

AGENDA

Meeting: Strategic Planning Committee

Place: Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 6 March 2024

Time: 10.30 am

Please direct any enquiries on this Agenda to Kieran Elliott of Democratic Services, County Hall, Bythesea Road, Trowbridge, email committee@wiltshire.gov.uk

Press enquiries to Communications on direct lines 01225 713114/713115.

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Membership:

Cllr Howard Greenman (Chairman)

Cllr Christopher Newbury (Vice-Chairman)

Cllr Ernie Clark

Cllr Adrian Foster

Cllr Sarah Gibson

Cllr Carole King

Cllr Pip Ridout

Cllr Jonathon Seed

Cllr James Sheppard

Cllr Elizabeth Threlfall

Cllr Robert Yuill

Substitutes:

Cllr Helen Belcher OBE

Cllr Steve Bucknell

Cllr Clare Cape

Cllr Ruth Hopkinson

Cllr George Jeans

Cllr Dr Nick Murry

Cllr Andrew Oliver

Cllr Stewart Palmen

Cllr Nic Puntis

Cllr Bridget Wayman

Cllr Stuart Wheeler

Cllr Graham Wright

Cllr Tamara Reay

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

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The full constitution can be found at [this link](#).

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AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (Pages 7 - 12)

To approve and sign as a correct record the minutes of the meeting held on 10 January 2024.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee or Monitoring Officer.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10.20am on the day of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. Representatives of Parish Councils are included separately in the speaking procedure, please contact the officer listed for details.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

Questions

To receive any questions from members of the public or members of the Council

received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on 28 February 2024 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 1 March 2024. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates**

To receive details of completed and pending appeals, and any other updates as appropriate.

Planning Applications

To consider and determine the following planning applications.

7 **PL/2021/09013: Land West of Westbury Road, Warminster** *(Pages 13 - 84)*

Outline application for the erection of up to 205 dwellings, community hub, public open space, access, infrastructure and associated works (access to be approved with all other matters reserved).

8 **PL/2021/03749: Land at Glenmore Farm, The Ham/Hawkeridge Road, Westbury** *(Pages 85 - 154)*

Residential development (use class C3) for up to 145 homes, community orchard, children's play areas (LEAP), tree planting, habitat creation and ecology buffers and mitigation; site drainage and associated infrastructure. All matters reserved except for access.

9 **PL/2022/08155: Land to the West of Semington Road, Melksham** *(Pages 155 - 214)*

Outline planning permission for up to 53 dwellings including formation of access and associated works, with all other matters reserved.

10 **PL/2022/09532: Land at Romsey Road, Whiteparish, Salisbury** *(Pages 215 - 338)*

Outline application (all matters reserved except external access) for residential development of up to 25 dwellings with access to Romsey Road, parking, open space, landscaping and drainage.

11 **20/09659/FUL: Land off Frome Road, Upper Studley, Trowbridge** (Pages 339 - 398)

Erection of 50 dwellings and associated access and landscaping works.

12 **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

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Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 10 JANUARY 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Howard Greenman (Chairman), Cllr Ernie Clark, Cllr Sarah Gibson, Cllr Stewart Palmen (Substitute), Cllr Pip Ridout, Cllr Elizabeth Threlfall and Cllr Robert Yuill

Also Present:

Cllr Allison Bucknell, Cllr Tony Jackson and Cllr Dominic Muns

Tribute to Councillor Tony Trotman

Before the start of the meeting a minute's silence was held in honour of Cllr Tony Trotman, Vice-Chairman of the Strategic Planning Committee and Member for Calne Chilvester and Abberd Division, who had sadly passed away on 30 November 2023 following a short illness.

Cllr Howard Greenman, as Chairman, paid tribute to Cllr Trotman as a much valued colleague and friend who would be deeply missed. It was noted Cllr Trotman had also served as Chairman of the Northern Area Planning Committee since 2009.

1 **Apologies**

Apologies were received from Councillors Carole King, Christopher Newbury, and James Sheppard.

Cllr King was substituted by Cllr Stewart Palmen.

2 **Minutes of the Previous Meeting**

The minutes of the meetings held on 1 November and 29 November 2023 were presented for consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

3 **Declarations of Interest**

There were no declarations.

4 **Chairman's Announcements**

There were no announcements.

5 **Public Participation**

The procedure for public participation was noted.

Mr Francis Morland made a statement regarding the Secretary of State's announcement updating the National Planning Policy Framework (NPPF), and the implications for Wiltshire Council. In particular he made comments relating to decisions which had been considered by committees but where formal approval had not yet taken place, and how he believed these would need to be reconsidered, including four applications recently subject to resolutions from the Strategic Planning Committee. He sought clarity on the impact, if any, on the updated NPPF on the application being considered at the meeting.

The Chairman stated in response that he had written to the relevant Cabinet Member about the matter and whether there would be reconsideration of certain applications and made additional reference to applications permitted by the council or on appeal. He noted that the Committee often delegated applications for approval subject to various agreements being made before a formal decision was issued, and that as raised by Mr Morland some applications considered at Committee had not yet had decisions issued.

Officers confirmed Members would be briefed on the impact of the updated NPPF, and legal advice was being sought in relation to applications which had not had decision notices issued. In relation to the application on the agenda, the need to apply a four-year housing land supply did not apply to Gypsy and Traveller sites, which was explained in the officer's report.

6 **Planning Appeals and Updates**

No updates were received.

7 **PL/2022/05221 - Clackhill Yard, Bradenstoke**

Public Participation

Shendie Green spoke in opposition to the application.
Cllr Stuart Barnard, Lyneham and Bradenstoke Parish Council, spoke in opposition to the application.

Callan Powers, Senior Planning Officer, presented a report which recommended approval be granted for a change of use to a private Gypsy/Traveller site and associated works at Clackhill Yard, Bradenstoke. Details were provided on the site location and extent, and on the process of notifications when the application was submitted, and correcting a typo in the report, confirming there was no conflict with Core Policy 58.

Key issues were stated to include the principle of development, and information was provided on the level of unmet need for Gypsy and Traveller sites within Wiltshire, as well as recent appeals decisions. It was stated that highways officers had raised no objections to the application subject to appropriate conditions.

Members of the Committee then had the opportunity to ask technical questions of officers. Details were sought on the surfacing of the site and if this was permeable, on the fencing which had been installed on the site, and confirming the road to the site was currently one way following a major landslide in 2022 on the B4069 Lyneham Banks, which was to be subject to repairs.

Members of the Public then had the opportunity to address the Committee with their views, as detailed above.

Cllr Allison Bucknell, Unitary Division Member for Lyneham, then spoke in objection to the application, noting concerns raised by residents and the parish council in relation to enforcement actions around the site, impact on character and amenity, sustainability of the site, vehicle and pedestrian access and other issues.

The Committee then discussed and debated the applications. Questions were raised around the fencing and brickwork on the site, and officers confirmed this had been investigated and amounted to permitted development for the site. It was confirmed that if the change of use were approved this would permit the stabling of several horses on the site. In response to queries it was stated that there had been an assessment in 2022 which had updated the figures of unmet need for Gypsy and Traveller sites, and that in previous appeals this had been considered a relevant factor even for windfall sites under the Local Plan.

During debate on a motion to refuse the application there was discussion of water provision and waste treatment and collection, concerns relating to highways and particularly pedestrian access, stability of the land for permanent structures, and the nature and sustainability of connections with Bradenstoke and Lyneham. It was confirmed concerns raised regarding behaviour should be given very limited to no weight in planning terms.

On the motion of Cllr Elizabeth Threlfall, seconded by Cllr Sarah Gibson, and at the conclusion of debate, it was then,

Resolved:

To REFUSE planning permission for the following reasons:

- 1) Wiltshire Core Strategy [WCS] Core Policy 1 (Settlement Strategy) sets out a 'Settlement Strategy' where "... sustainable development will take place to improve the lives of all those who live and work in Wiltshire". Under this policy sustainable locations are defined as 'Principal Settlements', 'Market Towns', 'Local Service Centres' and 'Large and Small Villages', and their roles and extent are defined within the policy and/or the Local Plan maps; beyond these sustainable locations is countryside. WCS Core Policy 2 (Delivery Strategy) defines how new development will be delivered in line with the Settlement Strategy; the policy states that development will not be permitted outside the defined settlements "other than in the circumstances as permitted by other [exceptions] policies**

within this plan ...”. The other exceptions policies of the WCS allow development outside the settlements under certain very limited circumstances; the exceptions policies include WCS Core Policy 47 (Meeting the needs of gypsies and travellers). WCS Core Policy 19 identifies the settlements for the Royal Wootton Bassett and Cricklade Community Area and directs that development should take place within the Community Area in accordance with the Settlement Strategy set out in Core Policy 1.

WCS Core Policy 47 (Meeting the needs of gypsies and travellers) requires proposals for new gypsy and traveller sites to be situated in sustainable locations; the policy then sets out general criteria for such proposed developments. Criterion (v) states that proposals should be located in or near to existing settlements within range of local services and community facilities, in particular schools and essential health services; and criterion (ii) states that proposals should be served by a safe and convenient vehicular and pedestrian access, without causing significant hazards to other road users. The proposal fails to comply with criterion (v) and (ii).

With regard to criterion (v), the application site is not located in or near to an existing settlement(s) within range of local services and community facilities, and as such it is not a sustainable location in the overarching context of the policy. Specifically, the application site lies approximately 200m from the village of Bradenstoke. Under WCS Core Policy 1 Bradenstoke is defined as a ‘Small Village’; and according to the policy, Small Villages have only “... a low level of services and facilities, and few employment opportunities”. The nearest next tier settlement is Lyneham (a ‘Large Village’) which is c. 2km from the application site; higher-tier settlements such as Royal Wootton Bassett are much further afield. In view of the low level of services at Bradenstoke and the considerable distance between the application site and Lyneham and the other higher-tier settlements, the proposal conflicts with criterion (v) of WCS Core Policy 47. This is because the application site is not near to a range of services and so is an unsustainable location for this reason; access to a range of services would require ‘out-commuting’ from the site (and from Bradenstoke generally) to the more distant higher-tier settlements, and this would in all probability be by private motor vehicle. This conflict with WCS Core Policy 47 means that the proposal also fails against WCS Core Policies 1, 2 and 19.

Specifically with regard to criterion (ii) of WCS Core Policy 47, the site is located along a relatively narrow and unlit country lane which has no segregated pedestrian path or pavement. Pedestrians entering and leaving the site would be limited to walking in the lane, and in view of the narrow width, this would lead to potential conflict with vehicular traffic with limited opportunities for avoidance. The potential for conflict would be heightened at nighttime in view of the lane being unlit. In terms of criterion (ii), this would be a significant hazard for road users, creating neither a safe nor convenient situation for both the vehicular users and the site-generated pedestrian users of the lane.

The proposal, therefore, conflicts with Core Policies 1, 2, 19 and 47 ((v) & (ii)) of the Wiltshire Core Strategy. The proposal also conflicts with paragraphs 22 – 25 of the national Planning Policy for Travellers Sites for related reasons.

- 2) The Planning Policy for Traveller Sites requires, at Paragraph 26, that weight should be attached to “... sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness... [and] ... not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community”. Whether deliberately or not, the site is fronted by a high level close board fence creating a sense of separation from the community and the development in no appreciable way increases its openness. In this way the proposal conflicts with the Planning Policy for Traveller Sites at Paragraph 26.

It was noted that the decision to refuse planning permission was unanimous.

8 Urgent Items

There were no urgent items.

(Duration of meeting: 10.35 am - 12.10 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail committee@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|--|
| Date of Meeting | 6 March 2024 |
| Application Number | PL/2021/09013 |
| Application type | OUTLINE |
| Site Address | Land West of Westbury Road, Warminster |
| Proposal | Outline application for the erection of up to 205 dwellings, community hub, public open space, access, infrastructure and associated works (access to be approved with all other matters reserved) |
| Applicant | Barratt Homes |
| Town/Parish Council | Warminster Town Council |
| Electoral Division | WARMINSTER NORTH & RURAL – Cllr Bill Parks |
| Case Officer | David Cox |

1. Purpose of Report

This application is now subject to an appeal against non-determination, lodged 5 February 2024.

The purpose of this report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 (and related revised Planning Practice Guidance published in February 2024) that have a material impact on the planning application, and to consider the recommendation that the Planning Inspectorate be advised that had Wiltshire Council remained the determining authority then it would have refused planning permission.

2. Background

On 1 November 2023, the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (committee report attached as Annex 1); work commenced on the legal agreement, although it has not been completed and so the planning permission has not been given. In making its decision to approve subject to the legal agreement the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this 'gap' the authority becomes aware of new, or changed, material considerations, then the relevant law requires the authority to have regard to these considerations before finally determining the application.

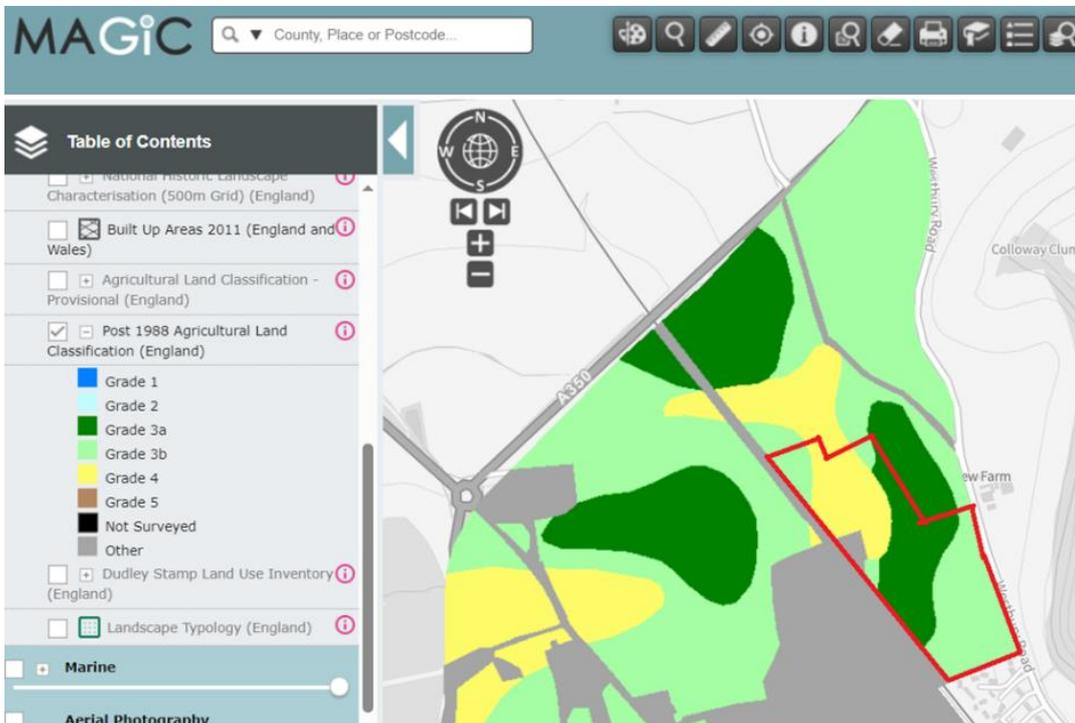
In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a changed material consideration that must now be taken into account. The effects of the changes in relation to this planning application are summarised below and considered in greater detail in later sections of this report:

- The principle of development (namely conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy and the weighting to be given to these policies);
- Related to the above, does the revised NPPF change the planning balance?
- Are there now any restrictive Wiltshire Core Strategy policies that have become more relevant on the balance?
- Implications for the Warminster Neighbourhood Plan.

Clarifications following 1 November 2023 SPC meeting

Agricultural Land Classifications –

Further to this matter being raised by the Committee at the 1 November 2023 meeting, the fields which make up the application site are used for agricultural purposes including crop growing and for cattle grazing. According to DEFRA’s ‘magic map’, the application site comprises a mixture of grades 3a (good), 3b (moderate) and 4 (poor) agricultural land. There is no grade 2 land.



Agricultural Land Classification

Pollution, reed bed management, etc. –

NPPF paragraph 194 states:

“The focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”

For the avoidance of doubt, the Environment Agency (EA) raised no objections to the original planning application subject to conditions. The EA has a separate Environmental Permitting process for aspects of the proposal such as the waste water treatment facility, and this is the appropriate regulatory process for this rather than planning. The WC Public Protection Team have further commented that a grant of planning permission does not mean that an EA Permit will be automatically issued.

The WC Public Protection have also stated the following -

“Vermin are ubiquitous in the countryside/near to water sources etc., therefore it would not be surprising to find evidence of faecal contamination in reed beds/water sources or other locations in the vicinity; we therefore do not have particular concerns regarding this issue.”

Other ‘new’ material consideration

The application site lies within the catchment of the River Avon and, related to this, within the consultation zones for the River Avon SAC. Due to nutrient enrichment from elevated phosphate levels in the river the SAC is presently in ‘unfavourable condition’. This is complicating the delivery of planning permissions for housing, particularly where foul services discharge to waste-water treatment works which in turn discharge to the river.

For this planning application the applicant is proposing on-site wetland mitigation, and their calculations have shown that as a consequence of this there would be no additional total phosphorous being discharged from the proposed development via foul and surface waters (this because these waters would be dealt with entirely on site). These circumstances of the application have not changed – and the WC Ecologist’s and Natural England’s ‘no objection’ subject to conditions, therefore, stands.

On 20 December the Minister for Housing, Planning and Building Safety issued a letter addressing nutrient neutrality in general, and on 25 January the River Avon SAC became a designated ‘phosphorous sensitive catchment area’. The key part of the Minister’s letter states the following:

To stop pollution at source, the Levelling-up and Regeneration Act 2023 creates a new duty on water companies to upgrade wastewater treatment works (WwTW) by 1 April 2030, in catchments of Habitats Sites identified by the Secretary of State as being in an unfavourable condition due to nutrient pollution. This duty will be in effect from 26 January 2024 and the government will publish designated catchments and specific wastewater treatment works to be upgraded. The Act also requires planning decision-makers to consider these upgrades as certain for the purposes of an assessment under the Habitats Regulations. These upgrades will significantly reduce nutrient loads from WwTW in designated catchments, while also reducing the average costs of nutrient mitigation for developers. For new development connecting to WwTW subject to the upgrade duty, the reduction in costs is estimated to range between 37% to 95% for phosphorus and between 46% to 64% for nitrogen (depending on the catchment and subject to final analysis). This is alongside the continued delivery of the Natural England £30 million Nutrient Mitigation Scheme in line with the Environment Secretary’s direction of 28 July 2022.

To boost the supply of mitigation, the Chancellor has announced as part of the Autumn Statement that the Local Nutrient Mitigation Fund will spend £110 million of taxpayer money over this year and next. This will enable local authorities to boost the supply of mitigation, by bringing forward innovative mitigation schemes and providing mitigation credits. The funding will be recycled locally until nutrient mitigation is no longer needed, at which point it will be used for measures to help restore the relevant Habitats Sites. This will enable sustainable development, unlocking stalled housing delivery, whilst delivering secondary benefits like enhanced public access to nature and supporting our commitment to leave our environment in a better state than we found it.

As the application site ‘washes its own face’ on the issue of nutrient neutrality, the Minister’s letter has no bearing on the application’s re-consideration. The letter is, however, a new material consideration which the Committee is required to have regard to and note in any event.

3. Housing land supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

76. *Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing for decision making purposes if the following criteria are met:*
- a) *their adopted plan is less than five years old; and*
 - b) *that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*
77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.*

Paragraph 226 referred to in paragraph 77 states the following –

226. *From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.*

For the purposes of the revised NPPF Wiltshire Council is a ‘paragraph 77 authority’; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing.

4. Current housing land supply position and consequences for the ‘planning balance’

The Council’s most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. In subsequent

appeals this figure has been reassessed to be 4.59 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is now starting from a 'level' position rather than 'tilted'. In terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant.

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (namely Core Policies 1 and 2), it follows that planning applications which conflict with the policies should not normally be granted – that is, unless other policies or material considerations indicate that the housing delivery policies should not be followed – and other restrictive policies may have increased relevance. The weight to now be given to the policies and to the other material considerations is addressed below.

5. Warminster Neighbourhood Plan

An additional change to the NPPF is paragraph 14. This relates to situations where planning applications for housing are being determined in areas that have neighbourhood plans in place and where those neighbourhood plans contain policies and allocations to meet that area's housing requirement. Where this situation applies, the 'tilted' balance will not have effect where the neighbourhood plan became part of the development plan five years or less before the date on which a decision is made, meaning that speculative housing planning applications are less likely to be recommended for approval where there is conflict with the neighbourhood plan. Because the Wiltshire Core Strategy is now not subject to a tilted balance, the changed paragraph 14 is not relevant; where relevant the policies of the Warminster Neighbourhood Plan should be given full weight in any event.

6. Response from the applicant

The agent acting on behalf of the applicant does not agree with the above. The following (summarised) reasons are given (full response from the agent at Annex 2):

Housing Land Supply –

- No evidence that the Reg 19 Plan is sufficiently detailed or meets the housing requirements in order for it to 'qualify' for 4-year supply status for the purposes of Paragraph 77/226 of the revised Framework. It remains questionable whether the Plan meets the necessary tests in order for the Authority to qualify for 4-year status.
- No evidence that the Council has reviewed its housing land supply since publishing a position of 4.6 years in May 2023. As this figure is already eight months old, it is highly unlikely that it is accurate, and we are mindful of evidence presented at recent appeals suggesting that in reality the Council's supply is potentially less than four years.
- In the absence of an up-to-date and publicly available calculation of housing land supply, the Council cannot rely on an assumption that its published position from May 2023 remains unchanged as the basis for returning applications to Committee with revised recommendations at this time.
- The changes to the Framework have made no difference to the presumption that Local Planning Authorities should seek to maintain at least a five-year supply of deliverable housing. Whether or not required to (or capable of) demonstrating more than four years' supply for the purposes of Paragraph 226, Wiltshire Council continues to fall significantly short of five years' supply in the context of a national housing crisis and, in particular, a marked shortfall of affordable homes. The Council has not withdrawn the Briefing Note which states that the Council will support 'speculative' applications where there are no technical objections in pursuit of a five-year supply.
- Moreover, even if a 4+ year supply could currently be demonstrated, recalling and refusing a significant number of 'speculative' proposals with extant resolutions to grant planning

permission presents a very real and immediate prospect that housing land supply will be severely depleted over the coming months, particular from April 2024, due to a lack of commitments. As such, refusing such applications at the present time is likely to be self-defeating and only likely to open opportunities for less desirable 'speculative' proposals later in the year.

Operation of the Tilted Balance –

- Wiltshire Council has stated in correspondence that, on the assumption that the Council can demonstrate in excess of four years' supply, the 'tilted balance' would not be engaged for the purposes of decision-making. Notwithstanding the exceptions of Paragraph 226, Core Policies 1 and 2 remain out-of-date in their own terms, being predicated on a non-Framework compliant assessment of housing need, as are the related settlement boundaries to which they refer, and their weight in decision-making diminished accordingly.
- Likewise, the tilted balance remains engaged in relation to these 'most important' policies independently of Paragraph 226 and housing land supply and it remains in the context Paragraph 11(d)(ii) that decision-making must still proceed.

Site-specific matters –

- There are no technical or environmental objections outstanding in relation to the proposals, nor any objection from key consultees. The original Strategic report concluded: '*...this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Warminster and make contributions to off-site infrastructure through S106 contributions and CIL*'
- The physical effects of the proposals remain wholly unchanged in the present circumstances and therefore it is plainly unreasonable that any additional harms should be identified at this time, or indeed that any additional weight should be ascribed to them.

