

**From:** F M <[REDACTED]>  
**Sent:** Wednesday, December 11, 2024 3:33 PM  
**To:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>  
**Cc:** Rightsofway <[Rightsofway2@planninginspectorate.gov.uk](mailto:Rightsofway2@planninginspectorate.gov.uk)>  
**Subject:** ROW/3295476 - The Wiltshire Council Trowbridge Path No.8 Definitive Map and Statement Modification Order 2021 (made on 19/01/2021) - Statement of Case

Dear Case Officer,

I refer to your e-mail sent Wed 02/10/2024 11:12 and its attachments.

### **Statement of Case**

This Statement of Case comprises:-

My e-mail sent Fri 03/05/2024 13:09

My e-mail sent Wed 29/05/2024 14:36, as amended by my e-mail sent Wed 29/05/2024 19:31

Both are in the thread below, together with the documents attached hereto and the cases referred to in those e-mails (at the internet links shown).

I trust these set my position adequately, both in respect of my objection to the Inspector's proposed modifications (fifth and sixth bullet points), and in respect of my objections/representations to the unmodified part of the Order, taking into account the six additional documents submitted (as well as my Statement of Case of 9 October 2023 and my Comments of 20 November 2023, etc.).

Yours sincerely,

Francis Morland

[REDACTED]

11 December 2024

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**From:** F M [REDACTED]  
**Sent:** 29 May 2024 19:31  
**To:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>  
**Cc:** [rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk) <[rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk)>  
**Subject:** ROW/3295476 - The Wiltshire Council Trowbridge Path No.8 Definitive Map and Statement Modification Order 2021 (made on 19/01/2021)

Dear Case Officer,

Please accept the e-mail below (with its attachments and links) in substitution for the one I sent to you earlier today, which contained a typographical error in the second paragraph relating to [30] of the Interim Order Decision.

Yours sincerely,

Francis Morland

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**From:** F M [REDACTED]  
**Sent:** 29 May 2024 14:36  
**To:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>  
**Cc:** [rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk) <[rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk)>  
**Subject:** ROW/3295476 - The Wiltshire Council Trowbridge Path No.8 Definitive Map and Statement Modification Order 2021 (made on 19/01/2021)

Dear Case Officer,

Thank you for your letter of 08 May 2024 and your e-mail sent Wed 15/05/2024 10:55.

[40] of the Interim Order Decision is in the section headed **Limitations** and the second sentence of [43] is in the section headed **Conclusions**. The relevant period referred to in each appears to be that mentioned in [30], viz. 1991-2011.

What is proposed in the fifth bullet point of the Inspector's proposed modifications (under the heading **Limitations**) is in fact an obstruction of the existing Public Footpath No. 8, and the caselaw, in particular *Herrick v Kidner* [2010] EWHC 269 (Admin) - Cranston J. on 17/02/2010 (see at: <https://www.bailii.org/ew/cases/EWHC/Admin/2010/269.html>), followed by *Kind v Northumberland County Council* [2012] EWHC 603 (Admin) (see at: <https://www.bailii.org/ew/cases/EWHC/Admin/2012/603.html>) and *Derbyshire County Council v High Peak Magistrates Court* [2013] EWHC 1762 (Admin) (see at: <https://www.bailii.org/ew/cases/EWHC/Admin/2013/1762.html>), establish that that is unlawful.

In any event, I agree with [38] of the Interim Order Decision that the meaning of limitations (and the power to record them in the Definitive Map and Statement) is limited, and in respect of public bridleway rights of way, could only apply to features that were already in place restricting/obstructing the route when it was dedicated.

In this case, the OMA's SoC sets out the origins and history of these features in considerable detail, in particular under the heading **Opening up Church Lane at its junction with Acorn Meadow** at [27] to [31] (SoC 12 to 15), and under the heading **Bringing into question** at [10.3] to [10.20] (SoC 44 to 59), and does not assert that they were unlawful obstructions of either the existing Public Footpath No. 8 or the claimed public bridleway rights of way, but rather the lawful exercise by or on behalf of the Highways Authority of its statutory powers under the Highways Acts and/or the Road Traffic Regulation Acts to regulate traffic using Church Lane, particularly at its junction with Frome Road, in the interests of road safety. It is well established that the exercise of these powers does not affect the status of the highway in question (as in another respect, [35] to [37] (under the heading **Width**) of the Interim Order Decision confirms).

In order to give the Inspector a fuller picture of Wiltshire Council's approach to this issue in its development control of planning applications fronting the northern end of Church Lane, I attach:-

- a) Delegated Report on Application W/11/00419/FUL (2 bungalows at rear of [REDACTED] Whiterow Park with revised access to Church Lane), permitted 16/05/2011
- b) Discharge of Conditions Application W/11/00419/FUL not agreed 7 July 2011
- c) Further Discharge of Conditions Application W/11/00419/FUL approved 27 September 2011

d) Delegated Report on Application W/11/02605/S73 (variation of conditions 7 and 8 of W/11/00419/FUL), permitted 30/11/2011

e) Public Right of Way Consultee Response to Application 19/10546/FUL (detached garage at [REDACTED] Church lane) on 03/12/2019

f) Delegated Report of Case Officer on Application 19/10546/FUL (detached garage at [REDACTED] Church Lane), permitted 04/03/2020

I agree with the OMA that the Highways Authority already has adequate opportunities under its separate statutory powers either directly or by a Traffic Regulation Order to regulate the road safety of traffic using Church Lane without the Limitations clause set out in the fifth bullet point of the Inspector's proposed modifications dated 5 April 2024.

It is not the function of a Definitive Map and Statement Order to do that, either when made or by subsequent modification, and it pre-empts the exercise by the Highways Authority of other more appropriate powers and unlawfully circumvents the relevant advertising and consultation procedures stipulated by them.

In respect of [9] to [13] under the heading **The impact of the 2006 Act**, and in respect of the first sentence of [41] under the heading **Conclusions**, I remain of the opinion that the user evidence, properly understood, demonstrates that Church Lane is "a way whose main lawful use by the public during the period of 5 years ending with commencement (2 May 2006) was use for mechanically propelled vehicles" and therefore that the exemption in Section 67(2)(a) of the Natural Environment and Rural Communities Act 2006 (Ending of certain existing unrecorded public rights of way) is applicable to it.

