
South Elevation



East Elevation



North Elevation



West Elevation


Obscured Glazing

- 1. Interlocking Concrete Tiles
- 2. UPVC Eaves Fascias & Rainwater Goods
- 3. UPVC Double Glazed Windows
- 4. Walls - Recon Stone or Render Feature Panels
- 5. Walls - Facing Brickwork

Job  
Redhouse Village Centre  
Swindon  
Drawing Title  
Proposed Elevations  
Scheme E  
Scale  
1:200 @ A3  
Date  
August 2015

Drawn  
AP  
Checked  
JJ  
© Angus Meek Partnership. Not to be reproduced in part or whole, without consent. Any discrepancies to be reported to the architect. Contractors to verify all dimensions and sizes on site.

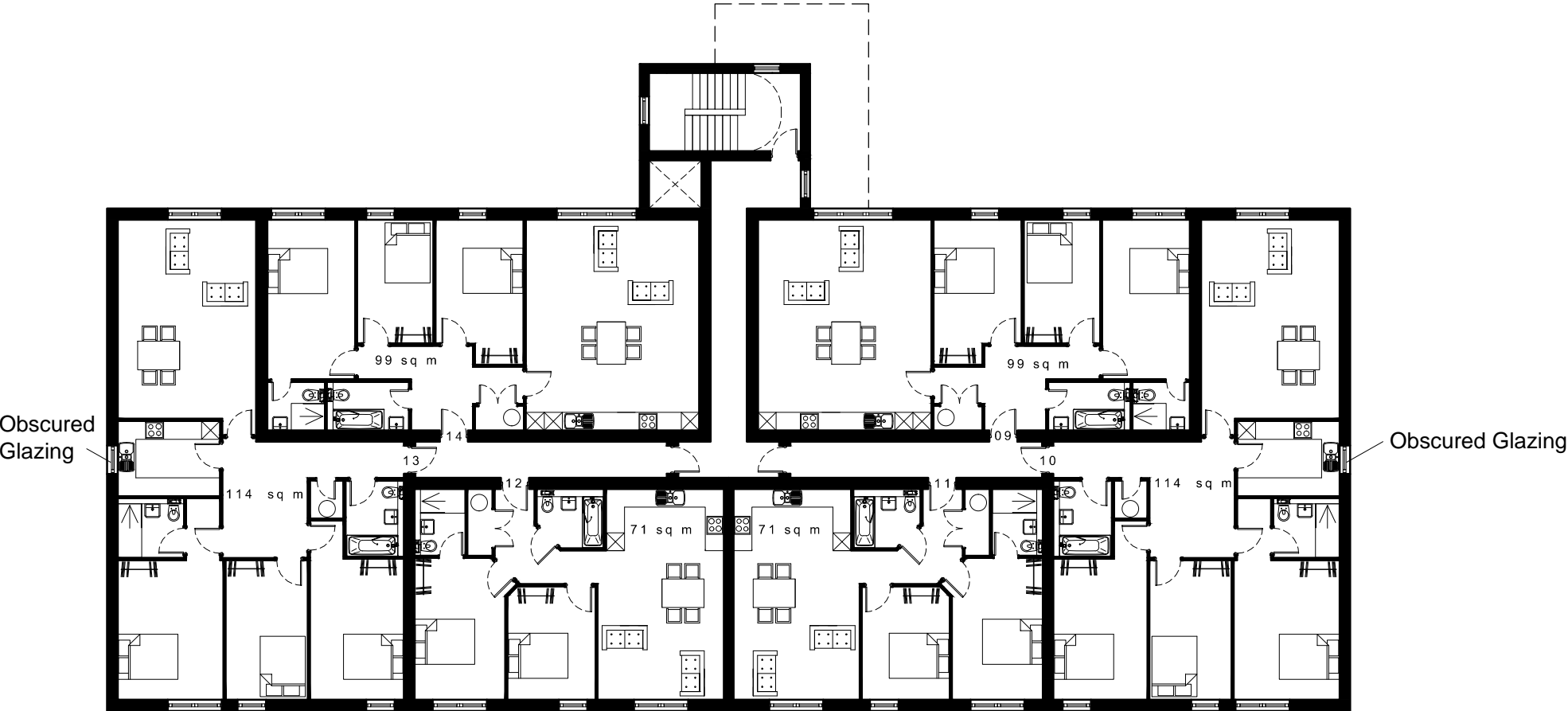
16/12/15	Alterations to East & West Elevation Windows	AGL	JJ	B
02/10/15	Elevations revised to match floor plan	AGL	JJ	A
Date		Initial	Checked	Rev.



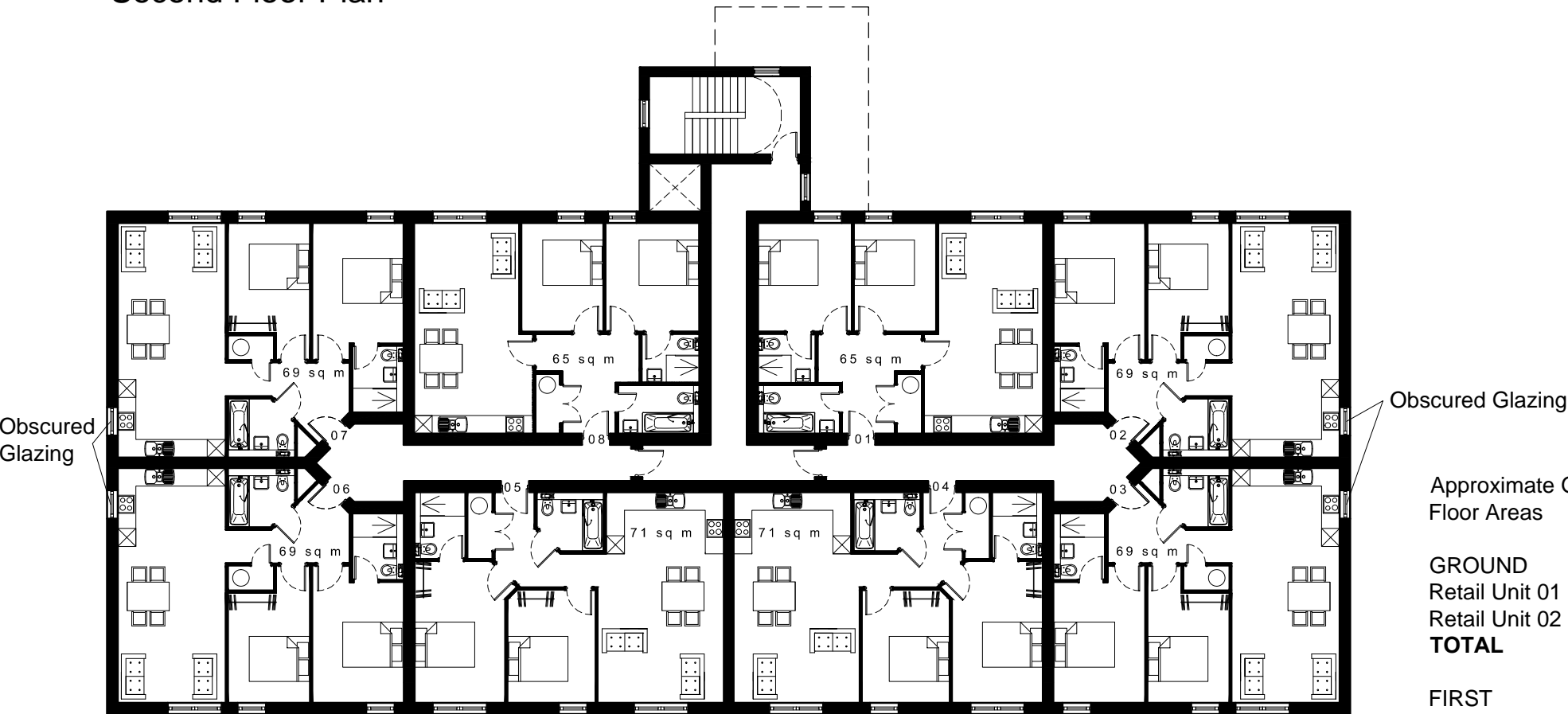
AngusMeekArchitects

Cedar Yard, 290A Gloucester Road, Bishopston, Bristol, BS7 8PD  
t 0117 9426286 e architecture@angusmeek.co.uk  
f 0117 9420495 w angusmeek.co.uk

Job No.	Drawing No.	Rev.
2430	E 04	B



Second Floor Plan



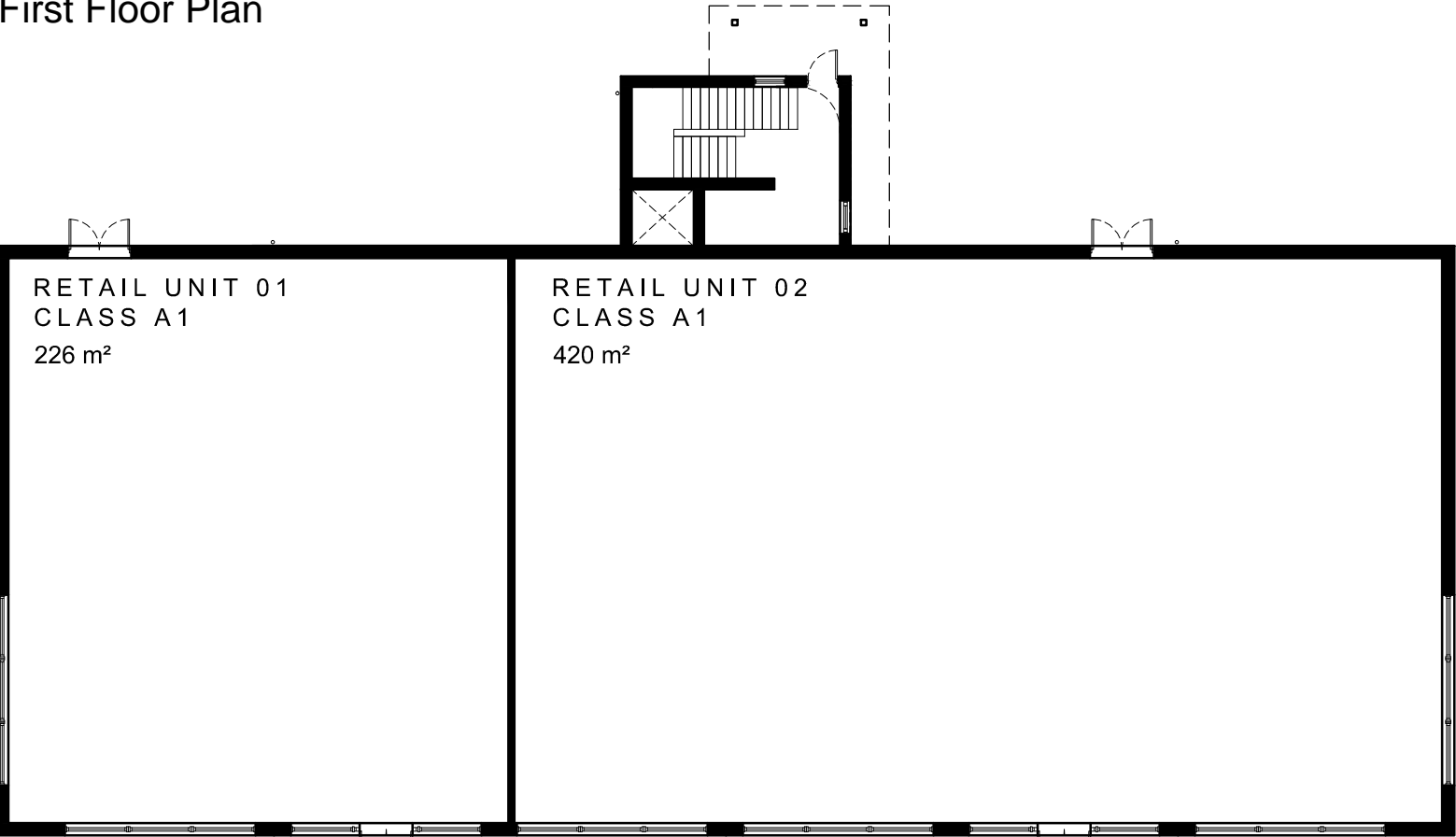
First Floor Plan

Approximate Gross Internal Floor Areas

GROUND	
Retail Unit 01	226 m <sup>2</sup>
Retail Unit 02	420 m <sup>2</sup>
<b>TOTAL</b>	<b>646 m<sup>2</sup></b>

FIRST	
Apartment 01	65 m <sup>2</sup>
Apartment 02	69 m <sup>2</sup>
Apartment 03	69 m <sup>2</sup>
Apartment 04	71 m <sup>2</sup>
Apartment 05	71 m <sup>2</sup>
Apartment 06	69 m <sup>2</sup>
Apartment 07	69 m <sup>2</sup>
Apartment 08	65 m <sup>2</sup>
<b>TOTAL</b>	<b>548 m<sup>2</sup></b>

SECOND	
Apartment 09	99 m <sup>2</sup>
Apartment 10	114 m <sup>2</sup>
Apartment 11	71 m <sup>2</sup>
Apartment 12	71 m <sup>2</sup>
Apartment 13	114 m <sup>2</sup>
Apartment 14	99 m <sup>2</sup>
<b>TOTAL</b>	<b>568 m<sup>2</sup></b>



Ground Floor Plan



## COMMITTEE REPORT

**Item Number:** 6

**Application Number:** S/15/1585/HC

**Ward:** St Andrews

**Parish:**

Blunsdon St Andrew

**Proposal:** Erection of 3 storey building comprising ground floor retail (Class A1) and 14 no. apartments (Class C3) with access, parking, and amenity areas and associated works.

**Site Location:** Redhouse Village Centre, Millgrove Street, Redhouse

**Case Officer:** Miss Heather Carlisle

**Agent:**

Mr Chris Beaver  
Planning Sphere Ltd  
Coworking  
The Guild  
High Street  
Bath  
Bath And North East Somerset  
BA1 5EB  
United Kingdom

**Applicant**

Builer Ltd  
  
Elm House  
10 Fountain Court  
New Leaze  
Bradley Stoke  
BS34 8ST  
United Kingdom

## Officers Report

### 1 Background:

1.1 This application has been called into planning committee at the request of Cllr Tomlinson, the ward councillor.

1.2 This site forms part of the Redhouse Village Centre, which serves the residents of Redhouse and Oakhurst. Other parts of the village centre have been developed for shops, a community building and further housing within the village centre

1.3 This application follows on from the withdrawal of S/13/1724: Erection of a 12 no bedroom learning disability care unit (Use Class C2), 3 retail units (use class A1, A2, A3 and A4) including parking access and associated works.

### 2 Summary of Recommendation:

**2.1** That the Head of Planning be authorised to GRANT planning permission subject to any additional, omitted or amended conditions as may be necessary and subject to the completion of a planning obligation to secure the necessary contributions to mitigate the infrastructure demand to which the development gives rise.

### 3 The Proposal:

**3.1** This is a full application for planning permission that relates to an undeveloped area of land located to the north of the Redhouse Village Centre. The land is adjacent to Greenwood Place and fronts onto Millgrove Street.

**3.2** Planning permission is sought to erect a three storey building to accommodate 14No. apartments (12No. 2-bed and 2No. 3-bed) on the first and second floor and the proposed ground floor use is for two Class A1 retail units and the maximum floor space proposed at ground level is 646m<sup>2</sup>. The larger of the two units is proposed for a local convenience store (420m<sup>2</sup>). The other remaining unit will be marketed for retail uses falling in Class A1. The apartments are to have lift access and will be open market units. A communal area is to be provided with soft landscaping.

**3.3** The building will be three storeys, comprising a shop front across the width of the ground floor and a separate main entrance to the apartments is provided to the rear. The building will have a height of 13.6 metres. The overall length of the building will be 40 metres with a width of 16metres (excluding the central rear stairwell).

**3.4** To the rear of the site will be 57No. parking spaces (33 No. residential spaces including 2No. spaces for the dedicated use of blue badge holders together with 24No. spaces for the retail use including 2No. spaces for the dedicated use of blue badge holders). The proposal does not include any affordable housing provision within the residential element.

### 4 The Site and Surroundings:

**4.1** The site comprises of an undeveloped plot located to the north of Redhouse Village Centre and to the east of Isambard Community and Uplands schools. The site area is generally level although there is a small increase in ground levels from south to north.

**4.2** The surrounding area comprises mainly residential development including terraces and groups of dwellings and apartment buildings. A new community centre has been built to the east. The existing Village Centre to the south is a mixed use area including retail, commercial and residential uses. Road side public car parking is located on the opposite side of the site.

**4.3** The east and western boundaries of the site are framed by a series of predominately 3 and 2 storey residential blocks comprised of a mix of apartments and houses.

### 5 Representations:

#### 5.1 Neighbours:

**12 Rivergreen House:** lack of light into property, increase in crime and lowering the standards of my area, social effects through over crowding, concerned about late night opening, food outlets, unsocial behaviour, people hanging round, delivery vehicles, noise of traffic, limited parking.

**44A Vaughan Williams Way.** Removal of the green area, no requirement for another retail unit, trees, bushes reduction in light, car parking in front of property.

**44 Vaughan Williams Way:** wants a drs surgery.

**58 Millgrove Street:** direct impact, sunlight, privacy concerns, cleanliness, small front garden, parking, no requirement for another supermarket, overdevelopment.

