

**Case ref: ROW/3295476/M: The Wiltshire Council Trowbridge Path No. 8  
Definitive Map and Statement Modification Order 2021**

**Councillor David Vigar, Statement of Case, 11 December 2024**

I make this statement of case as the councillor representing the division of Trowbridge Grove, within which Church Lane lies, on Wiltshire Council.

I ask the Inspector to have regard to the implications that his decision will have on local residents beyond the status under which a path is registered in the Definitive Map.

In particular I am concerned about the injustice that could be suffered by the residents of ■■■ and ■■■ Church Lane who purchased their homes believing that the planning permission approved for those sites in 2011, before they bought their properties, allowed for the driveway and chicane arrangement that subsists today.

In his interim decision, the Inspector had regard to the concerns of residents that registering Church Lane as a bridleway might create a through road or ‘rat-run’ and added a very welcome limitation to say: “The Wiltshire Council may permit posts or bollards to be erected between points X and Y on the Order Map to prevent use by mechanically propelled vehicles”.

That limitation has been much appreciated by residents and has reinforced the commitment that the council gave in the minutes of a meeting of the Western area Planning Committee on 29 September 2021 that: “The Highway Authority’s duty to safeguard users of the path continues if the path is upgraded to a bridleway, but of course any barrier would need to be appropriate for a bridleway at the full width. The current barrier would be removed and replaced with an appropriate barrier at the same time in order to protect non-motorised users.”<sup>1</sup>

That commitment, buttressed by the Inspector’s limitation, as allayed the fears of most of the residents.

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<sup>1</sup> <https://cms.wiltshire.gov.uk/documents/g13706/Printed%20minutes%20Wednesday%2029-Sep-2021%2015.00%20Western%20Area%20Planning%20Committee.pdf?T=1>

I now ask that he takes into account the particular circumstances of the residents of ■■■ and ■■■ Church Lane and adds a limitation to mitigate their well-founded concerns.

Their situation is an invidious one. They face a situation where a reregistering of the status of the path might overturn elements of the planning permission granted for their homes. This issue has caused them intense stress since 2018.

In 2011, planning permission was granted for access to ■■■ and ■■■ Church Lane via Church Lane with the chicane and driveway arrangement that exists today. (Application W/11/00419/FUL)

The driveway was accordingly created in 2011 before the current owners bought the bungalows, following the granting of planning permission for access arrangements from Church Lane.

The current owners therefore bought their homes in the belief that access from Church Lane was permitted along with the chicane and driveway arrangement as it has stood for 13 years.

The officer's report in 2011 said "...the creation of a driveway linking to the east, as proposed in the application, would not appear to be unacceptable, subject to any requirements / conditions from my ROW colleagues."

The main focus of debate at that stage was the installation of the bollards to prevent a through road. Officers argued that although it would be classed as 'ultra vires' to require works over land not owned by the applicant, they could be conditioned provided the condition was worded in the negative form – such a preventing occupation until the works were done.

The report says: "The Highways Officer has confirmed that he does not wish to pursue an objection on the lack of footway and width of a section of Church Lane, on the grounds that the lane is well used by the wider public and that refusing a 2-house development making further use of the lane, would be difficult to defend on appeal."

The document allowing the discharge of conditions on 27 September 2011 suggests that the council as planning authority was content with the chicane arrangement put forward by the applicant's agent. The description that was signed off by the council included: "a full chicane to deter pedal and motorcycle use of the footpath". The fence was erected from south-east to north-west to demarcate the edge of the drive along the side of the current footpath and no enforcement action has been taken in the last 13 years to challenge it.

The discharge of conditions document on page 2 specifically refers to the involvement in the discussions of the then Head of Countryside, Rights of Way and Streetscene at Wiltshire Council, suggesting that he agreed to the chicane arrangement. There is no suggestion that he raised any possibility that the arrangement might subsequently be challenged in a situation such as that which has now occurred.

I believe that there may have been an error of administration made at that time in not recognising that an application might be made to change the status of the thoroughfare and the serious implications that this would have for the occupiers of the properties. And while case law provides that mistakes made by public authorities stand unless quashed by a court, I think that every effort should be made by public servants to prevent such mistakes having heavy impacts on individuals who do not have the capacity to have understood or predicted the consequences.

The report presented to Wiltshire Council's Western Area Planning Committee on 29 September 2021 acknowledges that the chicane arrangement exists as a result of planning permission granted by Wiltshire Council. It says of one witness's reference to 'metal gates': "This is believed to be a reference to the metal chicane style barriers presently on site and which appear to have been installed as a result of the planning permission and the building of the properties ■■■ and ■■■ Church Lane."

I understand that the Council has a responsibility to register rights of way according to evidence and that may take precedence over planning decisions but I believe it would be unreasonable to take action to remove a driveway for which planning permission has been granted and whose users bought their properties partly on the basis of what that permission had approved.