I rely on my Comments by e-mail sent Mon 20/11/2023 15:45 and in particular on the caselaw, such as Trail Riders Fellowship v SSEFRA [2022] EWHC 1804 (Admin) - Steyn J. on 16/06/2022 (see at: <https://www.bailii.org/ew/cases/EWHC/Admin/2022/1804.html>) to provide the proper interpretation of this exemption

I consider that the exclusion of most users of Church Lane indicated in the Interim Order Decision by the words "The main lawful use should have been by the public and would not apply to those who have some form of licence or easement to access properties or land served by Church Lane. In essence, this exemption is aimed at protecting ways that are part of the ordinary road network." in [10], and by the words "No evidence has been provided to show that the main lawful use of Church Lane between 2001 and 2006 was by mechanically propelled vehicles. It is also apparent that some people who live on Church Lane believe that they have a private right of access to their properties. I note the response by a Council Officer outlined in a 2011 report into an application for planning permission that "Church Lane is well used by the wider public". However, I also note that earlier in the report reference is made to this comment in the context of access to the church and church hall

activities. The church and church hall are located towards the southern end of Church Lane and vehicular use to them could potentially have been as part of a permitted right of access. No distinction is made in these responses to the extent of the use by mechanically propelled vehicles. The comments in the report do not demonstrate that the main public use of Church Lane between 2001 and 2006 was by mechanically propelled vehicles. Overall, the evidence is not supportive of this exemption being applicable." in [11], is factually incorrect, unjustified by the evidence, and erroneous in law, in particular by placing an unwarranted restriction on the meaning of "by the public" in Section 67(2)(a).

I trust that this adequately identifies the issues I wish to pursue at the hearing (or hearings).

Please advise.

Yours sincerely,

Francis Morland

[REDACTED]

29 May 2024

E&OE: Disclaimer

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**From:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>

**Sent:** 15 May 2024 10:55

**To:** F M <[REDACTED]>

**Subject:** ROW/3295476 - Wiltshire Council The Wiltshire Council Trowbridge Path No.8 Definitive Map and Statement Order 2021

Dear Francis, the Inspector has requested that you expand on your objection submitted on 3 May 2024 as it is presently insufficient. You have stated that you disagree with certain paragraphs without providing further explanation. Please could you explain why you disagree with these sections by **29 May 2024**.

Kind regards

Helen

H Sparks Case Officer

Defra Team (Specialist Casework) The Planning Inspectorate

<https://www.gov.uk/government/organisations/planning-inspectorate>

Email: [helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Telephone: 0303 444 5646

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**From:** F M <[REDACTED]>

**Sent:** 03 May 2024 13:09

**To:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>

**Cc:** [rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk) <[rightsofway2@planninginspectorate.gov.uk](mailto:rightsofway2@planninginspectorate.gov.uk)>;

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<[definitivemap@wiltshire.gov.uk](mailto:definitivemap@wiltshire.gov.uk)>; [david.vigar@wiltshire.gov.uk](mailto:david.vigar@wiltshire.gov.uk) <[david.vigar@wiltshire.gov.uk](mailto:david.vigar@wiltshire.gov.uk)>

**Subject:** Wildlife and Countryside Act 1981 - Section 53: The Wiltshire Council Trowbridge Path No. 8 Definitive Map and Statement Modification Order 2021 - PINS Ref: ROW/3295476

Dear Case Officers,

Thank you for your letters of 12 February 2024 and 22 March 2024.

Please accept this e-mail as my duly-made objection to the Inspector's proposed modifications (fifth and sixth bullet points). I disagree with [40] of the Interim Order Decision and the second sentence of [43] of its Conclusions, and I wish to ensure the right to be heard.

I also wish to maintain my objections/representations to the unmodified part of the Order - see my Statement of Case of 9 October 2023 and my Comments of 20 November 2023 (and subsequently) on the documents submitted by the Order Making Authority. In particular, I disagree with [9] to [13] and the first sentence of [41] of the Interim Order Decision on The impact of the Natural Environment and Rural Communities Act 2006.

In support of my case both against the proposed modifications and against the unmodified part of the Order, I wish to submit additional documents relating to planning decisions for development fronting Church Lane.

Please acknowledge receipt.

Yours sincerely,

Francis Morland

[REDACTED]

3 May 2024

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*The statements expressed in this e-mail are personal and do not necessarily reflect the opinions or policies of the Inspectorate.*

DPC:76616c646f72



**Please consider the environment before printing this email**

**From:** F M

**Sent:** Friday, May 3, 2024 2:09 PM

**To:** Sparks, Helen <[helen.sparks@planninginspectorate.gov.uk](mailto:helen.sparks@planninginspectorate.gov.uk)>

**Cc:** Rightsofway <[Rightsofway2@planninginspectorate.gov.uk](mailto:Rightsofway2@planninginspectorate.gov.uk)>; Baylis, Caroline <[caroline.baylis@planninginspectorate.gov.uk](mailto:caroline.baylis@planninginspectorate.gov.uk)>; Definitive Map <[definitivemap@wiltshire.gov.uk](mailto:definitivemap@wiltshire.gov.uk)>;

**Subject:** Wildlife and Countryside Act 1981 - Section 53: The Wiltshire Council Trowbridge Path No. 8 Definitive Map and Statement Modification Order 2021 - PINS Ref: ROW/3295476

Dear Case Officers,

Thank you for your letters of 12 February 2024 and 22 March 2024.

Please accept this e-mail as my duly-made objection to the Inspector's proposed modifications (fifth and sixth bullet points). I disagree with [40] of the Interim Order Decision and the second sentence of [43] of its Conclusions, and I wish to ensure the right to be heard.

I also wish to maintain my objections/representations to the unmodified part of the Order - see my Statement of Case of 9 October 2023 and my Comments of 20 November 2023 (and subsequently) on the documents submitted by the Order Making Authority. In particular, I disagree with [9] to [13] and the first sentence of [41] of the Interim Order Decision on The impact of the Natural Environment and Rural Communities Act 2006.

In support of my case both against the proposed modifications and against the unmodified part of the Order, I wish to submit additional documents relating to planning decisions for development fronting Church Lane.

Please acknowledge receipt.

Yours sincerely,

Francis Morland

3 May 2024

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*The statements expressed in this e-mail are personal and do not necessarily reflect the opinions or policies of the Inspectorate.*

DPC:76616c646f72



**Please consider the environment before printing this email**

## 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 writer 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 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.

North area  
 East area  
 South area  
 West area

Application for approval of details reserved by condition.  
 Town and Country Planning Act 1990  
 Planning (Listed Buildings and Conservation Areas) Act 1990

**Publication of applications on planning authority websites.**

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

**1. Applicant Name, Address and Contact Details**

Title:  First name:  Surname:

Company name:

Street address:

Town/City:

County:

Country:

Postcode:

Telephone number:   
 Mobile number:   
 Fax number:

Country Code:   
 National Number:   
 Extension Number:

Email address:

Are you an agent acting on behalf of the applicant?  Yes  No

**2. Agent Name, Address and Contact Details**

Title:  First Name:  Surname:

Company name:

Street address:

Town/City:

County:

Country:

Postcode:

Telephone number:   
 Mobile number:   
 Fax number:

Country Code:   
 National Number:   
 Extension Number:

Email address:

RECEIVED  
 23 JUN 2011

### 3. Site Address Details

Full postal address of the site (including full postcode where available)

House:	<input type="text"/>	Suffix:	<input type="text"/>
House name:	<input type="text"/>		
Street address:	Church Lane		
Town/City:	Trowbridge		
County:	Wiltshire		
Postcode:	BA14 0EH		

Description:

Description of location or a grid reference  
(must be completed if postcode is not known):

Easting:	384107
Northing:	156463

### 4. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

Yes  No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title:	<input type="text"/>	First name:	<input type="text"/>	Surname:	<input type="text"/>
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Reference:	unknown
------------	---------

Date (DD/MM/YYYY):  (Must be pre-application submission)

Details of the pre-application advice received:

meeting on site with Highways representative to agree works to the new drive including removal of bollards replaced with wall & chicane barriers & erection of fence

### 5. Description of Proposal

Please provide a description of the approved development as shown on the decision letter:

Construction of a Pair of Semi-Detached Bungalows & Associated Parking Areas; Revised Access

Application reference number:  Date of decision:

Please state the condition number(s) to which this application relates:

Condition number(s):

2
3
4

Has the development already started?  Yes  No

### 6. Discharge of Condition(s)

Please provide a full description and/or list of the materials/details that are being submitted for approval:

Confirmation that the existing bollards are to be removed; driveway material is gravel; there will be level access to the dwellings from the driveway.