**56A Millgrove Street.** Increase in traffic and parking, privacy issues, extra noise.

**58a Millgrove Street:** impact on privacy, cut sunlight, prevent children from playing in the area, shrinking the green area, want a doctors, already retail units in the area.

**5.2 Highways:** The scheme has been revised and the Transport Development Management Officer As a result the Transport Development Management Officer now raises no objection subject to conditions and the securing of a Traffic Regulation Order.

**6 Parish Council:** Blunsdon St Andrew Parish Council has been re-consulted on the revised plans and has advised that it now supports the proposal and is pleased to note that its previous concerns regarding the impact of traffic have been addressed. However, the Parish Council has requested S106 monies for specific projects in Blunsdon. See paragraph 7.26 for section of Infrastructure requirements.

## **7 Planning Considerations:**

### **Principle of Development**

**7.1** The overall principle for development was secured through the outline planning permission granted in 2000 , T98/0472 (Town expansion).The Redhouse Village Centre Design Brief (land adjacent to Wharncliffe Street) that allocated the northernmost of the 3 parcels of land for a pub and restaurant use in conjunction with the Village Centre. This Brief was adopted for the purposes of development control in September 2002, whilst it is now some years on it retains status as a material planning consideration.

**7.2** The Village Centre Design Brief (VCDB) adopted in September 2002 indicated that the area was to be developed to include a public house and a medical centre. Despite a reserved matters permission having been granted in 2009 for A3 and A5 uses, there has been no commercial interest in developing this part of the site that permission has lapsed. In addition, following extensive negotiations with the Primary Care Trust, it was confirmed that there was no demand for a medical centre in the area. The VCPDB proposed that a mix of styles including modern and contemporary architecture be used, including for key buildings to help create local identity and to contribute to achieving a quality townscape in prominent locations and supports a range of materials and building styles.

### **7.3 Policy**

The Swindon Local Plan 2026 (2015), contains the following policies relevant to the proposal.

SD1, Sustainable Development Principles; SD2, The Sustainable Development Strategy; DE1, High Quality Design; DE2, Sustainable Construction; IN1, Infrastructure Provision; EC3, The role of centres and main centre uses, HA1 Housing mix, type and density TR2 Transport and development.

**7.4** In determining whether the principle of this proposal is acceptable the main considerations are the principle of residential and retail development in this location and the appearance / impact upon amenity access and parking. The Development Strategy is clearly defined in the Local Plan Policy SD2. This policy seeks to concentrate development within the urban area, where most of the Borough's services and facilities exist, which this proposal is therefore in accordance with.

**7.5** The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England. At the heart of the NPPF is the presumption in favour of sustainable

development which should be seen as a golden thread running through both plan making and decision making and therefore sustainable developments should be approved without delay.

**7.6** Main town centre uses are defined in the NPPF at Annex 2 which includes retail development thus the proposed retail development on the ground floor of the mixed use building is a main town centre use. NPPF paragraph's 23 and 24 have regard to ensuring the vitality of town centres. The paragraphs seek to ensure that Local Plan policies are positive and promote competitive town centre environments, and apply a sequential test to planning applications for main town centre uses. The principles of the NPPF are reflected in Local Plan Policy EC3. Policy EC3 (a) states where a proposal's delivery is not dependent on location at a specific site because its use is tied to that location, a sequential approach to site selection has been undertaken in order of preference and priority as follows:

1. Within Town Centre
2. At edge of Centre
3. At District and Primary Rural Centres
4. At Local Centres

**7.7** The application site lies outside but adjacent to the Redhouse Local Centre as defined in the Local plan proposal map.

**7.8** The applicants have submitted a robust Retail Assessment, which provides an assessment of the retail floorspace in terms of the sequential approach to site selection and the impact on nearby retail offerings. Officers are satisfied that the submitted Retail Assessment appropriately demonstrates a sequential assessment has been undertaken to determine the most suitable site. The assessment identified a number of sites although none met the required characteristics and were therefore deemed unsuitable for the proposed development. Policy EC3, criteria d also states all retail development proposals with a floorspace exceeding 600m<sup>2</sup> should be accompanied by a Retail Impact Assessment to ensure they would not have an adverse impact on Swindon Town Centre or hierarchy of centres. This reflects the NPPF, paragraph 27 which states an impact assessment should be required if the application is not in accordance with the Local Plan and is over 2,500 sq. m, if there is no locally set floorspace threshold. (Swindon has adopted a 600 sq m threshold as detailed above)

**7.9** Officers are also satisfied that the Retail Assessment also appropriately assesses the impact the proposed development will have on the existing retail floorspace in the surrounding area. The assessment looked at two scenarios; scenario 1 examines the impact of the development of the local convenience store unit as proposed at 420sqm, whilst scenario 2 examines the impact of a single convenience store unit occupying the entire ground floorspace (646sqm) as a 'worst case scenario'. The assessment concluded that the proposed development will not have a significant adverse impact on the existing centres. The report states that the greatest impact would be on the Redhouse Local Centre, with the proposed development capturing 9.8% and 15.1% of convenience goods for Scenarios 1 and 2 respectively. However, whilst the proposed development is likely to draw some trade from the existing convenience store in the Redhouse Local Centre, overall it is considered that the development will add to the convenience offer available and encourage



footfall to the area, therefore adding to the vitality and viability of the Local Centre and enhancing the offer.

**7.10** Officers agree with the evidence and assessment that the proposed development will not have a significant impact on the retail provision of the designated centres, including Redhouse Local Centre, and therefore, the proposed application is in conformity with Local Plan Policy EC3 and the principle of retail development is acceptable in principle on this site. The site lies outside but adjacent to the local centre but given the findings of the retail assessment and the fact that Village centre uses were envisaged and indeed granted permission at this location, the proposal is not considered to be harmful to the area or contrary to policy in this respect.

**7.11** The proposed development will provide 14 two and three bedroom flats to the first and second floors. Local Plan Policy HA1 therefore applies, and sets out guidance on the mix, type and density of housing developments. This policy states development should be design led, densities, house types and sizes should respect the character of the surrounding area and meet local needs. This proposal includes the potential to contribute to house types in the area, and the proposed density is consistent with the surrounding residential development.

**7.12** Local plan policy SD1 supports new residential development within the existing urban area of Swindon subject to compliance with other policies. This policy states that where relevant to this proposal that to enable the delivery of sustainable development proposals should be of a high quality design, promote healthy, safe and inclusive communities, respect the built and historic environment, provide or contribute to the assessed local and borough wide infrastructure and service requirements, contribute to the retention of jobs and growth of the local economy and complement town centre regeneration, be accessible by walking, cycling and public transport and use land and resources in an efficient and effective way.

**7.13** Policy HA1 sets out guidance on the mix, type and density of housing developments. It states development should be design led, densities, house types and sizes should respect the character of the surrounding area and meet local needs. This proposal includes the potential to contribute to house types in the area however it would appear to be of a high density. Due to the location of the site, the high density proposed, the buildings are integrated with its surroundings and it would contribute to the overall mix of dwellings.

### **Design and Other Considerations**

**7.14** Local Plan Policy SD1 states to enable the delivery of sustainable development and communities, development proposals will need to meet a number of criteria, of particular importance to this proposal is the proposal should be of high quality design; promote healthy, safe and inclusive communities; provide or contribute to the assessed local and borough wide infrastructure and service requirements; and be accessible by walking, cycling and/or public transport.

**7.15** The NPPF (Section 7) sets out how important it is to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Paragraph 58 sets out a number of provisions, in which planning decisions should aim to ensure, including the development should; function well over the lifetime of the development; establish a strong sense of place;

optimise the potential of the site to accommodate the development through creating and sustaining an appropriate mix of uses; respond to local character and history; create safe and accessible environments; and is visually attractive. Policy DE1 set out local standards for design and amenity, including a number of criterion in which development should meet.

**7.16** This policy highlights that the proposal should be well laid out, sympathetic to local context, character and site coverage; be of an appropriate scale, proportion, mass and use appropriate materials; be compatible with and protect the amenity of nearby land uses; and demonstrate suitable access.

**7.17** After comments from the urban design officer and during the pre-application process the scheme has been improved to reduce the bulk and scale of the proposal with a hipped roof to reduce the impact on the neighbouring properties. Also, the amount of hard landscaping, siting and elevations treatment has been improved to accompany the reduction in the overall massing of the building. The building is in a prominent position and Officer acknowledge that the building will need to sit in harmony within the immediate area. The active frontage on the ground floor will also add to the vibrancy and vitality of the village centre.

**7.18** The scheme has benefited from amendments and these are considered to be significant improvements on the overall appearance of the building and would not have any adverse impact on the character or appearance of the streetscene and accord with adopted local plan policy DE1 and the provisions of the NPPF which encourages good design.

**7.19** The rear element of the proposal has an entrance block which projects out a further 5m in depth however this has been positioned in the middle of the building and will not impact on neighbouring properties.

**7.20** The proposal does create an order of rhythm of architectural elements and combined with its massing and scale it has been design so it will not compete with that building on the opposite but will improve the current setting. The addition of an attractive shop frontage will help create further activity at street level and will further enhance the appearance of the building and frame the site. Nevertheless it is considered reasonable in the interests of high quality design to seek details of the materials. The apartments with their 'Juliet style' balconies which provide a regular symmetrical appearance and a vertical emphasis to harmonise with the existing buildings nearby. The building has been designed to include an entrance block to the rear again with a strong symmetrical appearance derived from neighbouring blocks. This visual appearance will match and harmonise with the character and appearance of existing developments nearby.

**7.21** The layout broadly complies with the form and pattern of existing development nearby which is built at relatively high densities; this is in accordance with the adopted Village Centre Design Brief. As a result it is considered that the proposals comply with the aim and intentions of policy DE1 of the Swindon Borough Local Plan and have provided a high standard of design that is compatible with and protects the amenities of existing occupiers.

### **Neighbouring Amenity**

**7.22** The main issues relating to amenity are the impact the proposal will have upon the levels of daylight, privacy and outlook enjoyed by the neighbouring properties. The proposal would reach a maximum height of 13.6m to the ridge height and would be positioned 10m

away from the closet properties within Millgrove Street (number 58a) and Rivergreen House.

**7.23** The considerations are finely balanced as to whether the impact of the proposal upon the amenity currently enjoyed by neighbouring residents would be overbearing and adversely affect the outlook and amenity of nearby residents, and whether the levels of light and privacy currently enjoyed would not be adversely compromised. Although the bulk at the rear of the building has been reduced during pre application discussions, the 3 storey building will still be significant in scale and height. The development has been sited and designed that the proposed hipped roof will help to ensure the building will reduce the overbearing or dominance in its appearance. Given the orientation, distances involved and the village centre location where higher densities can be accommodated the development is on balance considered to be acceptable in terms of impact upon levels of neighbouring amenity.

**7.24** Officers are also aware that the proposal will need to ensure that the amenity and privacy of nearby residents is preserved and the scheme has been amended to ensure this is minimised and limited to obscurely glazed windows in the relevant locations.

**7.25** A number of local residents have made comments and objections that the proposal would cause harm to their outlook and privacy. Officers acknowledge the Council generally does apply separation distances between opposing habitable room windows. However, improvements have been made to the scheme to remove the large habitable windows within the side elevations and obscurely glaze the remaining windows above first floor levels facing the closest residential properties. So whilst the distance between the side walls of the proposal and the nearest residential properties is between 10-12m, this should be balanced out by the fact that the bulk of the building has been substantially reduced prior to submission and proposed drawings have been submitted removing a number of windows and obscurely glazing fenestration above first floor level. Officers do acknowledge that the proposal will still be significant in scale and height being a 3 storey building, hence the opinion that the considerations are finely balanced.

**7.26** In respect of noise and other disturbances from the proposed retail store, conditions to limit hours of deliveries for the stores have been proposed and hours of opening. This would be reasonable in amenity terms to the neighbouring residential properties.

**7.27** Overall the revised plans are considered to represent an improvement on the original submission and are considered on balance acceptable.

#### **Highways: Access and car parking:**

**7.28** Assessment of the highway implications is made in accordance with policy TR2 states that new development should be located and designed to reduce the need to travel and encourage sustainable transport alternatives. Furthermore development proposals should be appropriate to the scale type and location without detriment to highway safety and local amenity. Again, parking provision including secure cycle parking should be provided in accordance with the Council's standards. The proposed development will deliver the required number of car parking spaces. Given the sustainable location of the site this is considered to be acceptable. The spaces are of the correct scale and again in accordance with the council's standards secure cycle parking has also provided on site.

**7.29** The Local Highway Authority (LHA) provided pre-application enquiry advice prior to the submission of different options for the site. Further information was requested regarding the original submitted drawings relating to the proposed method to control access to the residential parking; relocated secure motorcycle parking; and amended secure pedal cycle parking.

**7.30** The level of car parking meets the requirements as set out with the Councils adopted car parking standards. Also it is probable that many of the users will be able to walk to the site or use public transport as this is a sustainable location for development that is well related to existing residential development nearby. This conclusion is supported by the car parking study that was undertaken and submitted.

**7.31** It is proposed the site will be assessed via an extension of Greenwood place and turning movements of large refuse vehicles has been demonstrated within the Transport Statement and the deliveries for the retail unit will be accommodated with an 'on-street' system arrangement and require 'loading bay' parking restrictions.

**7.32** The proposals have been assessed by the Transport Development Management Officer who raises no objection subject to conditions and the provision on the basis of the transport statement and revised drawings and a new Traffic Regulation Order (TRO) covering loading only restriction in the existing lay-by to the south of the application site will be required and this will be secured with a legal agreement.

### **Landscaping**

**7.33** Officers acknowledge that improvements have been made to the landscaping following the pre-application discussions. The proposed landscaping of the site will ensure that the existing green spine will be kept and improve the quality of poor trees on the site. The siting and the location of the block has been amended to improve the scheme and with the addition of additional car parking.

### **Ecology**

**7.34** A biodiversity report has been submitted and officers are satisfied that there are no aspects of value within the site and as such the development of the site will not add any in adverse consequences in relation to ecology.

### **Access for All**

**7.35** It is considered that sufficient regard has been given to addressing Access for All issues. Level thresholds can be provided to the proposed retail unit. Disabled parking spaces have been provided and the apartment will have lift access.

### **Infrastructure Requirements:**

**7.36** The development is located within the Council's adopted CIL Charging Schedule 6<sup>th</sup> April 2015 Residential Zone 2. The standard CIL rate applicable to the development as set out in the adopted CIL Charging Schedule is £55 per square metre of floor space. In accordance with policy IN1 (*Infrastructure Provision*) deals with infrastructure provision;

Highway improvements have been identified and in principle the costs have been agreed to be paid by the client. The total contribution for additional pedestrian works in relation to the above application are estimated to be some £4,044.86.

The scheme also requires the securing of funds to secure a New Traffic Regulation Order (TRO) covering loading only restriction in the existing lay-by to the south of the application site. This is in the region of approximately £5k.

Blunsdon St Andrew Parish Council have requested S106 payments as they state 'S106 payments to the Parish Council should apply; previously submitted Evidence Base of Need included improves recreational facilities and a burial ground extension, since that submission the PC now has on-going costs in maintenance of the play areas, in view of the proposed transfer of street cleaning a contribution towards the costs of litter clearance is also requested'

In accordance with the 3 statutory CIL tests, an obligation should meet all of the following tests, in that it is;

- (a) necessary to make the development acceptable in planning terms
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

**7.37** It is considered that only the highway infrastructure items required and to be listed in a forthcoming completed agreement, both local and strategic would all be impacted as a consequence of the development and therefore it is reasonable to seek a proportionate contribution to mitigate that impact necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The precise details of the contributions described above will be subject to detailed negotiation between the applicant and the Council and legal agreement.

## **8 Concluding Comments:**

**8.1** In conclusion, officers consider the proposed apartment building and retail unit will utilise the undeveloped plot. The principle of development is considered to be highly sustainable and the density levels for the housing are acceptable. A balance has been struck between providing acceptable parking levels whilst giving new residents opportunities to use alternative modes of transport and access local services, jobs and facilities. The proposal is of a local/neighbourhood scale appropriate to the village centre.

**8.2** It is considered that these proposal to complies with the aims and intentions of the adopted Village Centre Design Brief and that the additional residential units will harmonise with the existing residential and other development nearby. It is considered that sufficient regard has been given to addressing Access for All issues. Whilst the proposed ground floor retail is likely to draw some trade from the existing convenience store in the Redhouse Local Centre, it is considered that the development will add to the convenience offer available and encourage footfall to the centre. Officers acknowledge that the proposal is finely balanced due to proposed bulk of the new building mass on neighbouring properties and as such is recommended that the proposal on balance is deemed to be acceptable.

## **9 Recommendation:**

That the Head of Planning be authorised to GRANT planning permission subject to any

additional, omitted or amended conditions as may be necessary and subject to the completion of a planning obligation to secure the necessary contributions to mitigate the infrastructure demand to which the development gives rise.

## **Conditions**

### **1 Time Limit**

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

Reason: To comply with the requirements of Section 91 (1) of the Town & Country Planning Act 1990.