The prospect of the current arrangement being removed by enforcement action following a decision to register the path as a bridleway is causing distress and harm to the well-being the residents.

The resident of [REDACTED], [REDACTED], has written to me to say: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The resident of [REDACTED], [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If there were local residents or members of the public who were strongly demanding that this order be processed as it would benefit their lives in some material way – as is the case when residents apply for a new right of way or village green – then the considerations would be different.

But as far as I know, there is no-one except the Council strongly supporting this change of recording. Some of the 62 consultees did report that the lane used to be wider. According to my reading of the evidence, 18 mention that they used to cycle along the lane. I can only see one witness who reports actually riding a horse along it. And 10 of the witnesses suggested the proper designation was as a byway open to all traffic – which is challenged by the fact that bollards have prevented vehicular access for decades.

I am not aware of any resident one coming forward to support the order explicitly in recent months as opposed to giving evidence in the initial stages.

Yet if it is made and enforcement action taken to remove the driveway and chicane it will cause huge distress to the residents whose testimony is quoted above.

I therefore request that if the Inspector is minded to carry on with the registration of Church Lane as a bridleway then he consider adding a further

limitation to mitigate the effective quashing of planning permission that this would entail and allow the existing arrangement to continue as provided for in the planning permission granted in 2011.

## DELEGATED REPORT

Application Number	W/11/00419/FUL		
Site Address	Land Rear Of [REDACTED] Whiterow Park Trowbridge Wiltshire		
Proposal	Construction of a pair of semi-detached dormer bungalows & associated parking areas; revised access		
Date of Inspection / Site notice posted	16.03.2011		
Date of Press Notice		Date of Overall Expiry	08.04.2011

### 1. Purpose of Report

To consider the above application and to recommend that it be approved subject to conditions.

### 2. Main Issues

The main issues to consider are:

Planning History  
Highway Safety

### 3. Site Description

The site relates to a parcel of land located between Acorn Meadow and Church Lane within the defined Town Policy limits of Trowbridge. Access to the site is on land which is not owned by the applicant and certificate D of the application form has been duly completed with press advertisement notices duly issued. There is a non vehicular public right of way which runs from Church Lane to Acorn Meadow past the application site.

### 4. Relevant Planning History

06/01051/OUT - Construction of single storey detached bungalow - Permission 17.05.2006  
08/00965/FUL - Construction of a pair of semi detached 3 bedroom dormer bungalows and associated parking area - Permission 13.05.2008

### 5. Proposal

Under application reference 08/00965/FUL, planning permission was granted for the construction of two 3-bed dormer bungalows subject to eleven planning conditions, one of which (no. 11) stipulated the following:

"That vehicular access shall be gained onto the site only by the access to the north west of the site as identified on approved plan drawing no. 2094 AL 1/03".

The reason presented for this condition was in order "to protect the integrity of the public right of way". Such an access would be shared with [REDACTED] Church Lane, which is also known as [REDACTED]

Under this application, planning permission is sought to allow vehicles to access the site from Church Lane alongside the public right of way. The applicant has stated a willingness to install bollards or

fencing adjacent to the northern boundary of the identified application site. An indicative layout of such a barrier is annotated on plan drawing LDC.1514.002A. If granted, a previously existing paddock access would not be closed up, but instead would serve the southern most property on the site.

The applicant also seeks to reduce the area of land to be excavated and spoil material to be removed from the site and redesign the access point and parking arrangements. The applicant would retain the existing retaining walls to the rear of the site. The rear amenity ground associated to the two new properties would be accessed via three steps.

There is no proposed change made to the number, scale, design or layout of the two semi-detached properties approved under 08/00965/FUL.

## 6. Planning Policy

### Government Guidance

PPS1 - Delivering Sustainable Development  
PPS3 - Housing  
PPG13 Transport  
PPG24 Planning and Noise

### West Wiltshire District Plan Policies

H1 - Further Housing Development within Towns  
H24 - New Housing Design  
C31a - Design  
C38 - Nuisance  
T12 - Footpaths and Bridleways

### Wiltshire and Swindon Structure Plan 2016

DP1 - Priorities for Sustainable Development  
DP2 - Infrastructure  
T5 - Cycling and Walking

## 7. Consultations

Town/ Parish Council - Support subject to a condition requiring that the bollards at the end of Church Lane are reinstated and be maintained by the occupiers in order to prevent through traffic and subject to there being no adverse impact on neighbouring amenity.

Highways Authority - Following detailed negotiations and discussions with the Council's PROW officer, no objections are raised subject to the relocation of bollards being conditioned.

Having spoken again to our Rights of Way office. I spoke with [REDACTED] who explained that all the frontagers on the section of the ROW have taken out insurance should an owner emerge to deny them access. He also explained that he would cut back the southern hedge and generally tidy the area, including reinstating the bollards on the western side of his site. These improvements and the creation of a driveway linking to the east, as proposed in the application, would not appear to be unacceptable, subject to any requirements/conditions from my ROW colleagues.