### 7. Part Discharge of Condition(s)

Are you seeking to discharge only part of a condition?

Yes  No

### 8. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

Yes  No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

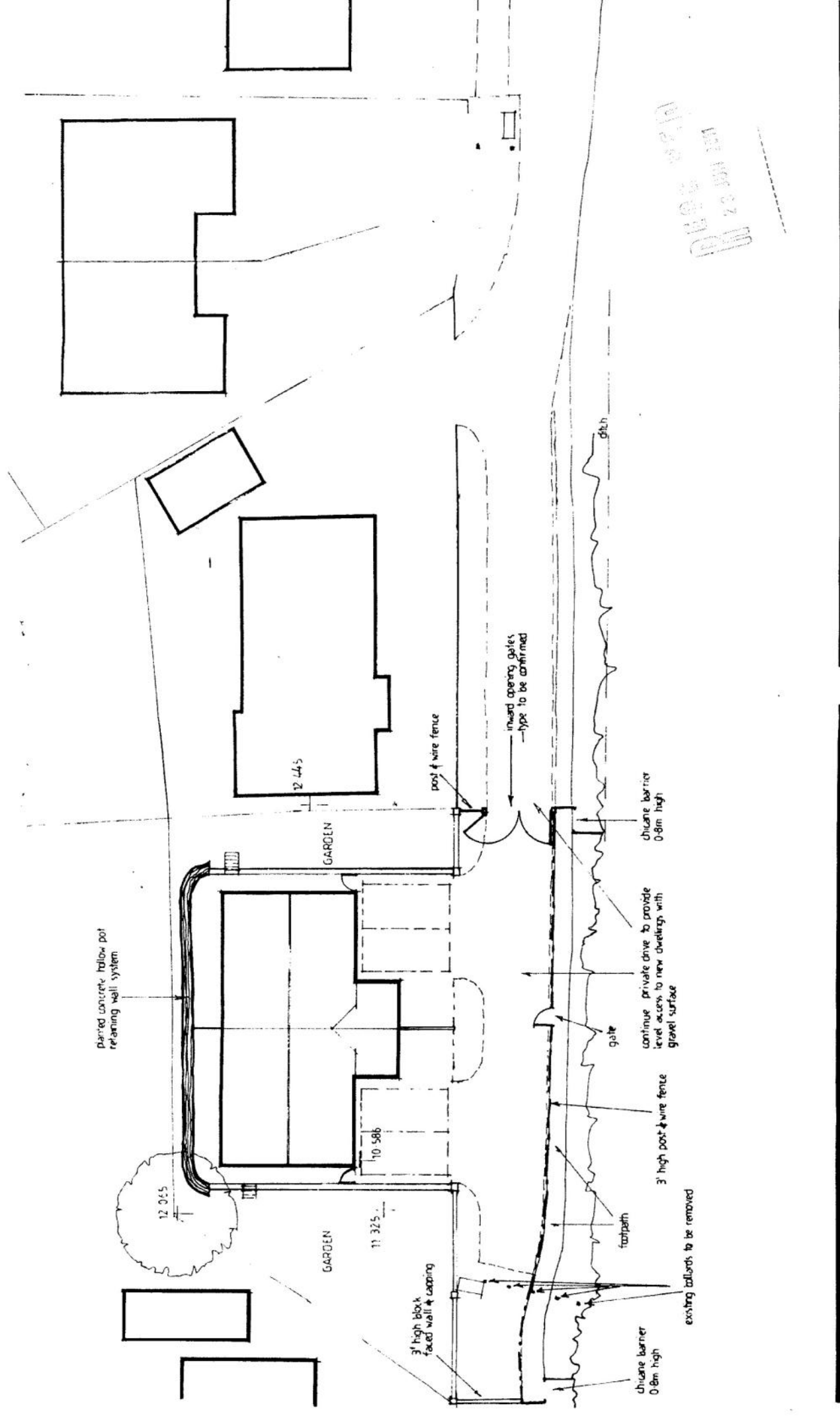
The agent  The applicant  Other person

### 9. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information.



Date



# Land Development and Planning Consultants Ltd

Nettleton, Chippenham, Wiltshire, SN14 7 [REDACTED]

Title: Proposed Site Layout

Proposal: Erection of Two Dwellings at Church Lane, Trowbridge

Scale: 1:200@A3 Date: January 2011

Drawing No: LDC.1514.002C

All dimensions to be checked on site. Drawing for planning purposes only - Not for construction. Reproduction of this drawing is prohibited without the consent in writing of Land Development and Planning Consultants Ltd. Site plans are reproduced from the Ordnance Survey sheets with the permission of The Controller of Her Majesty's Stationery Office. Crown Copyright reserved. Licence number AL546755

## Green, Kenny

---

**To:** Osborn, Jeff  
**Cc:** McMahon, David; Broadhead, Richard; Hawkins, Stephen  
**Subject:** w/11/00419/FUL - Land rear of [REDACTED] Whiterow Park, Trowbridge

**Importance:** High

Good Morning Cllr Osborn,

Following on from our office meeting on Tuesday morning, please note my further points of clarification which take on board the comments you received direct from [REDACTED] on 27 June.

As I advised yesterday, the applicant, [REDACTED] has now submitted details pursuant to discharging three conditions as attached to the decision notice for w/11/00419/FUL. These details relate to the means by which he proposes to close off the section of Church Lane to prevent a rat run being formed. In addition, the applicant has submitted details showing how he intends to finish the drive in front of the two houses, which are currently being built. Access gradient details have also been submitted. All these details have been sent to my highways colleagues to assess, and in due course, I shall make a decision as to the acceptability of the details. If the details are inappropriate or lacking, the conditions will either be partially discharged or not.

As explained during the course of our meeting, once we know what is acceptable and where and how the lane is bollarded or closed to motorised traffic, we will be in a better position to advise [REDACTED] about their respective enquiry to take access along Church Lane. On this matter, I have delved a bit deeper and can confirm that if the highways authority maintain an "in principle" objection to the occupiers of [REDACTED] taking such access along Church Lane, then they would be required to submit an application of their own, as the planning legislation stipulates that if their proposals involve development (i.e. forming a new access, changing the use of land etc) pursuant to taking access along a private access driveway (i.e. not public highway) is subject to highway objections, then the Council has the authority to require a formal application to be submitted.