7. Officer Response to the Applicant's Comments

The above response from the agent is based on their own judgment / legal advice. It is, therefore, an opinion rather than law, and, of course, one that they are entitled to express. The Local Planning Authority's opinion is that it has interpreted paragraph 226 correctly and, therefore, does benefit from only having to demonstrate a 4-year housing land supply (HLS) over a 5-year period, which it can; (this approach has subsequently been conformed as correct in updated Planning Practice Guidance). This applies to the determination of this application and to any application that is in the same position.

Regarding the status of the planning balance, The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted February 2020. The purpose of the WHSAP is/was to revise, where necessary, the WCS settlement boundaries and allocate new sites for housing across the plan period in order to demonstrate the rolling supply. The WHSAP is not out of date, and so NPPF paragraph 11(c) is relevant for the purposes of decision-taking (not paragraph 11(d)).

Regarding the status of past Wiltshire Council 'Briefing Notes' on the status of the development plan, these (like any policy or guidance) will inevitably, and automatically, be superseded in the event of more up-to-date and different policy or guidance taking effect.

It is clear that the Local Planning Authority's position on the matter differs from that of the applicant. The committee is advised to consider the application based on the advice the Local Planning Authority has received, but with due regard to the applicant's position – this in view of there being no qualifying statements or case law relating to the updated NPPF at this time. It is in view of this situation that it is perhaps not surprising to find the LPA's opinion differing to that of the applicant.

8. Applying the planning balance to this case

The 'harms' –

Principle - housing delivery policies –

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. Within the Settlement Strategy, Warminster is defined as a Market Town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. Because the application site lies beyond the limits of development, it is within the countryside. Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by “.... *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services*”.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Warminster – and further states that housing should not be permitted outside the limits except in the few circumstances explained in the policy, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. This application site is not allocated in either the Wiltshire Core Strategy or any site allocations DPD or Neighbourhood Plan.

WCS Core Policy 31 sets out a Spatial Strategy for the Warminster Community Area. The policy states that development in the Community Area should be in accordance with Core Policy 1.

The Warminster Neighbourhood Plan (WNP) was 'made' in 2016. It sets out principles for new housing and good design (Policy L1); it relies on the WCS and WHSAP to define the settlement boundary and make allocations for new development.

Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with WCS Core Policies 1, 2 and 31 and NP policy 1. Proposed development which does not accord with WCS Core Policies 1, 2 and 31 and NP Policy 1 is considered to be unsustainable in the overarching context of the Wiltshire Core Strategy and the NPPF. In view of the revised NPPF substantial weight must now be given to this 'in principle' conflict with the housing delivery policies and, by association, that part of paragraph 180 of the NPPF which requires regard to be given to the intrinsic character of the countryside.

Landscape Impact –

Core Policy 51 ('Landscape') is a restrictive policy rather than a housing delivery policy. It is a policy which is intended to restrict development that would not protect, conserve and where possible enhance landscape character, or that could not be mitigated as far as possible through sensitive design and landscape measures. Core Policy 57 ('Ensuring high quality design and place shaping') has related criteria.

Under the circumstances of the 'tilted' planning balance (and in general), the weight to be given to landscape effects has been in most cases outweighed by the significant weight required to be given to the housing land supply shortfall. This application is evidence of this – when considered by the Strategic Planning Committee in November 2023 the effects of the planned development on landscape were not considered to be sufficiently significant to tip the tilted balance and so amount to a landscape reason for refusal (or, in terms of paragraph 11(d) of the NPPF, any adverse effects did not “significantly and demonstrably” outweigh the benefits of granting planning permission for housing). In reaching this conclusion the Committee had regard to the housing land supply shortfall and the specific circumstances of the proposal (in terms of its detailed design and layout and its proposed measures to mitigate its effects on the landscape).

However, now that there is a level planning balance, restrictive planning policies – notably here, CP51 (and the related parts of CP57) – are now more relevant because significant weight is no longer to be given to the housing land supply shortfall. This increased relevance does not mean that the restrictive policies can, or should, be given more weight – the weight they can, or should, be given is the same as before (because the landscape effects of the proposed development have not changed); rather it is the effect of this same weight and its consequences for the planning balance that are material.

For this application, and as a starting point, the landscape effects of developing open fields in 'countryside' to accommodate housing that is now not required to address a housing land supply shortfall is considered to be deserving of modest weight. This is when taking account of the baseline assessment of the site – which is essentially, and in isolation, open fields in the countryside which would be 'lost' to the development. But then factoring in the wider circumstances of the fields and the characteristics of the locality, and the actual proposal – that is, the site's relationship with established developments, the nature of existing established landscaping, and the landscape mitigation measures presented in the proposal, these effects and the modest weight to be attributed to them are not considered to amount to a sustainable reason for refusing planning permission in any event. In accordance with CP51, and as demonstrated in the planning application, the modest 'negative impacts' can be mitigated through sensitive design and landscape mitigation appropriate for the locality.

In this respect, the conclusions of the Landscape and Visual Assessment which accompanies the planning application are agreed – notably the following:

The appraisal has concluded that the effects of the proposed development upon the open arable and pasture fields within the site itself would be major/moderate and negative, but that the effects on the hedgerow network would be moderate minor and negative, becoming positive once new planting establishes. The local area of the Warminster Terrace character area would experience a moderate/minor effect as a result of the proposed development, and parts of the Salisbury Plain West character area would also experience moderate/minor effects due to visibility of the proposed development. Cranborne Chase and West Wiltshire Downs would experience minor effects as a result of the proposed development, and the nature of these effects would be neutral.

In summary, whilst the proposed development would result in some higher negative landscape effects these would be localised and focused on the site itself. Effects on landscapes further from the site would be lower, partly due to the visibility of the existing settlement edge and the fact that the proposed development would not extend further than the existing industrial estate to the west of the application site.

And

The proposed development would be visible by a number of receptors within and around the site, including from elevated ground at Arn Hill Down to the east and Cley Hill, to the west. The main receptor groups which would be affected include walkers, residents and vehicle users.

The visual effects of the proposed development would be localised, with major or major moderate effects being limited to the views of walkers within and immediately adjacent to the site, and residents immediately to the south of the site. For users of footpaths outside of the site, the proposed development would be viewed in the context of the existing settlement edge, and in particular the existing prominent development at the Crusader Park industrial estate. Importantly, the proposed development would not extend further north than this existing industrial park.

Loss of Agricultural Land –

The site is made up of several fields designated as Grades 3a, 3b and 4 agricultural land (with the two grade 3's making up approximately 2/3rds); those parts that are Grade 3a are 'best and most versatile'. The overall area of land affected by the proposal – c. 10.45ha – has not changed and so continues to be relatively modest. Natural England is generally concerned where areas greater than 20ha are being lost, and the application site falls below this threshold. This said, the loss of agricultural land is a factor to be considered on the planning balance, and with the change to the housing land supply position, this is a material consideration now of increased relevance. In the light of the limited size of land that would be lost, it is considered that modest weight should be attributed to this point.

The Benefits –

Location of Development –

Warminster is a market town which is capable of significant growth as identified by CP1 of the WCS. As such, the quantum of development (c. 205 dwellings) can be considered proportionate in the context of the adjacent settlement (Warminster). Very modest weight can be attributed to this.

The original committee report refers to the site as being a reasonably sustainable (accessible) location, albeit in the countryside. Although outside of the limits of development of Warminster, the site does adjoin, and therefore, its proximity to the town centre allows access by a genuine choice of transport modes. Modest weight can be attributed to this accessibility.

Provision of Affordable Housing –

Notwithstanding that the Council can demonstrate a sufficient supply of deliverable housing land, the proposal would provide policy compliant 30% (c. 62) affordable housing units. It is considered that significant weight should still be given to this as a benefit.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In the light of this – and bearing in mind the size of the scheme – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is of note that the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the expenditure from future occupants of the development within the local economy.

Lack of any other technical objections –

As noted previously, the scheme has not been the subject of any technical objections from consultees. Only limited weight can be afforded to this point.

9. Conclusion

Whilst the landscape effects and the loss of some 'best and most versatile' agricultural land continue to be negative consequences, the level of harm arising is not considered to be of such magnitude or significance to amount to a sustainable reason for refusing planning permission. Nevertheless, harm is still harm, and so this must be factored on the planning balance.

There is, however, significant harm generated by the conflict with the development plan housing delivery policies – CP 1, 2 and 31 of the Wiltshire Core Strategy, as well as Warminster Neighbourhood Plan policy 1. This attracts substantial weight which, in isolation, is capable of forming a reason for refusal against the principle of the proposal.

The 'in principle' objection identified above is not outweighed by the benefits that would arise from the development.

It is, therefore, concluded that, in light of the changes to the NPPF, there now arises a level of conflict with the development plan sufficient to justify refusing the application.

Recent appeal decision –

On 9 February 2024 an appeal relating to a proposal for up to 30 dwellings on a windfall (unallocated) site at Land south of Pound Lane, Semington was dismissed (ref. PL/2022/09397; Annex 3). In dismissing the appeal the Inspector noted the following –

6. *As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis*

Planning Balance

15. *It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.*
16. *The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.*

17. *The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).*
18. *My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.*
19. *The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.*
20. *However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.*
21. *Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.*
22. *Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.*
28. *The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.*

This very recent appeal decision – relating to a site elsewhere in Wiltshire – aligns with the Local Planning Authority's interpretation of the updated NPPF and how it should now be applied in cases such as this. As in the appeal case, the proposal conflicts with the Council's Spatial Strategy and development plan as a whole; this conflict – and the fact that the planning balance is now level – is not outweighed by any other material considerations.

RECOMMENDATION:

That the Planning Inspectorate be advised that had Wiltshire Council remained the deciding authority for this application then it would have refused planning permission for the following reasons:

1. Principle of Development

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the County, and in doing so identifies four tiers of settlement - Principal Settlement, Market Town, Local Service Centre, and Large and Small Village. Within the Settlement Strategy Warminster is defined as a Large Village. The Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined boundaries, or 'limits of development'. Beyond the limits of development is countryside. The application site lies beyond / outside the limits of development of Warminster, and so is in the countryside.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier. The policy states that within the limits of development of those settlements with defined limits there is a presumption in favour of sustainable development; but outside the defined limits – that is, in the countryside – other in circumstances as permitted by other policies of the Plan, development will not be permitted, and that the limits of development may only be altered through identification of sites for development through subsequent Site Allocations Development Plan Documents and Neighbourhood Plans.

Core Policy 31 of the Wiltshire Core Strategy sets out the 'Spatial Strategy' for the Warminster Community Area in which the site lies. It states that development in the Warminster Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

The proposal is for outline planning permission to erect up to 205 dwellings, etc. on the application site, which is in the countryside. Under Core Policies 1, 2 and 31, this does not comply with the Settlement and Delivery Strategies as a matter of principle. The Strategies are designed to ensure new developments satisfy the fundamental principles of sustainability, and so it follows that where a proposal such as this fails to comply with them then it will be unsustainable in this overarching context. The application site is not identified for development in a Site Allocations Development Plan Document, and it is not allocated in a Neighbourhood Plan document. Furthermore, there are no material considerations or exceptional circumstances, including set out in other policies of the Plan, which override the core policy's position. The proposal is, therefore, contrary to Core Policies 1, 2 and 31 of the Wiltshire Core Strategy, Policy 1 of the Warminster Neighbourhood Plan and paragraphs 2, 7-15, 47 and 180(b) of the National Planning Policy Framework (NPPF), comprising unsustainable development.

2. Lack of a signed Legal Agreement

The proposed development fails to provide and/or secure adequate provision for necessary on-site and, where appropriate, off-site infrastructure to make the application proposal acceptable in planning terms. The application is therefore contrary to policy CP3 of the adopted Wiltshire Core Strategy, and the National Planning Policy Framework, specifically the central social and environment sustainable development objectives enshrined within paragraph 8.

INFORMATIVE TO APPLICANT:

Reason for refusal 2 relates to the failure of the applicant to secure affordable housing and other financial contributions for the site. In the event of an appeal it may be possible to address this through a suitably worded Planning Obligation.

ANNEX 1: 1 November 2023 Committee Report

ANNEX 2: Applicant response to revised NPPF

ANNEX 3: PL/2022/09397 – appeal decision letter

REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|--|
| Date of Meeting | 1 November 2023 |
| Application Number | PL/2021/09013 |
| Application type | OUTLINE |
| Site Address | Land West of Westbury Road, Warminster |
| Proposal | Outline application for the erection of up to 205 dwellings, community hub, public open space, access, infrastructure and associated works (access to be approved with all other matters reserved) |
| Applicant | Barratt Homes |
| Town/Parish Council | Warminster Town Council |
| Electoral Division | WARMINSTER NORTH & RURAL – Cllr Bill Parks |
| Case Officer | David Cox |

Reason for the application being considered by Committee

This application has been 'called in' for Committee to determine at the request of the local Warminster Division Member, Cllr Bill Parks, for the following reasons:

- Visual impact on the surrounding area
- Design - bulk, height, general appearance
- Outside town settlement boundaries

This is an application for a large-scale major development which represents a significant departure from the housing delivery policies of the development plan, and so is a matter to be decided by the Strategic Planning Committee.

1. Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved subject to conditions and s106 obligations.

2. Report Summary

The key determining planning issues are considered to be:

- Principle of development
- Access and Highway Impact
- Landscape Impact
- Drainage and Flood Risk
- Impact on biodiversity including phosphorus
- Impact on neighbouring amenity
- Noise impact on potential residents

- Archaeology
- Urban Design
- Section 106 Legal Agreement

Warminster Town Council has raised objections to the application. Upton Scudamore Parish Council (adjoining) has also raised objections, and so have 66 further interested third parties.

3. Site Description

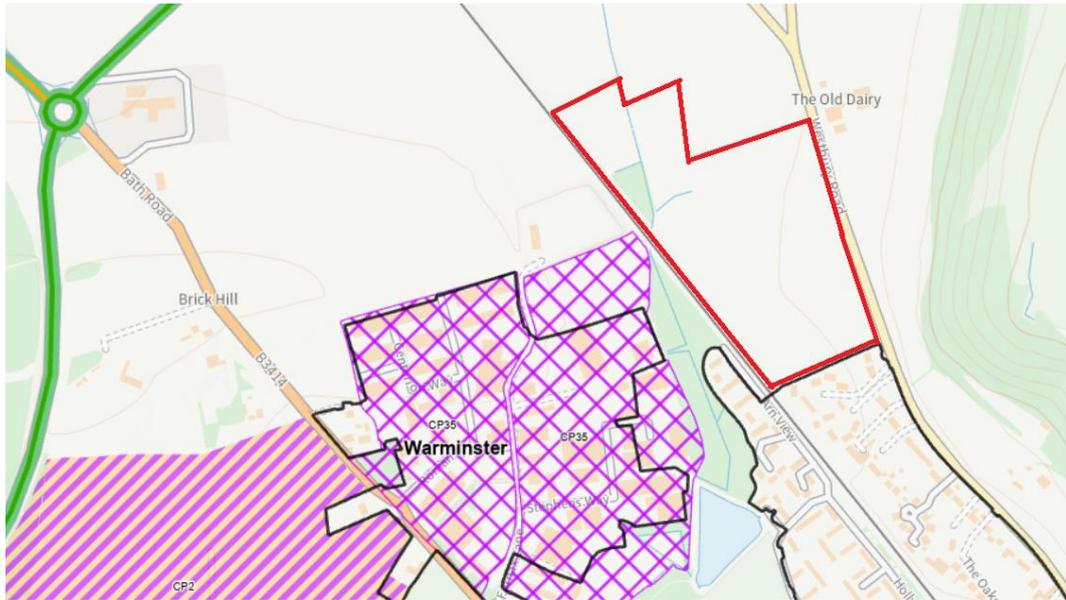
The site comprises open fields covering approximately 10.45 hectares, located to the north of the market town of Warminster. The site has access from Westbury Road (a 'C' class road) that connects to the A350 to the north and leads directly into Warminster town and town centre to the south.

The site is immediately adjacent to the settlement boundary for Warminster to its south side, and separated from the Crusader Park & Warminster Business Park and a residential development at Hollybush Road/Portway Lane to the west by the railway line (which is elevated on an embankment above the application site). The site is approximately 570m east of the limits of the strategic allocation at the West Warminster Urban Extension (WWUE), as seen in the snip images below.

Immediately to the south of the site lies no. 27 Westbury Road (the end house in a row of large, detached houses that front Westbury Road and form the outer suburbs of Warminster); and to the rear of no. 27 on 'backland', The Woodlands – a cul-de-sac of 9 houses accessed from the Westbury Road. To the east, on the opposite site of Westbury Road, the land rises towards a wooded hillside, forming part of the Arn Hill Down Golf Course.



Site Location Plan and Council Mapping Image of the site in relation to Warminster



Red outline of the application site in relation to the existing limits of development for Warminster (black line), the Existing Employment sites (purple hatch) and WWUE (purple and yellow diagonal lines)

The land is understood to be used for a mixture of agricultural purposes including crop growing and for cattle farming, and comprises swathes of Grades 3a (good), 3b (moderate) and 4 (poor) agricultural land.

Public Right of Way (PROW) WARM18 runs through the site and crosses over the railway line, and connects into the housing estate on Arn View road and Portway Lane. There are also two further PROWs to the east, WARM26 and WARM27, which are elevated relative to the application site, but only WARM26 would offer any potential views due to being on the western side of the woodland that rises up Arn Hill.

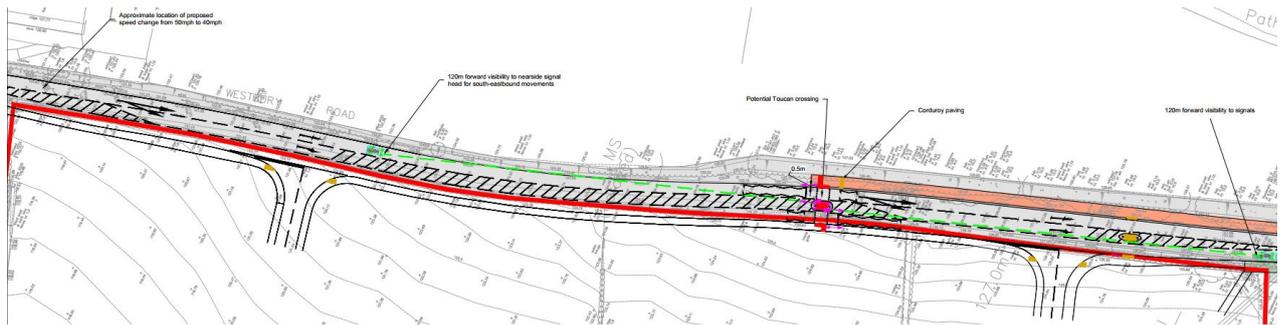


The public rights of way

5. Proposal

The application is for outline planning permission to erect up to 205 dwellings, community hub, public open space, access, infrastructure and associated works. Details of the access are to be considered at this stage with all other matters reserved.

The 'access' would be in the form of two new road junctions on the Westbury Road, along with an extended footpath from no. 27 Westbury Road across the entirety of the application site's eastern frontage with Westbury Road. Each of the accesses would be provided with right-turning lanes to ensure continuity of traffic flows and would be provided with suitable visibility splays for the current speed limit of 50mph. This said, a reduction in the speed limit to 40mph along this section of Westbury Road is also proposed by the applicant.



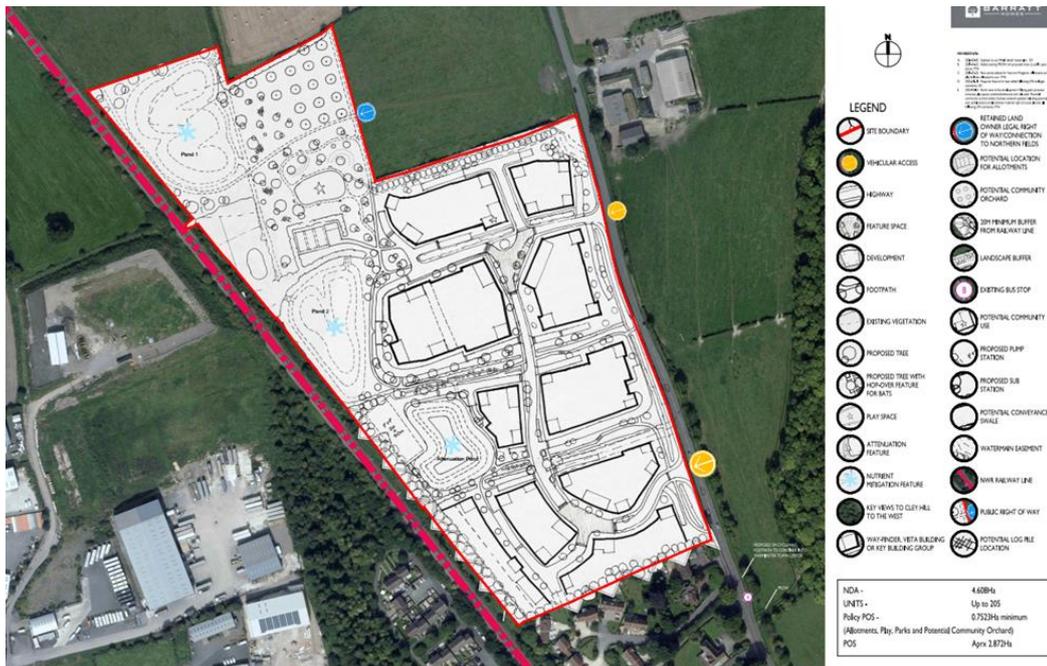
Extract from plan P19-2831 SK/13Rev B showing the proposed access points and part of the proposed off site junction improvements

Off-site road improvements are also proposed as shown in the two snipped images below. The off-site works propose ghost islands, central islands and new shared footway/cycleway paths on the eastern side of Westbury Road to the south of the application site, and would also be subject to a separate 's278 application'. The works extend down to, and include, the junction with Elm Hill, Cophead Lane and Portway.



Extracts from plan P19-2831 SK/13Rev B showing the proposed off-site highways works

The application includes an illustrative masterplan which is shown in the snip image below. The yellow circles show the location of the two proposed vehicular accesses.



Illustrative Proposed Site Layout

The masterplan shows that the built form is to be on the southern and eastern parts of the site and adjacent to Westbury Road, wholly within Flood Zone 1 and set back from the railway line.