### **2 Approved drawings:**

This approval shall be in respect of:

Site Location Plan dwg L01

Proposed Site Context Plan (Scheme E) E01 rev C

Proposed Site Plan (Scheme E), dwg no E02 rev C

Proposed Floor plans (Scheme E), dwg E03 rev B

Proposed Elevations (Scheme E), dwg E04 rev A

Proposed Roof plan and Section (Scheme E), dwg E05

Survey, location and existing drainage, dwg 1040:PL:100

Ecological Report date of report 10<sup>th</sup> October 2013 produced by New Forest Ecological Consultants

Design and Access Statement produced by Angus Meek Architects dated 5<sup>th</sup> October 2015

Transport Statement prepared by FMW consultancy Ltd dated 23<sup>rd</sup> September 2015

Retail Assessment prepared by Planning Potential dated 23<sup>rd</sup> September 2015

Planning Statement prepared by planning sphere dated 23<sup>rd</sup> September 2015

Drainage report dated 23<sup>rd</sup> September 2015

received by the Local Planning Authority on the 16<sup>th</sup> December, 5<sup>th</sup> November and 23<sup>rd</sup> September 2015

Reason: To define the scope of the development hereby permitted, in accordance with section 72 of the Town and Country Planning Act 1990.

### **3 Slab levels**

Prior to the commencement of works on site in connection with the construction of the building hereby permitted, details of the proposed slab levels of the building in relation to the existing and proposed levels of the site and the surrounding land to show level entrances and thresholds, shall have first been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be constructed in accordance with the approved slab levels.

Reason: To ensure the details and appearance of the development is acceptable

### **4 Materials**

No work shall take place above ground level except in accord with external facing materials that have have first been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with these approved details.

Reason: To ensure that the appearance of the development is satisfactory.

## **5 Hard and soft landscaping**

No part of the development shall be occupied until the site has been landscaped in accord with details that have first been submitted to and approved in writing by the local planning authority.. The scheme shall include: a planting schedule detailing proposed species, size at planting, spacing and aftercare; a timetable of works; details of the positions, species and crown spread of all existing trees and hedgerows on the site, detailing those to be retained; and the surface treatment of any hard surfaces not covered by buildings roadways, footpaths, footways or parking areas. The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure the appearance of the development is acceptable.

## **6 Landscaping**

Any tree or shrub planted in accordance with the scheme of landscaping hereby permitted pursuant to condition 4 above, which is removed, dies or becomes diseased within a period of five years from first being planted shall be replaced by one of a similar size and the same species in the first available planting season.

Reason: To ensure the appearance of the development is acceptable.

## **7 Compound and site access**

No development, including site preparation works, shall commence on site, until a plan has been submitted to the Local Planning Authority for approval in writing to show the provision of a temporary site accesses and compounds, to provide a parking area for site operatives and construction traffic and for the storage of plant, equipment and materials to be used in the development hereby permitted. Such temporary access and site compound shall be provided on site in strict accordance with the approved details and shall thereafter be maintained during the course of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that roads and footpaths in the vicinity of the development site are kept clear of obstruction in the interests of highway safety.

## **8 CMP**

Before any works are commenced on site, including site clearance or other site preparation works a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Plan shall provide details of;

- a) the number and frequency of construction vehicle movements,
  - b) the site construction operation hours,
  - c) construction vehicle routes to, from and within the site detailing distances to the site,
  - d) the construction delivery hours,
  - e) the car parking for contractors,
  - f) the site buildings, enclosures and staff facilities,
  - g) the specific measures to be implemented to mitigate construction impacts (including infrastructure improvements if appropriate),
  - h) the proposed methods to control noise, dust, smoke and fumes during construction, and
  - i) a detailed Traffic Management Plan to control traffic during the construction phases.
- j) Provision for wheel washing facilities for construction traffic. It is a requirement of this condition that wheel washing facilities will be used by all operatives exiting the site so to prevent mud and detritus being brought on to the public highway

Thereafter the development shall be carried out strictly in accordance with the approved Construction Management Plan.

Reason: In order to minimise danger and inconvenience to users of the highway at all times.

## **9 Acoustics**

Prior to the occupation of any of the proposed residential units, a post-construction validation survey shall be undertaken and the findings submitted to the Local Planning Authority in order to confirm the development meets the criteria as set out in BS 8233:2014 Guidance on sound insulation and noise reduction for buildings. The validation survey shall be completed in a proportion of the rooms within the development, as selected by the Local Planning Authority in advance.

Reason: To ensure the future residents of the development are protected from undue noise disturbance and to protect the amenity of the area.

## **10 Trading hours**

The trading hours of the retail store hereby permitted shall be limited to the following times:

Monday to Saturdays: 07:00 to 22:00 hours

Sundays and Bank Holidays 10:00 to 17:00 hours

Reason: To accord with the applicant's justification and business model and to protect the vitality and viability of nearby local centres.

## **11 Delivery management scheme**

The development hereby permitted shall not be brought into use until a Delivery Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Delivery Management Plan shall be adhered to thereafter. The Plan shall:

- i) specify the type, number and frequency of vehicles that will serve the site,
- ii) specify delivery route to the store, and;
- iii) specify delivery times outside of store opening hours, or specify a method of delivery and customer control that reduces the risk of collision between delivery vehicles and pedestrians if delivery during store opening hours is unavoidable.
- iv) Measures to protect residential amenity from vehicle noise including mitigation from parking with engines or refrigerator units running

Reason: To provide safe and suitable access for all and reduce the potential impact on the public highway in accordance with Policy TR2 of Swindon Borough Local Plan.

## **12 Noise**

Noise emanating from the retail development and associated processes and deliveries shall be mitigated such that the Rating Noise Level at each residential premises shall not exceed the Background Noise Level when assessed under British Standard 4142:1997. (For the purposes of this condition; 'commercial or industrial noise sources' shall include all plant, processes, and equipment installed at a commercial premises and noise arising from deliveries to and from the premises). For the purposes of this condition; the assessment time period will be 1-hour across the period 0700 - 2300, and 5-minutes between 2300 and 0700.

Reason: In the interests of the amenities of the area

## **13 Reversing alarms**

No audible reversing alarms shall be used by any vehicular delivering to or servicing the site



between the hours of 22:00 and 08:00

Reason: In the interests of amenity

#### **14 Provision of refuse storage**

Before the development hereby authorised is first occupied, a suitable waste storage unit should be provided in accordance with details that shall have been submitted and approved by the Local Planning Authority that allows for the convenient storage of waste and unrestricted access at all times. Such waste store shall be retained for so long as the use hereby authorized remains on site.

Reason: In the interest of amenity

#### **15 Provide and maintain motorcycle and cycle parking**

Before the development hereby permitted is brought into use, secure parking facilities for 3No. motorcycles and 20No. cycles (16No. spaces for the residential and 4No. spaces for the retail) conforming to Swindon Borough Councils Parking Standards shall be completed in accordance with details and materials to be submitted to and approved in writing by the Local Planning Authority, and shall be retained and maintained thereafter for the duration of use.

Reason: In the interests of motorcycle and cycle user safety and transport sustainability

#### **16 Parking area(s) to be kept clear**

The area allocated for 57No. parking spaces (33 No. residential spaces including 2No. spaces for the dedicated use of blue badge holders together with 24No. retail spaces including 2No. spaces for the dedicated use of blue badge holders) and associated turning on submitted plan reference 2430/E02 Revision C shall be provided and marked out prior to the first occupation of the building and thereafter shall not be used for any other purpose

Reason: In the interests of amenity and highway safety

#### **17 Car parking management scheme**

The development hereby permitted shall not be brought into use until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Parking Management Plan shall be adhered to thereafter. The Plan shall:

- i) specify parking spaces available for use by visitors, including shoppers and residents, and;
- ii) duration that spaces will be occupied.

Reason: To provide safe and suitable parking for residents, their visitors and shoppers and reduce the potential impact on the public highway in accordance with Policy TR2 of Swindon Borough Local Plan.

### **Informatives**

1 The applicant is advised to contact Thames Water Utilities Ltd, prior to commencing work on site. Please visit [www.thames-water.com](http://www.thames-water.com) for more information.

2 In the interests of safety, the applicant is recommended to incorporate fire prevention measures within the development, such as sprinkler systems. Further advice can be obtained from Wiltshire Fire Brigade by visiting [www.wfb.org.uk](http://www.wfb.org.uk)

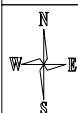
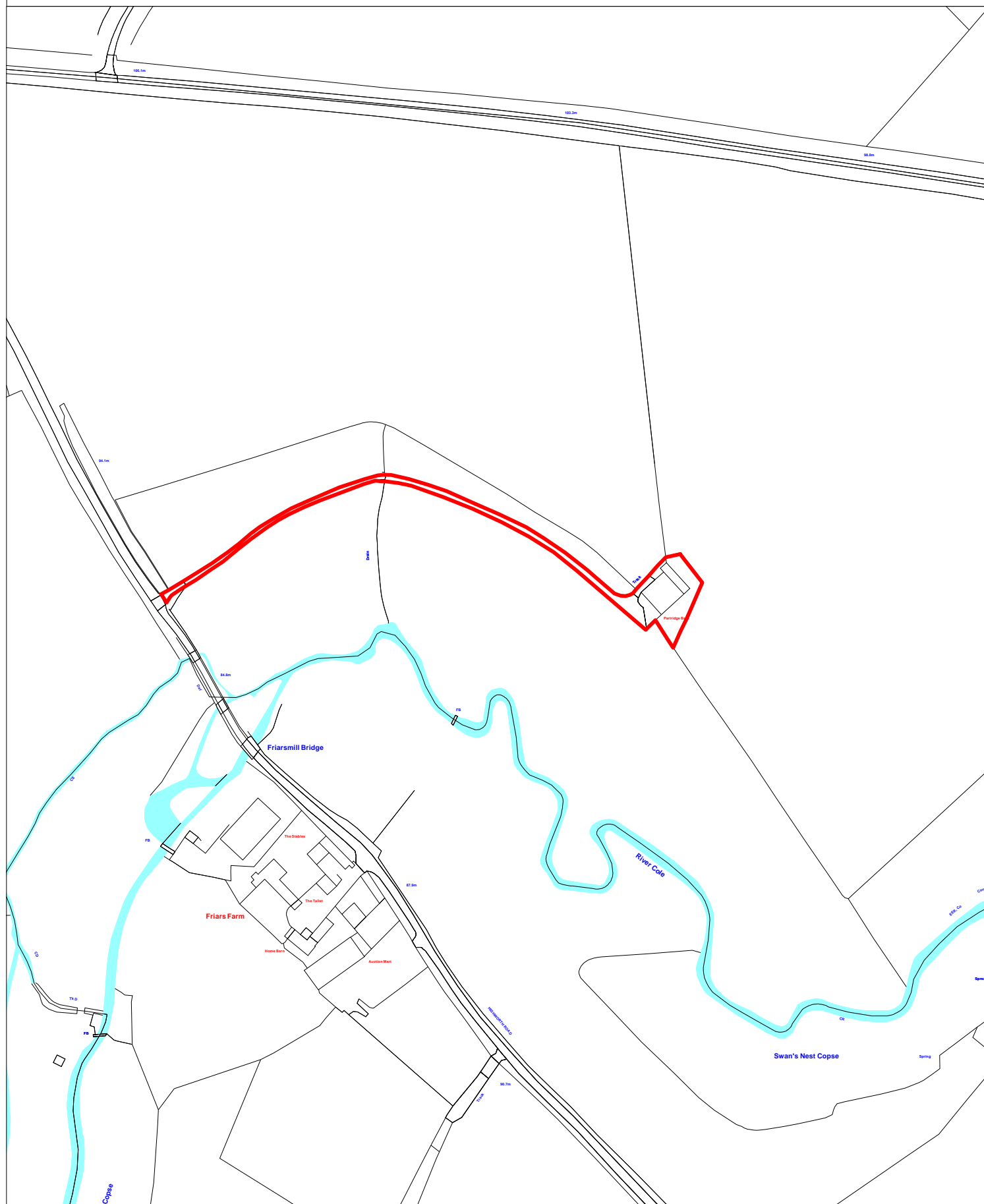
3 In addition to this consent, under the Town Improvement Clauses Act 1847 the applicant is required to contact SBC's Street Naming & Numbering Officer as soon as possible with regard to registering new or changes to the official address of any properties within this development.

[http://www.swindon.gov.uk/info/20031/roads\\_parking\\_and\\_transport/321/apply\\_for\\_street\\_name\\_or\\_number](http://www.swindon.gov.uk/info/20031/roads_parking_and_transport/321/apply_for_street_name_or_number)

4 **CIL** The proposal constitutes CIL liable development.

Erection of 1no. replacement dwelling with associated works.

Partridge Barn Watchfield Road Coleshill Swindon



This Plan is for illustrative purposes only and is not intended to provide accurate representation of the development.  
In all cases references should be made to the submitted plans.



S/15/1687

Erection of 1no. replacement dwelling with associated works.

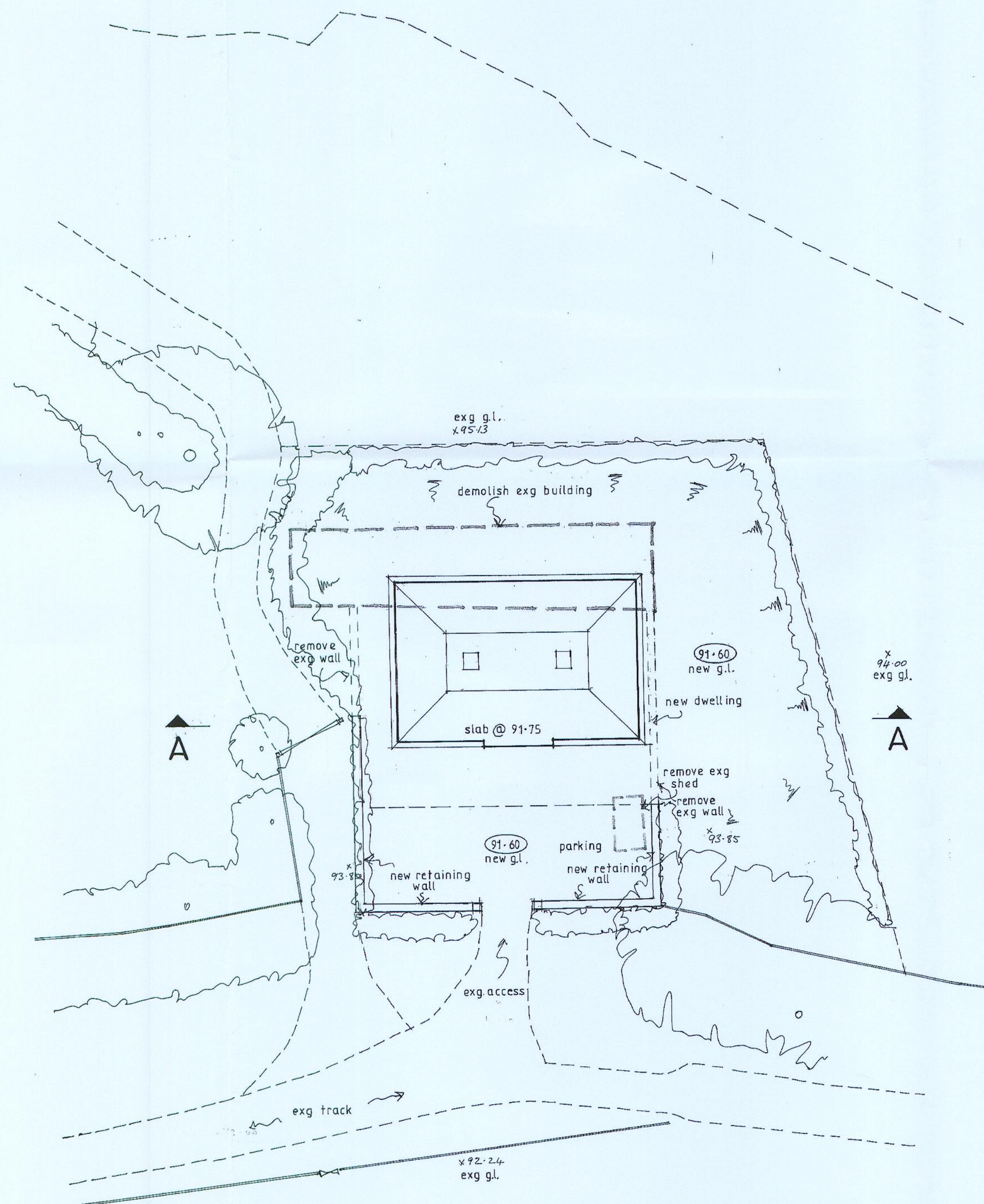
Partridge Barn Watchfield Road Coleshill Swindon



This Plan is for illustrative purposes only and is not intended to provide accurate representation of the development.  
In all cases references should be made to the submitted plans.