There is a separate matter which would also need to be addressed by the occupiers of [REDACTED]. In addition to the requirement of applying for planning permission, they may well need to obtain the permission of those parties who have an interest and/or own the parts of the private access. This aspect falls beyond the scope of the local planning authority and is a civil matter.

As I am sure you will appreciate the formal discharge of conditions application must be duly considered on its own merits. That said, I have instructed my highways colleagues to assess the impact of the proposals (the construction of the wall, the gated entrance and the post and wire fencing) on the PROW, the openness of the Lane and how they might affect neighbours and their ability to access their own properties, including [REDACTED]

I should point out that the Council has a statutory 2 month period to assess a discharge of condition submission. Once I hear back from my highways colleagues I will let you know.

Turning to the specific points highlighted in [REDACTED] email, I must advise that the approved plans show that the residential property facing [REDACTED] does have two wall openings on the ground floor level, a window and a door. If the developer on site has however formed a second window on the north west gable ground floor, then this would be in breach of condition 7 of the permission, which states that no additional wall openings, including windows shall be formed in the gables (other than those as approved). If the local residents wish to raise a complaint about potential breaches, they should contact Steve Hawkins, the Council's enforcement team leader who covers the Trowbridge area. Steve can be contacted by the following email: [steve.hawkins@wiltshire.gov.uk](mailto:steve.hawkins@wiltshire.gov.uk). Steve will need specific details to open up an enforcement case.

The application from states that the roof over the dwellings shall match the adjoining property. Again, if the developer has strayed beyond what he has approval for, such a breach requires to be raised with Steve Hawkins to investigate.

Point 3 of [REDACTED] email raises concerns about the adjoining hedgerow and the width of the existing footpath to accommodate two prams, these do not raise planning concerns, however you may wish to raise this with David McMahon/Richard Broadhead to see if they wish to provide any comment thereto – both of whom have had significant involvement with this particular case.

I hope the above provides the additional clarification sought. Should you wish to the above, please don't hesitate to contact me again.

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>

**From:** McMahon, David  
**Sent:** 29 June 2011 16:50  
**To:** Green, Kenny; Broadhead, Richard  
**Subject:** RE: w/11/00419/FUL - discharge of conditions

Hi Both,

I've had a look at the drawing LDC.15114.002C and agree the details are unacceptable. I would suggest the following provisions -

- As the parking spaces need a 6m aisle width, and assuming the building position and parking spaces are established, the footway cannot be moved further north and would be best protected by a kerb upstand above the level of the new drive.
- The driveway may be best left in gravel so that it is less formal given the PROW status.
- To provide a safe, convenient pedestrian space, the metalled footpath should be widened by 1m on the south side, allowing prams/wheelchairs etc. to pass in a total width of 2m.
- To effectively prevent use by motor cycles and to slow cyclists, a chicane barrier should be introduced at the position of the existing bollards, and railings provided across the entire width of the PROW at this point. The railings to have a lockable gate for emergency/maintenance access. I consider it important that the barrier, in whatever form, is located in the position of the established bollards as this is the 'historic' position justifying why [REDACTED] has access to the east and [REDACTED] to the west, does not.

Clearly, these are only my suggestions and Richard will have the final say.

Regards

David

---

**From:** Green, Kenny  
**Sent:** 29 June 2011 09:27  
**To:** McMahon, David; Broadhead, Richard  
**Subject:** w/11/00419/FUL - discharge of conditions

Good Morning Gentlemen,

I have given some further thought to the recently submitted discharge of conditions application pursuant to w/11/00419/FUL – land rear of [REDACTED] whiterow park, and the details to my mind are unacceptable. Firstly, the submitted detailed plan show a wall being built across the land, when condition 2 of the decision notice clearly states that bollards are sought. A 3ft high post and wire fence is proposed to separate the drive from the PROW – this isn't something that has been discussed previously, and I do have concerns about the site being closed off in the manner shown. Lastly, the applicant proposes to form gates – which again is something that was never considered at the application stage. I would appreciate your respective thoughts when you get the chance to review the details which were sent to you both on the 24<sup>th</sup>.

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)

## Green, Kenny

---

**To:** Broadhead, Richard; McMahon, David  
**Cc:** Millard, Paul  
**Subject:** RE: w/11/00419/FUL - discharge of conditions

Good Afternoon All,

Thanks Richard for your comments. The details submitted as part of the discharge of conditions request will need to be refused. It will be over to the applicant to submit further details or seek a collective meeting to outline what is, and what is not acceptable.

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>

---

**From:** Broadhead, Richard  
**Sent:** 04 July 2011 13:31  
**To:** McMahon, David  
**Cc:** Green, Kenny; Millard, Paul  
**Subject:** RE: w/11/00419/FUL - discharge of conditions

Dear all,

I'm happy with David's suggestions, but we will need to be sure that adequate width through the chicane is provided to allow access for powered wheelchairs. Unfortunately, this means that it will be very difficult to keep motorcycles out, though it will of course slow them down.

A different option would be to install a wheelchair friendly kissing gate which would be more effective against motorcycles. A suitable product is manufactured by Centrewire. Your thoughts on this will be welcome.

Whatever design we agree to, the structure will need to be authorised under Highways Act 1980 Section 66(3) - Footways and guard-rails for publicly-maintainable highways in order to ensure that it is not an illegal obstruction within the highway.

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

7 July 2011

Mr David Pearce  
LDPC Ltd

Nettleton  
Chippenham SN14 7

Your Ref: LDC.1514.g1

Our Ref: W/11/00419/FUL

Dear Mr Pearce,

## **Town and Country Planning Act 1990**

### **DISCHARGE OF CONDITIONS SUBMISSION - W/11/00419/FUL**

I refer to the abovementioned matter and to your discharge of conditions submission dated 22 June 2011.

Having carefully considered the details submitted as part of your discharge of condition submission (plan drawing LDC.1514.002c refers) and having obtained the views of both David McMahon (the Council's consultant highways engineer) and Richard Broadhead (the Council's Rights of Way and Countryside Manager), it is with regret that I must inform you that the Council cannot agree to discharging condition 2 as attached to the decision notice dated 16 May 2011.

The condition expressly states that:-

*"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".*

Your submission fails to provide such details and instead proposes the erection of a block faced wall and chicane, install gates and a fence alongside the PROW, all of which were not part of the application and nor do they form part of any associated planning condition. The proposed enclosures (the wall, the fence and the gate) would effectively close off the frontage of the dwellinghouses and extend the perceived and functional domestic curtilage by stealth. I cannot agree to such proposals and indeed must advise you that David McMahon and Richard Broadhead further advise as follows:

The parking spaces need a 6m aisle width and assuming that the building position and parking spaces are established; the footway cannot be moved north and would be best protected by a kerb up stand above the level of the new drive. The drive itself may be best left as gravel so that it is kept less formal than the PROW. To provide a safe, convenient pedestrian space, the metalled footpath should be widened by 1m on the south side, to allow prams/wheelchairs to pass in a total width of 2 m. To effectively prevent the use of the lane by motor cyclists and to slow peddle cyclists, a chicane type

barrier may be appropriate located at the position of the existing bollards with railings provided across the entire width of the PROW at such a point. The railings should have a lockable gate for emergency/maintenance access. The bollards should clearly be sited so that they do not interfere with the access to the approved site, but equally they should not offer further access onto the lane by neighbouring properties.