I also take the view that because Church Lane is well used by the wider public associated with church/church hall activities and the occasional election (as also pointed out by [REDACTED]), I do not propose to make an issue over the lack of a footway/width of Church Lane.

The matter of visibility onto Frome Road remains an issue that is sufficiently unsatisfactory for me to maintain a highway objection. Having inspected the hedge on Frome Road, I have noted that the

overgrowth causing the obstruction extends considerably over the highway footway and have asked our Highway Inspector to remedy this by requiring the frontager to cut the hedge back to the line of the footway, significantly improving visibility. This cannot however be carried out until the end of the nesting season (September?). I am minded, given the prospect of a visibility improvement being forthcoming, to recommend a Grampian condition that access to the east to Frome Road should not proceed until a specific visibility splay is achieved at the Frome Road junction.

## **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 8 April 2011

Summary of points raised:

18 letters of objection were received raising the following representations:

08/0965/FUL restricted the means of vehicular access to the site (via Acorn Meadow). The applicant has not provided a justification to change this arrangement.

The existing arrangement of bollards preventing the use of Church Lane as a "rat run" should be retained. Removing the bollards would set a precedent. The bollards have in the past, and recently been removed and the matter was reported to the police.

Locals do not want to see Church Lane being used by more traffic, which in turn would lead to more congestion and potential accidents.

There is no footpath in places along Church Lane. It is too narrow and its junction with Frome Road is restricted in terms of its width and visibility. Accidents have occurred at this junction due to the junctions' poor visibility and restricted width.

The local church services are popular and the lane gets very busy with parked cars on both sides. Increasing even more traffic would add to the noise pollution and congestion. Even when the services are not on, it is not advisable to drive above 20 mph. The lane is well used by walkers and cyclists.

Concerns are raised about surface water drainage, flooding of the lane (which freezes in the winter) and off-site water logging and field flooding.

Vehicles/motorcyclists regularly use Church Lane believing that they can access Acorn Meadow/Studley Green beyond. This results in vehicles having to reverse or use private drives which adds to the vehicle/pedestrian/local conflict/concern.

One letter writer understood that only one bungalow had been approved for the site.

One local asks whether the owner(s) of the lane has been informed.

The proposed parking spaces about the new driveway. There is no allowance for visitor parking or for delivery/waste management vehicles. The access strip shown on the plans are only wide enough for one vehicle, not a delivery vehicle or dustbin lorry - which would need to drive along the footpath.

There is inadequate lighting along the lane.

In the past, bollards have been deliberately moved by people wanting to gain access down the lane. Moving them further down will make it more difficult to see and encourage people to remove them again.

The proposal would detrimentally affect the wildlife interests.

1 letter writers starts off by stating they have no objections to the application, but then proceeds to raise concerns about the lane potentially becoming a "rat run" if no secure barrier is installed. Further concerns are raised about the length of the driveway access and its use as overflow parking, and once cars are parked, others may try to pass along the footpath.

Measures should be taken to make it clear that Church Lane is not a through road.

2 letters of support were received raising the following points:

On sunny days I walk from my home with my daughter down Church Lane into the Southwick Country Park and return home along Frome Road. The other day I noticed the planning sign and read it. As we walked passed the site where the building is taking place I spoke to the developer and asked what he wanted to do as I am concerned about a through road. He informed me he merely wants to access his property through Church Lane he further told me that he wanted to tidy the footpath up and at one time had suggested to Highways that he would re-tarmac it put in cycle barriers and concrete pepper pots at the far end by [REDACTED] to stop any cars from driving through at his expense.

To my astonishment he told me this offer had been refused by Highways. It is quite apparent that Highways do nothing about the state of this path it is over grown and strewn with rubbish and at times could almost be a health hazard. I personally have encountered and had to stand back as cycles pass me on the foot path, speeding in excess of 30 mph as they take advantage of the hill down Church Lane. I support this application and would urge the Council to sort this untidy dangerous mess out at someone else's expense once and for all and except the developers offer. It could be a "Condition of Planning Approval".

The driveway to [REDACTED] is on an incline, and the existing large gate, pillar and fencing (which the owners do not intend changing) restricts visibility of traffic emerging from the site to the south.

One letter writer also advises that the applicant/developer has allegedly obtained permission to cut back the hedgerow which restricts visibility and dig out the ditch along Frome Road.

## **9. Planning Considerations**

### **9.1 Planning History**

Following the Council's decision to grant 08/00965/FUL, the principle of erecting a pair of semi-detached dormer bungalows on the identified site has already been established as being acceptable. There is no policy objection raised to the reduced level of on site excavation. The parking reconfiguration would only be acceptable if the revised means of access off Church Lane can be supported. As noted above, the 08/00965/FUL application was subject to a planning condition which restricted the point of access, and it is acknowledged that this is considered to be the key planning issue, which is covered in more detail below.