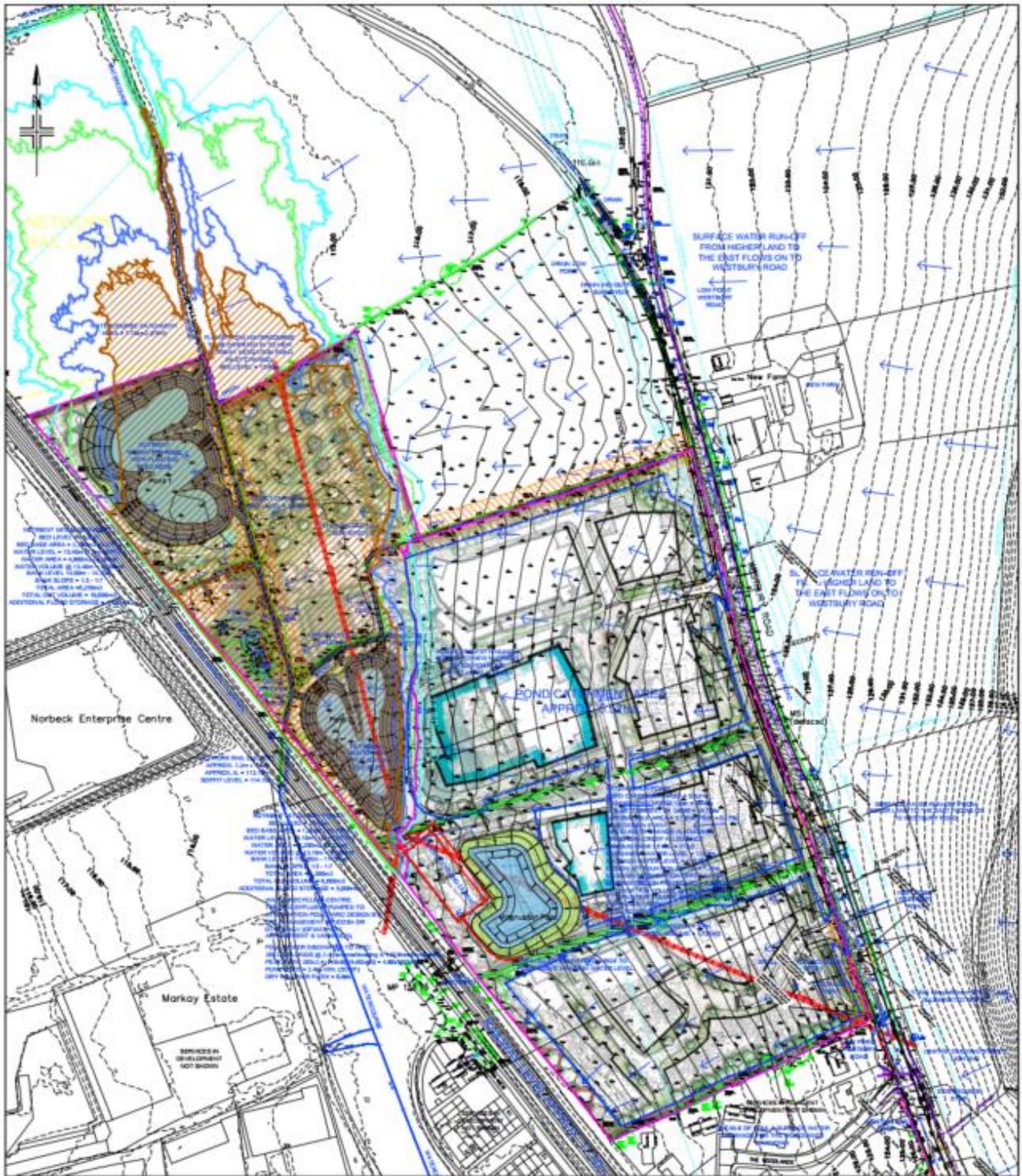
Each development block would have small landscape strips around them, and toward the western and north-western part of the site it is proposed that a flexible community building would be provided. A substantial green buffer is to be incorporated at the northern most part of the site, thus creating a more graduated transition to the countryside where currently there is a fairly hard urban edge. This would also allow additional habitat creation and would soften distant views of Warminster from the village of Upton Scudamore.

The application has been delayed in view of highways negotiations (for the access and off-site work details) and initial objections from Natural England on phosphorus impacts on the River Avon, which has led to the applicant submitting a 'Phosphorous Neutrality Report (revision 3)'. The Report sets out how phosphates generated by the development would be captured and processed on site before treated water is then released into the watercourses. This process includes a 'Water Recycling Centre' and two ponds adjacent to the western boundary which would be "nutrient mitigation ponds with floating reed beds".

Sewage pipes would take all foul water from the development into the recycling centre prior to discharge in 'Pond 2'. As explained in in the Report

"The key updated information presented in this report includes the introduction of an on-site Water Recycling Centre (WwRC) to treat the foul water generated by the Proposed Development prior to discharge into Pond 2 with the floating treatment wetland for tertiary treatment alongside treatment of surface water. Pond 2 has been moved and modified to facilitate treatment of foul and surface water. The treatment of the foul water generated by the Proposed Development at the WwRC will also mean that none of the proposed foul water will be treated at Warminster Waste Water Treatment Works (WWTW). Furthermore, this change in approach focuses treatment on the foul and surface water generated on site, with Pond 1 (which continues to treat water from the unnamed

watercourse) providing an extra buffer to ensure that the Proposed Development is nutrient neutral.”



Drainage Strategy plan – showing Water Recycling Centre, on-site Ponds and wetlands

The recycling centre would require regular maintenance and would also be a self-monitoring system.

A further attenuation pond to deal with surface water is proposed near the south-western corner where ground levels are lowest. In the Neutrality Report paragraph 4.41 states;

“Prior to discharge from the Site, the surface water run-off from the Proposed Development will be collected and pass through, as a minimum, the attenuation pond which has been designed to provide storage of, and some treatment, including sedimentation and removal of total suspended solids, from the proposed residential development’s surface water run-off before the water flows to Pond 2 and the floating treatment wetland for removal of Total Phosphorus.”

As part of the Phosphorous Neutrality Report, the applicant has had to submit details of phosphorus calculations. In order to provide more certainty of the calculations the applicant has proposed a phased approach to the proposed development with ‘Phase 2’ dependant on the monitored performance of the two floating wetlands and because the proposed Water Recycling Centre would not reach maximum efficiency until the new houses are actively discharging into it. Therefore, the calculations are based on ‘Phase 1’ comprising 165 dwellings and then - following data collection and monitoring of the phosphorus removal performance, and evidencing that the mitigation works - ‘Phase 2’ for the remaining dwellings.

For the avoidance of doubt the water recycling centre/treatment plant would need a Permit from the Environment Agency (EA) and one pond would also need a water abstraction licence. Both of these are separate legislative processes (with the EA) and so are not planning reasons to object to the development.

It is also important to note that this is an outline application for ‘up to’ 205 dwellings. The reserved matters application(s) could come in for 205 dwellings or less depending on layout and design considerations. Furthermore, it could transpire that the developer may only be able to secure a licence from the EA for ‘x’ number of dwellings, which would then influence the reserved matters application(s). The applicant has confirmed agreement to a clause in the s106 to secure the phased approach to the development with no more than 165 dwellings in the first phase, and the remainder subject to the evidence and monitoring.

The application also seeks to stop public right of way WARM18 that passes over the railway line and divert it across the site and onto Westbury Road, where it would link with WARM16 (which has a bridge over the train line). However, this would also require a separate application process under highways legislation outside the remit of this planning application. Should the separate application to divert the footpath not be successful then the footpath route and its crossing over the railway line would remain, would be improved, and would be incorporated into the reserved matters application(s). This can be addressed by planning condition.

It is the applicant’s intention that following the determination of the application by the Strategic Committee (and the completion of the s106 process, as relevant) for these two separate application processes for an EA Permit and for the footpath diversion to be started, in order for them to be completed alongside or in advance of submitting the reserved matters application(s).

6. Planning Policy

National Context:

National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG)

Local Context:

Wiltshire Core Strategy (WCS) adopted 2015;

CP1 - Settlement Strategy;

CP2 - Delivery Strategy;

CP3 - Infrastructure Requirements;

CP31 - Spatial Strategy for the Warminster Community Area;

CP43 - Providing affordable Homes;

CP45 - Meeting Wiltshire's Housing Needs;
CP50 - Biodiversity and Geodiversity;
CP51 – Landscape;
CP52 - Green Infrastructure;
CP55 - Air Quality;
CP57 - Ensuring High Quality Design and Place Shaping;
CP58 - Ensuring the Conservation of the Historic Environment;
CP60 - Sustainable Transport;
CP61 - Transport and Development;
CP62 - Development Impacts on the Transport network;
CP64 - Demand Management;
CP67 - Flood Risk
CP68: Water Resources

West Wiltshire District Plan 1st Alteration (2004) 'saved policies'

C3 - Special Landscape Areas;
C40 - Tree Planting; R12 – Allotments;
U1a - Foul Water Disposal;
I2 - The Arts
I3 - Access for Everyone

Wiltshire Landscape Character Assessment 'Greensand Terrace A6'

West Wiltshire Character Assessment 'G3 Upton Scudamore Greensand Terrace'

West Wiltshire Leisure and Recreation DPD (adopted January 2009)

LP4 Providing recreation facilities in new developments;
LP5 New Sport and recreation facilities;
CR1 Footpaths and Rights of Way;
CR3 Greenspace Network;
GM2 Management and maintenance of new or enhanced open space;
YP1 Children's play areas
YP2 Provision for teenagers

Wiltshire Housing Site Allocations Plan (Adopted February 2020)

Wiltshire and Swindon Waste Core Strategy 2006-2026

WCS5: The Wiltshire and Swindon Waste Hierarchy and Sustainable waste Management
WCS6: Waste Reduction and Auditing

Warminster Neighbourhood Plan (November 2016)

Policy L1 – Design
Policy E2 – New Leisure Facilities
Policy E5 – Surrounding Environment
Policy GA4 – Rights of Way

Emerging Wiltshire Local Plan Review (Regulation 18 consultation undertaken, draft submission pending)

Wiltshire Council's adopted Car Parking Strategy

7. Consultations

Warminster Town Council: Objection.

Principle of development -

- The proposed development is contrary to national and local planning policy by being outside the Settlement Policy Boundary. The proposed development is also not in-keeping with the stylistic context or scale of the local area.
- This development should not be permitted on land outside the Policy Settlement Boundary, as other land is available and allocated for housing in the area. Allowing it would create a dangerous precedent.
- The application does not comply with paragraphs 77, 109, 110, 111, 117, 127, 130, 131, 137, 150, 170, 175, 177 and 180 of the NPPF.

Design –

- The layout and density of the proposed development is inappropriate.
- The type of housing proposed will not satisfy local housing needs. The ‘affordable housing’ proposed is beyond the reach of those in housing need.

Highways –

- The development will cause traffic problems such as traffic generation, access and safety problems. There is a significant safety issue with regards to the entrance and exit to the development. The plan shows a straight road whereas in reality there is a blind bend, thus vehicles would be in danger of collision upon exit and causing a hazard when turning into the development.
- This development would also increase cross town traffic due to the need of access to services that sit on the opposite side of town, bringing gridlock to the already congested town centre.
- There is a protected verge that would be adversely affected by the development.

Ecology –

- There is great biodiversity in this area and protected species which would be adversely affected by the development.
- The development will increase phosphate levels and associated problems, particularly having an adverse impact on local rivers.

Landscape –

- The proposed development will adversely affect the vista of and from the hills which are a key cultural and heritage feature of Warminster.

Drainage –

- The proposed development will have a negative impact on the amenity of other residents by increasing the risk of flooding elsewhere in the town.
- The proposed development falls within flood zone 2 & 3. There will be a loss of water courses leading to increased flooding across Warminster, where the sewerage system currently struggles to cope. Wessex Water have already reported that there is a significant rise in water levels in the area. The recreational areas mentioned within the proposal are situated in the zone 3 areas. This would render them boggy and unusable at regular intervals.

Upton Scudamore Parish Council: Objection.

Principle of development -

- This site is contrary to national and local planning policy as it is outside the Settlement Policy boundary. Other land is available and allocated for housing so there is no need for this development and allowing it would set a dangerous precedent and make it harder to stop similar proposals.

- This site ignores the Warminster Neighbourhood Plan updated and endorsed by the local community in Warminster in 2021. Although this Plan shows a need to increase the land for housing by 2036 the shortfall is only 60 dwellings and the proposed development is for 205 houses.
- This is a greenfield site – it is agricultural land which has been farmed for centuries. Planning guidelines stipulate that such sites should only be used to meet local housing need if there are no available brownfield sites. The proposed development would not meet local needs as the Affordable Housing element is beyond the reach of those in the area in housing need. In addition, there are ample brownfield sites within the town itself to meet the requirement for additional homes.

Landscape –

- The development sets a dangerous precedent for further expansion threatening the integrity and identity of the village of Upton Scudamore with the importance of visual separation between Warminster and Upton Scudamore being included in the Wiltshire Local Plan 2020. It is overdevelopment both in terms of line of sight to Upton Scudamore and its place in the landscape. It is also out of character with the area which is much less densely populated and it will have a significant impact on the local landscape.
- The development will increase light pollution in an area which currently has relatively dark skies. Warminster being on the edge of the Cranbourne Chase AONB International Dark Sky Reserve.

Ecology –

- The site is important for its biodiversity with protected species which would be threatened. In addition, it falls within flood zone 2 and 3 which should not normally be used for housing.

Drainage –

- Development in this area also increases the risk of flooding for other residents. With the increase in extreme and wetter weather this raises further concerns.

Highways –

- The site will bring increased traffic to an already congested town centre which, at times, is already gridlocked. It will put further strain on local infrastructure e.g., schools, single GP surgery, dentistry, which residents of Upton Scudamore require access to.

Wiltshire Council Spatial Planning: General comments

The proposal is in conflict with WCS policies CP1, CP2 and CP31. Additionally, we have during the course of site assessment for the local plan looked at sequential testing for site. When looking at the pool of sites we have applied an area based strategy and worked on a place based assessment. The site has performed well against all reasonable alternatives at the town.

Wiltshire Council Highways Officer: No objection subject to s106 and conditions

Highways England: No objection

Having reviewed the revised/additional documents submitted, we are satisfied that there is no change to the proposed quantum of development for which an assessment of traffic impact has already been provided by the applicant, and reviewed by us in terms of the A36 trunk road. We therefore remain satisfied that our formal recommendation of no objections dated 9 December 2021 remains appropriate and we have no further comments.

Wiltshire Council Housing Officer: No objection subject to s106.

An on-site affordable housing provision of 30% will be sought in this location. As this site is proposing up to 205 new homes, the on-site affordable housing requirement will be for 62 affordable homes (the applicant is proposing 61 affordable homes). From this we will require a tenure split of 60% affordable rented homes and 40% shared ownership homes. Therefore, we would seek 37 homes for affordable rent and 25 homes as shared ownership dwellings.

Wiltshire Council Public Rights of Way (PRoW) Officer: No objection (following the consultation response from Highways)

Wiltshire Council Landscape Officer: No objection subject to conditions

Cranborne Chase AONB approximately 2.7km to the southwest and Norridge Wood Ancient Woodland approximately 950m to the west.

The site is not within a designated landscape however Salisbury Plain SLA lies immediately to the north of Westbury Road. Here the ground rises steeply to Arn Hill Down, a dramatic, rounded hill to the north of Warminster. It is the northern most hill of a chain of chalk hills around the east of Warminster, which forms the edge of Salisbury Plain and sweeps around to form the scarp backdrop to Westbury with its White Horse.

The site was considered in the Landscape Appraisal of Potential Sites (2020) for the Local Plan Review (LPR). The boundary for the review included land to the north of Westbury Road around New Farm that forms the lower slopes of Arn Hill. While it was considered that land to the south of Westbury Road could accommodate some development with mitigation the LPR would not uncouple the land to the north of Westbury Road, so the site was rejected.

The site comprises a series of small to medium size fields predominantly bound by low, often gappy hedgerows. The site forms part of an expansive, generally low-lying, open landscape that extends north of Warminster, at the foot of the chalk hills and escarpment of Salisbury Plain. The wooded slopes of Arn Hill Down form the eastern setting of the site. The west site boundary is formed in part by the Great Western Railway, which is bound by a low embankment with scattered shrubs and trees. The north site boundary to the A350 is also formed of a low, grass embankment with scattered trees and shrubs. The short southern boundary is comprised of residential properties with hedgerow boundaries containing occasional trees and forms a relatively well integrated settlement edge and soft transition from the countryside to the suburbs of Warminster.

Warminster is generally well integrated by surrounding vegetation, within the lower-lying valley of the River Wylye. More recently, Warminster has begun to expand to the west (WUE) from the town centre, although remains largely located on lower-lying landform. Settlement to the north of the site comprises the small, nucleated village of Upton Scudamore on a low hill to the north of the site and scattered small farmsteads and cottages. The site contributes to rural sense of separation between Warminster and outlying settlement of Upton Scudamore. The site has a strong rural character, with some localised intrusion from traffic along the A350 to the north of the site.

Arn Hill Down is one of a series of dramatic chalk hills around Warminster, from which there are wide-ranging, expansive views across the landscape north of Warminster, in which the site is located. The site contributes to the distinctive transition from the well-integrated, treed settlement edge to the open, large-scale rural landscape that extends north towards Westbury and around the edge of Salisbury Plain. It lies within an identifiable, open, chalk landscape that contains distinctive local features of value. The site contributes to the separation between the town and outlying rural village of Upton Scudamore. The features of the site are in generally moderate condition and the surrounding landscape provides a good sense of place and scenic quality, particularly considering rural intervisibility between the distinctive hills.

The LPR site assessment included the lower slopes of Arn Hill. However, the current proposals are confined to the lower ground that relates to the town and therefore provides more opportunity for integration through landscape mitigation. It is recognised that there is potential for the development to form a hard, prominent settlement edge in the open landscape and stand out in expansive views from the surrounding hills; and for the development to contribute to coalescence of Warminster with outlying rural settlement including Upton Scudamore.

If you are minded to approve the application further detailed landscape plans will be required at the Reserved Matters application stage where detailed landscape mitigation can be addressed including the following:

- Limit the height, scale and density of development to ensure that it does not break treed skylines or form prominent settlement edges or conspicuous settlement expansion in views to and from the surrounding hills;*
- Establish a substantial and appropriate landscape buffer through the north of the site, to maintain the sense of separation and separate identity between Warminster and Upton Scudamore;*
- Retain and enhance shrubs, trees and hedgerows as part of a mature landscape framework that contributes to landscape buffers to development and maintains the integrated settlement edge character.*
- Seek opportunities to establish new, small-scale woodland planting through the development to break up massing of development and contribute to the treed settlement character, with green links through the landscape to adjoining woodland;*
- Seek opportunities to create biodiverse, accessible and connected greenspaces throughout the development that conserve and augment existing vegetation and public rights of way as part of the landscape strategy for the site, in order to contribute to placemaking quality, to appropriately integrate existing landscape features within development and to provide effective landscape transitions between urban settlement edges and the surrounding dramatic countryside;*
- Seek opportunities to enhance the sense of place through use of appropriate building materials and housing densities in respect of new development.*

Wiltshire Council Conservation Officer: No objection

No designated or non-designated built heritage assets will be affected by the proposed development and there is no objection from this point of view.

Wiltshire Council Public Open Space Officer: No objection subject to s106 contribution to Public Open Space (POS) onsite requirements being met as follows:

POS – 7523.09m²

Equipped Play – 362.85m²

Sports - 4838.00m²

Wiltshire Council Ecology Officer: No objection subject to condition/s106

Natural England: No objection subject to condition

We have received the following revised phosphorus reports and budgets for the aforementioned proposals from the applicant:

- New Farm Warminster Phosphorus Neutrality Report 260523 (Revision 5)*
- Appendix 3 – Avon_Nutrient_Budget_Calculator 120922*
- Appendix 3 – P loading with WRC and FTW 230523*

- Appendix 8 – P loading with WRC and FTW 250523 165 dwellings

On this basis Natural England is satisfied that the scheme can achieve phosphorus neutrality for the phase 1 (165 units).

The remainder of the scheme should, however, only proceed once your Authority has received adequate monitoring data from the floating wetlands to demonstrate they are achieving the sufficient phosphorus reductions to offset the additional phosphorus budget for the remainder of the scheme.

Should the monitoring data not come forward then the land earmarked for Phase 2 should be secured as additional greenspace. In such an event we would recommend that any permission required the conversion to greenspace of the Phase 2 land within 5 years of completion of Phase 1.

Interim Drainage Solution for up to 20-30 dwellings (Before the WwRC is Fully operational). Provided the measure is appropriately secured Natural England has no objection to the proposal for tanking out foul water from the first 20-30 units to the Westbury WWTWs.

Wiltshire Council Urban Design Officer: Holding objection

“The Concept and DAS show a good understanding of basic urban design principles. It appears, in my view, a legible, landscape-led concept, with coherent, efficient urban form nestled within a strong GI framework.

There is a simple, legible strategy for Access/movement and with good balance of permeability of both streets and pedestrian routes.

My main criticism of the application is that The Framework Plan only appears to demonstrate how a maximum of up to about 184 homes might fit.”

Wiltshire Council Archaeology Officer: No objection subject to condition.

Wiltshire Council Public Protection Officer: No objection subject to condition (acoustic report)

The Phase 1&2 Site Investigations undertaken by Clarkebond on behalf of Barratt Homes are sufficiently detailed, and follow current guidance. This study concludes that there are no risks to human health, plants or groundwater on the site, and no remedial action needed. So, we have no further comments regarding contaminated land.

Wiltshire Council Drainage Officer: No objection subject to conditions.

The application has been supported with a Site-Specific Flood Risk Assessment (FRA).

The drainage team have reviewed the revised information provided. We thank the applicant for providing additional information which has demonstrated that flows will be restricted in accordance with the Council’s betterment policy for greenfield sites, and now agree with the proposed discharge rates.

Environment Agency: No objection subject to conditions

Wiltshire Council Education Officer: No objection subject to s106 contribution.

Wiltshire Council Waste Management Officer: No objection subject to s106 contribution and conditions.

Historic England: No comments to make

Wessex Water: No objection.

Sports England: No objection.

Network Rail: Support subject to condition

In order that the crossing is closed prior to any occupation of the proposed development a suitably worded condition should be added....

Suggested condition 1;

i) No development shall commence until a diversion order of the existing footpath (WARM18) under section 257 of the Town and Country Planning Act 1990 to prevent any public access to the railway level crossing (including the erection of signage and fencing prohibiting such access) has been made and confirmed by the local planning authority or the Secretary of State.

ii) No dwelling hereby permitted shall be occupied until:

- the railway level crossing has been closed; and*
- in the context of i) above, an alternative route (temporary or otherwise) is made available to the written satisfaction of the Local Planning Authority.*

The agreed diverted route shall be provided in full to adoptable standard and to the written satisfaction of the Local Planning Authority prior to the final occupation of the last dwelling hereby approved. In the event that the diversion order is not confirmed, the Railway Bridge Contribution shall become payable pursuant to the Section 106 Agreement. or;

Suggested condition 2:

Using proposed condition 20 from application 15/04736/OUT

Prior to the commencement of development of any residential units in any Phase or Sub-Phase of the development an application for the stopping up and/or diversion of public rights of way WARM18 shall be submitted to Wiltshire Council. Following which no residential development within any Phase or Sub-Phase crossed by these rights of way shall commence unless either:

i) A footpath diversion and stopping up order that incorporates the stopping up of the existing footpath route across the railway at level has been made and confirmed by the local planning authority or the Secretary of State, or

ii) the Secretary of State, upon consideration of a stopping up order made by the local planning authority as aforementioned in (i) above does not confirm the order.

Upon any confirmed diversion and stopping up order coming into force, the new footpath route shall be fully completed prior to the occupation of units within any Phase or Sub-Phase crossed by public rights of way WARM18.

REASON: To ensure the continued safe operation of the rights of way network.

INFORMATIVE: Network Rail will provide the developer with all the appropriate information to ensure railway safety issues concerning the railway level crossing are fully considered before a decision on the stopping up or diversion of the public rights of way WARM18 is taken by the local planning authority or Secretary of State.

Sailsbury and Wilton Swifts: No objection subject to condition.