It is important you recognise that whatever type of barrier is agreed/installed will need to be authorised under the Highways Act 1980 Section 66(3) – Footways and guard rails for publicly maintainable highways in order to ensure that it is not an illegal obstruction within the said highway.

If your client is still keen to pursue the options indicated within plan drawing LDC.1514.002c, I would suggest that you first discuss the issues directly with my highways colleagues. I must however advise you that I am not supportive of the proposals as indicated and that I would not encourage any formal application in this regard.

Should you wish to discuss the matter further, please don't hesitate to contact me.

Yours Sincerely,



Senior Planner Team North

Telephone: 01225 776655 Ext 15174  
Fax Number: 01225 770314  
Email: [kenny.green@wiltshire.gov.uk](mailto:kenny.green@wiltshire.gov.uk)

cc. Cllr Jeff Osborn.

# 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.

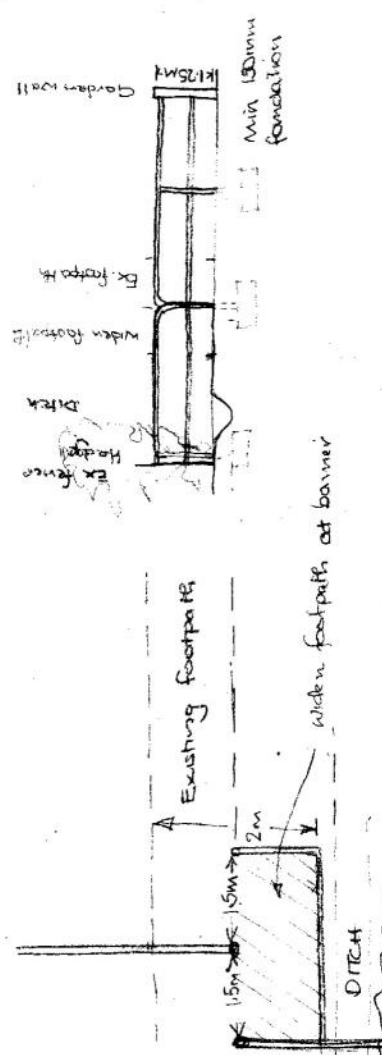
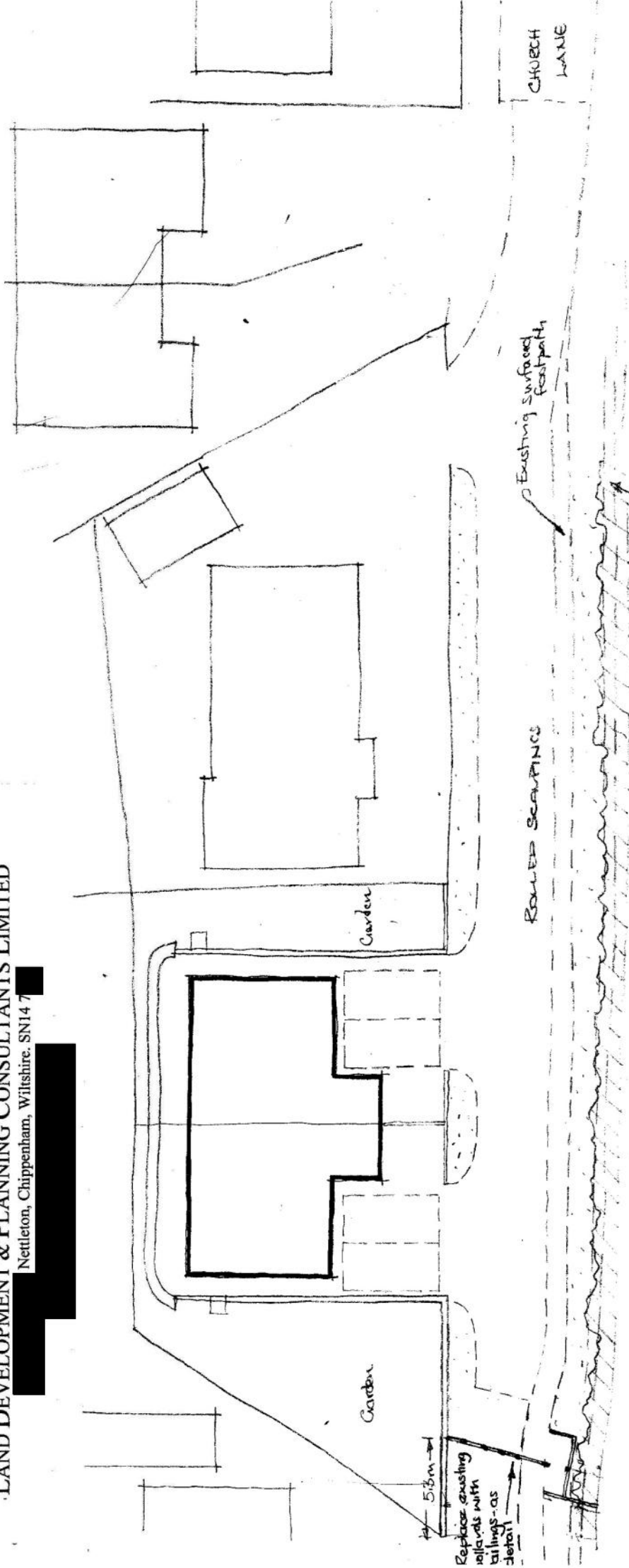
Once again thank you for you help in this matter.



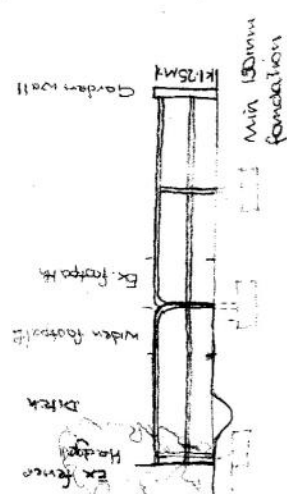
Copy to Client.

LAND DEVELOPMENT & PLANNING CONSULTANTS LIMITED

Nettleton, Chippenham, Wiltshire. SN14 7



- Barrier to be constructed using Kee-Klamp tubes and fittings or similar approved system with construction and materials as follows:-
- Post and rails to be galvanneal steel tubing 42mm diameter to BS1387 and coated to BS725.
  - 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 set 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 fitting.
- 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.



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

## 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  
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  
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

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.