### **9.2 Highway Safety**

It is acknowledged that local residents have raised concerns about taking access off Church Lane and increasing the amount of traffic using the junction onto Frome Road, which has limited visibility. Concerns are also raised about Church Lane being used for even more traffic from Acorn Meadow. Whilst these concerns are duly registered, with an appropriate planning condition, bollards could be installed along the north western side of the application site (with the agreement of the Highways Authority) to prevent cars and larger vehicles using Church Lane as a "rat run" linking Acorn Meadow (and streets beyond) with Frome Road.

Towards the end of the planning application process, the applicant's agent submitted details of an appeal in respect to a local site dating back to 2008. The appeal related to land adjacent to [REDACTED] Church Lane and to refused planning application 07/02273/FUL relative to the erection of a 1-bed dwelling house with access taken off Church Lane. The appeal (APP/F3925/A/07/2059805) was allowed on 13 March 2008.

Notwithstanding the fact that each application should be assessed on its own merits, the appeal decision has some material weight. There are some differences between the two sites and the respective proposed development. As far as this application is concerned, the Council's Highways Authority has changed their initial stance (of recommending refusing the application) to an approval subject to conditions to allow the 2 houses to be accessed from Church Lane.

The applicants agent argues that in granting 08/00965/FUL, the Council stipulated by way of Condition 11, that vehicular access to the site had to be from the north west only (i.e. Acorn Meadow), over land which was and remains under unknown ownership. The agent goes to argue that "the opportunity existed for the future owners and occupiers to access and exit the site either from the north west or the south east; had this not been the case, there would have been no need to impose a condition specifying the direction of the vehicular access". In response to the above, it is necessary to note that in approving 08/00965/FUL, no works falling outside the defined red boundary of the site were approved by the Council. In 2008, through the signing of the application form pursuant to application 08/00965/FUL, the applicant declared that all land subject to his application was under his own control and ownership and that he had rights of access both from the north west and south east directions. In line with consistent highway safety advice, condition 11 was attached to the decision to grant permission to prevent vehicular access being taken from the south east and Church Lane/Frome Road direction.

The applicant was advised back in August 2009 by the Council's Highway Authority that the "Highway Authority has a duty to protect the rights which exist over the public footpath [he wished] to take access over (which includes the first part of Church Lane from Frome Road) as well as the part that runs adjacent to the site. In addition, the applicant was advised that "the junction of Church Lane and Frome Road is substandard in terms of visibility and kerb radii. It is difficult to see vehicles approaching the junction from both directions on Frome Road and therefore vehicles have to edge out from Church Lane into the line of on-coming traffic to get a view of Frome Road. The tight kerb radii hinder[s] access and egress of the junction, particularly for traffic making a left turn in or out, pushing them toward/across the centre line of the road into the line of on-coming traffic. Any proposal resulting in an increased use of the access would cause highway safety concerns". It is with regret that application 07/01237/FUL and the subsequent appeal decision did not address the restricted Church Lane/Frome Road junction.

As part of the application proposals, the applicant proposes to remove existing bollards on Church Lane to allow access to his site and relocate them towards the end of Church Lane (close to the north west corner of the site, but outside his ownership and outside the defined red line boundary of the application site). The applicants agent argues that a "Grampian" type condition could be used in this particular case to secure the relocation of bollards on unknown third party land and other works necessary to avoid the creation of a through road.

Although it would be classed as "ultra vires" to require works which a developer/applicant has no power to undertake, or which would require the authorisation of a third party, revisions made to Circular 11/95 in 2002 (following a High Court Case involving Merritt v SSETR and Mendip District Council), it is accepted that in some circumstances (after very careful analysis of the proposals), works which are considered necessary as part of a planning approval could be conditioned providing such a condition is worded in the negative form (such as prohibiting occupation of the dwellings until works are done or agreed between the respective parties).

The above cited High Court Case required a change to be made to paragraph 40 of Circular 11/95 which stated that such a condition should only be imposed "if there is at least reasonable prospects of the action in question being performed within the time-limit imposed by the permission". The Merritt Judgement ruled that only in cases where there are no prospects at all of the action being performed within the requisite time-frame, should such negative condition not be used.

In this particular case, the relocation of bollards on unknown third party land could have fallen foul of this test. After protracted negotiations, it has been agreed that there is sufficient confidence that the works could be undertaken to prevent a rat-run being created. The exact details of the barriers/bollards and their siting need to be covered by way of a separate condition to ensure that the Council /PROW officer is satisfied with the alterations to the ROW.

This application has been delayed due to detailed and complex consultations with the Council's Highways Authority and the PROW officer as well as with the applicant's agent.

The re-location of bollards on "unknown" third party land (the land which is designated PROW) has required careful consideration in terms of assessing the reasonableness of imposing a Grampian style condition. This matter has been discussed at length, and it has been concluded through dialogue with the Council's PROW and Countryside Manager, that in the event the applicant reneges on any condition requirement to reinstall bollards on land not under his own control, the Council has the authority to ensure that such work is completed. Such a planning breach would out of highway safety necessity, be actively pursued and the costs of completing such works falling to the applicant.