Police Architectural Liaison Officer: No objection but subject to further consideration of detail in the reserved matters application

8. Publicity and subsequent representations

The application was advertised by:

- press notice,
- site notice,
- publication to the Council's website,
- posted neighbour notifications, and
- notification to interested local organisations and parties.

66 letters of objection were received on the application plans. This is a summary and does not purport to be a full recitation of all comments made. The comments made are summarised as follows:

- not appropriate development in a rural location beyond settlement boundaries;
- flooding risk;
- no need established;
- conflicts with NPPF;
- increased noise and light pollution;
- loss of best and most versatile farmland;
- climate effects;
- increased traffic causing danger to road users;
- biodiversity losses;
- infrastructure will not cope;
- contrary to neighbourhood plan;
- nutrient neutrality;
- too high a density of housing;
- landscape and visual effects;
- effects on ProWs;
- urban sprawl;
- SCI is flawed;
- Object to the offsite works including the cycle path;
- Offsite works make no provision for the signs that would need to be re-installed;
- Offsite works would not respect the landscape character of Warminster;
- Proposing a cycle crossing on a blind bend at the bottom of Elm Hill is dangerous;
- Proposed cycle lane would be on a 'protected verge'.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle of the Development

9.1.1 Wiltshire Core Strategy 'Spatial Strategy'

The Wiltshire Core Strategy (WCS) sets out a ‘Settlement Strategy’ and ‘Delivery Strategy’ for development across the County. WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – ‘Principal Settlements’, ‘Market Towns’, ‘Local Service Centres’, and ‘Large and Small Villages’. Within the Settlement Strategy, Warminster is defined as a market town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Warminster – and further states that housing should not be permitted outside the limits except in the few circumstances explained at paragraph 4.25, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. The Council adopted the Wiltshire Housing Sites Allocation Plan (WHSAP) in February 2020 and it allocates 3 sites for new development at Warminster (Bore Hill Farm, Boreham Road and Barthers Farm Nurseries in Chapmanslade).

WCS Core Policy 31 sets out the Council’s sustainable plan-led approach to delivering development that responds to and reflects economic, social and environmental needs for the Warminster Community Area. Paragraph 5.157 of the WCS states that the strategy for the Warminster Community Area “*is to increase the level of employment, along with residential development, as part of sustainable growth. It will deliver, within the overall objective of conserving the designated landscape, a modest and sustainable level of development.*”

The Warminster Neighbourhood Plan (WHP) was ‘made’ in 2016. It sets out principles for new housing and good design (Policy L1); it, however, relies on the WCS and WHSAP to define the settlement boundary and make allocations for new development.

This application site is not allocated in either the WCS or the WHSAP (nor the WNP). Therefore, as the site lies outside of the limits of development and none of the exception policies apply, the proposal does not accord with the WCS Core Policies CP1, CP2 and CP31, and the general principles set out in the Neighbourhood Plan.

9.1.2 Housing Land Supply and the ‘tilted balance’

The Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land, and this is a significant material consideration. According to the most up to date Housing Land Supply Statement (dated April May 2023 (base date: April 2022)), the number of years deliverable supply is 4.6 years (since ‘agreed’ to be 4.59 yrs following a more recent appeal decision). This means that the ‘tilted balance’ flowing from paragraph 11d)ii of the National Planning Policy Framework(NPPF) is engaged; it says the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (*... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole*) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the development in terms of it delivering housing – that planning permission should be granted. The other ‘non-impacts’ of the development are discussed later in the report.

In a recent allowed appeal decision relating to a proposal for 200 dwellings in countryside on the edge of Devizes the Inspector considered the housing land supply position, and concluded as follows (with emphasis added) –

“The proposal would help boost the Council’s supply of deliverable housing sites through a mix of market units next to a second-tier settlement that offers accessible facilities and services. The proposed units could be delivered in the short term, and they would help address the persistent shortfall of housing in Wiltshire when there is not a plan-led mechanism to address this until the DPD is potentially adopted. Against this backdrop, I do not consider the shortfall to be modest, regardless of the number of permissions which the Council have granted and the Council’s performance on the Housing Delivery Test. The extent of the shortfall has largely been flat in recent times despite the Council’s briefing notes. I therefore attach substantial weight to this social benefit in the context of the Framework’s aim to significantly boost the supply of housing.”

In another recent (July 2023) allowed appeal relating to a site in the countryside on the edge of Holt for up to 90 dwellings (ref. PL/2022/03315), the Inspector said the following –

“When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council’s position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future.”

There have been 26 appeals since 2019 where 5 year land supply has been a principal material consideration. 19 of the appeals have been allowed, with 12 of 15 allowed in the last 16 months. Those few appeals that were dismissed had, in the main, other technical objections which tipped the balance the other way (for example, ecology, highway safety, loss of a country park, etc.). There are no technical objections relating to this application.

In order to address the shortfall the Council has issued two briefing notes, in September 2020 and April 2022. The April 2022 note is appended to this Committee report. In section 6 – *What can we do to restore a five-year housing land supply?* – the note states that the Council will:

iii) Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.

In the Holt appeal decision the Inspector stated the following in relation to this Briefing Note –

"I afford significant weight to this Briefing Note, as it is a realistic attempt to address the shortfall and, as such, I also attach significant weight to this stated intention in paragraph 6.1. To my mind, this case falls under this intention, for although I found harm to the character and appearance of the area, that harm was primarily due to the effects of placing a housing estate on a field and so commonly arises when the site is outside a settlement. As such, while that is a policy objection I do not consider it to be a major one.

Overall, I attach significant weight to the content of the Framework in relation to the need for a 5-year supply and the consequences that flow from failing to identify that quantity of housing land. I also attach significant weight to the delivery of 90 dwellings, as it would make an appreciable contribution to addressing a shortfall of this size".

9.1.4 Principle of development – conclusion

The Council does not currently have a 5-year supply of housing, and accordingly WCS Core Policies CP1, CP2 and CP31 cannot be given full weight. In the context of a lack of any detailed objections from statutory consultees, the NPPF 'tilted balance' favours the application as "any adverse impacts of granting permission" cannot demonstrably outweigh the benefits, the main benefit being the supply of housing, including up to 62 affordable units.

Notwithstanding the site's location in 'countryside', it is considered to be reasonably sustainable being adjacent to the existing edge of the town. Whilst there would be some undoubted change to the landscape at and around the site, it is not considered that there would be sufficient 'harm' arising from this to warrant a refusal decision under WCS Core Policy 51 (Landscape).

There are no other 'policy obstacles' (as highways, drainage, phosphates and ecology issues are all satisfactorily addressed in the application).

Regarding the relevance of the Warminster Neighbourhood Plan (NP), paragraph 14 of the NPPF provides guidance, stating the following –

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made:

The Warminster NP was made in 2016 meaning that it became part of the development plan more than two years ago. It follows that in accordance with paragraph 14, the policies of the WNP cannot significantly and demonstrably outweigh the benefits of the proposed development in supplying housing. And in any event, as the WNP relies on the WCS housing delivery policies which are now out of date in the context of the NPPF, little weight can be given to it anyway.

9.2 Access and Highway Impact

The application is accompanied by a Transport Assessment which addresses the impact of the proposal on the adjoining highway network. This shows that there will not be an unacceptable impact in highways safety terms. The Council's Highways Officer agrees with these conclusions. The proposed site access complies with current standards. In view of this, there is no highway safety objection to the application.

The Highways Officer has, however, engaged with the applicant to ensure the proposal satisfies all reasonable safety and sustainable development requirements. The comments of the Highways Officer are produced below;

Walking and Cycling –

The site is currently afforded direct access across the railway line that segregates the site from employment opportunities to the west and alternative quiet and possible dedicated active travel route to the town centre and education facilities. However, this direct access, following Public Rights of Way WARM18, is served by a level crossing which would receive an intensification of use from the development and thus Network Rail are concerned that this presents a significant safety issue. The Highway Authority do not disagree with this position, but seek opportunities to retain the PROW in situ, avoiding intensification or indeed enhancement and this will be subject to a condition. With specific regard to avoiding intensification, this may be achieved by re-routing the PROW towards the eastern boundary of the site and provide secure fencing to private properties to avoid development access to the route. This retention would meet the aims of Wiltshire Council's Public Rights of Way team but would not aid the wider accessibility demands of the site and this would only be maximised by enhancement of the route; notwithstanding this, the potential deleterious impact on the Public Rights of Way network would be mitigated.

With regards to route enhancement, this would be in the form of a new railway bridge that would directly link the site to routes on to the western side of the railway line, providing traffic free routes to local employment opportunities and the northern areas of the town. However, as established through previous comments, the cost of the bridge is not considered economically viable for delivery by the development at the proposed scale and is hence not directly attributed to the site.

....

In addition to WARM 18, alternative means to cross the railway line is provided by PROW WARM 16, however this route is narrow, overgrown, unlit and not overlooked. With the absence of access to WARM 18, in order to improve the attractiveness of the alternative route an obligation has been agreed to provide a contribution for the upgrade of surfacing, lighting and improvements to the existing railway bridge to facilitate improved cycle access – this is in the form of specialised cycle ramps to allow dismounted cyclists to push their bikes up/down the existing stepped provision. Improved access and attractiveness of WARM 16 is necessary to offset the relatively inhospitable pedestrian access along Westbury Road, which is subject of relatively high traffic flows being a key commuter route into and out of the town.

With specific regards to cycling, the applicant has proposed a new route provided on the northern side of Westbury Road, which will facilitate a walking/cycling route to bus stops and a cycle priority scheme thereafter. This route is located within an ecologically protected verge, and this is a matter of consideration for Ecology rather than highways. The delivery of this scheme is covered by an obligation, which further considers possible timely local interventions as a result of the Warminster Urban Extension scheme located between Bath Road and Victoria Road; the obligation sets out a contribution towards the delivery of additional crossing facilities required as a result of the delivery of the Urban Extension Scheme – the contribution dictates the need for an obligation rather than condition. Given the cycle priority of this scheme and the segregation from traffic, the route provides a quick and attractive designated cycle route along Westbury Road; cyclists are less affected by heavy traffic flows, when segregated, due to higher comparable speeds – the cycle route does not present an attractive route for pedestrians.

With regards to 3rd party representations the 'detailed design' for the scheme at S278 stage will need to take account of local constraints and this will include existing access points. I do not believe that the delivery of the cycleway will result in a 0.6m level differential between the cycleway and an access into an adjoining field.

Bus Service Accessibility –

The local bus service serving bus stops closest to the development site is the D1, which is funded by Wiltshire Council with commercial status not guaranteed. It is recognised within the Travel Plan that there is a target to increase the bus modal share from 2% to 3% and such a shift would aid the commerciality of the service, but not guarantee its existence far into the future nor support enhanced frequency or increased destination choice that would enhance the sites sustainability. In order to address this, two obligations are necessary, 1) to secure the intended modal share through soft travel planning measures and 2) to secure direct funding. In order to enshrine this in the travel patterns associated with the development, the Travel Plan suggests the potential to fund the provision of a 3-month local area bus freedom ticket and in this regard, due to the financial implications of the Travel Plan, Travel Plan delivery is secured by obligation, rather than condition.

In order to determine an appropriate level of bus service contribution, it is acknowledged that the D1 service has the potential to be re-routed to Bath Road to serve the larger Urban Extension site, however this would remove bus accessibility from Westbury Road. In order to address this, duplicate enhanced services will be needed to serve the development site and the Urban Extension and contributions for the development site have been calculated proportionate to those already secured from the Urban Extension Site.

Calculation:

Urban Extension Contribution = £990,000

Contribution per Dwelling = £990,000/1000 = £990 per dwelling

Gross Development Contribution = 205 x £990 = £202,950

Net Development Contribution = £202,950 - £40,000 = £162,950

Note: The Net Contribution is reduced by the value of £40,000 to account for committed Bus Shelter and infrastructure works as part of the Westbury Road Cycle Scheme works obligated above.

The spend of the Public Transport related Condition will be secured against public and strategic transport measures and provisions. The focus of spend will be upon the retention and enhancement of existing bus service provision, however additional infrastructure may be necessary to enhance or re-route existing services, such as additional bus stops to maximise service coverage, and hence the resultant obligation will provide for a contribution towards Transport Service and Infrastructure provision, with a primary focus to secure, enhance and retain public transport service provision to directly serve the site.

Rail Accessibility –

The TA confirms that the railway station is located 2km from the site. Whilst this may be considered an excessive distance, it may represent a small step in a much longer strategic journey. One particular downside of the rail station is that it does not provide for a level disability access and whilst this may be addressed by development funding, both the scale of the development and likely patronage would make the necessary sizeable contribution unreasonable.

Electric Vehicle Charging –

The TA illustrates the location of EV charging within Warminster, with the nearest provision being 900m away from the site. However, as per recent building regulation changes, EV charging will be required of each new dwelling with an associated parking space. In order to ensure that this is delivered, a condition will be applied to secure details of the EV charging strategy and whilst this will address charging at each dwelling, it is recognised that this typically represents trickle charging and hence the strategy should also include provision for a communal rapid charge point.

Personal Injury Accident Data –

No concerns are raised with regards to the PIA data and the Highway Authority agree with the findings of the Transport Assessment.

Vehicular Access Arrangement –

Whilst the broad principle of the access designs is agreed, these will need to be subject of full technical approval subject to a Section 278 agreement. The technical approval may alter minor aspects of the access designs, which may present a material consideration and hence the submission of full construction details is required as a planning condition.

In order to deliver the access arrangements as proposed and improve the local environment for residential development, it is necessary to seek the reduction of the existing speed limit to 40MPH across the site frontage. In order to achieve this, a Traffic Regulation Order shall be applied for by Wiltshire Council, with funding secured via a TRO funding obligation. In addition to the speed limit reduction, regulations will also need to be complied with to deliver the proposed Toucan Crossing and these, along with the speed limit reduction, will be rolled up into the following financial contribution obligation:

TRO Funding Obligation –

The provision of a financial contribution of £7,000 towards a Traffic Regulation Order for the relocation of the 40mph/50mph speed limit to the north of the site. This would cover the consultation also needed for the Toucan Crossing.

Conclusion –

With full compliance of the proposed conditions and obligations laid out above, the Highway Authority raise no objections to the proposed development.

9.3 Landscape Impact

Core Policy 51 states that:

“Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. This advice is echoed in paragraph 174 of the NPPF.”

Core Policy 57 states that:

“New development must relate positively to its landscape setting and the existing pattern of development by responding to local topography to ensure that important views into, within and out of the site are to be retained and enhanced. Development is required to effectively integrate into its setting and to justify and mitigate against any losses that may occur through the development.”

The application site is “*part of an expansive, generally low-lying, open landscape that extends north of Warminster*” as seen in the ‘Street View’ image, below. The yellow arrow shows approximately from where the image was taken from looking south into the town. Existing landscaping is reasonably effective in screening the long-range view of the northern urban edge of Warminster. The image also shows that the northern half of the application site (that will accommodate housing development) will be on a visible downward slope.



However, the application site boundary with Westbury Road is characterised by a low hedge that sits atop a raised verge over the road. The existing urban edge of Warminster (no. 27 Westbury Road and 'the Woodlands' cul-de-sac) and the railway line are also clearly visible and identifiable from this (yellow arrow) location in contrast to the longer range views. The Warminster business park lies further to the west, where a narrow woodland separates it from the railway line and the dwellings on Arn View and Chalfield Close, but does not completely screen it, as seen in the image below.



The southern half of the site is reasonably well enclosed within Westbury Road, the existing urban edge of Warminster, the railway line and the business park. The hedge (on the right of the above image) runs from the road down to the railway line but is also on a ridge to which the application site then also slopes down to the north (as well as to the west and to the railway line). In this southern section of the application site, these natural and physical features would help limit the 'vertical' impact of the proposed development.





The northern half of the proposed residential part of the site is more sensitive as the views start to expand over the open countryside towards Upton Scudamore (as seen on the two images above), but as explained by the Landscape Officer, the reserved matters applications would provide actual detail of scale and landscaping, and so manage the impact of the development.

The main impact on the landscape would be experienced from Westbury Road and within the application site across WARM18. It is acknowledged that the introduction of a housing development would be evident when passing in either direction along Westbury Road, and that from such points of view would result in the built up area of the town expanding at the expense of the presently open fields. The development would also affect western views from Westbury Road, towards Norridge Wood and Cley Hill. The same changes would be experienced from the existing WARM18 public right of way looking towards Arn Hill.

However, users of WARM18 would still pass through those open parts of the site that are needed for drainage reasons and which would largely remain open and of rural character.

The impact on the wider landscape setting is either limited or can at least be mitigated in the reserved matters application(s).

The Council's Landscape Officer has raised no objections to the proposal, agreeing with the conclusions of the Landscape and Visual Impact Assessment (LVIA) which state:

".... the proposed development would result in a major/moderate effect on the open arable and pasture fields landscape receptor, as the proposed development would introduce new homes to an area of open fields, albeit that the character of these fields is already partly influenced by the existing settlement edge to the west and south and by transport routes to the west, north and east. The nature of this effect would be negative.

The proposed development would result in a moderate/minor effect on the hedgerow network, and the nature of this effect would have both positive and negative elements, due to localised removal but also significant areas of additional planting.

The local area of the Warminster Terrace character area would experience a moderate/minor effect as a result of the proposed development, and the nature of this effect would be negative. Localised areas of Salisbury Plain West character area would also experience moderate/minor effects due to visibility of the proposed development, and these effects would be negative.

Cranborne Chase and West Wiltshire Downs would experience minor effects as a result of the proposed development, and the nature of these effects would be neutral."

From a spatial perspective Warminster has 'grown' along its main artery routes and this proposal would match that evolution. The urban edge of the town is visible from Westbury Road, and therefore a new urban edge would be created instead.

There would be no specific harm to Arn Hill and the application site would be well contained by Westbury Road, the railway line and the northern edge of the town on the Crusader Business Park.

The application site is not within a specific landscape area the (saved C3 Special Landscape Policy under the West Wiltshire District Plan 1st Alteration) boundary ends at Westbury Road, and it is, therefore, not a 'valued' landscape under the terms of paragraph 174(a) of the NPPF.

In conclusion, the localised changes to the character and appearance of the site as a consequence of its development in the manner proposed are not considered to be sufficiently harmful to warrant refusal under CP51 of the Core Strategy. The WC Landscape Officer raises no objections for this reason.

The application is accompanied by a "building heights parameters plan" which shows the central parts of the site being potentially up to 3 storeys in height, with 2.5 storeys at the southern access to the site and in part at the northern end of the site. As this is essentially an edge of town site (and in view of nearby established development in Westbury Road being fairly low in density and height), 3 storey development at the site is not considered appropriate. Equally, 2.5 storey development at the northern end of the site and at the southern access is also of concern. Accordingly, a "notwithstanding" condition is recommended as follows -

"Notwithstanding the building heights parameters plan (0736-1005-3), the reserved matters application shall exclude 3 storey buildings across the site and shall exclude 2.5 storey buildings at both vehicular accesses into the site and along the northern edge of the site".

9.4 Drainage and Flood Risk

Paragraph 159 of the National Planning Policy Framework (NPPF) seeks to direct development away from areas of high flood risk with paragraph 161 qualifying that decision makers should take account of all sources of flood risk. Paragraph 162 adds that development should not be permitted if there are reasonably available sites with a lower risk of flooding that can accommodate the development proposed.

The national Planning Practice Guidance further states –

"The National Planning Policy Framework sets out strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, new development should not be allowed. The main steps to be followed in addressing flood risk are set out below, starting with assessing and then avoiding flood risk. The steps are designed to ensure that if there are lower risk sites available, or a proposed development cannot be made safe throughout its lifetime without increasing flood risk elsewhere, it should not be permitted. Measures to avoid, control, manage and mitigate flood risk should also not increase flood risk elsewhere.

Assess flood risk –

- *Strategic policy-making authorities should undertake a Strategic Flood Risk Assessment;*
- *Where appropriate, in areas at risk of flooding, developers undertake a site-specific flood risk assessment to accompany applications for planning permission (or prior approval for certain permitted development rights, or Technical Details Consent);*
- *Assessments of flood risk identify sources of uncertainty and how these are accounted for in a mitigation strategy....."*

Wiltshire Council undertook a Strategic Flood Risk Assessment (SFRA) in 2019. The SFRA clarifies that for a site to be considered at low risk of flooding it should meet the following conditions:

- Site is within Flood Zone 1
- Site is not within Flood Zone 3 plus climate change
- Less than 10% of the site is within highest risk category in JBA Groundwater map (groundwater is <0.025m below the surface in the 1 in 100-year event)
- Less than 75% of the site is within the second highest risk category in JBA Groundwater map (groundwater is between 0.025m and 0.5m below the surface in the 1 in 100-year event)

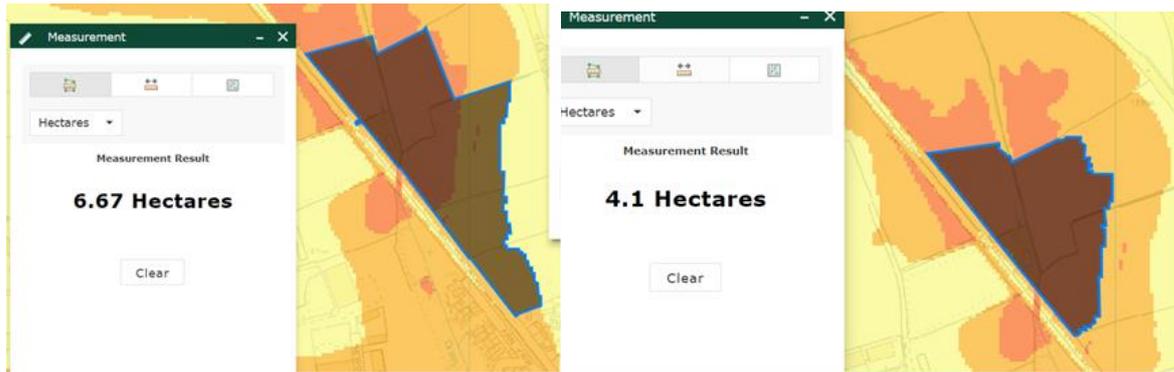
The application site is 10.45 hectares, and approximately 6.67 hectares is within the two 'dark orange' (and so most at risk from ground water flooding) areas (that is, where ground water is <0.025 or 0.025-05m below ground surface). This equates to c. 64% of the site.

However, the application is supported by a site-specific flood risk assessment (FRA) which has been agreed by the Council's Drainage Officer. In section 4.7 of the FRA it is stated that a ground water investigation has been carried out, and the conclusion from this is –

“The Ground Investigation encountered groundwater at between 1.2 and 1.8m below the ground surface in the west part of the site; groundwater was not encountered in the central and east part of the site. The development levels and drainage can be designed to manage any groundwater flooding to ensure that the development is not at risk of flooding. The risk of flooding from groundwater is low.”

The WC Drainage Officers have confirmed that the scope of the FRA is sound (for instance, that ground investigations were carried out in the winter), and it is agreed that the likely maximum ground water level is, in fact, 700mm. If applied to the SFRA mapping system, the site would then be in the 'yellow' area meaning that the 'less than 10%' definition of low risk of flooding would be met. This means that the sequential test does not have to be carried out. And regardless of this the residential elements and the foul water recycling plant would be located within flood zone 1.





The WC Drainage Officers have confirmed that on-site groundwater monitoring is intrinsically more accurate than the SFRA (as long as it is completed during winter), as it establishes the actual conditions on the site, and not just trends across a wider area. Consequently, WC Drainage Officers raise no objections, subject to conditions.