## DELEGATED REPORT

<b>Application Number</b>	W/11/02605/S73		
<b>Site Address</b>	Land Rear Of [REDACTED] Whiterow Park Trowbridge Wiltshire		
<b>Proposal</b>	Variation of conditions 7 and 8 relating to planning permission W/11/00419/FUL		
<b>Date of Inspection / Site notice posted</b>	17.10.2011		
<b>Date of Press Notice</b>		<b>Date of Overall Expiry</b>	11.11.2011

### POLICIES

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

### ISSUES

Established Principles  
Impact on Street Scene and Neighbours

### REPRESENTATIONS

Town Council - Support subject to there being no significant loss of neighbouring amenity.

Highways Authority - No objections raised.

Third Party Representations -

2 letters of representation received raising the following points:-

One letter writer claimed to have no objection to the windows on the original plans because it was not possible to see into the property from any of their windows. The ground floor window facing their house ([REDACTED]) on the original plans was behind their garage. The new window was added with no consultation and has compromised the privacy of both the new house and the

neighbouring dwelling. It is now possible to see straight into their living room, and they can see straight into the neighbouring bedroom.

The original plans indicated that the roof tiles would match those of the adjoining properties all of which are the same type and red colour. The roof tile used is out of keeping with the surrounding estate. The black slate tile roof is not only out of character with all houses in the vicinity but also because the sheer blackness draws the eye to what is simply a dark blot on the street, especially on a sunny day. An eyesore that offends.

1 letter raising no objection was received. However, the letter writer did note the fact that the houses should not be occupied until details of the relocated bollards have been agreed and installed. One of the bungalows is occupied and the bollards had not yet been installed.

## **ASSESSMENT**

Established Principles

Through the Council's approval of planning application reference w/11/00419/FUL, the principle of constructing a pair of semi-detached bungalows with associated parking and revising the access arrangements, was established. Indeed through implementing this permission (with one of the bungalows occupied), the permission is considered extant. This application cannot re-assess the principle of the development (which has already been approved). Only those variations which have been applied for are subject to Council determination.

For the avoidance of any doubt, the material changes requiring regularisation are:

- \* The insertion of additional ground floor windows on the gables - restricted by planning condition no. 7;
- \* The repositioning of door and window positions on the rear elevation - restricted by planning condition no. 7;
- \* The insertion of roof lights and 2 x sun pipes on each of the roof planes - restricted by planning condition no. 7;
- \* The use of Marley Eternit cement slate rather than tiles (similar to neighbouring properties, as previously proposed) - a material variation from the approved plans covered by planning condition no. 8; and,
- \* The applicant also seeks the Council's approval for the rendering of the exterior of the pair of bungalows deviating from the approved brick finish (approved under w/11/00419/FUL) - which is a material variation to planning condition no. 8

Under Section 73 (a) of the Town and Country Planning Act 1990 (as amended) an applicant can apply for planning permission for development that has already taken place (as in this case - the pair of bungalows have been built with one being occupied) and apply to vary or remove a condition (or conditions) attached to a previous decision notice.

When receiving a Section 73 application, a local planning authority has a duty to only consider the condition(s) in question and must decide whether to grant planning permission to vary or (to remove conditions) as attached to w/11/00419/FUL. In approving such an application, the local planning authority would issue a new decision notice. Such a decision would not however remove the original planning permission and the associated conditions. In approving such an application, the local planning authority could also attach new conditions, which are considered reasonable and necessary (two of the "Tests" to which all planning must comply with reference to Circular 11/95) to bind the development and to ensure consistency.

In accordance with the commentary which accompanies Section 73 (a) published within the encyclopaedia of planning law, it is clear that "the decision maker is required to look at the planning circumstances existing at the time...and should not proceed simply on the basis of whether the condition had been inappropriately imposed in the first place" (p2-3310-/3) (Sevenoaks DC v Sec of State for the Environment (1994) followed by Bannister v Sec of State for the Environment (1994)).

Under this application, the applicant's agent advises that "during the construction of the dwellings authorised by the terms of the planning permission [w/11/00419/FUL] a variation to the position and number of window openings in the gable end of the dwellings took place. Furthermore, amendments took place to the position and size of door and window openings in the rear elevation and in relation to the roof lights approved for installation in the rear facing roof slope. Finally two sun pipes were installed on each of the two main roof slopes and the external facing materials for the walls were altered from brickwork to a render finish".

Condition 7 as attached to planning permission reference w/11/00419/FUL precluded the applicant from forming additional "windows, doors or other forms of openings other than those" approved. Furthermore, the minor material revisions which have been undertaken requires a substitution of the previously approved with the as built plans, and thus vary condition 8 also.

### Impact on Street Scene and Neighbours

There is no planning objection raised against the formation of two additional ground floor windows on the south-east and north-west gables. The two additional windows would not demonstrably cause detriment to neighbouring amenity or privacy. During an accompanied site visit, which include being given access to the inside of the finished house, it was confirmed that the upper floor windows (which is subject to a condition) on the gable wall is of obscure glazing and the ground floor windows offer little overlooking and due to the fact that the newly built houses are sited on a lower ground level than the immediate neighbours, there would not be demonstrable detriment caused through any loss of privacy.

The fact that the windows would be at ground floor level means that there would be no significant overlooking or overbearing conflict. In addition, it should be noted that the boundary wall/fencing would preclude any significant loss of residential privacy.

Similarly, there are no planning based objections to raise against the repositioning of the door and window positions on the rear elevation or the installation of different rooflights on the rear roof slope. The formation of sunpipes in the front roof plane also raises no planning objection. These variations would not cause detriment to neighbouring amenity nor would they detract from the character of the area.

As part of the terms of approved planning application w/11/00419/FUL, the pair of bungalows were to have roof tiles and brickwork to match neighbouring properties. The unauthorised cladding of the roofs with a slate material and rendering them acts as a material revision which does break away somewhat from the predominant character of the immediate surroundings, which is formed by different brick clad walls under concrete tiled roofs.

Policies H1 and C31a requires new housing development within the built-up areas of Trowbridge to "respect or enhance" the existing built form and the quality of architecture of surrounding buildings. Whilst it is fully accepted that the majority of the houses in the surrounding area are built with brick under tiled roofs, there are examples of different building materials. The property at No. [REDACTED] which is located to the immediate south of the application site is not of brick construction, but rather has a magnolia coloured stone ashlar facade which relates more to the render on the two bungalows than the brick dwellings nearby. In the local area, other more historic buildings like the Church break away from the brick dominance as does the hall building, both of which are located off Church Lane.

The rendered walls and the dark grey slate roof material admittedly breaks away from the predominant red/brown tiled roofs. However, in assessing the merits of the application, it is necessary to consider any harm caused; and, in this particular case, whilst the variations do deviate from the predominant palette of materials, the buildings do not cause significant harm to the street scene and as a consequence, the variations are deemed acceptable.

As mentioned above, should the local planning authority be minded to approve a s.73 application, it is necessary to reimpose all relevant original conditions and to ensure that the development is completed in a consistent manner, as well as imposing any other condition deemed necessary. In this particular case, the Council as planning authority has taken note of some additional works undertaken by the applicant beyond the reaches of the defined red line site boundary, and in

particular on the PROW. At the point of processing this decision, there is an ongoing investigation taking place involving the Council's PROW and Countryside Management Team regarding the construction of a boundary wall which dissects the PROW. Since this has been built on the PROW itself, it is a matter for the PROW team to determine and enforce where applicable.