It is acknowledged that several, if not all the frontagers on the section of the PROW have taken out insurance should the owner emerge to deny them access. This application has been subject to the proper advertisement procedures in terms of Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, and despite such advertisements in local press, the owner of part of the PROW has not come forward or made representation.

The vast majority of the local objections stem from a concern about the creation of a rat-run or through road from Frome Road to Acorn Meadow/Studley Green. The installation of bollards along the north western edge of the application site (shown on drawing no LDC.1514.002A) would prevent this from happening.

Visibility from Church Lane onto Frome Road is at present restricted, but it has been demonstrated that an existing hedge (again not owned by the applicant) overhangs the public highway and that by cutting it back, improved visibility could be obtained, and that this would alleviate the previously raised highway objection. Such works are again within the power of the Highways Authority to sanction, and an informative rather than a condition is recommended to advise the applicant that it would be in his own best interests to agree with the known third party to cut back the offending hedgerow.

The Highways officer has confirmed that he does not wish to pursue an objection on the lack of footway and width of a section of Church Lane, on the grounds that the Lane is well used by the wider public and that refusing a 2-house development making further use of the lane, would be difficult to defend on appeal.

**Recommendation:        Permission**

**For the following reason(s):**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following condition(s):**

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

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

- 2     The dwellinghouses hereby approved shall not be occupied until further details have been provided confirming the exact type and siting of the relocated bollards on the public right of way. The dwellinghouses shall only be occupied after the relocated bollards have been installed in a position agreed in writing by the local planning authority. The bollards shall thereafter be retained and maintained for the lifetime of the development hereby approved.

REASON: In order to prevent the formation of an unauthorised through-road from Frome Road/Church Lane to Acorn Meadow and to limit the amount of traffic generated along Church Lane.

- 3 The dwellinghouses hereby approved shall not be occupied until further details have been provided confirming how the "continued private drive" (as shown on plan drawing LDC.1514.002A) shall be consolidated. Once the finished material has been agreed in writing, the access drive shall be maintained for the lifetime of the development.

REASON: In the interests of highway safety and in order to protect the integrity and use of the public right of way.

- 4 The dwellinghouses hereby approved shall not be occupied until further details of the access gradients have been submitted and approved in writing by the local planning authority.

REASON: In the interests of highway safety and in order to protect the integrity and use of the public right of way.

- 5 The parking spaces shown on plan drawing LDC.1514.002A shall not be used other than for the parking of vehicles or for the purpose of taking access to the site.

REASON: In the interests of highway safety and in order to protect the integrity and use of the public right of way.

- 6 That the hexagonal windows shown in the gable elevations shall be formed in obscure glazing units for the lifetime of the development.

REASON: To safeguard residential amenity and privacy.

POLICY: West Wiltshire District Plan - 1st Alteration policy C38.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the gable elevations of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38

- 8 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

LOCATION PLAN drawing no.LDC.1514.001 received on 09.02.2011

PROPOSED SITE LAYOUT drawing no. LDC.1514.002A received on 04.03.2011

PROPOSED FLOOR PLANS drawing no. LDC.1514.003 received on 04.03.2011

PROPOSED ELEVATIONS drawing no. LDC.1514.004 received on 04.03.2011

PROPOSED ELEVATIONS drawing no. LDC.1514.005 received on 04.03.2011

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

**Informative(s):**

- 1 The applicant/developer is encouraged to make contact with the owners of hedgerows which restrict visibility at the Church Lane and Frome Road junction. Cutting back the hedgerow would improve highway safety for all users of Church Lane and other road users. The applicant is however advised that hedgerow should not be cut back during the bird nesting season.

27 September 2011

LD And PC Ltd  
FAO Mr David Pearce  
[REDACTED] Nettleton  
Chippenham  
Wiltshire  
SN14 7 [REDACTED]  
England

Development Control West  
Bradley Road  
Trowbridge  
Wiltshire  
BA14 0RD

Your Ref: LDC.1514  
Our Ref: W/11/00419/FUL

Dear Sir

## Discharge of Condition(s)

**Application No:** W/11/00419/FUL

**Proposal:** Construction of a pair of semi-detached dormer bungalows & associated parking areas; revised access

**Location:** Land Rear Of [REDACTED] Whiterow Park Trowbridge Wiltshire

I write following receipt of your recent letter, regarding the discharging of condition(s).

I can confirm that the details submitted satisfy the following condition(s) of the above planning application and that these have been found to be acceptable.

2. The dwellinghouses hereby approved shall not be occupied until further details have been provided confirming the exact type and siting of the relocated bollards on the public right of way. The dwellinghouses shall only be occupied after the relocated bollards have been installed in a position agreed in writing by the local planning authority. The bollards shall thereafter be retained and maintained for the lifetime of the development hereby approved.