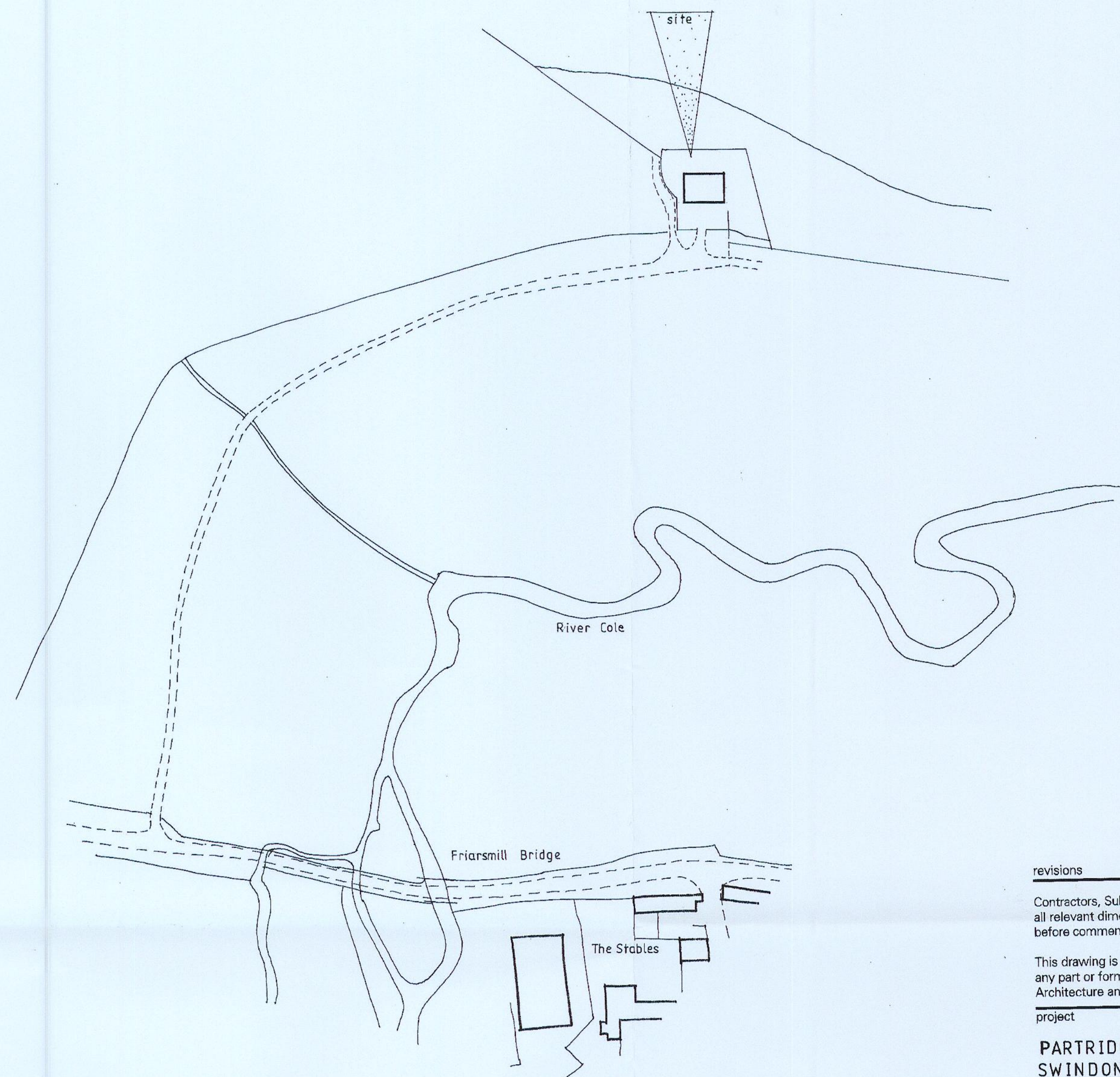
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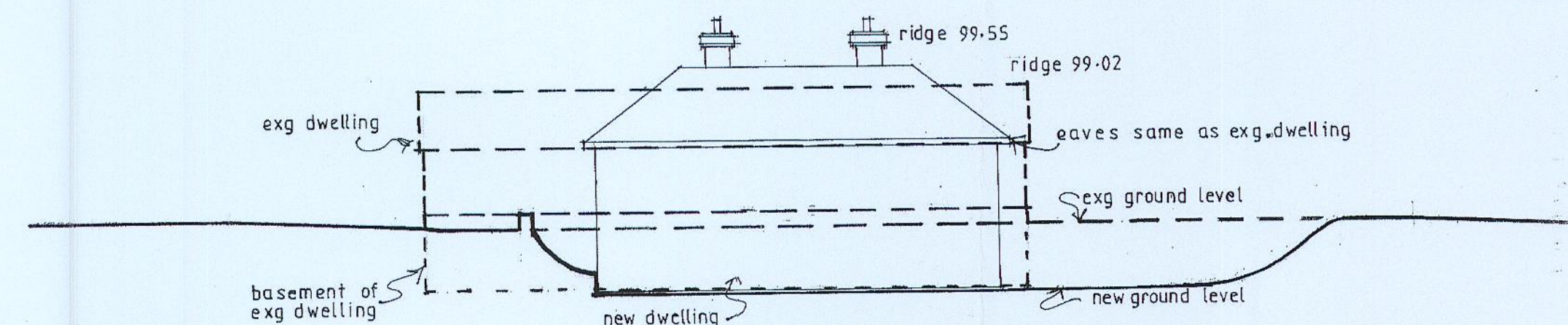
site plan SCALE 1:200

0m 2m 4m 6m 8m 10m



block plan SCALE 1:1250 AS PROPOSED

0m 20m 40m 60m



section AA SCALE 1:200

revisions

Contractors, Sub Contractors and Suppliers are to check all relevant dimensions and levels of site and building before commencing any shop drawings or building.

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project

PARTRIDGE BARN  
SWINDON

7 OCT 2011  
S1151163

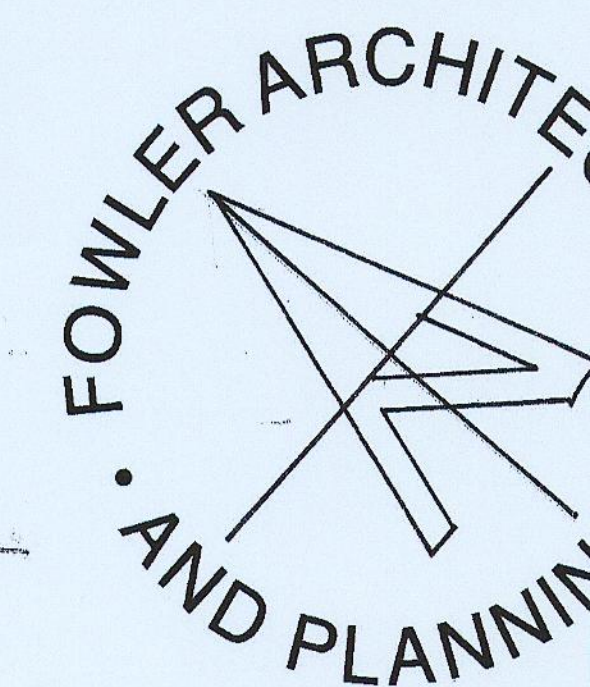
drawing

site plan

scale

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drawing no 130801 ~105



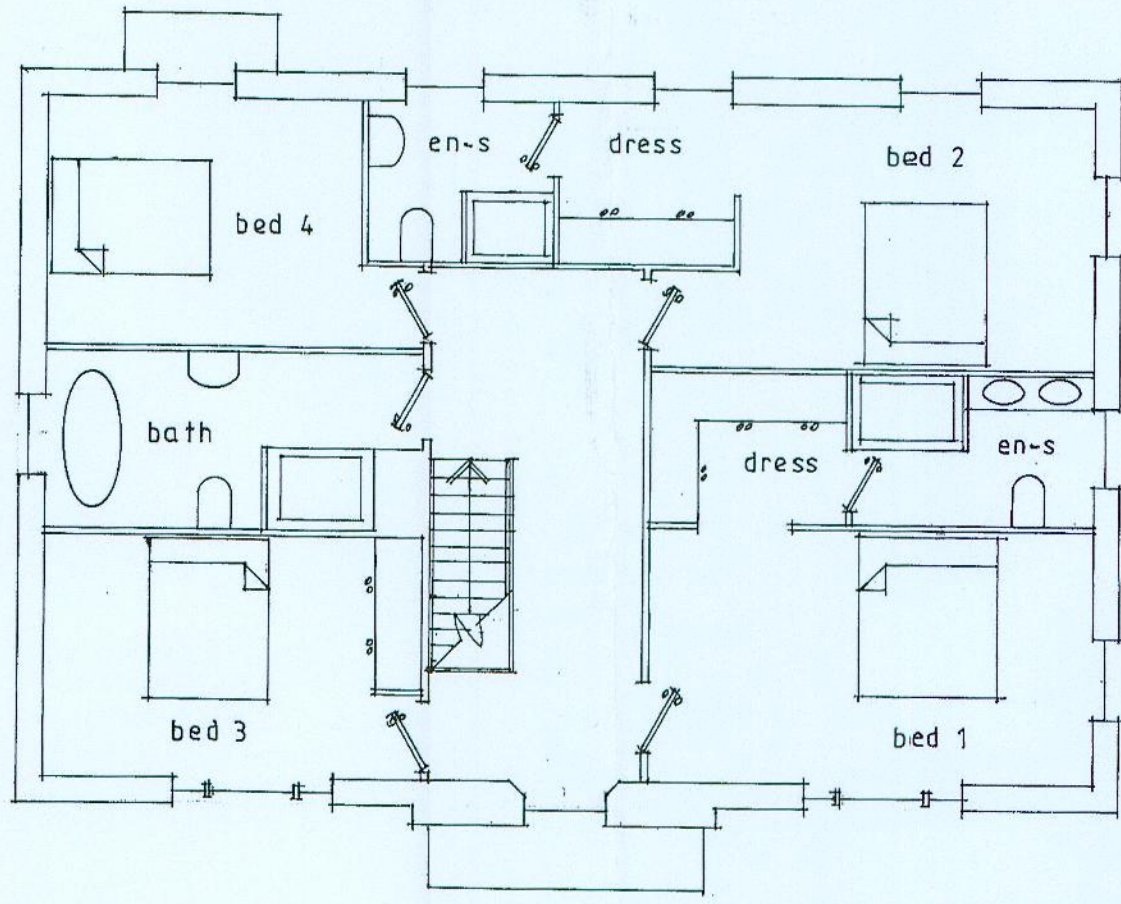
19 High Street  
Pewsey  
Wiltshire  
SN9 5AF