It is also come to the Council's attention that the applicant has taken occupation of one of the bungalows (and did so before the respective conditions attached to approved application w/11/00419/FUL were discharged). This has been raised as part of one of the representations and it has been the subject of an enforcement investigation. However, it should be noted that on 27 September, the relevant conditions attached to the previous permission were duly discharged. Through taking occupation of one of the bungalows before the conditions were discharged and satisfied, the applicant was technically in breach. However, the breach was not of a sufficient serious nature to require formal enforcement proceedings to commence (since it was accepted that the applicant and his agent were at the time, in discussions with Council planning, highways and PROW officials to regularise the situation).

It is also necessary to record since a new decision notice is being processed under this application, that it is deemed necessary to impose a planning condition to stipulate that the two bungalows should be only accessed via Church Lane. Following the formal discharge of condition 2 (w/11/00419/FUL), it has come to the Council's attention that the applicant has allegedly accessed the property from both Acorn Meadows (by opening up the boundary to the immediate north of the barrier position on the PROW) and Church Lane. For the avoidance of any doubt, the two properties are to be accessed by vehicular traffic only by Church Lane. A separate means of vehicular access via Acorn Meadows would not be supported and should be covered by a planning condition.

**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.**

- 1     The dwellinghouses hereby approved shall not be occupied unless and until the barrier and chicane as shown on drawing no. LDC1514.01Conditions has been installed in a position agreed in writing by the local planning authority. The barrier 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.

- 2     The two dwellinghouses hereby approved shall benefit from vehicular access via the "continued private drive" formed off Church Lane only (as shown on plan drawing LDC.1514.002A). The drive and the consolidated surface shall be maintained for the lifetime of the development. No other vehicular means of access is hereby granted.

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

- 3     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.

- 4 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.

- 5 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 approved plan drawing no. LDC.1514.005B, 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

- 6 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 06.10.2011

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

PROPOSED FLOOR PLANS drawing no. LDC.1514.003A received on 27.09.2011

PROPOSED ELEVATIONS drawing no. LDC.1514.004B received on 27.09.2011

PROPOSED ELEVATIONS drawing no. LDC.1514.005B received on 27.09.2011

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.

**From:** Rights Of Way Consultations

**Sent:** 03 December 2019 13:09

**To:** Developmentmanagement <[Developmentmanagement@wiltshire.gov.uk](mailto:Developmentmanagement@wiltshire.gov.uk)>; Highways Development <[HighwaysDevelopment@wiltshire.gov.uk](mailto:HighwaysDevelopment@wiltshire.gov.uk)>

**Subject:** RE (TROW8) RoW Comments. Planning Application for Consultation 19/10546 FUL

The property would be accessed by a public footpath (TROW8). This is not recorded as a public vehicular highway, the only recorded public rights along it are on foot. In order to drive a vehicle along here, the householder would require a demonstrable private right of vehicular access. Without this private right the householder would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the footpath. The applicant is advised to take private legal advice. The Rights of Way Team has received an application to upgrade the footpath to a byway open to all traffic.

The applicant has not provided details of vehicle movements into and out of the garage or of the parking arrangements outside of the garage. Given the constraints of the site it does not appear there would be adequate space to enable vehicles to enter and leave the property in a forward gear. I am unable to ascertain whether there is adequate provision for visibility when exiting the property onto the public footpath. This may have an adverse effect on pedestrians using the public footpath. I would therefore ask that my colleague in Highways Development to check the proposed development meets the "Manual for Streets" visibility standards.

Assuming the applicant has a private vehicular right of access and adequate visibility can be provided I would have no objections subject to the following informatives:

No construction / demolition vehicle access may be taken along TROW8 without prior consultation with the Wiltshire Council Countryside Access Officer. Where appropriate any safety/mitigation/reinstatement measures must be approved by the Wiltshire Council Countryside Access Officer.

Reason: To ensure the public right of way remains available and convenient for public use.

No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way whilst development takes place.

Reason: To ensure the public right of way remains available and convenient for public use.

**Jane Hughes (Mrs)**

Definitive Map and Highway Records Technical Officer

Rights of Way and Countryside Team



County Hall, Trowbridge, BA14 8JN.

Tel: 01225 713048

Email: [jane.hughes@wiltshire.gov.uk](mailto:jane.hughes@wiltshire.gov.uk)

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## **CASE OFFICER'S REPORT**

**Application Reference:** 19/10546/FUL  
**Date of Inspection:** 04.12.2019  
**Date site notice posted:** 04.12.2019  
**Date of press notice:** N/A

### **POLICIES**

Local Context: The adopted Wiltshire Core Strategy (WCS) 2015, namely Core Policy (CP) 1 - Settlement Strategy, CP 2 – Delivery Strategy, CP 57 - Ensuring High Quality Design and Place Shaping, CP61 – Transport and New Development

Wiltshire Local Transport Plan 2011-2026 Car Parking Strategy

National Context: National Planning Policy Framework (NPPF) 2019, Planning Practice Guidance

### **ISSUES**

The principle issues to be assessed in the determination of this application are:

Impact on the Neighbouring Amenity  
Visual Impact  
Impact on highways and the public right of way

### **RELEVANT PLANNING HISTORY**

Below is the most recently approved applications on the site that are most relevant.

W/11/00419/FUL Construction of a pair of semi-detached dormer bungalows & associated parking areas; revised access. Approve with Conditions

W/11/02605/S73 Variation of conditions 7 and 8 relating to planning permission  
W/11/00419/FUL Approve with Conditions

### **REPRESENTATIONS**

**Trowbridge Town Council:** No objection subject to no significant adverse impact on neighbour amenity

**Wiltshire Council Public Rights of Way Officer:** The following comments were received:

The property would be accessed by a public footpath (TROW8). This is not recorded as a public vehicular highway, the only recorded public rights along it are on foot. In order to drive a vehicle along here, the householder would require a demonstrable private right of vehicular access. Without this private right the householder would be committing an offence under Section 34 of the Road Traffic Act 1988. The granting of planning permission does not give the applicant or householder a vehicular right of access over the

footpath. The applicant is advised to take private legal advice. The Rights of Way Team has received an application to upgrade the footpath to a byway open to all traffic.

The applicant has not provided details of vehicle movements into and out of the garage or of the parking arrangements outside of the garage. Given the constraints of the site it does not appear there would be adequate space to enable vehicles to enter and leave the property in a forward gear. I am unable to ascertain whether there is adequate provision for visibility when exiting the property onto the public footpath. This may have an adverse effect on pedestrians using the public footpath. I would therefore ask that my colleague in Highways Development to check the proposed development meets the "Manual for Streets" visibility standards.

Assuming the applicant has a private vehicular right of access and adequate visibility can be provided I would have no objections subject to the following informatives:

No construction / demolition vehicle access may be taken along TROW8 without prior consultation with the Wiltshire Council Countryside Access Officer. Where appropriate any safety/mitigation/reinstatement measures must be approved by the Wiltshire Council Countryside Access Officer.