The Council has sought legal opinion on this matter, which confirms that the 2019 SFRA maps are not binding and that the Council should evaluate evidence (via site specific FRA's) in reaching a view as to whether any application site is at risk now or in the future from flooding.

9.5 Impact on biodiversity including phosphorus

The Council's Ecology Officer has provided the following comments;

The site falls within the consultation zones of:

- i) Salisbury Plain Special Area of Conservation (SAC),*
- ii) River Avon SAC,*
- iii) Bath and Bradford on Avon SAC.*

Approximately 10.5 ha site is dominated by three arable fields bordered by hedgerows with permanent grassland and a small woodland copse in the north-east of the site. A small woodland copse with pond is located adjacent to the railway corridor in the north west of the site.

Fourteen species of bat have been recorded on site, which was dominated by common pipistrelle bats. Bat activity for all species was focused along the northern boundary hedgerow (H2) [see Habitat Plan, below], west boundary bordering the railway corridor and the hedgerow towards the south of the site (H4). H2 is an important commuting and foraging feature for greater horseshoes and the southern hedge (H4) is an important commuting and foraging features for greater and lesser horseshoe bats.

Badger is confirmed present on site with outlier setts in the east and west boundary hedgerows and foraging signs on site, notably along the hedgerow to the south (H4). The boundary hedgerows and field margins have potential to be used by breeding birds, hedgehogs (and other section 41 species). Water vole and otter have not been confirmed present on site, however they are highly mobile species and the stream provides suitable habitat.

The development layout has been designed to retain, protect and enhance the most valuable ecological features comprising the boundary hedgerows. Mitigation measures are proposed, to ensure compliance with protected species legislation for bats, breeding birds, section 41 mammals, and reptiles. The loss of the arable fields and poor other neutral grassland on site requires no mitigation.

Assuming the implementation of effective mitigation measures, as set out in this report, no significant adverse ecological effects are predicted. Enhancement measures are described which deliver a net gain of over 30% for biodiversity – the results of which are set out within the applicant's supporting BNG Report.

The applicant has proposed on-site wetland mitigation, the applicant's nutrient neutrality calculations have shown that there will be no additional Total Phosphorous being discharged from the proposed development via foul or surface waters. The Total Phosphorous budget indicated a betterment to the wider catchment. Natural England have confirmed their agreement with the applicant's calculations.

Shadow HRA for Bath and Bradford on Avon Bats SAC –

The Ecology Sensitive Lighting Strategy plan (Feb 2022) shows that the dark zones where light levels will be below 0.5 lux alongside key hedgerows / boundary will be 5 metres wide. Luminaires and lighting columns will be adjusted to ensure these dark zones can be achieved. Wiltshire LPA Ecologists recommended that the Council adopts this as its own for the purposes of discharging its duty under the Habitats Regulations for the Bath and Bradford on Avon Bats SAC. NE were specifically consulted on this document and have responded that they agree with the conclusion of no significant impact after mitigation (lighting constraints by condition).

Shadow HRA for Salisbury Plain SPA –

This application lies within the 6.4km buffer zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into Appropriate Assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects. In February 2022 NE confirmed that the 2018 Appropriate Assessment for Salisbury Plain continues to be supported by NE. That Appropriate Assessment reached a conclusion of no likely significant effect on the conservation objectives of the SPA, for development within 6.4km of the SPA boundary provided that the mitigation scheme continues to be implemented. Annual stone curlew monitoring and protection measures continue to be secured by the Council. The Council is therefore able to conclude beyond reasonable scientific doubt, that development proposed under this application would not lead to adverse effects on the integrity of the Salisbury Plain SPA.

Shadow HRA for the River Avon SAC –

Following further discussion between the applicant, Natural England and Wiltshire Council Ecologists, a further nutrient calculation has been submitted - Land West of Westbury Road, Warminster (Planning Reference: PL/2021/09013) Phosphorus Neutrality Report (Revision 4) by Marian Cameron Consultants Ltd. Natural England have agreed that neutrality can be achieved for 165 dwellings based on the outcome of the calculation as set out in this report. Wiltshire Council has reviewed the additional submitted information based on a revised occupancy figure of 2.4 people per dwelling and agree that neutrality can be delivered for this proposal.

The delivery of housing on the Site will be limited to 165 dwellings by means of a phasing condition and/or S106 Agreement. Further implementation of development beyond the agreed phasing limit will only take place if onsite monitoring demonstrates to the satisfaction of Natural England that the nutrient mitigation strategy is delivering as designed. This requires the - Water quality monitoring, including Total Phosphorus concentration of the unnamed watercourse will be carried out monthly for a year after installation of the ponds with the Floating Treatment Wetlands to ensure their effectiveness and agreement by Wiltshire Council and Natural England.

Natural England recommends that the scheme is subject to a legal agreement / condition to prevent

commencement until the new WwRC has been consented by EA and importantly the Total Phosphorus consent level agreed. If consent is higher than the 0.3 mg l used in the nutrient budget calculation then the phosphorus budget for the scheme will need to be resubmitted and any additional phosphorus mitigation requirements secured.

Management will be secured by a planning condition and will be carried out by the Proposed Development's Management Company which will be financed by the Applicant and new residents. The Floating Treatment Wetlands once installed will be monitored and managed through a legal agreement by the freeholder in accordance with SPEL's site specific Maintenance Management Plan as set out in Appendix 7 (of the phosphorus mitigation report).

In summary, maintenance will be required on a regular basis to ensure that new vegetation growth is stimulated, and vegetation cuttings would need to be taken offsite for safe disposal so as to stop Total Phosphorus re-entering the catchment.

A suitably worded legal agreement will be required to confirm the following:

- Delivery of housing on the Site will be limited to 165 dwellings by means of a phasing condition and/or S106 Agreement*
- Submission of water quality monitoring, including Total Phosphorus concentration of the unnamed watercourse will be carried out monthly for a year after installation of the ponds with the Floating Treatment Wetlands to ensure their effectiveness to the satisfaction of Natural England*
- That waste from interim drainage solution goes out of catchment*
- That waste from floating wetlands goes out of catchment*
- The Council is reimbursed to undertake monitoring and management work in perpetuity*

Further implementation of development beyond the agreed phasing limit will only take place if on-site monitoring demonstrates to the satisfaction of Natural England that the nutrient mitigation strategy is delivering as designed. This requires the - Water quality monitoring, including Total Phosphorus concentration of the unnamed watercourse will be carried out monthly for a year after installation of the ponds with the Floating Treatment Wetlands to ensure their effectiveness and agreement by Wiltshire Council and Natural England.

The operational phase of the development will require an abstraction licence from EA for the diverting of water.

Following submission and agreement from Natural England of the Phosphorus Neutrality Report (Revision 4) by Marian Cameron Consultants Ltd. May 2023, there are no objections.



Habitat Plan

Gladman Developments Ltd
 Melksham Road,
 Holt
 PHASE 1 HABITAT PLAN

Scale 1:1000 Date 21/4/2022
 Drawn by KRF/PEL
 Checked by
 Figure 1 10545-E-01

An updated HRA Appropriate Assessment relating to phosphorus impact has been referred to Natural England for final sign off, and an update on this will be reported to the Committee. Natural England has already confirmed that it is satisfied with the nutrient mitigation although the formal sign off is still required.

Through the public consultation a number of third parties raised objection to the off-site works and the impact of the 'ecologically protected verge'. The Council's Ecology Officer has considered this and responded -

The verge on the north side of the road is in the Protected Road Verge (PRV) Scheme, which is run by Wiltshire Council and managed by Highways Maintenance. The verge, by inclusion in the scheme, is protected under WCS CP50. However, this particular verge has low ecological value and is in the scheme more because of its local aesthetic value that local residents want to keep. It is not a difficult verge to manage so was kept in the scheme rather than removed. There is a category in the PRV criteria that allows for "community value" to be taken into consideration.

We would be happy if a cycleway/footpath was installed here, as it makes sense in the local area for pedestrians. The PRV is not of high enough quality to be able to object on Ecology grounds. We would expect that the bank and trees to the rear of the verge would continue to be managed in the same way as now. We would also expect a robust method statement to ensure that existing tree roots are not impacted by the works and that no other species or habitats are significantly affected.

9.6 Impact on neighbour amenity

The scale, layout and external appearance of the proposal are 'reserved matters' for future applications which would then take into account the impact on neighbour amenity. This said, there

is no reason why a neighbourly development could not be achieved based on the indicative master-plan, for both existing and new residents.

9.6.1 Noise –

The WC Environmental Health Officer has reviewed the Noise and Vibration Assessment which concludes that Vibration Dose Value (VDVs) (from the railway line) are well below the threshold level at which there is a low probability of adverse effects.

However, it has been identified that mitigation is required to meet internal ambient noise levels and the attenuation is detailed in Section 4 of the report. This is because the noise levels in the external amenity spaces for those properties which would be located adjacent to the railway line are likely to exceed the BS8233:2014 Design Criteria for External Noise (S7.7.3.2) guidance.

BS8233:2014 states '*for traditional external areas that are used for amenity space such as gardens and patios, it is desirable that the external noise level does not exceed 50dB LAeq T with an upper guideline value of 55dB which would be acceptable in noisier environments. However, it is also recognised that these guideline values are not achievable in all circumstances where development might be desirable...*'

The Environmental Health Officer further states that –

".... the noise report demonstrates noise levels in gardens located along the railway line, at the façade of the proposed dwellings, will exceed the upper guideline limit of 55dB LAeq16hours by 1-2 dB, however, at the bottom of the gardens nearest the railway line, this exceedance will be greater. Exceedance of the upper limit in garden amenity areas is not something that this department can support and would expect additional mitigation to be put in place to ensure noise levels in all parts of the gardens which border the railway line meet the BS8233:2014 criteria of 50dBLAeq with the upper limit of 55dB LAeq being the maximum. This may be achieved through improved boundary treatment or changing the layout of the dwellings bordering the railway line."

It is submitted that subject to conditions, external noise levels can be mitigated and secured by condition.

9.6.2 Contamination –

The Council's Contamination Officer has no objection and considers the Phase 1 & 2 Site Investigations undertaken by Clarkebond and supporting the application are sufficiently detailed, and follow current guidance. This study concludes that there are no risks to human health, plants or groundwater on the site, and no remedial action needed.

9.7 Archaeology

The application is supported by a 'Heritage Constraints Assessment', which includes results of a geophysical survey. However, the Council's Archaeology Officer requested a trial trench evaluation, which has been carried out by Cotswold Archaeology. The Council's Archaeology Officer notes that;

"While the evaluation established that most of the site was free of significant archaeological activity, the results from Trench 12 at the northern end of the site were rather more enigmatic and in my opinion require further investigation."

Accordingly, a condition is recommended that further investigation around 'Trench 12' would be required prior to any other works commencing on site.

9.8 Urban Design

The WC Urban Design Officer has expressed concern that the indicative plans only demonstrate that approximately 184 dwellings can be accommodated on the site. There is, therefore, concern that a scheme for 'up to 205' dwellings could result in an over-development.

As this is an outline application for 'up to' 205 dwellings, this concern does not amount to a sound reason to refuse planning permission. The detail of the scale and design of the development are for the reserved matters applications later on, and which can be supported or rejected at that time. The developable area would allow c. 205 dwellings at an average density of c39-40 dph, which is not inappropriate for the location. In the event of part of the developable area being required for infrastructure, then either the density would slightly increase or the number of units would reduce – both of which are unlikely to be unacceptable outcomes, subject to appropriate design. It is also of note that that WC Urban Designer qualifies his concern with the following comment - "*.... a good understanding of basic urban design principles. It appears, in my view, a legible, landscape-led concept, with coherent, efficient urban form nestled within a strong GI framework.*"

9.9 Section 106 Legal Agreement

Core Policy 3 states that all new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements would be delivered directly by the developer and/or through an appropriate financial contributions prior to, or in conjunction with, the new development. This is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Paragraph 55 of the National Planning Policy Framework. These are that contributions must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The infrastructure items listed below are those that are relevant to the application site and are required in order to mitigate the impact of the proposal. The applicant has agreed to provide these:

Ecology

The s106 would include the following clauses;

- Delivery of housing on the site will initially be limited to 165 dwellings by means of a phasing agreement.
- Submission of water quality monitoring, including Total Phosphorus concentration of the unnamed watercourse will be carried out monthly for a year after installation of the ponds with the Floating Treatment Wetlands to ensure their effectiveness to the satisfaction of Natural England
- That waste from interim drainage solution goes out of catchment
- That waste from floating wetlands goes out of catchment
- The Council is reimbursed to undertake monitoring and management work in perpetuity

Further implementation of development beyond the agreed phasing limit would only take place if on-site monitoring demonstrates to the satisfaction of Natural England that the nutrient mitigation strategy is delivering as designed. This requires the Water quality monitoring, including Total Phosphorus concentration of the unnamed watercourse to be carried out monthly for a year after installation of the ponds with the Floating Treatment Wetlands to ensure their effectiveness and agreement by Wiltshire Council and Natural England.

Highways

- £25,000 towards improvements to Lighting (£7,500 for two lighting columns) and surfacing (£7,500 (125m of surface at £60 per sqm)) on Public Right of Way WARM16 and footbridge (£10,000 for the implementation of 'gullies/ramps' for wheeling bikes up and down the bridge), to be implemented by Wiltshire Council.
- £75,000 towards new pedestrian and cycle infrastructure scheme on the eastern side of Westbury Road including new bus stop arrangement, with shelter and real time information and taking into account and where necessary accommodating any existing constraints, including utilities and access points. NB. should the development come forward following the implementation of the Elm Hill roundabout scheme provided as part of planning permission 15/01800/OUT (West Warminster extension), a sum of £75,000 would be provided towards the Council implementing pedestrian and cycle uncontrolled crossing facilities in that junction location instead of the footway/cycleway works shown on SK_13 Rev B in that location.

Informative: The contribution would be used by either Wiltshire Council or an agent working on its behalf and may include direct transfer to deliver the works through any existing Contractor Engagement to deliver the Urban Extension works.

- £162,950 towards bus services and transport infrastructure run by Wiltshire Council
- £7,000 towards a Traffic Regulation Order for the relocation of the 40mph/50mph speed limit to the north of the site. This would cover the consultation also needed for the Toucan Crossing.
- Provision of a green travel plan encouraging use of transportation other than by car. Shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details

Affordable Housing:

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 30% on-site Affordable Housing provision: on all sites of 10 or more dwellings within this Community Area. Based on the proposed scheme of up to 205 residential units, there would therefore be a requirement to provide 62 affordable units on the site. To meet current demonstrable need the Affordable Housing units should be provided with a tenure mix of 60% (37 units) Affordable Rented, 40% (25 units) Shared Ownership.

Education

Education have applied a 30% discount to the affordable housing units – a reduction of 18 units, meaning contributions are based on 187 units. Furthermore, consultation was received on 10 November 2021 and the cost multiplier has since been updated. Final figures would be provided for the heads of terms should Members determine in line with the recommendation.

- Early Years: £420,528 and notes there are currently 7 nurseries and preschools and 4 childminders within a two-mile safe walking route of this proposed development. This existing provision is operating at high capacity.
- Primary School: There is sufficient capacity available across the relevant primaries to accommodate the need for places that will be created by this development, without the

need for an expansion of provision. Therefore, we have no requirement for a developer contribution towards funding the primary places that this development needs.

- Secondary School: There is spare capacity available at Kingsdown to accommodate the pupil product of the proposed development. Therefore, we have no requirement for a developer contribution towards the secondary places that this development generates a need for.

Refuse

A contribution of £18,655 (£91 per dwelling x 205) would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development and is listed in Core Policy 3 as an infrastructure priority theme 1.

However, the consultation response was dated 18 October 2021 and since then the 'per dwelling' cost now has a rate of £101, which would mean a figure of £20,705.

Recreation and Open Space

Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport/recreation provision, an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhanced open spaces which will be included within the S106.

The proposal does include an area of public open space which is to be managed by a management company, and this is considered to be appropriate in the context of the policies. The site should also be large enough to accommodate on site children's play area and a contribution to Warminster recreation ground is also sought.

- POS – 7523.09m²
- Equipped Play – 362.85m²
- £48,380 off site contribution

The proposal also includes provision of a community centre, to which the Town Council have not demonstrated any interest to adopt. However, should there be interest in taking up the facility it can be added as a provision in the s106. NPPF paragraph 93 a) states;

“To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;”

Management Company –

The S106 Legal agreement would need to ensure that the proposed dwellings are served by a management company to ensure that the area of public open space and other shared areas are managed and looked after. Additionally, the areas required for Bio-diversity net gain would need to be secured as well as the monitoring of the maintenance of the floating ponds in perpetuity.

Arts

The NPPF (paragraphs 8b and 93b) recognises that cultural wellbeing is part of achieving sustainable development and that *“To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;”

The Council’s former Arts officer requested a contribution of £61,500 (205x£300). However, s106 contributions have to be linked to a specific scheme or identified in a development plan document. Therefore, the Council cannot add this as a s106 contribution.

However, the applicants have accepted that arts provisions can be provided on site by condition, which is an approach used on other applications. This has been supported by the new Arts Officer. Therefore, there would still be public benefit of arts provision within the site.

10. Conclusion

At the heart of the NPPF there is a presumption in favour of sustainable development, this requiring local planning authorities to approve development proposals that accord with the development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining applications are out-of-date, permission should be granted in any event.

The Council cannot currently demonstrate a 5-year supply of deliverable housing land; at the time of preparing this report the current supply figure as set out in the latest Housing Land Supply Statement is 4.6 years (and accepted to be 4.59 as per the Holt appeal). With this recognition the strategic policies of the Core Strategy must be considered out of date, and so the tilted balance flowing from paragraph 11d)ii of the National Planning Policy Framework (NPPF) is engaged. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Whilst the proposed development lies outside of Warminster’s boundary and so conflicts with the strategic level policy requirements (CP1 & CP2), this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Warminster and make contributions to off-site infrastructure through S106 contributions and CIL.

As already set out, there are no adverse impacts that would significantly and demonstrably outweigh the benefits that this particular development in this location on the edge of a sustainable settlement identified for growth would bring. The proposal would relate well to the spatial form of Warminster using existing road infrastructure and would offer an accessible walking route into the town and its services and facilities. The application site would also make s106 contributions to the bus service and pre-school. The provision of a community hub would be of a benefit to the new and existing community.

Fundamentally the site would make an important contribution to the current identified housing need in Wiltshire without causing other demonstrable harm.

RECOMMENDATION –

That the Committee gives delegated authority to the Head of Development Management to grant planning permission, following –

- a) receipt of written confirmation from Natural England that it is satisfied with the Council’s Ecology Team conclusion that the development would not result in significant or harmful ecological effects; and**
- b) the completion of a s106 planning obligation covering the matters set out within section 9.9 of this report;**

and subject to the following planning conditions:

CONDITIONS

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4. The development hereby permitted shall make provision for the following:

- (a) Up to 205 dwellings;
- (b) A community hub;
- (c) Public open space to be sited, laid-out and equipped in accordance with the West Wiltshire Leisure and Recreation DPD (or any subsequent replacement DPD); and to include at least 7,523 sq m of general public open space and at least 363 sq m of equipped play space.

The ‘layout of the development’ (as to be submitted and approved under condition no. 2) shall accommodate the above broadly in accordance with the Illustrative Masterplan (no. 0736-

10002 – page 33 in the Phosphorus Neutrality Report (revision 4 – and 3 appendices)) and the Parameter Plan – Density (0736-1005-4).

Notwithstanding the details set out in the Building Heights Parameters Plan (0736-1005-3), the reserved matters application(s) shall exclude 3 storey buildings across the site and shall exclude 2.5 storey buildings adjacent to both vehicular accesses into the site and along the northern edge of the site.

Prior to commencement of the development, a programme, or phasing plan, for the delivery and completion of the dwellings, the community hub and the public open space(s) shall be first submitted to, and approved in writing by, the local planning authority. The dwellings, the community hub and the public open space(s) shall then be delivered and completed in accordance with the approved programme.

REASON: To ensure the creation of a sustainable development which is in character with its surroundings and in accordance with the terms of the planning application.

5. The 'means of access' to the site and the off-site highways works shall be provided substantially in accordance with the following drawings –
 - P19-2831 001-B – 'General Access Arrangement' – dated 20/04/2021
 - P19-2831 SK/13Rev B – 'Potential Footway/Cycleway Improvements – Option 1B' – dated 08/12/2022 – received 27 June 2023

Prior to commencement of the development, a programme for the delivery and completion of the means of access to the site and the off-site highways works shall be first submitted to, and approved in writing by, the local planning authority. The means of access to the site and the off-site highways works shall then be delivered and completed in accordance with the approved programme.

REASON: To ensure proper and timely delivery of the means of access to the site and the off-site highways works in accordance with an agreed programme and in the interests of highway safety and sustainability.

6. In addition to the approved plans referenced in conditions 4 and 5, the development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan (0736-101);
Statement of Community Involvement (cadence September 2021);
Sustainability and Energy Statement (Turley Sustainability - June 2021);
Design and Access Statement (3 parts – Barratt Homes September 2021 0736 – V1);
Planning Statement (and appendices) (Pegasus CM P19-2831);
Topographical Survey (0736-100-1);
Transport Statement (6 parts – Pegasus – July 2021 P19-2831);
Travel Plan (Pegasus July 2021, P19-2831);
Flood Risk Assessment (Ethos Environmental Planning September 2021);
Air Quality Assessment (Air Quality Consultations July 2021 J4498A/1/F1);
Preliminary Ecology Survey (Ethos Environmental Planning September 2021);
Habitat Regulations Assessment v2 (Ethos Environmental Planning September 2021);
Land Contamination assessment and appendices (Phase 1 and 2 Clarkebond E05548-CLK-00-XX-RP-G-0001- 08/03/21);
Landscape and Visual Appraisal (SLR, 403.04993.00069, V2 – July 2021);
Heritage Assessment (RPS JAC26202 v3 February 2021);
Site Waste Management Plan (Biffa, V1 – 12 October 2021);
Tree Survey (BSS22778ts 28/01/2021) and Tree Survey Plans (BBS22778-01 (Page 3 of 3) ;

Noise and Vibration Assessment (Hepworth Acoustics P20-546-R01v1 March 2021);
Indicative Site Section Plan 1-1 (0736-110-1, March 2021);
Indicative Site Section Plan 2-2 (0736-110-2, March 2021); and
Nutrient Mitigation Pond Details (502-P107 Rev B)

– all received 1 October 2021

Ecological Impact Assessment (Ethos Environmental Planning – January 2022); Flood Risk and Drainage Strategy (Phoenix Design 502 Rev A – February 2022); Framework Plan (0736-1007 April 2021); delivery statement (1 Feb 2022); Technical note to LLFA (29/10/2021); Indicative Site Section 3-3 (0736-110-3) and Parameter Plan (Access and Movement Plan 0736-1005-1 March 2021)

– all received 9 February 2022

Updated Shadow Habitats Regulation Assessment (Ethos Environmental Planning March 2022)

– received 11 March 2022

Phosphorus Neutrality Report (Revision 4) (Marian Cameron Consultants Ltd) and appendices 3 Nutrient Budget Calculator (includes revised indicative masterplan)

– received 11 April 2023

Excel spreadsheet and P loading with WRC and FTW

– received 21 April 2023

REASON: For the avoidance of doubt and in the interests of proper planning.