Tel: 01672 56944

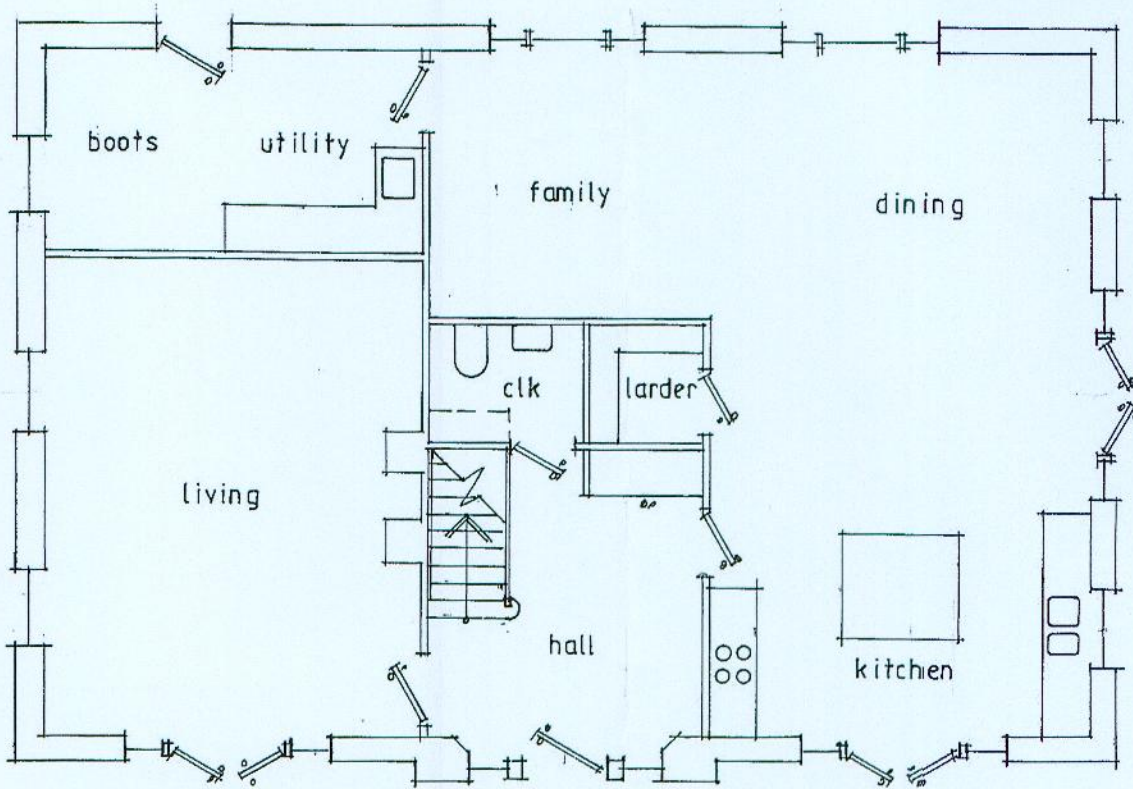
Fax: 01672 56944

enquiries@faap.co.uk

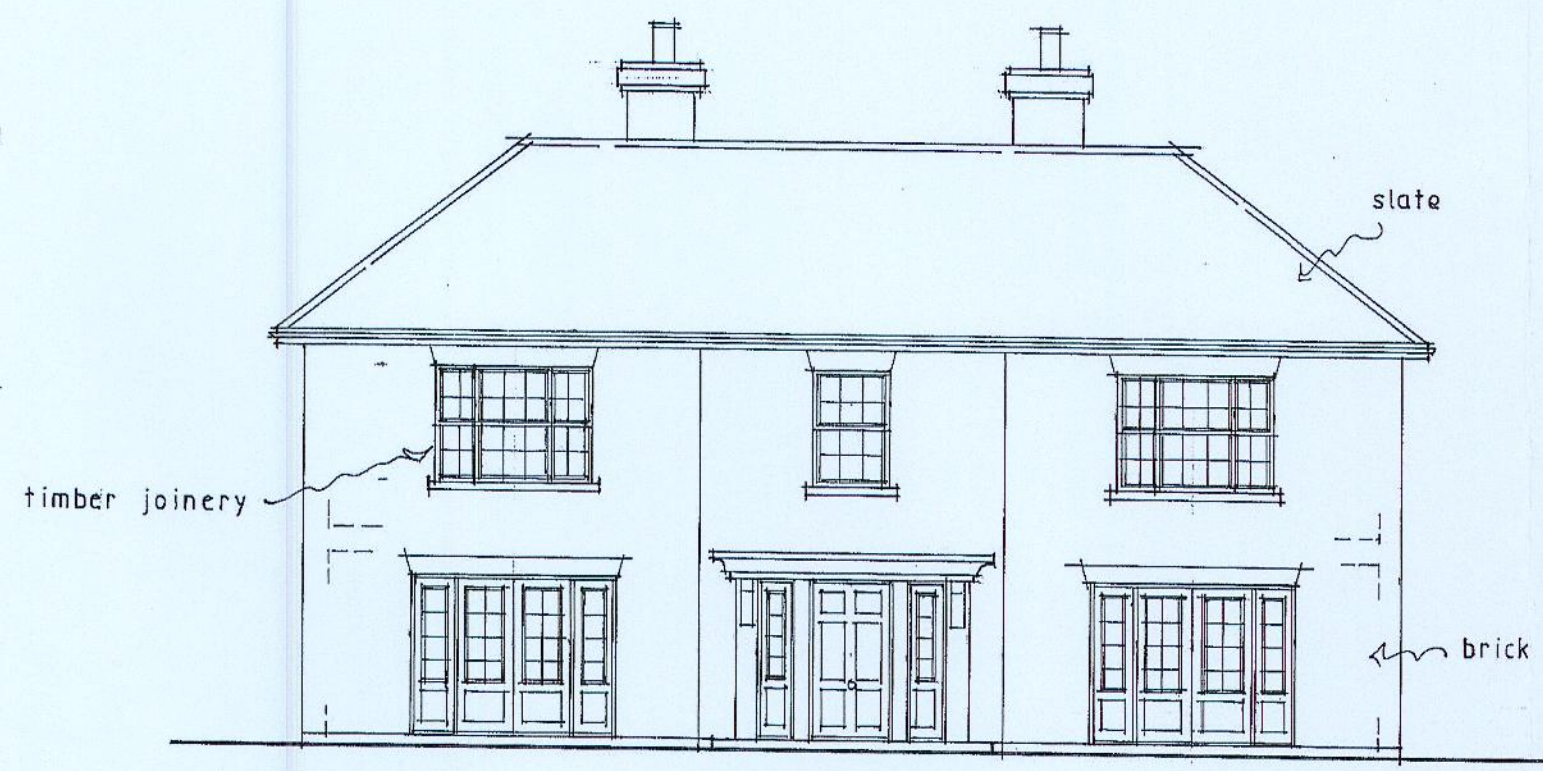




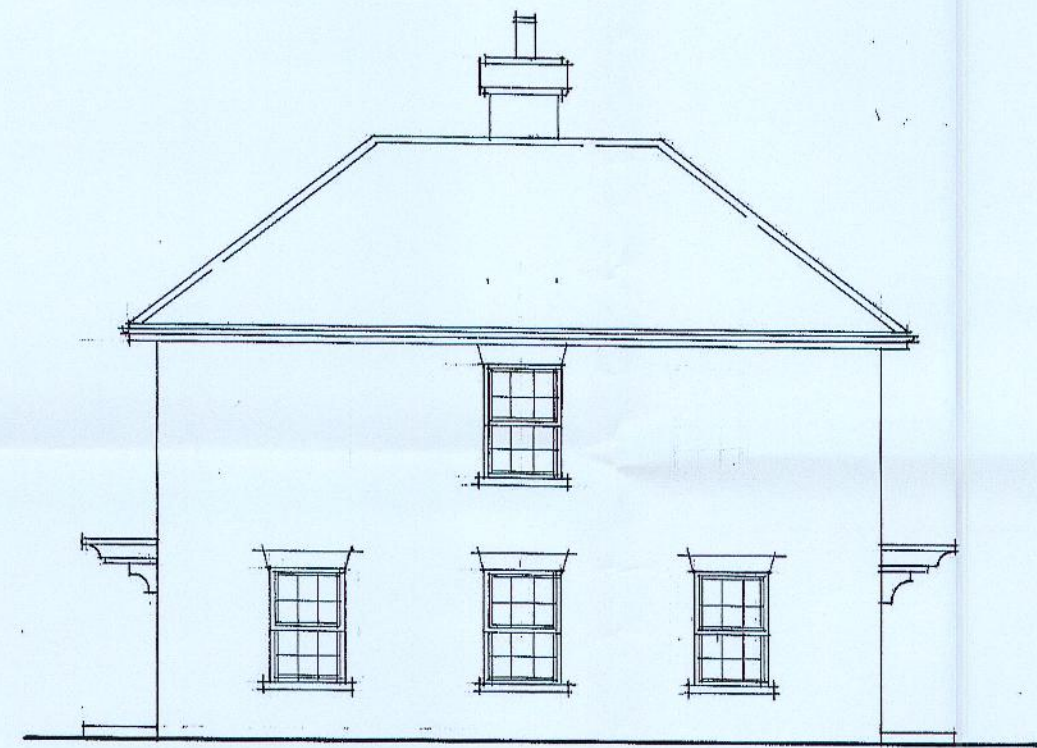
first floor plan



ground floor plan



south west elevation



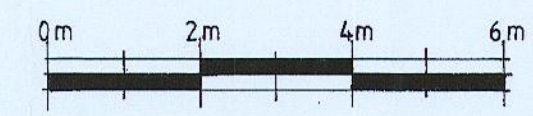
north west elevation



south east elevation



north east elevation



revisions

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project

PARTRIDGE BARN  
SWINDON

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S1511687

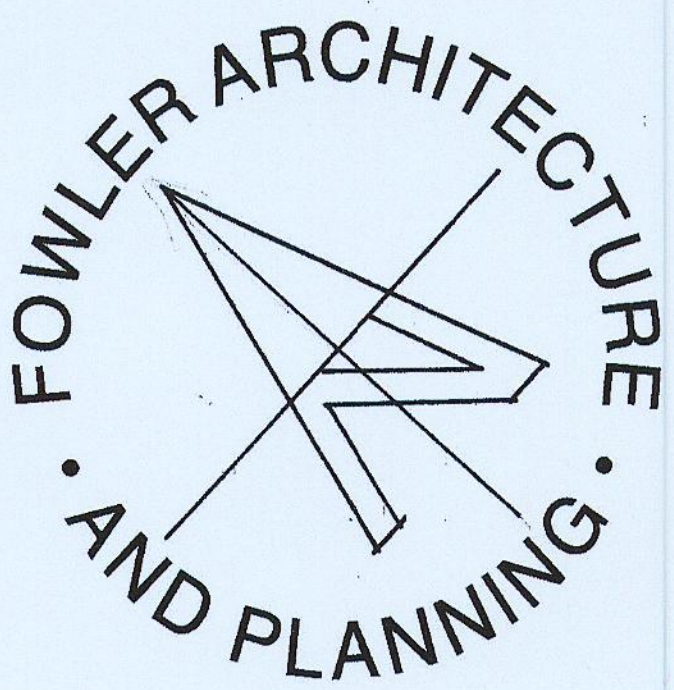
drawing

design scheme

scale

1 : 100 @ A1

drawing no 130 801 ~ 104



19 High Street  
Pewsey  
Wiltshire  
SN9 5AF

Tel: 01672 569444

Fax: 01672 569488

enquiries@faap.co.uk





## COMMITTEE REPORT

**Item Number:** 7

**Ward:** Blunsdon And Highworth

**Application Number:** S/15/1687/JROD

**Parish:** Highworth

**Proposal:** Erection of 1no. replacement dwelling with associated works.

**Site Location:** Partridge Barn, Watchfield Road, Coleshill.

**Case Officer:** Miss Jane Rodens

**Agent:**

Mr Mark Pettitt  
Fowler Architecture & Planning  
Ltd  
19 High Street  
Pewsey  
Wiltshire  
SN9 5AF

**Applicant**

Mr A Kidson-Trigg  
  
C/o Agent

### Officers Report

#### 1 Background

1.1 This application is brought before Planning Committee at the request of Highworth Town Council.

1.2 Planning permission was granted in 2000 (Ref: S/00/1078) the conversion of an open fronted cattle barn into Holiday Accommodation. The proposal was considered acceptable at that time as it comprised the re-use of a traditional rural building, retaining its original features and enclosing the open front on cart shed style using timber and glazing.

1.3 As the holiday let was to be contained within the existing boundary walls it was deemed that it would not harm the character of the surrounding countryside. To ensure that it was not to be used for permanent accommodation a condition was imposed requiring the occupation to be as Holiday Accommodation

1.4 It transpired that the accommodation had, in fact been used as a dwelling rather than as holiday accommodation and as the breach of planning control had taken place for over ten years the owners were able to obtain a certificate of lawfulness to establish the unrestricted use of the premises as a dwelling – application ref S/LDE/14/1806.

1.5 An application was submitted earlier this year for a new dwelling but was later withdrawn after officers expressed concern at the proposal ( S/15/1089). This application seeks to overcome those concerns.

## **2 Summary of Recommendation**

2.1 That planning permission be REFUSED

## **3 The Proposal**

3.1 This application seeks planning permission for the demolition of a single storey converted barn, used as a dwelling and the erection of a new replacement 2 story dwelling together with associated works.

3.2 The dwelling will accommodate 4 bedrooms, two with dressing rooms and en-suites, together with a family bathroom. Significant excavations are proposed, following the demolition of the existing dwelling to facilitate setting the new building into the ground by over 3.5 metres.

3.3 There is to be an area of parking to the front of the property and a garden to the rear. The current wall that surrounds the property is to be removed and replaced with a new wall, which is to enclose the parking area that is re-profiled. There is no information on the new wall that is to be built or its height.

3.4 The external finishes of the dwelling are stated to be brick walls, slate roof and timber joinery for the windows and doors. The new boundary wall is to be constructed from brick.

## **4The Site and Surroundings**

4.1 The application site comprises a single story, converted barn / cart shed that is south west facing. The building has a pitched roof, the wall of the property to the rear and sides are faced with natural stone and red brick. The front is render, with wooden cladding and glass doors.

4.2. Around the proposal site is open countryside and woodland. Due to the topography of the land around the property, it is raised up and overlooks the river Cole and its flood plain to the south east. The property has its own private track.

4.3 The site is located to the north of the Highworth – Shrivenham Road, close to the Borough Boundary. It occupies an elevated and prominent position, close to the skyline

## **5 Representations**

5.1 Neighbours: No comments received



5.2 Parish Council: The council do not object the proposal, and request that if the application is to be recommended for refused then it is considered by the Planning Committee.

NB Members should note that Contrary to the scheme of delegation and The Swindon Borough Parish and Town Council Charter, no comments are given to explain why the application is supported or whether it raises significant planning issues or is locally controversial.

5.3 Highways: Raise no objection to the proposal subject to conditions.

5.4 Wiltshire Wildlife Trust: No Comments received

5.5 Landscape: Object to the proposal as it is not compliant with Policy EN5 of the Swindon Borough Local Plan 2026. It is outside the settlement boundary and therefore has an adverse impact upon the landscape.

## **6 Planning Considerations**

### Policy

6.1 The Government launched the Planning Practice Guidance web-based resource on 6 March 2014. In this case it is considered that the Planning Practice Guidance does not provide any further new guidance that would materially affect the advice contained in the NPPF.

6.2 Paragraph 55 in the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It states that new isolated homes in the countryside should be avoided unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside;
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- The exceptional quality or innovative nature of the design of the dwelling.

6.3 The Swindon Borough Local Plan 2026 adopted on the 26th April 2015 is the development plan that is to be used. The policies that are relevant to this application are: SD2, DE1, HA5, TR2, EN4 and EN5

6.4 Policy SD2 (The Sustainable Development Strategy) of the Swindon Borough Local Plan 2026 seeks to concentrate development in the Swindon urban area. In particular Policy SD2(c) states development proposals in rural and countryside locations outside the rural settlement boundaries as shown on the Policies Map will be permitted where:

- Local needs have been identified and allocated through a Neighbourhood Plan or Neighbourhood Development Order; and / or
- It supports the expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in a rural service centre; or
- It is in accordance with other policies in the Plan permitting specific development in the countryside.

6.5 Policy DE1 (High Quality Design) of the Swindon Borough Local Plan 2026 seeks high standards of design for all types of development. Proposals for development should address context and character in respect of the existing built characteristics and existing site conditions.

6.6 Policy HA5 (Rural Exception Sites) of the Swindon Borough Local Plan 2026 does allow for development within the countryside as long as the proposal does meet all of the criteria within the policy. The proposal whilst located in the countryside does not propose to meet local affordable needs and so the proposal does fall to be considered under or accord with this policy.

6.7 Policy TR2 (Transport and Development) of the Swindon Borough Local Plan 2026 states within section h states that parking provision, including secure cycle and motorcycle parking, should be provided in accordance with the Council's adopted parking standards.

6.8 Policy EN4 (Biodiversity and Geodiversity) of the Swindon Borough Local Plan 2026 states that development will avoid direct and indirect negative impacts upon biodiversity and geodiversity sites as identified on the Policies Map.

6.9 Policy EN5 (Landscape) of the Swindon Borough Local Plan 2026 ensures that any development will not impact on the landscape within the Borough. The proposal lies within the Midvale Ridge Landscape Character area.

### Principle of Location

6.10 The original justification for providing residential accommodation at this location was that the development comprised the conversion of a traditional open fronted building. Original features were retained and incorporated in the scheme. The proposal accorded with policies relating to 'barn conversions' that prevailed at that time. Had a scheme along the lines of that now before members been proposed, it would not have been supported.

6.11 Similar principles apply to the consideration of this application. The proposal is located outside of any defined settlement, in the open countryside where national and local policy seeks to resist development, unless special circumstances apply. The proposal fails to accord with Policy SD2

6.12 The proposal completely removes the existing building and its traditional features (that justified the original permission) and proposes a completely new building of a larger scale and significance in a prominent elevated location in the landscape.

6.13 The scale and appearance of the proposal as that is proposed is akin to a grand country house rather than a small scale traditional former farm building.

6.14 The existing building has a height of a floor to ridge height of some 4.3m whereas the proposed dwelling is some 7.7m tall – over 75 % higher.

6.15 The main facing material of the new dwelling is to be brick, whereas the main façade of the converted building is of timber and glazing that echoes the former use. The proposal is not exceptional or innovative design.

6.16 Unfortunately, the stone walls identified in the 2000 application as an important and original feature that surround the converted building, are to be removed. Whilst the plans are ambiguous about the extent of the removal, it is evident from the details that the majority is to be lost as the front facing former stone boundary wall is identified on the proposed plans as a new retaining wall.

6.17 The material, form, scale and the design of the proposal are not acceptable as it does not take into consideration of the existing site conditions or reflect the local context. It is not deemed to be in conformity with Policy DE1 of the Swindon Borough Local Plan or the NPPF.

6.18 There is no suggestion of any local need put forward to support the scheme, either for an affordable dwelling or to meet the needs of agriculture. The proposal fails to accord with policies HA5 and HA6

6.19 The proposal will have an adverse impact upon the landscape and will harm the appearance and quality of the Midvale Ridge Landscape Character Area. The applicant has not put forward any justification to the contrary as policy EN5 requires.

6.20 The proposal also does not meet the requirements of the NPPF. Due to the nature of the proposal it would not enhance or maintain the vitality of the surrounding rural communities. The dwelling that is to be replaced is not redundant and disused. It states that new isolated homes in the countryside should be avoided unless there are special circumstances. The proposal is not to re-use a building and the new building would not enhance the immediate setting. The design of the building is not considered to be innovative.

#### Impact on amenity

6.21 There would be no adverse impact on any other property in terms of loss of privacy etc as the closest properties are over 200m away.

#### Ecology

6.22 In the Phase 1 and 2 Bat survey that has been submitted to the Local Planning Authority, it has been demonstrated that the current dwelling is used as a bat roost by at least 4 species of bat. The mitigation measures that have been suggested are at two levels. The permanent roosting provision includes a bat box in the house, and bat boxes on mature trees in the area. The temporary roosting provision are Schwegler bat boxes erected on mature trees prior to the works commencing on the property. Works are only to take place when the temperature at night time must be above 4 degrees Celsius.

6.23 It has been established that there are bats using the property accordingly a license from Natural England would be required to move the bats and the habitat that they are living in. For a license to be given by the following three tests need to be met:

1. The development is in the interests of public health and safety or is required for other imperative reasons of overriding public interest
2. There is no satisfactory alternative to the development
3. The development will not be detrimental to the maintenance of the bat populations concerned at a favourable conservation status in their natural range.

6.24 The development comprising the demolition of the present building and replacement with a new dwelling is contrary to national and local policy. As the proposal is of purely private benefit, there are no overriding public interest reasons that tell in favour of the development that would outweigh the harm to protected wildlife species. Mitigation is put forward but is not considered to be adequate in this instance.

#### Highways

6.25 It has been demonstrated that a suitable means of access to the site exists. Adequate parking provision is made and in this respect the requirements of Policy TR2 are met.

## 7 Concluding Comments

7.1 Whilst it is acknowledged that the former barn is used for residential purposes, this is of a scale and nature appropriate to its surroundings. There is no justification put forward for the construction of a building of a greater scale and impact than that which exists. The proposal is not in keeping with the surrounding landscape, as it does not take into consideration the existing site characteristics and the adverse impact upon the landscape, due to the loss of a traditional building of traditional materials.

It has been established that there are bats located in the property and it is not considered that the mitigation and lack of any justification put forward in favour of the development overcomes the removal / loss of the habitat. The proposal is not in conformity with Policies SD2, HA5, EN5 and DE1 of the Swindon Borough Local Plan 2026 and the NPPF. There is no agricultural or other exceptional need justification for the erection of the new dwelling in open countryside

## 8 Recommendation

8.1 That planning permission be REFUSED

### Reasons

1. The proposal is for a replacement dwelling in the countryside, outside of any defined settlement where the location fails to accord with policies SD2 and HA5 of the Swindon Borough Local Plan 2026 and the NPPF..

2. The proposal by reason of its scale, nature and appearance lack of local context and adverse impact upon the landscape fails to accord with policies DE1 and EN5 of the Swindon Borough Local Plan 2026 and the NPPF.

3 The proposal fails make appropriate mitigation for and results in harm to protected species, contrary to Policy EN4 of the Swindon Borough Local Plan 2026 and the NPPF.

### Informatives

1. This refusal shall be in respect of drawing 130801-01, 130801-104, 130801-105, Topographical Survey, Planning, Design and Access Statement and Phase 1 and 2 bat survey received by the Local Planning Authority on 7th October 2015.

Reason: To define the scope of the development hereby permitted, in accordance with section 72 of the Town and Country Planning Act 1990.

2. This development proposal constitutes Community Infrastructure Levy 'CIL' liable development. CIL is a mandatory financial charge on development. For more information on CIL visit [www.swindon.gov.uk/cil](http://www.swindon.gov.uk/cil) or telephone the SBC CIL Team on 01793 466289 or 466397 or email [cil@swindon.gov.uk](mailto:cil@swindon.gov.uk). To avoid additional financial penalties the requirements of the impact of CIL must be managed before a development is commenced and subsequently payment made in accordance with the requirements of the CIL Demand Notice issued. CIL would remain relevant in the event that planning permission were allowed by planning appeal.

End of Report

## Marlborough park S106 agreement

**Planning Committee**

**Date: 12<sup>th</sup> January 2016**

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Author:	Head of Planning, Regulatory Services and Heritage
Wards:	All Wards (and specifically Old Town)
Locality Affected:	All Locality Areas
Parishes Affected:	All Parishes

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### **1. Purpose and Reasons**

- 1.1 To seek the approval of Planning Committee to enter into a supplemental legal agreement with the landowners/ developers of the land known as Marlborough Park (Former Wakefield House off Pipers Way) ("the Development Site").
- 1.2 The supplemental legal agreement is necessary in order to agree the details of financial arrangement between the landowners/developers and the Council regarding the overpayment of financial contributions under the section 106 agreement dated 5<sup>th</sup> September 2006 ("the 2006 agreement"). The overpayment has occurred because the outline planning permission granted in 2006 under reference S/05/1720 has not been fully implemented and a new application is now proposed to be submitted. Should a new planning permission be granted and implemented, the overpayment will need to be paid back by the Council. Also, the new development will be required to pay a CIL charge under the Charging Schedule adopted by the Council this year pursuant to the Community Infrastructure Levy Regulations 2010.
- 1.3 This matter supports the Council's Priority 1: Improve Infrastructure and housing to support a growing low carbon economy.