**REASON:** In order to prevent the formation of an unauthorised through-road from Frome Road/Church Lane to Acorn Meadow and to limit the amount of traffic generated along Church Lane.

You will be aware that this condition also carries an implementation requirement. Whilst the details proposed are considered acceptable and have the support of both my highways colleagues and the Public Rights of Way Manager, you are encouraged to liaise direct with Richard Broadhead in respect to the implementation of the barriers.

3. The dwellinghouses hereby approved shall not be occupied until further details have been provided confirming how the "continued private drive" (as shown on plan drawing LDC.1514.002A) shall be consolidated. Once the finished material has been agreed in writing, the access drive shall be maintained for the lifetime of the development.

**REASON:** In the interests of highway safety and in order to protect the integrity and use of the public right of way.

# LAND DEVELOPMENT & PLANNING CONSULTANTS

Land Development & Planning Consultants Limited  
Nettleton, Chippenham, Wiltshire SN14 7

Our ref: LDC.1514

Your ref: W/11/00419/FUL

23<sup>rd</sup> August 2011.

Development Services – West  
Wiltshire Council,  
Shurnhold,  
Melksham,  
Wiltshire.

For the attention of Mr. K. Green

31 AUG 2011

Dear Mr. Green.

**Town and Country Planning Act 1990 – as amended**  
**Discharge of Conditions Submission – W/11/00419/FUL**  
**Development at Church Lane, Trowbridge.**

I would refer to the meeting that took place in your office with your colleagues David McMahon and Richard Broadhead on the 10<sup>th</sup> August and the discussion regarding the best means of achieving the alterations to the public right of way necessary to address the discharge of condition 2 attached to the planning permission issued on the 16<sup>th</sup> May 2011 under reference W/11/00419/FUL..

I have now had an opportunity to discuss your colleagues' requirements with my Client and have enclosed drawing number LDC.1514.01CONDITIONS detailing the following matters as discussed:

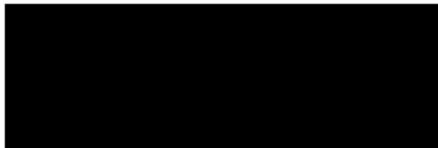
- Position of railings on line of existing bollards;
- Create a full chicane to deter pedal and motorcycle use of the footpath;
- Widen surfaced portion of the public right of way to accommodate chicane
- Form drive to same level of surfaced portion of public right of way;
- Form surface of driveway with rolled scalplings or similar to create porous surface.

I appreciate there are two issues in play here and would confirm that this submission is required to discharge the requirements of the planning permission and specifically condition 2 which only refers to the relocation of the bollards and the timing of that action. It was pointed out at the meeting by Mr. Broadhead that bollards was a generic term relating to installations

for the regulation of use of public rights of way. As such the proposed replacement of the existing bollards by railings would meet the requirements of the planning condition particularly as the object of the condition was to address the representations made during the consideration of the planning application which related to the achievement of a means of deterring the use of the public right of way as a through route to Frome Road by pedal and motor cyclists. As discussed the replacing of the existing bollards with similar obstacles would not achieve this objective.

The second issue relate to the need to secure the implementation of any 'approved' scheme and this will require agreement with Mr. Broadhead in his capacity as the Council's Rights of Way Manager, in order to achieve the time requirements of the condition. While these issues must be addressed independently, I am sure that with the helpful advice given at the meeting, the 'implementation' stage can be dealt with promptly once the discharge of condition has been issued.

Once again thank you for you help in this matter.



Copy to Client.

## Green, Kenny

---

**From:** McMahon, David  
**Sent:** 20 September 2011 12:52  
**To:** Green, Kenny  
**Cc:** Broadhead, Richard  
**Subject:** RE: W/11/00419/FUL - Approval of Details Reserved by Condition

Thanks Kenny,

From what I can see, the proposals are consistent with our requirements at the meeting. I would suggest this is sufficient to discharge the condition, subject to implementation.

Regards

David

-----Original Message-----

**From:** Green, Kenny  
**Sent:** 19 September 2011 14:41  
**To:** McMahon, David; Broadhead, Richard  
**Subject:** FW: W/11/00419/FUL - Approval of Details Reserved by Condition  
**Importance:** High

Good Afternoon David and Richard,

Please find attached the latest submission from the agent who is endeavouring to get condition 2 of application w/11/00419/FUL discharged. Please let me know your thoughts on the details submitted.