7. Prior to the commencement of development of any residential units in any Phase or Sub-Phase of the development an application for the stopping up and/or diversion of public rights of way WARM18 shall be submitted to Wiltshire Council. Following which no residential development within any Phase or Sub-Phase crossed by these rights of way shall commence unless either:
 - i) A footpath diversion and stopping up order that incorporates the stopping up of the existing footpath route across the railway at level has been made and confirmed by the local planning authority or the Secretary of State, or
 - ii) the Secretary of State, upon consideration of a stopping up order made by the local planning authority as aforementioned in (i) above does not confirm the order.

Upon any confirmed diversion and stopping up order coming into force, the new footpath route shall be fully completed prior to the occupation of units within any Phase or Sub-Phase crossed by public rights of way WARM18.

REASON: To ensure the continued safe operation of the rights of way network.

INFORMATIVE: Network Rail will provide the developer with all the appropriate information to ensure railway safety issues concerning the level crossing are fully considered before a decision on the stopping up or diversion of the public rights of way WARM18 is taken by the local planning authority or Secretary of State.

8. Prior to the commencement of development, a scheme for the improvement of public right of way WARM18 both within the application site and in the surrounding environment, and a

programme for its implementation, shall be submitted to the local planning authority for approval in writing. The scheme shall provide details of width alignment and new surfacing for the footpath. The scheme shall be implemented as approved in accordance with the approved programme for implementation.

REASON: The improvements will ensure the continued safe use and enjoyment of the footpaths in the interests of amenity.

INFORMATIVE: In the event that it is proposed to divert this public right of way then the scheme for its improvement should relate to the diverted route. A diversion order would be required for this. The applicant must apply separately to Wiltshire Council for such an order, and it cannot be assumed that one will be made. But in the event that an order is made and there are objections to it which cannot be resolved, the matter would then be referred to the Secretary of State for his determination.

The width of the improved right of way should be minimum of 2m.

9. Notwithstanding the submitted details, the reserved matters submission shall include details of an area of land to be safeguarded for improvements to public right of way WARM 18. The safeguarded land shall be delivered as public open space retained as such in perpetuity or until such time as when formal notice is given that the land is no longer required for the improvements.

REASON: The improvements will ensure the continued safe use and enjoyment of the footpaths in the interests of amenity.

10. Prior to commencement of development a scheme for the provision of at least one public 'rapid charging' point in a publicly accessible parking area or bay shall be submitted to and improved in writing by the local planning authority. The public rapid charging point shall be installed and be ready for use prior to the first occupation of the 100th dwelling or in accordance with a programme to be first agreed by the local planning authority, whichever is the sooner. The public rapid charging point shall thereafter be retained and shall remain operational at all times (other than when under-going reasonable maintenance).

REASON: In the interests of mitigating the impact of the development on the environment in accordance with Core Policy 60(vi).

11. No development shall commence on site until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

NOTE: The work is to be carried out following the Standards and guidelines for Archaeological Strip, Map and Record Excavation as set out by the Chartered Institute for Archaeologists (CIfA)

12. No development hereby approved shall commence until details of measures to safeguard the amenities of future occupants of the development – both in their homes and in their private gardens – from noise disturbance from trains have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details and prior to first occupations.

REASON: The railway line will be a potential source of noise disturbance to occupants of the development in close proximity. This disturbance can be removed and/or reduced to acceptable levels through appropriate design and layout.

INFORMATIVE: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to BS8233: 2014 (or any subsequent version) and demonstrate that external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014.

13. The development hereby approved shall be carried out in accordance with the Flood Risk Assessment (FRA) Rev A by Phoenix Design dated February 2022 and the mitigation measures detailed within it, including:

- Finished flood levels to be no lower than 115.30 metres above Ordnance Datum
- There shall be no ground raising below the design flood level as this would reduce the available floodplain storage.
- There shall be no storage of any materials including soil within the future 1% annual probability (1 in 100 year) flood extent.

REASON: To reduce the risk of flooding at the development, and prevent flooding elsewhere.

14. No development shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that all new houses will have water usage that does not exceed a maximum of 110 litres per person per day (to include external water usage). The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and to meet the demands of climate change.

15. No development shall commence on site until schemes for the management of surface and foul water drainage have been submitted to and approved in writing by the local planning authority. The submitted details shall be consistent with the Nutrient Neutrality Strategy [Land West of Westbury Road, Warminster (Planning Reference: PL/2021/09013) Phosphorus Neutrality Report (Revision 4) by Marian Cameron Consultants Ltd.] and include:

- i. Detailed engineered drawings of the proposed drainage works including the waste water treatment system comprising a WasteWater Recycling Centre, wetland cells and floating wetlands and SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs;
- ii. Phosphorus removal SuDS features to be designed in-line with adopted CIRIA guidance for construction and maintenance; and
- iii. A maintenance and management plan for the entire drainage system to include (but not limited to) details for its adoption by an OFWAT (or any successor body of the same) listed sewerage undertaker (or any subsidiary of the same), management, maintenance, permitting, funding, key personnel and responsibilities (including contact details for such persons) and other arrangements to secure its operation in perpetuity.
- iv. A recalculation of the phosphorus budget to show neutrality is achieved, with provision of additional in perpetuity mitigation if necessary.

The development shall be carried out in accordance with the approved details and no dwelling shall be first occupied until the drainage works to serve it have been completed, are operating satisfactorily and the maintenance and management plan has been implemented. The

approved drainage works shall be retained in accordance with the approved maintenance and management plan at all times thereafter.

REASON: To secure an effective drainage strategy which ensures nutrient neutrality in the water catchment (Hampshire River Avon SAC) within which this development is located.

INFORMATIVE: The applicant is advised to provide the evidence as requested in the further informatives at the end of this decision notice.

16. No development shall commence on site until details of the Interim Drainage Solution for up to the first 30 dwellings and before the wastewater recycling centre are fully operational have been submitted to and approved in writing by the local planning authority. The submitted details shall be consistent with the Nutrient Neutrality Strategy [Land West of Westbury Road, Warminster (Planning Reference: PL/2021/09013) Phosphorus Neutrality Report (Revision 4) by Marian Cameron Consultants Ltd.] and include:

- Details of the storage tank on site
- Confirmation that the waste will be removed to a wastewater treatment works out of the Hampshire Avon catchment
- Confirmation of agreement with relevant service providers.

The development shall be carried out at all times fully in accordance with the approved Interim Drainage Solution.

REASON: To secure an effective interim strategy for the first 30 dwellings which ensures nutrient neutrality in the water catchment (Hampshire River Avon SAC) within which this development is located.

17. No development shall commence on site, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP will minimise all construction effects on the environment through the implementation of procedures for:

- i. Reducing the risk of spillage or leakage of oil, fuel and other liquid chemicals;
- ii. Dealing with a spillage – the contractor will be responsible for storing easily accessible spillage containment equipment on site and for training staff in the use of such equipment;
- iii. Avoiding causing the release of pollution from existing pipelines;
- iv. Management of site runoff and elevated concentrations of suspended solids;
- v. Management of dust produced by construction activities through implementation of dust suppression measures including: visual checks, use of water sprays, screens and sheets around stockpiles and appropriate construction activities, and careful transfer of materials;
- vi. British Standards Institute (2014) BS5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites.
- vii. Minimising noise levels for all the construction activities and plant through implementation of a noise control plan which will advocate the use of best practice in line with BS522826 and will include measures such as: use of silencers or mufflers on plant and machinery; use of the quietest possible plant; and minimising onsite cutting operations and other noisy activities through off-site fabrication where possible;
- viii. Dealing appropriately with potentially contaminated land;

- ix. Appropriate water quality monitoring and regular visual inspection of site drainage waters during construction;
- x. Avoiding affecting trees and hedgerows to be retained in accordance with British Standards Institute (2012) BS5837:2012 Trees in Design, Demolition and Construction, Recommendations;
- xi. Compliance with best practice pollution prevention guidelines to minimise the potential for water-based pollutants to enter nearby waterbodies or drains preventing changes in the hydraulic regime and ensuring that any discharge from the Proposed Development will be the equivalent to 'Greenfield' runoff;
- xii. Management, recycling and disposal of waste during construction.
- xiii. Enabling site inductions for all staff to highlight issues of ecological importance and sensitivity;
- xiv. Providing secure site fencing to prevent impacts on habitats outside the works area; and
- xv. Night time lighting during construction addressing the need to limit light spillage and glare on areas likely to support bats and birds by following recommendations produced by the Bat Conservation Trust.
- xvi. The movement of construction vehicles and the loading and unloading of equipment and materials
- xvii. The location and use of generators and temporary site accommodation
- xviii. Where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts

The construction phase of the development will be carried out fully in accordance with the Construction Management Plan at all times.

Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

REASON: To ensure adequate protection and mitigation for all sensitive environmental receptors.

- 18. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - a. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
 - b. Working method statements for protected/priority species, such as nesting birds and reptiles.
 - c. Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
 - d. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- e. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f. Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

19. No development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP must also include a specific reference to phosphorus neutrality report [Land West of Westbury Road, Warminster (Planning Reference: PL/2021/09013) Phosphorus Neutrality Report (Revision 4) by Marian Cameron Consultants Ltd.] and the detailed surface and foul drainage information /strategy.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

20. Each reserved matters planning application shall include with it updated plans and calculations (using the most recent version of the Natural England Biodiversity Metric) to demonstrate the development will achieve biodiversity net gain. The updated plans will show habitat creation and enhancements demonstrating the extent and area of each habitat in relation to the development footprint. Development shall not commence in the area(s) covered by the reserved matters application until the updated plans and calculations relevant to the area(s) have been agreed in writing by the local planning authority.

REASON: The application contains insufficient information to enable this matter to be considered at this stage and the matter is required to be agreed with the Local Planning Authority before development commences to ensure it complies with biodiversity net gain guidance and policy.

21. The landscape plans submitted for reserved matters application(s) shall be in accordance with, and informed by, the approved Biodiversity Metric and supporting plans of habitat areas, and demonstrate that habitats and hedgerows which will be retained, enhanced and/or created on the site will deliver an overall net gain in biodiversity units.

REASON: To ensure the development delivers an overall net gain for biodiversity in accordance with CP50.

22. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), and

Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed unless otherwise agreed in writing with the Local Planning Authority.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to avoid illumination of habitat used by bats.

23. No development shall commence on site until a scheme of ecological mitigation and enhancement has been submitted to the Local Planning Authority and approved in writing. The scheme will address the method, timing, location and/or design as appropriate, of the following matters:

- Construction of the cycleway along Westbury Road integrating the requirement to remove and translocate chalk grassland which qualifies as Protected Road Verge.
- Enhancements for birds, bats, hedgehogs and invertebrates
- Bat tree hop-over for spine roads
- Advance planting prior to hedgerow removal to offset impacts on bats
- Increasing biodiversity of neutral grassland retained on site

The development shall be carried out in accordance with the approved scheme.

REASON: To avoid, reduce and mitigate ecological impacts and provide an overall enhancement for biodiversity.

24. All soft landscaping comprised in the approved details of landscaping for any particular Phase or sub Phase of the development shall be carried out in the first planting and seeding season following the first occupation of any building within the Phase or the completion of the Phase or sub Phase whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

25. No demolition, site clearance or development shall commence on site within any particular Phase or sub Phase, and; no equipment, machinery or materials shall be brought on to site for the purpose of development within the particular Phase, until a Tree Protection Plan showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction -Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development Phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping

or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the date of commencement of the Phase or sub Phase].

REASON: To safeguard trees to be retained in the interests of amenity.

26. No development shall commence in any particular Phase or sub Phase of the development hereby approved until a scheme for the provision of fire hydrants to serve the Phase or sub Phase and any related programme for delivery has been submitted to and approved in writing by the local planning authority. Thereafter no dwelling shall be occupied within the Phase or sub Phase until the fire hydrant serving the dwellings has been installed as approved in accordance with the programme of delivery.

REASON: To ensure the safety of future occupiers of the dwellings.

27. For this phased development, no dwellinghouse shall be occupied until a public art scheme for the site and a timetable for its subsequent installation has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure the proposal complies with the relevant public art policies

NOTE: The applicants proposed promotion of a public art installation at the entry of the equipped play area on site is encouraged and should further advice and guidance be required in terms of promoting local school and/or local artist involvement, contact should be made with Meril Morgan, the Council's arts officer.

Further Informatives to applicant:

In order to address condition 15, the applicant will need to provide the following information –

1. Detailed drainage calculations, restricting discharge rates in line with the Wiltshire Council Betterment Policy). These calculations should demonstrate:

- a) The 1 in 30 year rainfall event is contained within the drainage system without causing flooding to any part of the site.
- b) The 1 in 100 year plus 40% climate change rainfall event does not cause flooding to any building (including a basement) or utility plant.

c) The site has been designed to ensure that flows in excess of the 1 in 100 year rainfall event are managed in exceedance routes that minimise the risks to people and property.

The calculations should set the MADD factor / additional storage value to 0m³/ha to prevent an over-estimation of attenuation storage available on site.

It is noted that an Urban Creep allowance has been applied in relation to the 1 in 100yr + climate change storm only. The applicant will be required to apply the Urban Creep allowance (to account for increased im-permeability across the catchment) to all storm events as part of the detailed hydraulic modelling.

Due to the outfall to an ordinary watercourse, the calculations should also be simulated with a surcharged outfall, to ensure that this does not cause flooding on site.

2. Full details of;

a) Hydraulic modelling to confirm that the existing ditches have sufficient capacity to safely convey surface water discharges from the proposed development without increasing flood risk.

b) Confirm details of remediation, vegetation clearance, and re-levelling works proposed within the ditches in order to improve the ditch capacity.

3. Detailed drainage drawings which include the pipe / link & manhole / node numbers used in the calculations in order to link the drawing with the detailed calculations.

4. Detailed drainage drawings which include the pipe / link & manhole / node numbers used in the calculations in order to link the drawing with the detailed calculations.

5. Plans which demonstrate how exceedance flows in excess of the 1 in 100year rainfall (+40% climate change) will be safely managed on site in order to prevent an increase in flood risk to people or property.

CM/P19-2831

23 January 2024

Mr D. Cox
Senior Planning Officer
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

BY EMAIL ONLINE

Dear David

PL/2021/09013 – Land West of Westbury Road, Warminster
Recall of Planning Application to the Strategic Planning Committee

I write on behalf of Barratt Bristol following notification provided in your emails of 17 and 18 January that the above planning application, having received a resolution to grant Outline planning permission subject to conditions and completion of a s.106 Agreement on 1 November 2023, is to be returned for re-determination by the Council's Strategic Planning Committee on 7 February.

You have advised that due to reporting timescales, the latest opportunity available to make further representations in respect of the application is first thing on Tuesday 23 January. This would be an extremely limited window of opportunity even were the application being reported simply as a matter of procedural fairness following the revisions to the NPPF, however in the circumstances it appears that our comments are invited in the context of a revised recommendation for refusal, no available Committee report, and no evidence in terms of legal advice or updated housing land supply reporting supporting the Council's stance.

As set out in our letter to Nic Thomas of 18 January, to which we have not yet received a response, we consider this to be prejudicial to the applicant's ability to engage meaningfully with the democratic planning process and, as highlighted, contrasts sharply with the Council's approach to re-consulting the wider public on even very minor changes to the proposals during the application lifecycle in order to minimise the risk of legal challenge.

Notwithstanding, in the absence of any further clarification from the Council, and strictly without prejudice to any further representations we may need to make in the light of the updated Committee report and any other relevant publication by the Council, I set out our immediate comments and concerns below, organised by subject heading.

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DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



Housing Land Supply

We have not seen the evidence that the Reg 19 Plan is sufficiently detailed or meets the housing requirements in order for it to 'qualify' for 4-year supply status for the purposes of Paragraph 77/226 of the revised Framework. We assume this is addressed within the legal Opinion you have referred to but so far declined to share with us. In our view it remains questionable whether the Plan meets the necessary tests in order for the Authority to qualify for 4-year status.

We have seen no evidence that the Council has reviewed its housing land supply since publishing a position of 4.6 years in May 2023. As this figure is already eight months old, it is highly unlikely that it is accurate, and we are mindful of evidence presented at recent appeals suggesting that in reality the Council's supply is potentially less than four years. Indeed, as recently as November the Council did not contest evidence presented to the Holt appeal that, at best, the Council could only demonstrate 3.7 years supply, significantly short of 4 years.

In the absence of an up-to-date and publicly available calculation of housing land supply, in our view the Council cannot rely on an assumption that its published position from May 2023 remains unchanged as the basis for returning applications to Committee with revised recommendations at this time. Again, we have requested the evidence to support the Council's claims but this has not been received.

It is critical to emphasise that the changes to the Framework have made absolutely no difference to the presumption that Local Planning Authorities should seek to maintain at least a five-year supply of deliverable housing. Whether or not required to (or capable of) demonstrating more than four years' supply for the purposes of Paragraph 226, Wiltshire Council continues to fall significantly short of five years' supply in the context of a national housing crisis and, in particular, a marked shortfall of affordable homes. Quite rightly, the Council has not withdrawn the Briefing Note to which you make reference in your Committee report, stating that the Council will support 'speculative' applications where there are no technical objections in pursuit of a five-year supply.

Moreover, even if a 4+ year supply could currently be demonstrated, recalling and refusing a significant number of 'speculative' proposals with extant resolutions to grant planning permission presents a very real and immediate prospect that housing land supply will be severely depleted over the coming months, particular from April 2024, due to a lack of commitments. As such, refusing such applications at the present time is likely to be self-defeating and only likely to open opportunities for less desirable 'speculative' proposals later in the year.

Operation of the Tilted Balance

You have stated in your email that, on the assumption that the Council can demonstrate in excess of four years' supply, the 'tilted balance' would not be engaged for the purposes of decision-making. Notwithstanding the exceptions of Paragraph 226, however, as we have made clear throughout the application, Core Policies 1 and 2 remain out-of-date in their own terms, being predicated on a non-Framework compliant assessment of housing need, as are the related



settlement boundaries to which they refer, and their weight in decision-making diminished accordingly.

We therefore remain for the time being unclear on what basis you consider that Core Policies 1 and 2 are relevant and what weight you propose to attach to them. This is matter we would request is urgently addressed as, in our view, the analysis set out to date in your recent email is flawed.

Likewise, the tilted balance remains engaged in relation to these 'most important' policies independently of Paragraph 226 and housing land supply and it remains in the context Paragraph 11(d)(ii) that decision-making must still proceed.

Site-specific matters

The Council has confirmed through its previous resolution that there are no technical or environmental objections outstanding in relation to the proposals, nor any objection from key consultees.

Your last report concluded, *inter alia*:

'...this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Warminster and make contributions to off-site infrastructure through S106 contributions and CIL'

The physical effects of the proposals remain wholly unchanged in the present circumstances and therefore it is plainly unreasonable that any additional harms should be identified at this time, or indeed that any additional weight should be ascribed to them.

Noting the comments in your email, therefore, I would urge extreme caution with respect to implications including landscape impacts and the loss of agricultural land associated with the proposals; these were not objectional matters outweighed by the previous operation of the tilted balance but were instead, in and of themselves, deemed to be acceptable impacts of the development as proposed, as backed up by your specialist consultees' comments.

You will note from my letter of yesterday afternoon that my client intends to submit a s.78 appeal in this regard at the soonest opportunity. Needless to say, were the Committee led to introduce additional refusal reasons on any unrelated environmental or technical grounds, this would naturally place the Council at a very real risk of an award of costs due to the need to instruct additional experts to lead evidence at Inquiry.



Summary

As set out in my letter of last week, we would respectfully request sight of the legal advice and any updated housing land supply information on which the Council has based its current approach and the abrupt reversal of its own considered recommendations as a matter of urgency. As a courtesy perhaps our letter and request could at least be acknowledged, and a response provided on progress in responding to the requests. We reserve the right to provide further comments upon receipt of this information, and likewise upon reviewing the amended Committee report, in respect of which we trust the comments set out in this letter will be taken seriously into consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Marsh'.

Chris Marsh

Associate Planner

chris.marsh@pegasusgroup.co.uk



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Your Ref:
Our Ref: APP/Y3940/W/23/3329064

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

09 February 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Greystoke Land Limited
Site Address: Land South of Pound Lane, Semington, BA14 6JP

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Cameron Alford

Cameron Alford

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>



Appeal Decision

Site visit made on 15 January 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2024

Appeal Ref: APP/Y3940/W/23/3329064

Land South of Pound Lane, Semington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Greystoke Land Limited against the decision of Wiltshire Council.
 - The application Ref PL/2022/09397, dated 25 November 2022, was refused by notice dated 17 May 2023.
 - The development proposed is residential development of up to 30 dwellings (of which 30% will be affordable) with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal is for outline planning permission with all detailed matters reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of access, appearance, landscaping, layout and scale as a guide to how the site might be developed. Whilst access is a reserved matter, it is a requirement¹ to state the area or areas where access points to the development proposed shall be situated. It is apparent from the submitted evidence that the site would be accessed from Pound Lane in a location approximately central to the site's northern boundary. Indeed, a 'vehicular access point' and 'highway corridor flexibility zone' are depicted upon the submitted Parameter Plan². I shall consider the appeal on this basis.
3. A Unilateral Undertaking pursuant to Section 106 of the Act (the legal agreement) is before me, dated 26 January 2024. Copies signed separately by the appellant and the principal landowner have been provided. The legal agreement contains various provisions related to: the on-site provision of affordable housing; education contributions; a public right of way contribution; a public art contribution; a waste and recycling contribution; an off-site leisure contribution; and an off-site open space contribution. I shall return to the legal agreement later.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties have had the opportunity to provide observations with respect to any relevance of this to the determination of this appeal and I have considered representations received.

¹ of The Town and Country Planning (Development Management Procedure) (England) Order 2015

² Ref: P22-2581_DE_001B_08

5. A Wiltshire Local Plan Review (the LPR) is emerging, which has reached Regulation 19 stage with consultation commencing in September 2023. However, the LPR, which has yet to be submitted for examination, remains at a relatively early stage such that its emerging policies currently attract limited weight in decision making. I shall consider the appeal on this basis.

Main Issue

6. As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis.
7. The main issue is whether or not the site represents an appropriate location for the proposed residential development, having regard to relevant provisions of the development plan.

Reasons

8. Core Policy (CP) 1 of the Wiltshire Core Strategy (January 2015) (the CS) sets out a settlement strategy that identifies four tiers of settlements: Principal Settlements; Market Towns; Local Service Centres; and Large and Small Villages. Semington is identified as a Large Village through Policy CP15 of the CS. Whilst it contains some facilities and services, including a primary school and a village hall, these would not be capable of serving the full day-to-day needs of residents. In accordance with the supporting text to CP1, a limited level of development shall be supported at Large Villages in order to help retain the vitality of these communities, with such development predominantly taking the form of small housing (involving less than 10 dwellings) and employment sites within settlement boundaries.
9. Moreover, Policy CP2 of the CS sets out that, other than in specific circumstances as permitted by other CS policies (which are not applicable here), development will not be permitted outside defined limits of development. The same policy confirms that development limits may only be altered via the identification of sites for development through subsequent Site Allocations Development Plan Documents and neighbourhood plans.
10. Whilst new allocations were advanced through the Wiltshire Housing Site Allocations Plan (February 2020), which entailed a review of settlement boundaries, the site has not been allocated or identified for development. Accordingly, it falls beyond, albeit adjacent to, the defined settlement limits of Semington and thus within the countryside where the adopted settlement strategy dictates strict development controls.
11. I acknowledge the proximities to the site of Trowbridge, a Principal Settlement, and Melksham, a Market Town, as well as the availability of bus services and a local cycle link serving employment opportunities at Bowerhill. However, these connectivity factors do not alter my identification of clear conflict with the adopted settlement strategy.