### **2. Recommendations**

The Committee is recommended to:

- 2.1 Authorise the Director of Law & Democratic Services, in consultation with the Head of Planning, Regulatory Services and Heritage, and the Board Director, Resources, to enter into a supplemental legal agreement with the landowners/developers, in respect of Development Site, as detailed under paragraph 3 of this report.

### **3. Detail**

Planning Background

- 3.1 Planning Permission was granted in outline on 6<sup>th</sup> September 2006 under ref. S/05/1720 for mixed use development comprising up to 616 residential units on the Development Site, subject to the 2006 agreement. The 2006 agreement has been subject to a deed of variation.

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Further information on the subject of this report can be obtained from Sarah Screen, 01793 466397, [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

# Marlborough park S106 agreement

Planning Committee

Date: 12<sup>th</sup> January 2016

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- 3.2 The owners were obligated by the 2006 agreement to make payment of all the financial contributions associated with the whole development site (to cover all 616 units) by occupation of the first housing unit within the Development Site. All the financial contributions (in the sum of £2,777,114.57) have been paid. However, to date, only one third of the housing units (204) have been built and occupied.
- 3.3 Detailed planning permission under Reserved Matters approval exists for a further 358 units (S/RES/09/1543), and a further Reserved Matters application for a substantial proportion of the remainder of the site (S/RES/09/1575) is pending determination by the Local Planning Authority. The landowners/developers have indicated that it is not their preference to proceed with development in the form as approved and proposed under those applications. They now wish to submit a new application.
- 3.4 The landowners/developers are prevented by planning condition from submitting any further Reserved Matters applications under the 2006 outline consent. This is because the timescale to do so has now expired. In order to develop the remainder of the site differently from the extant approved Reserved Matters permission and the proposed Reserved Matters application, they will need to obtain a replacement planning permission.
- 3.5 To this end, they now wish to submit a fresh planning application for the remaining un-developed part of the Development Site. The implication of submitting another application and obtaining a fresh planning consent is that they have paid s106 financial contributions to the Council associated with properties that will not be built under the existing outline planning consent (414 in number - approximately two-thirds of the original units numbers permitted).
- 3.6 In law, the proportion of the financial contributions which is attributable to these un-built 414 houses is repayable by the Council. However, the landowners/developers realise that any new scheme approved under a fresh planning application would fall under the CIL regime. It would be a CIL liable development and would, in line with the Council's adopted Charging Schedule be charged for the relevant gross internal area of floor space constructed under a new permission. They are therefore seeking, firstly, a confirmation of the amount of s106 contributions repayable to them by the Council, and secondly, whether the Council would prefer to repay the money to them or allocate it to any CIL charge that will fall due to the Council should the Council grant planning consent for their proposed new scheme.



# Marlborough park S106 agreement

Planning Committee

Date: 12<sup>th</sup> January 2016

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## Proposed Approach

- 3.7 An assessment of the paid contributions has been undertaken in order to work out what the Council is entitled to retain for the purpose of the built scheme and what the Council is not entitled to retain because it can be attributable to the un-built scheme.
- 3.8 A table is set out at **Appendix A** showing this split and the value of the contribution by item the Council is not entitled to retain including interest accrued to date following payment. The total value of the contributions the Council is not lawfully entitled to retain including interest has been calculated at a value of **£1,171,409.90**. This value has been agreed between the parties.
- 3.9 Member are requested to consider the following two options:
- Option 1** - Repayment of the amount repayable to the landowners/developers from when a new planning permission is granted. In this scenario, the Council will impose a restriction in the proposed supplemental legal agreement that the extant Reserved Matters consent shall not be implemented;
- OR
- Option 2** - The Council retains the amount repayable and this is off-set against the future payment of the CIL liability arising from the proposed new development permitted by the Council. In the event of full CIL liability falling below the amount to be repaid, the landowners/developers will make up the balance. Alternatively, in the event that the CIL liability arising from the new development is less than the amount to be repaid, the Council will repay the balance.
- 3.10 The supplemental legal agreement will also vary the 2006 agreement to reflect the contributions which the Council is entitled to keep in relation to the occupied 204 houses. It will set out clearly the updated financial position in relation to all the contributions.
- 3.11 Officers consider that option 2 delivers the best outcome for the Council, as it means the Council will not be required to repay any money to the landowners/developers. This option is therefore recommended to Members.
- 4. Alternative Options**
- 4.1 Not enter into a signed legal document that sets out the agreed position (Memorandum of Understanding) between the parties and rely on non-legal correspondence setting out the Council's position to the owners.
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Further information on the subject of this report can be obtained from Sarah Screen, 01793 466397, [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

# Marlborough park S106 agreement

Planning Committee

Date: 12<sup>th</sup> January 2016

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## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 The total repayment sum of £1,171k includes interest of £87k which will be funded from treasury budgets. Of the principal sum of £1,084k, £222k has already been allocated and spent and therefore this will create a budget pressure if it needs to be repaid in advance of any future receipt.

### Legal and Human Rights Implications

- 5.2 Legal and human rights implications have been taken into account in preparing this report. The relevant legal issues are dealt with in the body of this report.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 The future requirements pertaining to the necessary amendments to the s106 to address this matter will be undertaken by means of separate instructions to accompany the grant of any replacement permission to develop the area of land within the Wakefield House application site that currently remains undeveloped. This would be managed under formal instructions under the delegated authority of the Head of Planning, Regulatory Services, Heritage and Libraries.

### Diversity Impact Assessment

- 5.4 It has been determined that will no adverse impact in respect of Diversity in respect of the matters pertaining to the content of this report. The process is informed by a requirement to comply with a legal position.

### Risk Management

- 5.5 Securing the approach to management of this matter under a signed legal document would result in reduced risk to the Council.

## 6. Consultees

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- 6.2 The Head of Conveying, Environment and Contracts, The Cabinet Member for Planning, Cabinet Member for Finance, the Ward Councillors for Old Town and current elected Councillors that would have represented the Ward at the time have also been informed about the report.

## 7. Background Papers

- 7.1 S/05/1720 Land at Wakefield House Decision Notice

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Further information on the subject of this report can be obtained from Sarah Screen, 01793 466397, [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

# Marlborough park S106 agreement

Planning Committee

Date: 12<sup>th</sup> January 2016

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7.2 S/RES/07/2331 Reserved Matter Approval Notice for Phase 1 (Area1 204 units)

7.3 S106 legal agreement in respect of Wakefield House Pipers Way dated 5<sup>th</sup> September 2006 (as varied).

## 8. Appendices

8.1 **Appendix 1:** Breakdown of S106 contributions from s106 deed of obligation associated with S/05/1720 that the Council is not entitled to retain.

# Marlborough park S106 agreement

## Planning Committee

Date: 12<sup>th</sup> January 2016

### Appendix 1:

Breakdown of S106 contributions from s106 deed of obligation dated 5<sup>th</sup> September 2015 (as varied) associated with S/05/1720 Wakefield House, Pipers Way that the Council is not entitled to retain.

Contribution	Amount Received	Date Received	Can 100% be retained in the event of a new permission?	Value attributable the 204 units built proportion of the 616 that can be retained or where 100% is to be retained £	Value of the share the Council is not entitled to retain (associated with the 412 units not built of the 616) £	Value of interest (£)	Repayable Sum (principle plus interest)(£)
Administration Fee	£129,297.08	13/12/2007	Yes	£129,297.08	£0.00	-	
First Bus Service Sum	£191,618.26	13/12/2007	Yes	£191,618.26	£0.00	-	
Second Bus Service Sum	£216,235.89	05/01/2011	Yes	£216,235.89	£0.00	-	
First Community Sum	£171,965.11	13/12/2007	No	£56,949.48	£115,015.63	£14,850.88	<b>£129,866.51</b>
Second Community Sum	£194,057.45	05/01/2011	No	£64,265.78	£129,791.67	£4,690.53	<b>£134,482.20</b>
Culture Sum	£32,579.00	15/10/2010	No	£10,789.15	£21,789.85	£1,113.41	<b>£22,903.26</b>
First Education Sum	£235,837.86	13/12/2007	No	£78,102.15	£157,735.71	£20,366.92	<b>£178,102.63</b>
Second Education Sum	£261,574.14	05/01/2011	No	£86,625.20	£174,948.94	£6,762.66	<b>£181,711.60</b>

# Marlborough park S106 agreement

## Planning Committee

Date: 12<sup>th</sup> January 2016

### Appendix 1 Cont'd:

Breakdown of S106 contributions from s106 deed of obligation dated 5<sup>th</sup> September 2015 (as varied) associated with S/05/1720 Wakefield House, Pipers Way that the Council is not entitled to retain.

Contribution	Amount Received	Date Received	Can 100% be retained in the event of a new permission?	Value attributable the 204 units built proportion of the 616 that can be retained or where 100% is to be retained £	Value of the share the Council is not entitled to retain (associated with the 412 units not built of the 616) £	Value of interest (£)	Repayable Sum (principle plus interest) (£)
Highways	£105,479.68	13/12/2007	Yes	£105,479.68	£0.00	-	
LEAP Sum	£88,224.24	05/01/2011	No (not if developer is going to manage the facility through a Management Company)	£0.00	£88,224.24	£,3,410.31	<b>£91,634.55</b>
NEAP Sum	£164,336.94	05/01/2011	Yes	£164,336.94	£0.00	-	
Public Art	£142,485.37	13/12/2007	No	£47,186.71	£95,298.66	£12,305.01	<b>£107,603.67</b>
First Public Realm Sum	£196,531.55	13/12/2007	No	£65,085.12	£131,446.43	£16,972.43	<b>£148,418.86</b>
Second Public Realm Sum	£227,727.04	05/01/2011	No	£75,416.10	£152,310.94	£5,887.59	<b>£158,198.53</b>
Services Sum	£26,613.65	05/01/2011	No	£8,813.61	£17,800.04	£688.06	<b>£18,488.10</b>
Sports Pitches Sum	£392,551.31	05/01/2011	Yes	£392,551.31	£0.00	-	
<b>TOTAL</b>	<b>£2,777,114.57</b>		-	<b>£1,692,752.47</b>	<b>£1,084,362.10</b>	<b>£87,047.80</b>	<b>£1,171,409.90</b>

## **Protocol for Dealing with Planning and Related Applications**

**Planning Committee**

**12<sup>th</sup> January 2016**

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Author: Head of Planning, Regulatory Services and Heritage

Wards: All Wards

Locality Affected: All Locality areas

Parishes: All Parishes and Town Councils

### **Purpose and Reasons**

#### **1. Purpose and Reasons**

- 1.1 To seek the Planning Committee's approval of the updated and consolidated consultation protocol for the dealing with planning and related applications
- 1.2 A partial review of the protocol took place in November 2014 when the committee agreed to a revised neighbour consultation protocol. Given the elapse of time it is considered appropriate that an update and consolidation of all the various protocols be carried out and set out in a single accessible document.
- 1.3 This update will not affect how Parish / Town Councils and statutory consultees are consulted.
- 1.4 It is considered that procedures should be up to-date and ideally agreed on a regular basis to reflect the current practice, and the increased use of IT. The update draws upon and clarifies adopted procedures and incorporates committee resolutions going back over many years.
- 1.5 This report will draw upon current practice and where relevant or appropriate recommends improvements / amendments.

#### **2 Recommendations**

##### The Planning Committee is recommended to:

- 2.1 Note that the majority of comments are received electronically and agree to discontinue notification (other than by electronic means) to those persons who have made representations of the decision as this will be available via the planning pages of the Councils web site. (Paragraph 6.2 of the report refers).
- 2.2 Approve the procedures set out in Appendix 2 to this report for the purpose of consultation on planning and related applications ("consultation protocol")
- 2.3 Agree that the consultation protocol be circulated to all Borough Councillors and Parish and Town Councils for information.

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Further information on the subject of this report can be obtained from *Andy Brown* on 466286 or Email [andybrown@swindon.gov.uk](mailto:andybrown@swindon.gov.uk).

# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- 2.4 Agree that the Council's Statement of Community Involvement in Planning be amended at the next review to reflect these changes
- 2.5 Authorise the Head of Planning, Regulatory Services and Heritage to publish the protocol in the planning pages of the Councils Web site.
- 2.6 Authorise the Head of Planning, Regulatory Services and Heritage to make any minor or typographical changes as may be necessary

## 3.0 Detail

### The legal position

- 3.1 The requirements for publicising planning applications are set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Planning Authority is required to publicise a planning or related application once it has been validated.
- 3.2 In accord with legislation in most cases, a 21 day period is given in which responses must be made. The application details are published online and are accessed via the planning pages of the council's web site. Once the consultation period has ended, the web site reflects this, and comments are no longer able to be submitted on-line.
- 3.4 There are also statutory publicity requirements for certain categories of development, which include the posting of site notices and publishing details in the public notices section of a newspaper, for example, proposals affecting a listed building and conservation area and major development.

### Consultation with neighbours

- 3.5 The legislation sets out that in addition to certain statutory consultees, adjoining properties must also be made aware and given an opportunity to comment on planning applications. Swindon Borough Council has chosen to do so by notifying the neighbouring properties, i.e. those premises that adjoin the application site. This is done by sending a card to the properties concerned, informing them of the proposal and providing details of where the details can be inspected and the date by which any comments must be made. All post is sent out via 2<sup>nd</sup> class mail except in exceptional circumstances where first class mail may be used.
- 3.6 This system has generally worked well and has advantages over the alternative of posting of a single notice at or near the property, which affected neighbours may not read.

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Further information on the subject of this report can be obtained from *Andy Brown* on 466286 or Email [andybrown@swindon.gov.uk](mailto:andybrown@swindon.gov.uk).

# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- 3.7 A period of 21 days is given in which responses must be made. The application details are published online and are accessed via the planning pages of the council's web site. As explained above, when the consultation period has ended, the web site reflects this, and comments are no longer able to be submitted on-line.

## General Consultation Principles

- 3.8 Notifications are sent to neighbouring occupiers whose properties adjoin an application site, whether or not they are residential neighbours.
- 3.9 In the case of a side extension to a house, those properties situated either side and to the front and rear will be notified. In the case of a rear house extension, only those to the side and rear will be notified. Similar principles will apply to a front only extension. Some developments that may have wider / off site impacts may be subject to broader consultation, including the use of site notices.
- 3.10 The position in respect of applications where revised details / plans are received is set out and discussed in more detail below
- 3.11 In short, a revised notification exercise will not take place in each and every situation as the revised impact will need to be judged. If deemed appropriate to do so, notification takes the form of a card as with the original consultation exercise, albeit with a lesser timescale of 14 days allowed for responses.

## Use of IT / electronic media

- 3.12 The Government encourages the use of electronic media and the legislation reflects this by allowing consultation to take place in this format. The department takes advantage of IT and notifies most statutory and internal consultees by email. Similarly Parish and Town Councils are notified in this way.
- 3.13 In order to assist with the transition they currently also receive a card and 'hard' copies of some drawings / papers are made available. This duplicate system will shortly be phased out so that they will only receive an electronic notification.
- 3.14 Applicants are encouraged to submit their applications and documents / drawings electronically via the Planning Portal. Swindon currently receives about 50% of its applications in this way.
- 3.15 When an application is made electronically the planning authority may correspond with the applicant in this manner.
- 3.16 The majority of comments received on an application are made electronically, most via the Public Access System where the application details are viewed through the Councils web pages.

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Further information on the subject of this report can be obtained from *Andy Brown* on 466286 or Email [andybrown@swindon.gov.uk](mailto:andybrown@swindon.gov.uk).



# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- 3.17 Later in this report members will note that correspondence takes place with applicants, agents, developers and objectors / supporters. This will include informing them of the decision and if the proposal is to be considered by the committee, the details of the meeting. However, given the use of electronic media – emails- is widespread, the committee is asked to endorse the practise of carrying out this correspondence electronically, where contact with the planning authority is made by electronic means. This will enable information to be disseminated much quicker, and will help the council reduce costs by preparing, printing and posting less cards

## Consultation with Swindon Borough Councillors

- 3.18 Members are made aware of applications through the weekly list of applications that appears in the Members bulletin, published each week and either emailed or posted to every Councillor. This has been the case for many years, having been agreed by the planning committee as part of the Planning Charter for Development Control. Where members request the weekly list as a standalone document, separate to the Bulletin, it is either emailed or posted to them as they may prefer upon request.
- 3.19 This procedure is also echoed and set out in the Statement of Community Involvement 2013 adopted and agreed by the Council following widespread statutory publicity and consultation.
- 3.20 Ward Councillors are only notified by a card where re-consultation takes place following amendments to an application. This is because the amendments would not appear in the weekly list, which only report applications received and determined.
- 3.21 Councillors will already be aware that from time to time they are formally notified of new applications by receiving a card similar to that sent to neighbours. Although there is no requirement to do this, it does occur where the case office is of the view that that a proposal may be locally controversial or is a type of development that Ward Members have expressed an interest in and therefore special attention should be drawn to it.
- 3.22 This is not a foolproof method as it is unlikely that officers and members will be able to always predict what might happen in respect of any particular application which on the face of it may seem like an innocuous application.
- 3.23 To quantify the position, the department is expected to receive around or in excess of 2000 planning and related applications this year. Most wards have three councillors; so a rough calculation of 3 members x 2000 applications amounts to some 6000 cards per annum to be printed and sent to members. The

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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vast majority of developments are uncontroversial as most members will know, given that of the total, only around 50 - 60 applications (2 - 3%) per year are called to committee.