Kind Regards,

Kenny Green BA, MA (Hons) MRTPI  
Senior Planner  
Department of Neighbourhood and Planning (DNP) Development Management Wiltshire Council  
West Hub Bradley Road Trowbridge  
Tel: 01225 770344 / 0300 456 0100  
Ext 15174  
Email: [kenny.green@wiltshire.gov.uk](mailto:kenny.green@wiltshire.gov.uk)  
Website: <http://www.wiltshire.gov.uk>

-----Original Message-----

**From:** Gail Lewis at LDPC [REDACTED]  
**Sent:** 19 September 2011 14:19  
**To:** Green, Kenny  
**Cc:** David R. Pearce  
**Subject:** RE: W/11/00419/FUL - Approval of Details Reserved by Condition

Hello Kenny,

Yes! Please see attached our letter to you dated 23rd August together with plan ref: LDC.1514.01.CONDITIONS.

Please do come back to me if you have any queries regarding the attached.

Kind Regards,

Gail  
Assistant Planner  
Land Development & Planning Consultants Limited  
Tel. [REDACTED]  
Fax. [REDACTED]

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-----Original Message-----

From: Green, Kenny [REDACTED]  
Sent: 19 September 2011 14:01  
To: [REDACTED]  
Cc: McMahon, David; Broadhead, Richard  
Subject: RE: W/11/00419/FUL - Approval of Details Reserved by Condition  
Importance: High

Hi Gail,

I have not received any fresh submission for this application following my letter dated 7 July and meeting with David Pearce on 10 August. I understood that there was to be further discussions between David Pearce and David McMahon and Richard Broadhead from the Council, but I have not been advised of any such meeting/discussion. Can you shed any light on this matter?

Kind Regards

Kenny Green BA, MA (Hons) MRTPI  
Senior Planner  
Department of Neighbourhood and Planning (DNP) Development Management Wiltshire Council  
West Hub Bradley Road Trowbridge  
Tel: 01225 770344 / 0300 456 0100  
Ext 15174  
Email: [kenny.green@wiltshire.gov.uk](mailto:kenny.green@wiltshire.gov.uk)  
Website: <http://www.wiltshire.gov.uk>

-----Original Message-----

From: Gail Lewis at LDPC [REDACTED]  
Sent: 02 September 2011 14:03  
To: Green, Kenny  
Subject: W/11/00419/FUL - Approval of Details Reserved by Condition

Dear Kenny,

I wonder if you are now in a position to discharge the conditions in respect of the above approval?

Many Thanks,

Kind Regards,

Gail  
Assistant Planner  
Land Development & Planning Consultants Limited

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## Green, Kenny

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**From:** Broadhead, Richard  
**Sent:** 27 September 2011 09:52  
**To:** Green, Kenny  
**Cc:** McMahon, David  
**Subject:** RE: PROW definition of a bollard

Hi Kenny,

Apologies for the delay on this.

Highways Act 1980 Section 66(3) states,

"A highway authority may provide and maintain in a highway maintainable at public expense by them which consists of or comprises a footpath or bridleway, such barriers, posts, rails or fences as they think necessary for the purpose of safeguarding persons using the highway."

I see no difficulty in the previous bollards being replaced by the railings arrangement now proposed by the agent with regard to the discharge of conditions under w/11/00419/ful and am happy with the proposed design.

If you need anything more than this please let me know.

Kind regards,

Richard

Richard Broadhead  
Rights of Way and Countryside Manager  
Department of Neighbourhood and Planning  
Wiltshire Council  
Tel: 01225 713875  
e.mail: [richard.broadhead@wiltshire.gov.uk](mailto:richard.broadhead@wiltshire.gov.uk)  
Fax: 01225 713400

---

**From:** Green, Kenny  
**Sent:** 22 September 2011 10:38  
**To:** Broadhead, Richard  
**Subject:** PROW definition of a bollard  
**Importance:** High

Sorry Richard, but as part of your formal consultation response to the discharge of condition submission for w/11/00419/ful, can you please confirm that the replacement of bollards with an alternative obstacle falls in line with your requirements. I would appreciate having a copy of the legal/technical definition of what constitutes as a bollard (as previously discussed).