12. Thus, having regard to relevant provisions of the development plan, the site does not represent an appropriate location for the proposed residential development. There is identifiable conflict with Policies CP1, CP2 and CP15 of the CS in so far as these policies establish a strategy for the distribution of development across the plan area.

Other Matters

13. The site falls within the setting of the Grade II listed St Georges Hospital, and I am mindful that, in considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I am satisfied that, in-part owing to the degree of separation involved, the setting of this designated asset would be preserved and that no loss of heritage significance would result.
14. I have noted objections/concerns raised by interested parties with respect to matters including highway safety, the effect upon the character and appearance of the area, the effect upon wildlife, the effect upon local water courses and drainage/sewerage systems, the effect upon nearby non-designated heritage assets, and the effect upon neighbouring living conditions. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore such matters further here.

Planning Balance

15. It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.
16. The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.
17. The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).
18. My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS

was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.

19. The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.
20. However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.
21. Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.
22. Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.
23. As regards the scheme's benefits, it would provide additional open-market and affordable dwellings that could potentially be delivered quickly upon the site in question. Although the provision of up to 30 homes would not make a clear or noticeable difference to the housing supply situation in Wiltshire, the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Further, the policy-compliant delivery of at least 30% affordable homes would promote the delivery of distinct social benefits and respond to a locally identified need. These are thus benefits that attract considerable weight.
24. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. I afford these benefits moderate weight in view of the number of dwellings proposed.
25. The legal agreement, which I am satisfactorily content is fit-for-purpose despite not binding a small part of the appeal site, secures various contributions (in addition to affordable housing already discussed above). However, these are intended to mitigate the proposal's effects and, on this basis, do not typically

attract positive weight in the planning balance. This includes an off-site open space contribution to be put towards upgrading existing local play areas.

26. Whilst it is realistically envisaged that new publicly accessible open space areas would materialise on-site, these would primarily be of benefit to future occupants of the scheme itself rather than the wider local community. I therefore afford any benefit to be brought about by the delivery of new on-site public open space limited weight. Furthermore, any biodiversity benefits to materialise would realistically be fairly modest and attractive of somewhat limited weight in the planning balance.
27. It has been put to me that the scheme is landscape-led and has been designed to provide a sympathetic extension to Semington in lieu of planning permission³ having already been granted for the development of up to 26 homes upon the site situated to the immediate south. However, even if the scheme could be assessed to cause limited or no material harm in a character and appearance sense, this would not equate to a scheme benefit attractive of positive weight in the planning balance.
28. The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.

Conclusion

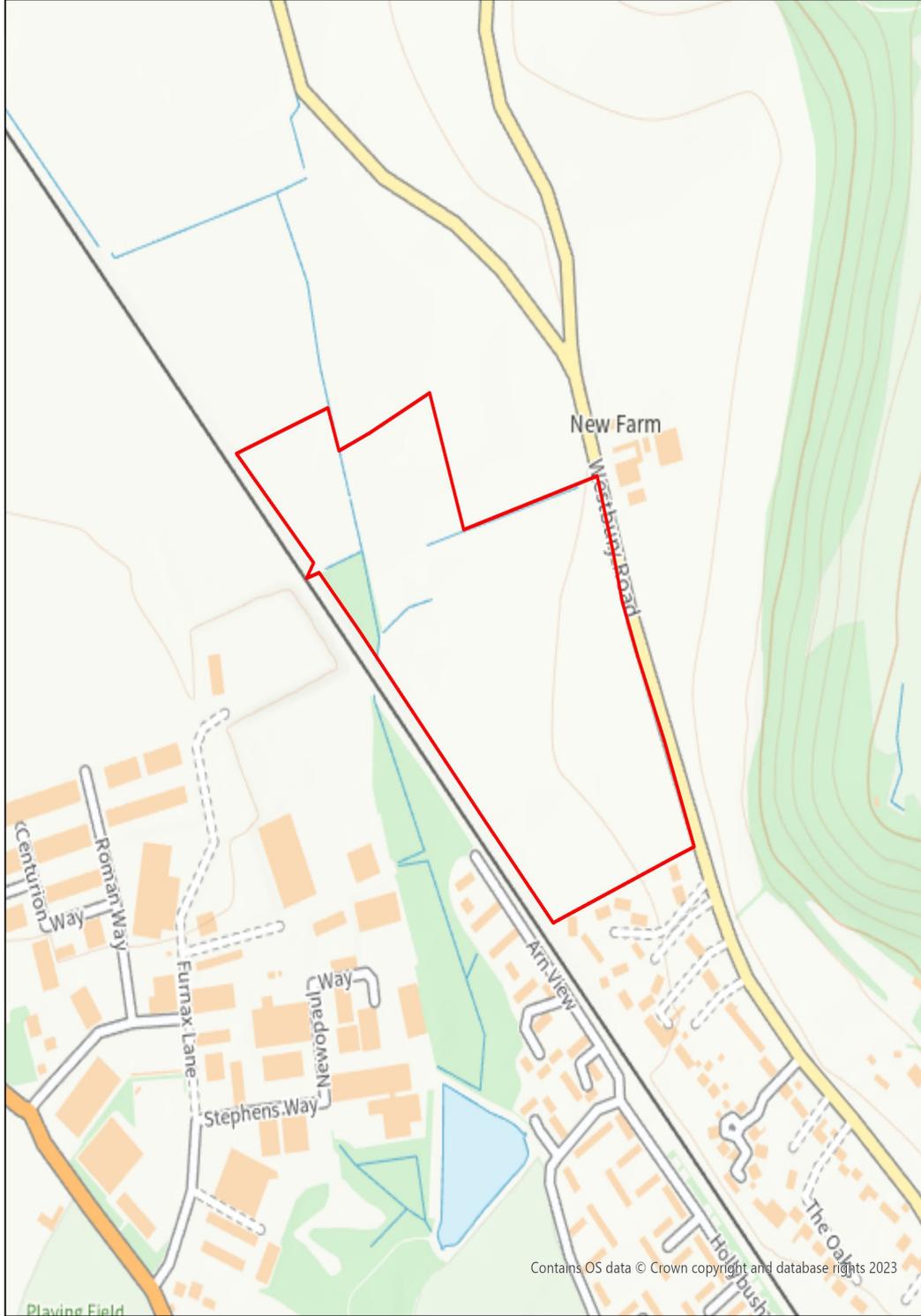
29. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR

³ APP/Y3940/W/19/3236860

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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 6 March 2024 |
| Application Number | PL/2021/03749 |
| Application type | OUTLINE |
| Site Address | Land at Glenmore Farm, The Ham/Hawkeridge Road, Westbury, BA13 4HQ |
| Proposal | Residential development (use class C3) for up to 145 homes, community orchard, children's play areas (LEAP), tree planting, habitat creation and ecology buffers and mitigation; site drainage and associated infrastructure. All matters reserved except for access. |
| Applicant | Westbury LVA LLP |
| Town/Parish Council | Heywood PC |
| Electoral Division | ETHANDUNE – Cllr Suzanne Wickham |
| Case Officer | Gen Collins |

1. Purpose of Report

The purpose of the report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 (and related revised Planning Practice Guidance published in February 2024) that have a material impact on this planning application, and to consider the recommendation that the application now be refused planning permission.

2. Background

On 1 November 2023 the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (committee report attached as Annex 1); work commenced on the legal agreement, although it has not been completed and so the planning permission has not been given. In making its decision to approve subject to the legal agreement the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this 'gap' the authority becomes aware of new, or changed, material considerations, then the relevant law requires the authority to have regard to these considerations before finally determining the application.

In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a changed material consideration that must now be taken into account. The effects of the changes in relation to this planning application are set out below.

- The principle of development (namely conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy and the weighting to be given to these policies);
- Related to the above, does the revised NPPF change the planning balance?
- Are there now any restrictive Wiltshire Core Strategy policies that have become more relevant on the balance?

3. Housing supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*

77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

Paragraph 226 referred to in paragraph 77 states the following –

226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards

meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing.

4. Current housing land supply position and consequences for the 'planning balance'

The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. In subsequent appeals this figure has been reassessed to be 4.59 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is now starting from a 'level' position rather than 'tilted'. In terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant.

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (particularly Core Policies 1 and 2), it follows that planning applications which conflict with the policies should not normally be granted – that is, unless other policies or material considerations indicate that the housing delivery policies should not be followed – and other restrictive policies may have increased relevance. The weight to now be given to the policies and to the other material considerations is addressed below.

5. Response from applicant

The applicant considers that the current Wiltshire Plan Strategy continues to fail and is likely to result in a deficient land supply position by the end of the plan period (2026), and that by the Council's own evidence, the Council will only return a positive land supply position at the point of adoption of the new Local Plan.

The applicant considers that the Briefing Notes of June 2020 and April 2022 endorsed by Cabinet and requiring Members to "*Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated*" should still be applied because these Briefing Notes have not been withdrawn.

In terms of housing supply the applicant considers that paragraph 226 should not be applied in the way set out above. The following reasons are given (full response on behalf of the applicant at Annex 2):

- *In the absence of any clarification from Central Government, the requirements of Paragraph 77 need to be taken literally (four-year supply calculated over a four-year assessment period/timeframe), or that the redetermination of the application is delayed until a time that further clarity has been provided.*
- *The Council is required to identify its four-year housing requirement over a four-year period and not a five-year period. Other Local Planning Authorities (LPAs) such as Charnwood Borough Council in Leicestershire, Bracknell Forest Council and St Albans are taking this approach and there are Planning Barristers and legal opinion who support this interpretation.*
- *The Council's use of the 2022/2023 delivery figures as a base date is not appropriate considering we are now in 2024. In the absence of an updated Housing Supply Statement, it would be reasonable and pragmatic to use 2023/2024. When reviewing these figures from 2023/2024 onwards over a four-year assessment period/timeframe, the Council can only demonstrate a supply of 3.7 years (without a buffer applied).*

- *In the event the Council's interpretation of Paragraph 226 is correct and the four-year land supply figure is taken over five-year period, it is disputed that four years' worth of housing (4.6 as per the Council's most recent Housing Land Supply Statement published May 2023) can be demonstrated. The applicants will submit detailed evidence shortly to support this view but for now provide the following comments:*

The Council's land supply position sits around 3.8 years against a five-year housing land supply requirement (2023-2028), even without a 5% buffer based on the following factors:

- *Insufficient permissions have been granted in the base period April 2022 – 2023 to maintain a rolling 4/5YHLS;*
- *The Council have incorporated very high delivery rates on sites with only one outlet, this also does not account for the slowdown in market with developers recently almost halving their outputs; and*
- *Allocated sites have not come forward as anticipated, RM applications are stalling, inclusion of sites with outline permission that have been in the system for over 3 years with no signs of agreement, and assuming two/three outlets will be delivering on site when there is limited evidence.*

The applicant considers that this proposal would provide a meaningful contribution in delivering up to 145 homes with an associated policy compliant affordable housing provision of 58 homes and that such a contribution is highly important given the Council's latest evidence set out in the Wiltshire Local Housing Needs Assessment Update: Volume II (February 2023).

This states at paragraph 4.18, that "4,063 households are currently living in unsuitable housing and are unable to afford their own housing". Of those 1,762 currently occupy affordable housing that does not meet the current householder's needs, mainly due to overcrowding. It concludes that over the proposed 18-year plan period affordable housing need would comprise 30,010 households, equivalent of an average of 1,667 per annum.

The applicant considers in any event, that a shortfall in five- or four-year housing land supply isn't necessary to grant permission in this case, and that the material considerations, plenty of which are associated with this application, warrant approval.

The applicant concludes that the Council in seeking to take a series of applications back to committee, where they have already resolved to grant planning permission, is counter intuitive and irrational.

6. Officer Response to the applicant's comments

The Local Planning Authority's opinion on the recent changes to the NPPF is that it has interpreted paragraph 226 correctly and, therefore, does benefit from only having to demonstrate a 4-year housing land supply (HLS) over a 5-year period, which it can; (this approach has subsequently been conformed as correct in updated Planning Practice Guidance). This applies to the determination of this application and to any application that is in the same position.

Regarding the status of past Wiltshire Council 'Briefing Notes' on the status of the development plan, these (like any policy or guidance) will inevitably, and automatically, be superseded in the event of more up-to-date and different policy or guidance taking effect.

It is clear that the Local Planning Authority's position on the matter differs from that of the applicant. The committee is advised to consider the application based on the advice the Local Planning Authority has received, but with due regard to the applicant's position – this in view of there being no qualifying statements or case law relating to the updated NPPF at this time. It is in view of this situation that it is perhaps not surprising to find the LPA's opinion differing to that of the applicant.

7. Applying the planning balance to this case

The 'harms' -

Principle - housing delivery policies –

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. Within the Settlement Strategy, Westbury is defined as a Market Town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. Because the application site lies beyond the limits of development, it is within the countryside. Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by “.... *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services*”.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Westbury – and further states that housing should not be permitted outside the limits except in the few circumstances explained in the policy, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. This application site is not allocated in either the Wiltshire Core Strategy or any site allocations DPD or Neighbourhood Plan.

WCS Core Policy 32 sets out a Spatial Strategy for the Westbury Community Area. The policy states that development in the Community Area should be in accordance with Core Policy 1

Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with Core Policies 1, 2 and 32. Proposed development which does not accord with Core Policies 1, 2 and 32 is considered to be unsustainable in the overarching context of the Wiltshire Core Strategy and the NPPF. In view of the revised NPPF substantial weight must now be given to this 'in principle' conflict with the housing delivery policies and, by association, that part of paragraph 180 of the NPPF which requires regard to be given to the intrinsic character of the countryside.

Landscape Impact –

Core Policy 51 ('Landscape') is a restrictive policy rather than a housing delivery policy. It is a policy which is intended to restrict development that would not protect, conserve and where possible enhance landscape character, or that could not be mitigated as far as possible through sensitive design and landscape measures. Core Policy 57 ('Ensuring high quality design and place shaping') has related criteria.

Under the circumstances of the 'tilted' planning balance (and in general), the weight to be given to landscape effects was in most cases outweighed by the significant weight required to be given to the housing land supply shortfall. This application is evidence of this – when considered by the

Strategic Planning Committee in November 2023 the effects of the planned development on landscape were not considered to be sufficiently significant to tip the tilted balance and so amount to a landscape reason for refusal (or, in terms of paragraph 11(d) of the NPPF, any adverse effects did not “significantly and demonstrably” outweigh the benefits of granting planning permission for housing). In reaching this conclusion the Committee had regard to the housing land supply shortfall and the specific circumstances of the proposal (in terms of its detailed design and layout and its proposed measures to mitigate its effects on the landscape).

However, now that there is a level planning balance, restrictive planning policies – notably here, CP51 (and the related parts of CP57) – are now more relevant because significant weight is no longer to be given to the housing land supply shortfall. This increased relevance does not mean that the restrictive policies can, or should, be given more weight – the weight they can, or should, be given is the same as before (because the landscape effects of the proposed development have not changed); rather it is the effect of this same weight and its consequences for the planning balance that are material.

For this application, and as a starting point, the landscape effects of developing this open field in ‘countryside’ to accommodate housing that is now not required to address a housing land supply shortfall is considered to be deserving of limited weight. This is when taking account of the baseline assessment of the fields – which are essentially, and in isolation, open fields in the countryside, but which are to a certain extent hemmed in by, and/or pepper-potted with, established development. But then factoring in the wider circumstances of the site and the characteristics of the locality, and the actual proposal – that is, the site’s relationship with established developments, the nature of existing established landscaping, and the landscape mitigation measures presented in the proposal, these effects and the limited weight to be attributed to them are not considered to amount to a sustainable reason for refusing planning permission in any event. In accordance with CP51, and as demonstrated in the planning application, the modest ‘negative impacts’ can be mitigated through sensitive design and landscape mitigation appropriate for the locality.

In this respect, the conclusions of the Landscape and Visual Assessment which accompanies the planning application are agreed – notably the following:

It is concluded that the site forms a logical location for residential development and the sites immediate context would allow a development to sit comfortably within this setting. Development of this site would be compatible with the existing and proposed pattern of development within the area and would only be visible from locations where areas of development already dominate the composition and character of views.

It is considered that the application site and wider landscape have the capacity to accommodate the proposals. With mitigation measures in place it has been concluded that there would be no adverse impacts on the quality, character, diversity or local distinctiveness of the natural environment.

Loss of Agricultural Land –

The site is made up of a number of fields designated as Grade 3 (part 3a and part 3b); parts of the site are, therefore, ‘best and most versatile’ agricultural land. The overall area of land affected by the proposal – c.9.4ha – has not changed and so continues to be relatively modest. Natural England is generally concerned where areas of best and most versatile agricultural land greater than 20ha are being lost. This said, the loss of any agricultural land is a factor to be considered on the planning balance, and with the change to the housing land supply position, this is a material

consideration now of increased relevance. In the light of the grade of the agricultural land and the limited size of the field that would be lost, it is considered that limited weight should be attributed to this point.

The benefits –

Location of development –

The original committee report refers to the site as being within a reasonably accessible location in the context of Westbury town, albeit that it is in the countryside. The site is adjacent to the existing edge of the town and one of its principal employment areas which would be easily accessible by means of than motorcar.

Provision of Affordable Housing –

Notwithstanding that the Council can demonstrate a sufficient supply of deliverable housing land, the proposal would provide 40% (58) affordable housing units. It is considered that significant weight should still be given to this as a benefit.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In the light of this – and bearing in mind the size of the scheme (53 units is not a large site) – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is of note that the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the expenditure from future occupants of the development within the local economy.

Lack of any other technical objections –

As noted previously, the scheme has not been the subject of any technical objections from consultees. Only limited weight can be afforded to this point.

8. Conclusion

Applying the ‘planning balance’, it is considered that the conflict with the spatial strategy with regard to the location of the proposed development does demonstrably and significantly outweigh the benefits – including delivery of up to 145 dwellings, 40% of which would be affordable – on this site due to the fact that one of the major considerations when considering the application at the Strategic Planning Committee meeting in November 2023 was the Council’s lack of a 5 year Housing Land Supply and the need to apply the ‘tilted balance’ to the consideration of the weight to be given to the out of date policies of the Core Strategy.

The above situation has now changed with the amendments to the NPPF in December 2023, and the strategic policies that set the settlement strategy for the Core Strategy have regained their primacy. The delivery of this site is no longer required to aid the delivery of the Council’s Housing

Land Supply and the benefits of the scheme do not outweigh the requirement that development is in accordance with the policies of the Development Plan. As the permission has not been issued following the resolution to grant from the Committee in August 2023, due to the S106 not yet being completed, the application falls to be re-considered in light of the material change in circumstances that has occurred between the first recommendation to Members and the current situation. The application is therefore recommended for refusal.

Recent appeal decision –

On 9 February 2024 an appeal relating to a proposal for up to 30 dwellings on a windfall (unallocated) site at Land south of Pound Lane, Semington was dismissed (ref. PL/2022/09397). In dismissing the appeal the Inspector noted the following –

6. *As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis*

Planning Balance

15. *It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.*
16. *The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.*
17. *The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).*
18. *My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.*
19. *The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has*

acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.

20. *However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.*
21. *Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.*
22. *Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.*
28. *The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.*

This very recent appeal decision – relating to a site elsewhere in Wiltshire – aligns with the Local Planning Authority's interpretation of the updated NPPF and how it should now be applied in cases such as this. As in the appeal case, the proposal conflicts with the Council's Spatial Strategy and development plan as a whole; this conflict – and the fact that the planning balance is now level – is not outweighed by any other material considerations.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. Principle of Development

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the County, and in doing so identifies four tiers of settlement - Principal Settlement, Market Town, Local Service Centre, and Large and Small Village. Within the Settlement Strategy Westbury is defined as a Market Town. The Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined boundaries, or 'limits of development'. Beyond the limits of development is countryside. The application site lies beyond / outside the limits of development of Westbury, and so is in the countryside.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier. The policy states that within the limits of development of those settlements with defined limits there is a presumption in favour of

sustainable development; but outside the defined limits – that is, in the countryside – other in circumstances as permitted by other policies of the Plan, development will not be permitted, and that the limits of development may only be altered through identification of sites for development through subsequent Site Allocations Development Plan Documents and Neighbourhood Plans.

Core Policy 32 of the Wiltshire Core Strategy sets out the 'Spatial Strategy' for the Westbury Community Area in which the site lies. It states that development in the Westbury Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

The proposal is for outline planning permission to erect up to 145 dwellings, etc. on the application site, which is in the countryside. Under Core Policies 1, 2 and 32, this does not comply with the Settlement and Delivery Strategies as a matter of principle. The Strategies are designed to ensure new developments satisfy the fundamental principles of sustainability, and so it follows that where a proposal such as this fails to comply with them then it will be unsustainable in this overarching context. The application site is not identified for development in a Site Allocations Development Plan Document, and it is not allocated in a Neighbourhood Plan document. Furthermore, there are no material considerations or exceptional circumstances, including set out in other policies of the Plan, which override the core policy's position. The proposal is, therefore, contrary to Core Policies 1, 2 and 32 of the Wiltshire Core Strategy and paragraphs 2, 7-15, 47 and 180(b) of the National Planning Policy Framework (NPPF), comprising unsustainable development.

2. Lack of a signed Legal Agreement

The proposed development fails to provide and/or secure adequate provision for necessary onsite and, where appropriate, off-site infrastructure to make the application proposal acceptable in planning terms. The application is therefore contrary to policy CP3 of the adopted Wiltshire Core Strategy, and the National Planning Policy Framework, specifically the central social and environment sustainable development objectives enshrined within paragraph 8.

INFORMATIVE TO APPLICANT:

Reason for refusal 2 relates to the failure of the applicant to secure affordable housing and other financial contributions for the site. In the event of an appeal it may be possible to address this through a suitably worded Planning Obligation.

ANNEX 1: 1 November 2023 Committee Report

ANNEX 2: Applicant response to revised NPPF

REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 1 November 2023 |
| Application Number | PL/2021/03749 |
| Site Address | Land at Glenmore Farm, The Ham/Hawkeridge Road, Westbury, BA13 4HQ |
| Proposal | Residential development (use class C3) for up to 145 homes, community orchard, children's play areas (LEAP), tree planting, habitat creation and ecology buffers and mitigation; site drainage and associated infrastructure. All matters reserved except for access. |
| Applicant | Westbury LVA LLP |
| Town/Parish Council | HEYWOOD |
| Electoral Division | Ethandune (Cllr Wickham) |
| Grid Ref | 386361 152870 |
| Type of application | Outline Planning |
| Case Officer | Gen Collins |

Reason for the application being considered by Committee

The application is before the Strategic Planning Committee at the request of Councillor Wickham. Her concerns relate to the scale of development, the visual impact upon the surrounding area, the relationship with adjoining properties and the environmental/highways impacts. The application also represents a significant departure from the policies of the development plan.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The main issues to be considered are:

- Principle Whether the development is acceptable in principle (CP 1 and 2);
- Design and Residential Amenity
- Landscape and Visual Amenity
- Heritage
- Drainage
- Ecology
- Highways Safety

- S.106

The application has generated an objection from Heywood Parish Council within whose area the application site sits and Westbury Town Council whose boundary abuts the site following the Ham. In addition, 76 representations have been received from a number of third parties some of which are multiple representations by the same party. Of these representations 67 are objections and the others are comments/no objections.