- 3.24 Members will be aware that the software of Planning Departments 'Uniform' IT system has recently been upgraded to a more up to date version. Whilst some teething problems remain to be resolved, it is hoped that there may be an opportunity to configure the program to generate an email notification to the Ward Members when an application is validated. Whilst members will receive much more communication (email or hard copy) from the department than they currently do, this has the advantage of making members aware of each and every application in their Ward at a very early stage and before the local residents / neighbours receive their cards. When this is available all members will be contacted to see if they wish to be consulted in this manner.
- 3.25 It is up to the members of the planning committee to decide whether they want to change the current process of notifying and consulting members. However, it is the officers' view that the current system should remain, given the information set out in paragraphs 3.23 and 3.24 above.

## Consultation with Parish and Town Councils

- 3.26 The process of notifying Parish and Town Councils follows closely that for notifying neighbours, described earlier in this report. They are notified of applications within their area and are given 21 days to respond and 14 days when notified of revised plans.
- 3.27 The procedure is also contained in the Swindon Borough Parish and Town Council Charter 2015, agreed by the Parish and Town Councils, and the Swindon Area Committee of the Wiltshire Association of Local Councils in January 2015.
- 3.28 The Charter also confirms the ability of Parish and Town councils to request that applications be determined by the planning committee rather than by officers under delegated powers. This echoes the relevant clause in the Councils scheme of delegation but does require reasons to be given for the request as to why a particular application is considered to raise significant planning issues or is locally controversial.
- 3.29 Following consultation and trials, Parish and Town Councils are consulted using electronic media as described in Paragraph 2.12 above.

## Consultation following receipt of revised details / amended plans

- 3.30 A proportion of the applications dealt with are subject to revisions. The legislation does not require any further consultation to be carried out in such cases.

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## Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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However, along with most other local planning authorities, this council does so and this is generally regarded as good practice.

- 3.31 A revised notification exercise will not take place in each and every situation as the revised impact will need to be judged. If deemed appropriate to do so, notification takes the form of a card as with the original consultation exercise albeit with a lesser timescale of 14 days is allowed for responses.
- 3.32 Officers recognise and acknowledge the importance of notifying neighbours, which is to enable those affected to be aware of and to be able comment on a scheme. In each case a judgement has to be made whether further consultation is necessary and if so whether it should be a 'wholesale' exercise or be proportionate to the impact of the revisions.
- 3.33 The following are examples where revisions would not normally lead to a further round of consultation being carried out:
- The revisions mitigate, address or overcome objections.
  - The revisions reduce the scale or impact of a scheme to which no comments have been received.
  - The revisions amend part of a scheme where no additional impact arises and upon which no concerns have been raised,
- 3.34 When it is deemed appropriate that a revised consultation exercise takes place, the notifications will be limited to.
- Those properties that lie adjacent to the location of the amended proposals.
  - Those properties directly affected by the location of the amended proposals.
  - Those who have written in already and expressed concerns at the matters being amended – unless their stated concerns have been addressed

### Consultation on applications for the approval of reserved matters following grant of Outline permission

- 3.35 Over the years there have been many applications that have attracted a large amount of objections at the outline stage but reduce dramatically once the principle of developing a site has been established.
- 3.36 The objections will normally relate to the impacts of the principle of development and the associated highway implications. In such cases, where the application is granted – either by the local planning authority or on appeal -, the principle and scale of development together with the location and impact of the access will

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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normally have been considered to be acceptable in planning terms and approved. Further objections to those agreed aspects at the reserved matters stage cannot be considered.

- 3.37 To reflect the position agreed by members last year, for applications that follow the grant of outline permission the department will continue to notify only those immediately affected by the details of the reserved matters (in most cases they will be housing developments), rather than those further afield who whilst not agreeing with a development, will not be directly affected by the details – (e.g. layout and house types).
- 3.38 . Reserved matters applications can be for a significant number of houses and this council considers it important that proposals must be adequately publicised and where an application meets the definition of ‘major’ development (e.g. 10 houses or more) details are published in the local newspaper and notice is displayed on the site. This is in addition to notifying affected ‘neighbours’.
- 3.39 Similar principles would be applied to applications for full planning permission where the principle of the development has been established by the grant of planning permission and a revised application proposes changes to the scheme – e.g. changes to a housing development to alter the layout / house types.

## Larger sites

- 3.40 The neighbour notification procedure described above requires all those properties adjoining the application site to be notified of the proposal. There are instances where this should be re-assessed and a more proportionate approach taken. For example there might be a proposal for a bike shelter within a large commercial complex or a school campus, where the application site might include the whole grounds. To avoid unnecessarily consulting a number of neighbours who may a significant distance away and will not be affected by the proposal a judgement will be made to ensure a proportionate consultation exercise is undertaken so that only those properties likely to be affected will be notified. Of course, a site visit might suggest otherwise and additional / wider notifications can / will be sent out.

## Certificates of Lawfulness

- 3.41 These types of application allow an applicant to seek a formal decision to establish whether or not permission is required for a development he proposes to carry out or whether a development that has been carried out is lawful either by the passage of time or because planning permission was not required.
- 3.42 There is no formal requirement for a local planning authority to undertake any consultation upon receipt of either of these types of application. This is because

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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they must be considered on the basis of fact rather than on the merit or desirability of the development. In clear cut cases, no neighbour consultation would be expected to be undertaken. However, there may be instances where the local planning authority may find it helpful to seek corroboration of the facts and evidence. In such cases there is nothing to preclude the local planning authority from seeking the views of local residents or any other interested parties to assist its deliberations.

## Telecommunications

- 3.43 Applications whether seeking planning permission or prior approval for Masts and paraphernalia associated with telecommunications including those by mobile phone and broadband operators can be controversial. Acknowledging this, all properties, including schools, within a 100m Radius of the site will be notified when applications are received.

### **4.0 Reporting comments received.**

- 4.1 All comments / representations received are assessed and taken into account in the determination of applications. These are set out by the officer in the application report and commented upon / addressed as appropriate in reaching the recommendation / decision.
- 4.2 All persons making representations in respect of applications that are to be determined by the planning committee will also receive a card or email notification informing them of the meeting details, to enable them to be present at or speak to the committee.
- 4.3 There are often instances where objectors / supporters of a scheme produce a standard letter / email that is copied by many individuals and submitted in opposition or support a development. As members will be aware, it is the nature of the representation that is material not the number of times the same comment is made. Nevertheless, each letter is logged as an individual comment and each person will be notified of the decision and if applicable the date the planning committee meeting at which the application that the application will be considered at.

## Petitions

- 4.4 The local planning authority will continue to treat petitions that relate to a planning application as a single representation. When received, the petition will be logged as a comment from a single individual and this will be attributed to the author of any accompanying note or in the absence of any details identifying the originator of the petition, it will be attributed to the top signature on the first or top page. This protocol is confirmed and explained in the planning pages of the councils web site

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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## 5.0 Determining applications

- 5.1 Applications are determined either by the planning committee or by Officers authorised under the Council's Scheme of Delegation This is re-affirmed by Council each year as part of the constitution. The scheme as it applies to Parish Councils is referred to above but it useful to set out details.
- 5.2 An application will be determined under delegated powers unless
- a) The Head of Planning, Regulatory Services and Heritage determined that it should be determined by the planning committee;
  - b) A member has requested in writing within 28 days of the date of validation that the application be considered by the planning committee;
  - c) A parish Council request within 21 days of notification the the planning committee considers the application because it raised significant planning issues or is locally controversial.

### Late representations

- 5.3 Applications dealt with by the Planning Committee
- 5.4 Representations received after the publication the agenda and up to the start of the meeting will not normally be circulated. The committee will be informed that additional representations have been received but the detail will only be reported where they raise new points or significantly add to those reported in the committee papers. If the comments are received very late, members may be advised that there has been insufficient time to assess or consider the information.
- 5.5 With regard to request for material to be circulated at the meeting, the Members Planning Code of Good Practice advocates against allowing documents to be circulated at Committee Meetings which have not previously been submitted to the Committee as all parties may not have had time to react to the submissions and officers may not be able to provide considered advice on the material. A recent case law - R (Joicey) v. Northumberland County Council [2015] indicates that the Court is likely to quash a decision where new materials have not been made available to the public at least five clear days before the relevant meeting, in breach of section 100D of the Local Government Act 1972. The objectors were said to have not had adequate time to prepare and respond in that case.
- 5.6 Applications dealt with under delegated powers.
- 5.7 Representations received after the close of the formal consultation period will be considered, provided that the case officer is aware of them before the relevant application report has been written. Representations received after this time will be taken into account by the Officer determining the application provided that

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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he/she is aware of their existence prior to the application being decided. Decided in this case means that the decision has been authorised ( signed off)

## Non Material and Minor Material amendments

- 5.8 Recent changes introduced flexibility into the planning regime to allow applicants to amend their schemes in a less onerous way than by making a planning application. The options available include applications for a non-material amendment and a minor material amendment, the procedure is different for each approach.
- 5.9 There can be no hard or fast approach to which method is used as each case will depend upon the particular circumstances. Similarly, the appropriateness of the extent of any consultation will have to be considered on a case by case basis, having regard to the principles in section 2 above

## Site visits by the Planning Committee

- 5.10 It is now some years since the planning committee routinely deferred consideration of planning applications to enable a site visit to be undertaken by members. The committee resolved to abandon this practice due the extensive detailed application information available, both in the agenda papers and by the display of application material, photographs at the meeting. Should any interested party request a site visit, they will be advised of this resolution.
- 5.11 Individual members of the committee can, prior to a meeting, visit the site under their own volition with or without the appropriate Planning Officer if they consider it necessary.

## Conditions on planning permissions

- 5.12 Most planning permissions are subject to conditions which are discharged by Planning Officers. This takes place without any further round of consultation as the legislation make no provision or requirement for this to take place. Occasionally, there will be exceptional circumstances where members may wish to be made aware of such details and may for example request that Officers discharge a condition in conjunction and the agreement the Ward Councillors. Similarly the discharge of some conditions may require that technical or specialist input is sought.

## Appeals

- 5.13 When an appeal is received, all persons who were notified of and who commented upon the related application are required to be informed that an appeal has been lodged. The local planning authority must notify the interested persons but any comments they wish to make must be sent to the planning

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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inspectorate who administer the process. The exception is in respect of 'householder' appeals where there is no further opportunity to comment.

## Permitted Development / Prior approvals

- 5.14 Informal requests for a decision on whether a proposal constitutes permitted development is no longer given. Such requests can be made via an application for a certificate of lawfulness. However, as members will be aware the scope of permitted development rights have recently been extended and relaxed.
- 5.15 The relaxation has in many instances introduced a formal but limited consultation requirement, default approval where no representations have been made and also sets out the limited extent of matters that can be taken into account. For example, where larger 6m and 8m long house extensions are proposed, only the immediate neighbours are notified and if they do not object within 21 days, permission is deemed to have been granted. Members and Parish Councils are unable to have any part in this process. The local planning authority is required to determine such applications so as to comply with and be in accord with the relevant regulations.

## Local Development Orders

- 5.16 The Committee has approved a number of Local development orders in the last 5 years, including those covering house extensions, development at employment locations, Low carbon energy and an area based order for Victoria Road. Each of those orders will specify the publicity that will be necessary. This will be less than for formal applications as a wide consultation exercise took place in the formulation of each order

## **6.0 Other Matters**

- 6.1 From time to time the department is contacted by persons who have requested (insisted) that they be formally notified of an application of which they have knowledge of by being sent a card. They are of course already aware of the application, which is the rationale for notifying, but have not been formally consulted. This is most likely because they live a little further away from a site than would trigger a notification. In such cases it is not appropriate to agree to their request as they clearly know about the development and are not prejudiced or precluded from commenting. This would extend the consultation period for a further 21 days which may not be desirable or reasonable. Criticism could also be levelled at the council for not informing others in a similar position. Such interested persons will be advised to comment on the application as this would trigger and ensure further notifications about the application will be sent to them as it progresses.

## Notification of the decision

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- 6.2 Given that most objections and representations are received electronically, the committee is asked to review the continued notification of decisions by printing and sending cards as the details are easily available via the Councils web site where most people already have visited to view the application. The committees views are sought on this and whether notification is only given by electronic means –e.g. by emails once this is facilitated by the departments system

## Privacy statement / How personal information will be used

- 6.3 The Planning department receives a significant amount of correspondence on applications, much of which is required to be made available and published so that it can be viewed on-line. There is a requirement to ensure that sensitive information is not made available electronically, including contact details and signatures. Such details are redacted.
- 6.4 A privacy statement is published to ensure that those persons who make comments will know what will happen to the information they give us. The current wording along with other useful information that is also provided in this section is attached at appendix 1 to this report.

## Pre application consultation

- 6.5 The council encourages all applicants, developers and landowners to discuss their proposals with Borough Councillors (Ward Members) and the local community before submitting planning applications. However, the legislation as currently drafted does not make this mandatory. There may be instances where a developer wishes to carry out pre – application discussions about a potential scheme with the local planning authority that they do not want to be made public, even when these discussions include selected Statutory Consultations. The local planning authority will have to comply with such a confidentiality request, albeit the developer will be urged to share his scheme with the community at the earliest opportunity

## 7.0 Conclusion

- 7.1 Whilst this protocol will cover most situations and applications, there will always be the occasional proposal that will require special treatment or wider publicity. In such cases the local planning authority will continue to adopt a cautious approach of undertaking more, rather than less publicity.

## **8.0 Alternative Options**

- 8.1 The Planning Committee may not agree to adopt some or all of the protocol, but the Local Planning Authority will have to continue to publicise applications in a manner that at least meets the statutory requirements

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- 8.2 The above report properly stresses the importance of ensuring that an adequate and appropriate level of consultation takes place to continue to ensure that those persons affected by development are aware of the proposals. Members are also invited to express support for the increased use of digital media in publicising applications and related matters and to support investment in improvements to the planning pages of the councils' web site.

## 9 Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 9.1 There will be no impact upon fee income, however previously identified savings on printing, paper and postage will continue. In addition, by directing consultation to those directly affected by and interested in a development, consultations will be timelier and less resource hungry, so that the focus can be directed to the increased workload, enabling the local planning authority can continue to meet its statutory targets.

### Legal and Human Rights Implications

- 9.2 Legal and human rights implications have been taken into account in preparing this report.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 9.3 It is envisaged that the protocol would enable staff to exercise judgement from the largely administrative process of determining applications to enable resources to be focussed on dealing with those proposals that are likely to require a greater level of input.

The revised protocol should help efficient and appropriately targeted consultation to those affected.

- 9.4 Links to One Swindon, Strategic Objectives, Plans and Policies  
This report supports the achievement of One Swindon outcomes: with respect to deregulation, facilitating local decision-making and helping to deliver economic growth. As such the proposal is fully aligned to our Corporate Objective around securing good economic growth.

### Diversity Impact Assessment

- 9.5 This report also updates the protocols last agreed in November 2014 and sets out in more detail how proportionate consultation (engagement) will take place. A Diversity Impact Assessment (DIA) has previously been completed in respect of the Statement of Community Involvement June 2013. We do not believe that the implementation of this proposal will create an adverse impact on the basis of age,

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# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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disability, race, gender, sex, sexual orientation, religion or belief. A copy of the DIA is available from the report author on request.

## Risk Management

- 9.6 Risk Assessment has been previously been undertaken in respect of consultation with individuals and the local community under the Statement of Community involvement June 2013. The procedures set out above reflect the statutory duties the Local planning authority must comply with.

## **Consultees**

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **Background Papers**

- Town and Country Planning (Development Management Procedure) (England) Order 2015.
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Statement of Community Involvement in Planning ( 2013)
- Parish Borough Planning charter 2015
- Scheme of Delegation 2015
- The Councils Adopted Consultation policy 2104 – 2017 (2014)
- Members Planning Code of Good Practice

## **10 Appendices**

Appendix 1 – Privacy Policy

Appendix 2 – Protocol for Dealing with Planning and Related Applications

# Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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## Appendix 1

### Privacy Policy

All comments received form part of the statutory register and must be made available for public inspection. All representations (comments) that we receive about an application will be made available for public inspection via the Planning pages of this Councils website.

The addresses of those persons commenting on an application will usually be included in any application report containing an assessment of the proposal and the recommendation. This will include reports for decisions made under delegated powers and any published report considered by the planning committee.

Only those comments received in writing can be considered. Comments made verbally, in person or by telephone will not be recorded or taken into account.

It is important that comments are made within the formal consultation period that is set out in the notification. Failure to do so may result in your comments not being considered.

Any comments of an inappropriate, derogatory or defamatory nature will not be taken into consideration or published.

Anonymous comments will not be considered.

Only comments relating to planning matters can be considered. By keeping your comments to the point will help us to easily identify your concerns.

We receive hundreds of comments upon applications each year. It is not possible to acknowledge receipt of or to respond to your comments directly and it is our policy not to do so. You can however be assured that all comments are considered.

All comments received by the planning department will be placed on the application file and made available to be viewed online via the Planning pages of the Councils web site. The published information will include the names and addresses of persons making comments. Other personal details including email addresses, signatures and telephone numbers will normally be removed (redacted), if included.

Do not include:

- Signatures or personal telephone numbers
- E-mail addresses or any other personal information that you do not wish to be made public.

Do include:

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## Protocol for Dealing with Planning and Related Applications

Planning Committee

12<sup>th</sup> January 2016

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- The date
- Your name and address
- The application number
- The name of the case officer
- The site address.