Thanks in advance,

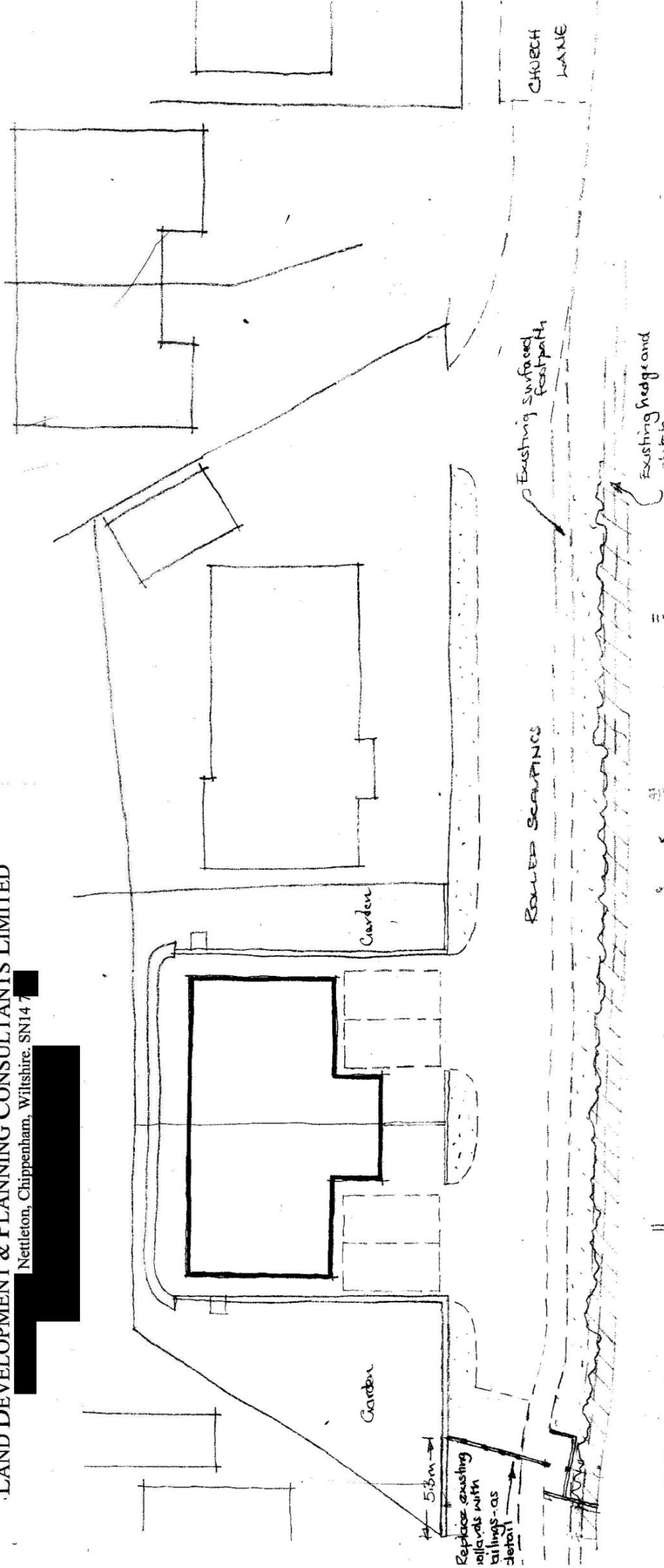
Best Regards

## Kenny Green BA, MA (Hons) MRTPI

Senior Planner  
Department of Neighbourhood and Planning (DNP)  
Development Management  
Wiltshire Council West Hub  
Bradley Road  
Trowbridge  
Tel: 01225 770344 / 0300 456 0100  
Ext 15174

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Nettleton, Chippenham, Wiltshire, SN14 7

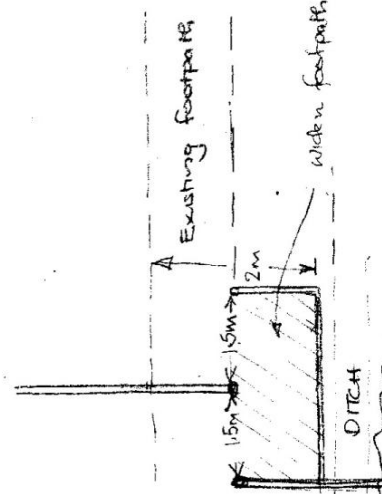
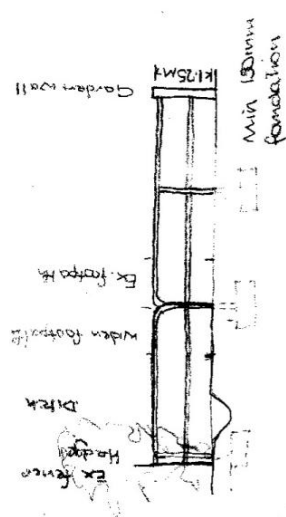


21 AUG 2011

**DETAILS OF PROPOSED ALTERATIONS  
TO BARRIERS AND ACCESS DRIVE  
AT CHURCH LANE, TREARBRIDGE**

SCALE 1:200 DATE AUG 2011

DRAWING NO LDC 1514.01.CONDITIONS



Detail of railings - N.T.S.

- a) Barrier to be constructed using Kee-Kamp tubes and fittings or similar approved system with galvanneal and materials as follows:-
  - b) Post and rails to be galvanneal steel tubing, 42mm diameter BS1387 and coated to BS723.
  - c) Junctions between rails and posts to be a malleable iron casting to BS6881 and capable of achieving a rigid joint by means of a recessed zinc plated/fit screw at each tube/fitting interface.
- When stated in the contract or when requested by the Engineer, the alternative socketed foundations to be provided, comprising of a cast in ground socket capable of securing the upright posts by a set screw fixing.
- The top rail to be painted using "Morgan's" or similar galvanneal metal primer plus top coat of white "Hammerite" using second coat where required within 3 hours. Paint to be applied in accordance with manufacturers recommendations.