Reason: To ensure the public right of way remains available and convenient for public use.

No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way whilst development takes place.

Reason: To ensure the public right of way remains available and convenient for public use.

It was also advised that they have 'no objection subject to the informatives in my earlier email. We do not ask for the applicant to prove they have a private vehicular right of way as this is a complex area of law and is a matter for which they need to satisfy for themselves.'

**Wiltshire Council Highways Officer:** Confirmation of the number of bedrooms that the dwelling was requested as well as 'a plan showing how parking can be accommodated within the site to meet Wiltshire's parking standards of 1 bed - 1 space, 2-3 bed - 2 spaces, 4 plus bed - 3 spaces.' A swept path analysis was also requested 'detailing entry to and egress from the garage' and it was requested that 'the red line be extended to reach the public highway'

**Third Party representations:** The application was advertised by neighbour notification and by the display of a site notice and no letters of representation were received.

#### **ASSESSMENT:**

**Proposal:** The application relates to [REDACTED] Church Lane in Trowbridge which is a semi-detached dwelling set amongst other detached and semi-detached dwellings accessed along Public Right of Way.

This is an application for a detached garage.

**Impact on Neighbour Amenity:** Core Policy 57 requires that proposals should have regard to the compatibility of adjoining buildings and uses, the impact on amenities of existing occupants, and to ensure that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration and pollution.

The proposed garage would be set in from the boundary with the property [REDACTED], Church Lane. Due to this set back from the boundary and the fact that the garage is proposed to be single storey with a pitched roof and also because the area to the north west of the site is used for car parking would mean that there are no concerns regarding loss of light and overshadowing to this neighbour from the proposed garage. The proposed rear window in the garage would be facing an existing fence and as such there are no concerns regarding overlooking from this window. Furthermore, this window is proposed to serve a garage and not a habitable room.

For the reasons discussed above it is considered that the proposal would comply with Core Policy 57 of the WCS.

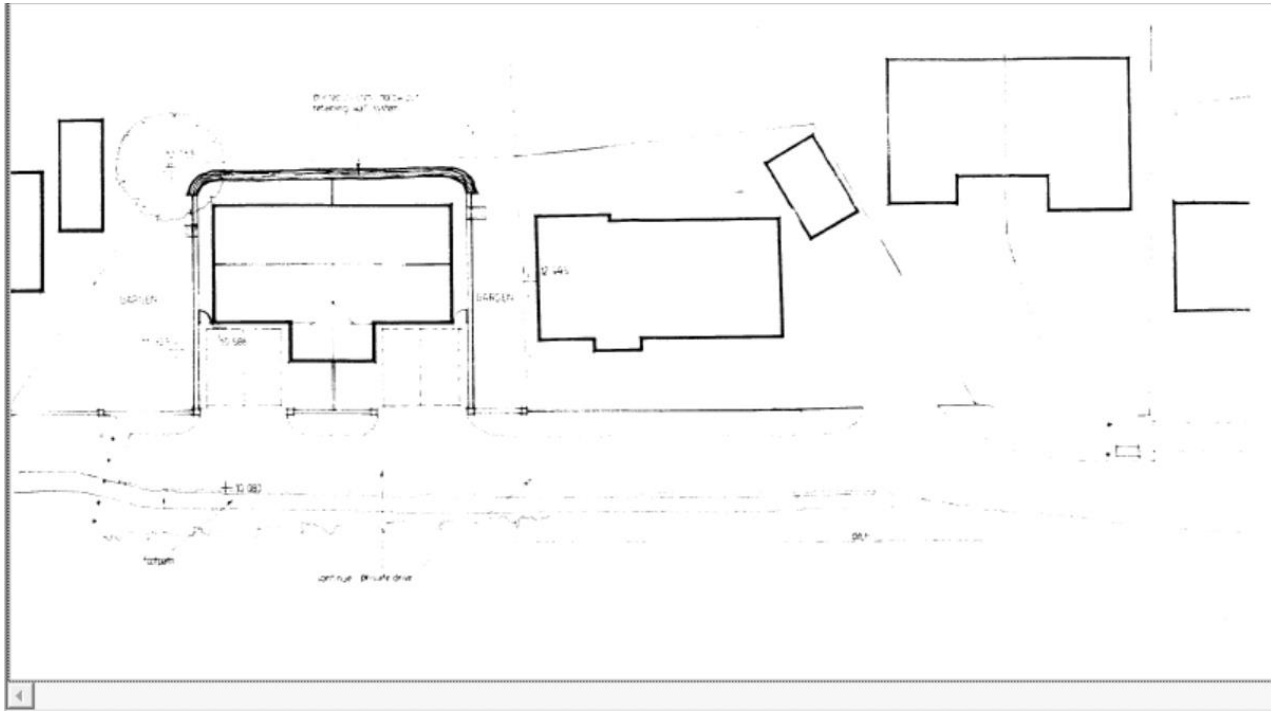
**Visual Impact:** Core Policy 57 requires a high standard of design in all new developments, including extensions, alterations, and changes of use of existing buildings. The third criteria of the policy is particularly relevant to householder applications and requires development to respond positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials streetscape and roof lines to effectively integrate the building into its setting.

The proposed garage is not considered to be harmful to the character and appearance of the dwelling because it is designed as a subservient addition to the host dwelling and would not appear visually intrusive. The walls of the garage are proposed to be rendered with red brick quoins to match the house and the roof is proposed to be cement fibre cement to match the existing dwelling, which would mean that the development would harmonise with its setting.

For the reasons discussed above it is considered that the garage would be in keeping with the host property and the character and appearance of the area and as such would comply with core policy 57 of the WCS.

### **Impact on Highways and the Public Right of Way:**

Following comments from highways and the Public Rights of way team the planning history of the site was investigated further. The approved layout for the house includes two parking spaces in the location identified in the reproduced plan below:



This area is secured for parking and access by condition and lies within the redline boundary of this application. There is an area of land in unknown ownership between the site and the PROW and this is the area used for manoeuvring in and out of the existing spaces. The PROW is separated from this area by a low fence.

Vehicular access to the proposed garage would only be possible when the existing spaces are not in use but would not significantly alter the existing situation in terms of vehicular movements outside the site boundary.

It is considered that the concerns raised in the Highways comments and the Public Rights of Way comments have been addressed through research of the planning history and confirmation of the approved parking layout on the site.

Therefore it is considered that the proposal will not have an adverse impact on Highway Safety and is in accordance with Core Policy 61.

**Other:** Even though the Council's Public Rights of Way Officer wrote the informatives as conditions it is considered that they shall be imposed as informatives and not conditions.

**Conclusion:** In light of the above assessment of the submitted information and from the case officer undertaking a site inspection, it is considered that the proposed garage would not have an adverse impact on neighbour amenity or an adverse visual impact or an adverse impact on highway safety or the Public Right of Way. As such it is considered that the proposals would comply with CP57 and CP61 of the WCS and the requirements of the NPPF

**Recommendation:** Approve subject to conditions