The full content of all correspondence including any personal details will however be placed on the 'paper' working file and will be available to view, on request, at: Planning Office Wat Tyler House Beckhampton Street Swindon. SN1 2JH

Please note that 24 hours notice is usually required to do this.

In most cases, once an application has been determined, all the relevant information will be scanned and stored electronically and the working file will be destroyed, in which case only the online version will be available.

In the event that an appeal is lodged against the decision of the council, copies of all representations received will be copied and provided to both The Planning Inspectorate and the appellant. This may include any personal data contained in the comments.

Petitions should be submitted under the name and address of the person that produced it, or in the absence of such information, the petition will be attributed to the first signatory. The whole petition will be scanned and published but will be listed as a single comment and listed as a petition of X number of signatures. For your information, signatures, telephone numbers and personal email addresses will be removed (redacted) before appearing online.

In exceptional circumstances we will consider any special request of making personal details sensitive, to protect identities (although be aware that the nature of the comment may make this obvious). If you feel your comment should be kept confidential please contact the Case Officer direct.

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## Appendix 2

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### Swindon Borough Council

#### Protocol for Dealing with Planning and Related Applications

Adopted by the Planning Committee 12<sup>th</sup> January 2016

##### 1.0 Introduction

1.1 This protocol was considered and approved by the planning committee at its meeting on 12<sup>th</sup> January 2016.

##### 2.0 Purpose

2.1 This protocol sets out how the Planning Department will deal with planning and related applications, including publicity arrangements, consultation and the determination of planning and applications

##### 3.0 The legal position

3.1 The requirements for publicising planning applications are set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Planning Authority is required to publicise a planning or related application once it has been validated.

3.2 In accord with legislation, in most cases, a 21 day period is given in which responses must be made. The application details are published online and are accessed via the planning pages of the council's web site. Once the consultation period has ended, the web site reflects this, and comments are no longer able to be submitted on-line.

3.4 There are also statutory publicity requirements for certain categories of development, which include the posting of site notices and publishing details in the public notices section of a newspaper, for example, proposals affecting a listed building and conservation area and major development.

##### Consultation with neighbours

3.5 The legislation sets out that in addition to certain statutory consultees, adjoining properties must also be made aware and given an opportunity to comment on planning applications. Swindon Borough Council has chosen to do so by notifying the neighbouring properties, i.e. those premises that adjoin the application site. This is done by sending a card to the properties concerned, informing them of the proposal and providing details of where the details can be inspected and the date by which any comments must be made. All post is sent out via 2<sup>nd</sup> class mail except in exceptional circumstances where first class mail may be used.

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## Appendix 2

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- 3.6 This system has generally worked well and has advantages over the alternative of posting of a single notice at or near the property, which affected neighbours may not read.
- 3.7 A period of 21 days is given in which responses must be made. The application details are published online and are accessed via the planning pages of the council's web site. As explained above, when the consultation period has ended, the web site reflects this, and comments are no longer able to be submitted on-line.

### General Consultation Principles

- 3.8 Notifications are sent to neighbouring occupiers whose properties adjoin an application site, whether or not they are residential neighbours.
- 3.9 In the case of a side extension to a house, those properties situated either side and to the front and rear will be notified. In the case of a rear house extension, only those to the side and rear will be notified. Similar principles will apply to a front only extension. Some developments that may have wider / off site impacts may be subject to broader consultation, including the use of site notices.
- 3.10 The position in respect of applications where revised details / plans are received is set out and discussed in more detail below
- 3.11 A revised notification exercise will not take place in each and every situation as the revised impact will need to be judged. If deemed appropriate to do so, notification takes the form of a card as with the original consultation exercise, albeit with a lesser timescale of 14 days allowed for responses.

### Use of IT / electronic media

- 3.12 The Government encourages the use of electronic media and the legislation reflects this by allowing consultation to take place in this format. The department takes advantage of IT and notifies most statutory and internal consultees by email. Similarly Parish and Town Councils are notified in this way.
- 3.14 Applicants are encouraged to submit their applications and documents / drawings electronically via the Planning Portal.
- 3.15 When an application is made electronically the planning authority may correspond with the applicant in this manner.
- 3.16 The Public Access System allows application details to be viewed through the Councils web pages.

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## Appendix 2

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### Consultation with Swindon Borough Councillors

- 3.17 Members are made aware of applications through the weekly list of applications that appears in the Members bulletin, published each week and either emailed or posted to every Councillor. Where members request the weekly list as a standalone document, separate to the Bulletin, it is either emailed or posted to them as they may prefer upon request.
- 3.18 Ward Councillors are only notified by a card where re-consultation takes place following amendments to an application. This is because the amendments would not appear in the weekly list, which only report applications received and determined.
- 3.19 From time to time Councillors formally notified of new applications by receiving a card similar to that sent to neighbours. Although there is no requirement to do this, it does occur where the case office is of the view that that a proposal may be locally controversial or is a type of development that Ward Members have expressed an interest in and therefore special attention should be drawn to it.
- 3.20 Members will be aware that the software of Planning Departments 'Uniform' IT system has recently been upgraded to a more up to date version. Whilst some teething problems remain to be resolved, it is hoped that there may be an opportunity to configure the program to generate an email notification to the Ward Members after an application is validated. Whilst members will receive much more communication (email or hard copy) from the department than they currently do, this has the advantage of making members aware of each and every application in their Ward at a very early stage and before the local residents / neighbours receive their cards. When this is available all members will be contacted to see if they wish to be consulted in this manner.
- 3.21 It is up to the members of the planning committee to decide whether they want to change the current process of notifying and consulting members. However, it is the officers' view that the current system should remain, given the information set out in paragraphs 3.23 and 3.24 above.

### Consultation with Parish and Town Councils

- 3.22 The process of notifying Parish and Town Councils follows closely that for notifying neighbours, described earlier in this report. They are notified of applications within their area and are given 21 days to respond and 14 days when notified of revised plans.
- 3.23 The procedure is also contained in the Swindon Borough Parish and Town Council Charter 2015, agreed by the Parish and Town Councils, and the

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## Appendix 2

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Swindon Area Committee of the Wiltshire Association of Local Councils in January 2015.

3.24 The Charter also confirms the ability of Parish and Town councils to request that applications be determined by the planning committee rather than by officers under delegated powers. This echoes the relevant clause in the Councils scheme of delegation but does require reasons to be given for the request as to why a particular application is considered to raise significant planning issues or is locally controversial.

3.25 Parish and Town Councils are consulted using electronic media

### Consultation following receipt of revised details / amended plans

3.26 A proportion of the applications dealt with are subject to revisions. The legislation does not require any further consultation to be carried out in such cases. However, along with most other local planning authorities, this council does so and this is generally regarded as good practice.

3.27 A revised notification exercise will not take place in each and every situation as the revised impact will need to be judged. If deemed appropriate to do so, notification takes the form of a card as with the original consultation exercise albeit with a lesser timescale of 14 days is allowed for responses.

3.28 In each case a judgement has to be made whether further consultation is necessary and if so whether it should be a 'wholesale' exercise or be proportionate to the impact of the revisions.

3.29 The following are examples where revisions would not normally lead to a further round of consultation being carried out:

- The revisions mitigate, address or overcome objections.
- The revisions reduce the scale or impact of a scheme to which no comments have been received.
- The revisions amend part of a scheme where no additional impact arises and upon which no concerns have been raised,

3.30 When it is deemed appropriate that a revised consultation exercise takes place, the notifications will be limited to.

- Those properties that lie adjacent to the location of the amended proposals.
- Those properties directly affected by the location of the amended proposals.

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## Appendix 2

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- Those who have written in already and expressed concerns at the matters being amended – unless their stated concerns have been addressed

### Consultation on applications for the approval of reserved matters following grant of Outline permission

- 3.31 For applications that follow the grant of outline permission the department will notify only those immediately affected by the details of the reserved matters (in most cases they will be housing developments), rather than those further afield who whilst not agreeing with a development, will not be directly affected by the details – (e.g. layout and house types).
- 3.32 Reserved matters application that meet the definition of ‘major’ development (e.g. 10 houses or more) are publicised in the local newspaper and notice is displayed on the site. This is in addition to notifying affected ‘neighbours’.
- 3.33 Similar principles would be applied to applications for full planning permission where the principle of the development has been established by the grant of planning permission and a revised application proposes changes to the scheme – e.g. changes to a housing development to alter the layout / house types.

### Larger sites

- 3.34 The neighbour notification procedure described above requires all those properties adjoining the application site to be notified of the proposal. There are instances where this should be re-assessed and a more proportionate approach taken. For example there might be a proposal for a bike shelter within a large commercial complex or a school campus, where the application site might include the whole grounds. To avoid unnecessarily consulting a number of neighbours who may a significant distance away and will not be affected by the proposal a judgement will be made to ensure a proportionate consultation exercise is undertaken so that only those properties likely to be affected will be notified. Of course, a site visit might suggest otherwise and additional / wider notifications can / will be sent out.

### Certificates of Lawfulness

- 3.35 There is no formal requirement for a local planning authority to undertake any consultation upon receipt of either of these types of application. This is because they must be considered on the basis of fact rather than on the merit or desirability of the development. In clear cut cases, no neighbour consultation would be expected to be undertaken. However, there may be instances where the local planning authority may find it helpful to seek corroboration of the facts and evidence. In such cases there is nothing to preclude the local planning

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## Appendix 2

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authority from seeking the views of local residents or any other interested parties to assist its deliberations.

### Telecommunications

- 3.36 Applications whether seeking planning permission or prior approval for Masts and paraphernalia associated with telecommunications including those by mobile phone and broadband operators can be controversial. Acknowledging this, all properties, including schools, within a 100m Radius of the site will be notified when applications are received.

#### **4.0 Reporting comments received.**

- 4.1 All comments / representations received are assessed and taken into account in the determination of applications. These are set out by the officer in the application report and commented upon / addressed as appropriate in reaching the recommendation / decision.
- 4.2 Where the application is to be considered by the planning committee, persons making representations will receive a card informing them of the meeting details to enable them to speak or be present for the debate.
- 4.3 There are often instances where objectors / supporters of a scheme produce a standard letter / email that is copied by many individuals and submitted in opposition or support a development. As members will be aware, it is the nature of the representation that is material not the number of times the same comment is made. Nevertheless, each letter is logged as an individual comment and each person will be notified of the decision and if applicable the date the planning committee meeting at which the application that the application will be considered at.

### Petitions

- 4.4 The local planning authority will continue to treat petitions that relate to a planning application as a single representation. When received, the petition will be logged as a comment from a single individual and this will be attributed to the author of any accompanying note or in the absence of any details identifying the originator of the petition, it will be attributed to the top signature on the first or top page. This protocol is confirmed and explained in the planning pages of the councils web site

#### **5.0 Determining applications**

- 5.1 Applications are determined either by the planning committee or by Officers authorised under the Council's Scheme of Delegation This is re-affirmed by Council each year as part of the constitution. The scheme as it applies to Parish Councils is referred to above but it useful to set out details.

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## Appendix 2

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- 5.2 An application will be determined under delegated powers unless
- a) The Head of Planning, Regulatory Services and Heritage determined that it should be determined by the planning committee;
  - b) A member has requested in writing within 28 days of the date of validation that the application be considered by the planning committee;
  - c) A parish Council request within 21 days of notification the the planning committee considers the application because it raised significant planning issues or is locally controversial.

### Late representations

- 5.3 Applications dealt with by the Planning Committee
- 5.4 Representations received after the publication the agenda and up to the start of the meeting will not normally be circulated. The committee will be informed that additional representations have been received but the detail will only be reported where they raise new points or significantly add to those reported in the committee papers. If the comments are received very late, members may be advised that there has been insufficient time to assess or consider the information.
- 5.5 With regard to request for material to be circulated at the meeting, the Members Planning Code of Good Practice advocates against allowing documents to be circulated at Committee Meetings which have not previously been submitted to the Committee as all parties may not have had time to react to the submissions and officers may not be able to provide considered advice on the material. A recent case law - R (Joicey) v. Northumberland County Council [2015] indicates that the Court is likely to quash a decision where new materials have not been made available to the public at least five clear days before the relevant meeting, in breach of section 100D of the Local Government Act 1972. The objectors were said to have not had adequate time to prepare and respond in that case.
- 5.6 Applications dealt with under delegated powers.
- 5.7 Representations received after the close of the formal consultation period will be considered, provided that the case officer is aware of them before the relevant application report has been written. Representations received after this time will be taken into account by the Officer determining the application provided that he/she is aware of their existence prior to the application being decided. Decided in this case means that the decision has been authorised ( signed off)

### Non Material and Minor Material amendments

- 5.8 Recent changes introduced flexibility into the planning regime to allow applicants to amend their schemes in a less onerous way than by making a planning application. The options available include applications for a non-material

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## Appendix 2

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amendment and a minor material amendment, the procedure is different for each approach.

- 5.9 There can be no hard or fast approach to which method is used as each case will depend upon the particular circumstances. Similarly, the appropriateness of the extent of any consultation will have to be considered on a case by case basis, having regard to the principles in section 2 above

### Site visits by the Planning Committee

- 5.10 It is now some years since the planning committee routinely deferred consideration of planning applications to enable a site visit to be undertaken by members. The committee has abandoned this practice due the extensive detailed application information available, both in the agenda papers and by the display of application material, photographs at the meeting. Should any interested party request a site visit, they will be advised of this resolution.
- 5.11 Individual members of the committee can, prior to a meeting, visit the site under their own volition with or without the appropriate Planning Officer if they consider it necessary.

### Conditions on planning permissions

- 5.12 Most planning permissions are subject to conditions which are discharged by Planning Officers. This takes place without any further round of consultation as the legislation make no provision or requirement for this to take place. Occasionally, there will be exceptional circumstances where members may wish to be made aware of such details and may for example request that Officers discharge a condition in conjunction and the agreement the Ward Councillors. Similarly the discharge of some conditions may require that technical or specialist input is sought.

### Appeals

- 5.13 When an appeal is received, all persons who were notified of and who commented upon the related application are required to be informed that an appeal has been lodged. The local planning authority must notify the interested persons but any comments they wish to make must be sent to the planning inspectorate who administer the process. The exception is in respect of 'householder' appeals where there is no further opportunity to comment.

### Permitted Development / Prior approvals

- 5.14 Informal requests for a decision on whether a proposal constitutes permitted development is no longer given. Such requests can be made via an application for a certificate of lawfulness. However, the scope of permitted development rights have recently been extended and relaxed.

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## Appendix 2

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- 5.15 The relaxation has in many instances introduced a formal but limited consultation requirement, default approval where no representations have been made and also sets out the limited extent of matters that can be taken into account. For example, where larger 6m and 8m long house extensions are proposed, only the immediate neighbours are notified and if they do not object within 21 days, permission is deemed to have been granted. Members and Parish Councils are unable to have any part in this process. The local planning authority is required to determine such applications so as to comply with and be in accord with the relevant regulations.

### Local Development Orders

- 5.16 A number of Local development orders have been approved in the last 5 years, including those covering house extensions, development at employment locations, Low carbon energy and an area based order for Victoria Road. Each of those orders will specify the publicity that will be necessary. This will be less than for formal applications as a wide consultation exercise took place in the formulation of each order

## 6.0 Other Matters

- 6.1 From time to time the department is contacted by persons who request that they be formally notified of an application of which they have knowledge of and ask that they be sent a card. They are of course already aware of the application, which is the rationale for notifying, but have not been formally consulted. This is most likely because they live a little further away from a site than would trigger a notification. In such cases it is not appropriate to agree to their request as they clearly know about the development and are not prejudiced or precluded from commenting. To do so would extend the consultation period for a further 21 days which may not be desirable or reasonable. Criticism could also be levelled at the council for not informing others in a similar position. Such interested persons will be advised to comment on the application as this would trigger and ensure further notifications about the application will be sent to them as it progresses.

### Notification of the decision

- 6.2 After an application has been determined, persons making representations will not be notified of the decision by card as the details will be available via the planning pages of the councils web site. The card notifying them of the application will reflect this.

### Privacy statement / How personal information will be used

- 6.3 The Planning department receives a significant amount of correspondence on applications, much of which is required to be made available and published so that it can be viewed on-line. There is a requirement to ensure that sensitive

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## Appendix 2

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information is not made available electronically, including contact details and signatures. Such details are redacted.

- 6.4 A privacy statement is published to ensure that those persons who make comments will know what will happen to the information they give us. The current wording along with other useful information that is also provided in this section is attached at appendix 1 to this report.

### Pre application consultation

- 6.5 The council encourages all applicants, developers and landowners to discuss their proposals with Borough Councillors (Ward Members) and the local community before submitting planning applications. However, the legislation as currently drafted does not make this mandatory. There may be instances where a developer wishes to carry out pre – application discussions about a potential scheme with the local planning authority that they do not want to be made public, even when these discussions include selected Statutory Consultations. The local planning authority will have to comply with such a confidentiality request, albeit the developer will be urged to share his scheme with the community at the earliest opportunity

### 7.0 Conclusion

- 7.1 Whilst this protocol will cover most situations and applications, there will always be the occasional proposal that will require special treatment or wider publicity. In such cases the local planning authority will continue to adopt a cautious approach of undertaking more, rather than less publicity.
- 7.2 In the event that any new regulation introduces arrangements different to those set out above, the requirements of the legislation will take precedent.