3. Site Description

The site is approximately 9.4ha in area (see below) and a dog leg in shape, comprising agricultural fields associated with Glenmore Farm. It is located within Heywood Parish adjoining Westbury Parish on its south-west boundary formed by The Ham. It is not allocated in the Wiltshire Core Strategy or the Wiltshire Housing Sites Allocation Plan (WHSAP) although it has been submitted as a site to be considered in the new Local Plan process.



There are no public rights of way (PRoWs) on the site or that run close to the site. There are no heritage assets on the site, and the site is wholly located within Flood Zone 1 with evidence of slight surface water flooding on the western corner where it meets West Wiltshire Trading Estate. In archaeological terms, the site comprises former field systems with traces of

scattered settlement activity dating from the Roman period (AD43-AD410) in the north-eastern quarter of the site. These field systems and the scattered activity appear to be related to the main hub of Romano-British settlement located to the south-east of the site.

In terms of Agricultural Land Classification, the site is grade 3.

The site lies within the Grey and Yellow Zone (Medium Risk) defined in the Trowbridge Bat Mitigation Strategy and is within the consultation area for the Bath & Bradford on Avon Bat SAC.

It is circa 1km (0.75 miles) from Picket/Clanger/Round Wood which is designated ancient scheduled woodland and is a designated Site of Special Scientific Interest.

In terms of topography, the land is undulating and the ground slopes upwards from the north-west boundary to the centre of the site. From the centre of the site to the south east boundary the ground plateaus although this is partly interrupted by a surface depression located close to the site's southern boundary.

It lies adjacent to the West Wiltshire Trading Estate which forms the northwest boundary of the site. The northeastern boundary of the site is formed by Hawkeridge Road and Glenmore Farm.

The southeast boundary is formed by The Ham. The south west boundary adjoins the rear residential gardens of properties 73-89 Hawkeridge Park and an associated play area, as well as further agricultural fields (which themselves are subject to a separate planning application

4. Planning History

There is one relevant historic planning record relating to the application site as follows –

| Reference | Description | Decision |
|--------------|---|----------------|
| 15/07071/OUT | Outline planning application for residential development (up to 145 dwellings), following demolition of existing dwelling and outbuildings, with public open space, engineering works and associated infrastructure, access to be approved only, all other matters reserved | Withdrawn 2015 |

The following 'live'/undetermined application relates to an adjacent site -

| Reference | Description | Decision |
|---------------|--|----------|
| PL/2022/09842 | Land Off Storridge Road, Westbury, Wilts Outline application for the demolition of number 13 and 14 Storridge Road and the erection of up to 200 dwellings (including affordable housing), with public open space, structural planting, landscaping, and sustainable drainage system (SuDS) and vehicular access point. (All matters reserved except for means of access) | Pending |

5. The Proposal

This is an outline application with all matters reserved except for access which proposes

the construction of up to 145 houses with community orchard, children's play areas (LEAP), tree planting, habitat creation and ecology buffers and mitigation; site drainage and associated infrastructure with access off The Ham and associated parking, open space, landscaping and drainage.

The illustrative masterplan for the site is set out below. This shows a possible layout for how the housing could fit on the site –



Parameter plans have been submitted with the application which fix at outline stage certain development parameters (e.g. ecological, acoustic and landscape buffer zones); if outline planning permission is given then these parameters cannot be altered at later 'reserved matters'

stages (unless a variation to the outline consent is submitted and agreed).

The Parameters Plans show agreed ecological buffers and dark corridors, green infrastructure including landscape buffers, access, land use and buildings heights. These Parameter Plans show that the net developable area of housing would be 3.67ha. For the 145 dwellings, this equates to c. 38 dwellings/ha, which is within expected tolerances for an edge of settlement urban development. The plans also shows 5.61 ha of publicly accessible open space as specifically detailed on the Areas Parameter Plan and the Ecology and Open Space Plan.

6. Planning Policy

Wiltshire Core Strategy 2015 (WCS)

- CP1 – Settlement Strategy
- CP2 – Delivery Strategy
- CP3 – Infrastructure Requirements
- CP43 - Providing Affordable Homes
- CP45 – Meeting Wiltshire’s Housing Needs
- CP50 – Biodiversity and Geodiversity
- CP51 - Landscape
- CP52 – Green Infrastructure
- CP55 – Air Quality
- CP56 – Land Contamination
- CP57 – Ensuring High Quality Design and Place Shaping
- CP58 – Ensuring the Conservation of the Historic Environment
- CP60 – Sustainable Transport
- CP61 – Transport and New Development
- CP62 – Development Impacts on the Transport Network
- CP64 – Demand Management
- CP67 – Flood Risk

Wiltshire Waste Core Strategy WCS6 (Waste Audit)

Saved Policies for the West Wiltshire District Local Plan (1st Alteration)

- U1a Foul Water Disposal
- U2 Surface Water Disposal

Other WC policy and guidance

- The Wiltshire Waste Core Strategy (adopted 2009)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- Trowbridge Bat Mitigation Strategy (TBMS) SPD

National policy and guidance

National Planning Policy Framework (NPPF) & National Planning Practice Guidance (NPPG) –

NPPF - Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date

then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Relevant NPPF sections include:

Section 8 – promoting healthy and safe communities

Section 11- making effective use of land

Section 12- achieving well-designed places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

National Design Guide (2021)

Manual for Streets 2 (2010)

7. Summary of consultation responses

Heywood Parish Council - Objection

Principle objection - The proposed site is not in a recognised settlement and, in policy terms, forms part of the open countryside. The proposal would involve the erection of open market dwellings. They are neither essential in terms of agriculture or forestry nor do they fall to be classed as specialist accommodation. As such, they would be contrary to existing CS Policies CP1 & CP2.

Lack of Sustainable Access - the proposal would result in a high degree of reliance on the use of private vehicles. As such, the site would offer no real choice of sustainable transport opportunities to future occupiers. This lack of sustainable transport provision would be contrary to CS Policy CP60, CP61 & CP62 all of which seek to reduce the need to travel by private car and encourage the use of more sustainable modes of transport.

Contrary to Draft Heywood Neighbourhood Plan

Proposed pedestrian access through Hawkridge Play area is unsuitable and unsafe.

Westbury Town Council – Objection

Principle objection - The development is inappropriate because it is in the countryside. Whilst it is outside the Westbury parish boundary, every house will impact on the town. Residents of this development will look to Westbury for their schools, medical facilities and shops and there is no improvement to Westbury's infrastructure to help manage this increase.

Concerns raised about drainage, increase in traffic, the access is inappropriate on a bend of an already busy road, design, properties will be overlooked, loss of privacy.

Wiltshire Assistant County Archaeologist – no objection, subject to conditions requiring mitigation in the form of archaeological excavations to be conducted within the footprint of the wetland habitat/SuDS feature in the north-east of the site, as well as the proposed play area.

The construction of the footpath and cycle path should be monitored by qualified archaeologists and a Heritage Management Plan (HMP) should be created, setting out the proposed stewardship of the open area to the north of the housing plots and how this would protect the area from any future impacts on the identified archaeological site in the north east.

WC Lead Local Flood Authority – no objection, subject to conditions including a Grampian condition

to secure appropriate surface water drainage.

Environment Agency – no objection, subject to conditions for water efficiency and CEMP.

Wiltshire Council Affordable Housing – no objection, subject to S106.

Should it be decided that this site is suitable for residential development, under Core Policy 43 (Providing Affordable Homes) of the Wiltshire Core Strategy an on-site affordable housing provision of 40% would be required in this location. As this site is proposing 145 new homes, the on-site affordable housing requirement will be for 58 affordable homes - a tenure split of 60% affordable rented homes and 40% shared ownership homes would be required.

Wiltshire Council Highways – no objection, subject to conditions / S106.

Wiltshire Council Education – no objection, subject to S106.

The Council's Education Team have no objections to the development subject to securing s106 contribution towards the provision of early years. The contribution required is set out in more detail within the report.

Wiltshire Council Landscape Officer - No objection

Wiltshire Council Arboricultural Officer - No objection

Wiltshire Council Conservation Officer – No objection

Wiltshire Council Public Open Space – no objection, subject to S106.

Public open space would be required on site via s106 as well as a contribution for the improvement or development of sports pitches or associated facilities that enable their use. The space requirements and contribution is set out in more detail within the report.

Wiltshire Council Public Protection – no objection, subject to conditions / S106.

No objections to the development on the proviso that a financial contribution via S106 is obtained for air quality monitoring as part of the Council's requirements to reduce emissions, and that conditions are imposed to deal with acoustic mitigation, construction management and contaminated land.

Wiltshire Council Ecology – no objection, subject to conditions.

On review of all the relevant documentation, no ecological objections to the scheme subject to:

- conditions to cover the following:
 - Submission of a Lighting Scheme
 - Submission of a Landscape and Ecological Management Plan (LEMP)
 - Submission of a Construction and Environmental Management Plan (CEMP)
- s106 requirements:
 - to offset residual/in-combination losses
 - to ensure that any open space that is looked after by a management company is done so in accordance with the approved LEMP.

- the satisfactory completion of an Appropriate Assessment (AA) under the Habitats Regulations.

The full response to all the matters considered by the WC Ecologist is available to view on the on-line application file.

Natural England – Appropriate Assessment approved. No objection.

Wiltshire Council Urban Design – No objection

Wessex Water – no objection

Waste and Recycling – no comment

8. Publicity

The application was advertised initially by way of a site notice and neighbour notification letters. An advert was also placed in the press. There have been a series of amendments to the application which were advertised by way of neighbour notification letters.

A large number of objections to the development have been received including petitions, individual letters and reports compiled by consultants on behalf of certain local residents. The concerns raised are summarised below –

Need

- Wiltshire council has already met its expected number of new houses being built, or in fact built more than needed.
- The area has already been overdeveloped.
- Westbury is over developed and has already committed 120% of it's housing requirement, therefore the need for this development is unnecessary. A Parish Housing Needs Survey complete for the PC did not show a need for more housing in the area.

Contrary to development plan

- Core Strategy 2015 is still in effect; this application breaches CP1 and CP2 of that strategy. The Core Strategy identified housing requirements up to 2026, this land was not identified as being part of the strategic plan; however, it was included as part of the Strategic Site Allocation – which Haywood & Hawkeridge Parish Council strongly objected to. This application is not in a recognised settlement and in policy terms forms part of the open countryside. The council's own words from the Core Strategy Jan 2015 "The purpose of the planning system is to contribute to the achievement of sustainable development.; "Managing development to ensure that jobs and the right infrastructure are delivered at the right time to ensure that out commuting, in particular to areas outside of Wiltshire, is not increased and development does not have a detrimental impact on infrastructure".
- Local Plan indicates that where a Neighbourhood Plan is or will be that this will dictate the local housing requirement; the Parish Council are in the midst of preparing such a plan and this site is not allocated within the neighbourhood Plan as a site for housing.

Drainage / Flooding

- It is noted that the proposed residential scheme proposes to utilise unadopted foul and

surface water drainage infrastructure on my clients land, for which no permission has been sought or agreed. It appears that the Proposed Drainage Strategy plan ref 570 on page 31 of the proposed Flood Risk Assessment and Drainage Strategy differs Document No. IMS-F-13, Revision 1, 01.05.2018 Page 28 of 36 from the Proposed Drainage Strategy Plan submitted 12th April 2021, first issue 23/02/21, also with drawing ref 570.

- The plan in the report shows surface water drainage discharging in two directions rather than in one direction in the individual plan. Both routes extend over the freehold owned by my client.
- There has been no consultation with the West Wilts Trading Estate owners, and I'm aware that previous development applications have been objected to by the owners agents, due to the increased risk of flooding onto the WWTE. I'm also aware that this application could have a wider impact on the river Biss with runs around the northern side of the WWTE

Ecology / Environment

- Loss of wildlife, flora and fauna
- Important to create good habitat
- Contrary to Core Policy 50 and NPPF policy
- The dwellings of the new proposal will fall under the umbrella of the continuing foul and disgusting smell that comes from the waste facility. This build is in the direct line of sight of the proposed incinerator chimney and toxic fallout from it. With added health risk to new residents.

Loss of Green Space / Conglomeration

- The building of this development would be an abhorrence, inflicted upon vital greenery that serves as a boundary between the Industrial Estate and the town of Westbury itself. The impact on wildlife and nature, in a time where they are most vital, cannot be understated.

Design / Character of the Area

- Housing density is too high.

Location

- This proposed development is outside the settlement boundary.
- The site is too far away from shops, services and facilities to be considered sustainable.

Infrastructure

- The existing local, already overstretched, infrastructure will find it impossible to cope with the needs of the families from 145 new homes - e.g. the number of available school places, health centres and dental surgeries.

Pollution

- Extra traffic means more pollution in the area.

Landscape and Visual Impact

- The development will have a harmful visual impact.

Highways / Parking

- The Ham is already an extremely busy and congested road. This development will cause further problems.
- The access to the development is off the B3092 which is currently in a 50mph zone. The application does not address the visibility splay that is required for the speed limit. Previous applications have also failed to meet the legal requirements for the visibility for the access, which removal of the bend on the B3092 which neighbours the perimeter of the site.
- Approach speeds should be considered that realistically reflect the current actual driving speeds rather than an applied formula otherwise the proposed development will pose a significant risk of accidents.
- Location of the development does not encourage non-car use
- the proposed junction is by design a significant risk to public safety
- and that as it stands the development should again be rejected.
- Safe and suitable walking / cycling opportunities are not included.
- Highway safety
- Permission to remove the hedgerow as per 2.4 of the RSA stage 2 has already been refused by Wiltshire Council as it is of a significant value .
- The traffic count information and peak flows ref RSA stage 2 point 1.7 were taken in May 2019 therefore they do not reflect present traffic flows post pandemic.
- The removal of the refuge island to accommodate vehicular access to and from Shallow Wagon lane will result in road users being exposed with insufficient protection from the traffic.
- Highway code July 22 under Rule 204 clearly states:- it is “The road users most at risk from traffic are pedestrians in particular older and disabled people, cyclist, horses and motorcyclist”
- The level of road user activity will increase as a result of the overdevelopment in the area and those living in the proposed 145 dwellings therefore, unfortunately increasing the chances of road user accidents.
- The 30mph speed limit sign will have little effect. I am unable to find any information to substantiate that it will.
- The stopping distance of a HGV travelling at 30mph according to Rule 227 that states: “In wet weather, stopping distance will be at least, double those required for stopping on dry roads.” will take up to 68 meters to stop. The revised access plan provision for this eventuality are inadequate despite the provisions made.
- that even with the provision of visibility splays and the proposed extension of the 30mph vehicle speed limit the location of the access is unsafe

Neighbour Amenity

- Proximity to west wilts trading estate is incompatible with residential development.
- It will effects the level of daylight received to my property and will result in loss of privacy.
- The Noise Impact Assessment conducted during the Lockdown concluded that, “ the site is suitable for residential development subject to the application of a good acoustic design process and inclusion of an appropriately worded planning condition(s)”, I live in Hawkeridge Park and I can confirm that anytime the Nightclub has an event it can be heard from here and further afield, even though the residential houses have been moved back away from the original proposed proximity to the nightclub it will still be loud.
- the current 1960's houses immediately adjacent to this proposed development all have a wide expanse of windows on the ground and upper floors which overlook the meadow of Glenmore Farm. Any development at this site will result in a loss of their long-

established privacy with new houses directly overlooking their property and gardens.

Democracy / Local Opinion

- Allowing to build here would go against local sentiment.

Consultation

- There has been no efforts made by the developer to involve the local community, with it consultation of the community for this application, and have therefore excluded new residents, businesses, and councillors from the application which is against the Wiltshire Community Involvement policy.

Other

- There is a ransom strip between the front of the proposed site and the Pavement that covers the distance between the Hawkeridge Park houses and the proposed entrance. This Ransom Strip will mean that the only viable walking or cycling paths from the proposed development will have to be from the proposed main access.
- In July 2019 the Planning Application 19/02186/FUL was refused for the following reason, which currently also applies to this application “The proposed development is located in Heywood which is not recognised in the Adopted Wiltshire Core Strategy as a settlement, and, in policy terms lies in the open countryside and as such would result in isolated dwellings by reason of their remoteness from services. The proposal would see the erection of 4 open market dwellings which are neither essential in terms of agriculture or forestry nor are they classed as specialist accommodation. As such, the proposed dwellings are contrary to the sustainable policies contained in the Wiltshire Core Strategy - namely Core Policies 1, 2, 60, 61 and 62 and the NPPF namely paragraph 79 which aim to reduce the need to travel particularly by private car and encourage the use of sustainable alternatives.
- Breaches Government Policy and Guidance on Green Belt Development.
- Affordability. The Median price for a property in Westbury is £161 100 with an average annual gross income of £34,600. This gives an affordability ratio is 4.74. Building houses for those who work in Westbury, vs those who commute, is a significant challenge while retaining an appropriate design and appearance. The current new build 2 bed apartments (Heron Rise) are from £209,000.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle of Development

9.1.1 Wiltshire Core Strategy ‘Spatial Strategy’

The Wiltshire Core Strategy (WCS) sets out a ‘Settlement Strategy’ and ‘Delivery Strategy’ for development across the County. WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – ‘Principal Settlements’, ‘Market Towns’, ‘Local Service Centres’, and ‘Large and Small Villages’. Within the Settlement Strategy, Westbury is defined as a market town. Principal Settlements, Market Towns, Local Service Centres and Large

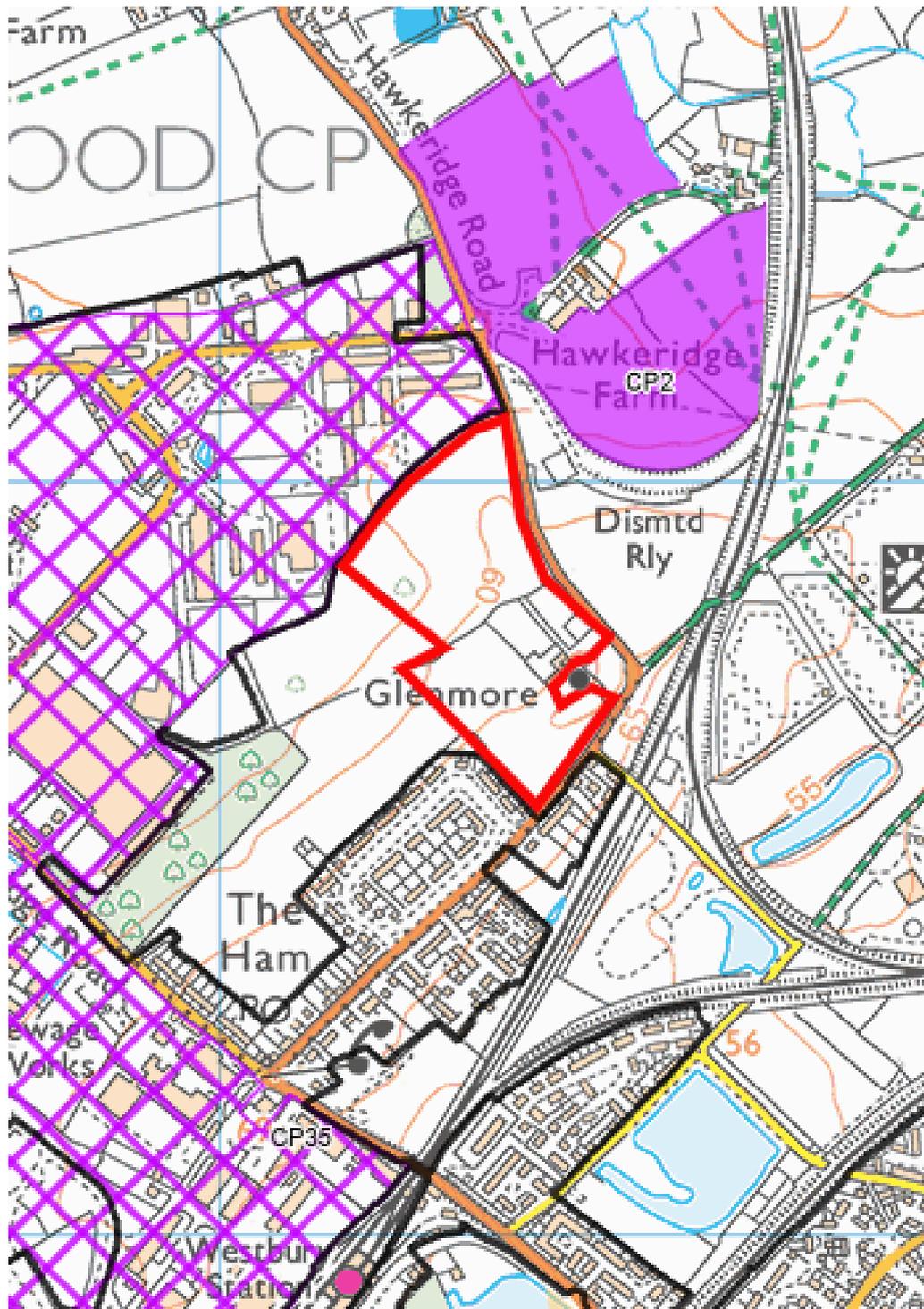
Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Westbury – and further states that housing should not be permitted outside the limits except in the few circumstances explained at paragraph 4.25, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations Development Plan Document (DPD) or a neighbourhood development plan (NP). The Council adopted the Wiltshire Housing Sites Allocation Plan (WHSAP) DPD in February 2020 and it allocates 1 site near Westbury at Court Orchard / Cassways, Bratton. For Neighbourhood Planning purposes Heywood parish (in which the application site lies) was designated a ‘Neighbourhood Area’ in 2016 with a Neighbourhood Plan now at a very early stage in the plan-making process. The Westbury NP (covering the adjacent parish) is more advanced, but not yet ‘made’ being presently at the ‘examination’ stage of the process; the Westbury NP proposes to allocate sites at Bitham Park and between Mill Brook and Coach Road for residential development.

WCS Core Policy 32 sets out the Council’s sustainable plan-led approach to delivering development that responds to and reflects economic, social and environmental needs for the Westbury Community Area. Paragraph 5.165 of the WCS states that the strategy for the Westbury Community Area is to *“deliver a reduction in housing growth compared to historic trends, with a focus on improving facilities, services and job creation. Overall, the town should not seek to compete with the larger nearby centres, including Frome, but rather consolidate and enhance its existing role and improve linkages with neighbouring settlements”*.

The site the subject of this planning application is not allocated in either the WCS or the WHSAP. Therefore, as the site lies outside of the limits of development of Westbury and none of the exception policies apply, the proposal does not accord with the WCS Core Policies CP1, CP2 and CP32. No weight can be given to the Heywood NP in view of its early stage in the plan-making process. Although the Westbury NP is more advanced, the site lies outside of its designated area.

The location of the application site and its relationship with the Westbury settlement boundary is shown in the following extract from the WCS policies map. The bold black line is the settlement boundary edge and the purple hatching is the Principal Employment Area at West Wilts Trading estate; the solid purple shading is an allocated employment site –



9.1.2 Housing Land Supply and the 'tilted balance'

The Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land, and this is a significant material consideration. According to the most up to date Housing Land Supply Statement (published May 2023 (base date: April 2022)), the number of years deliverable supply is 4.6 years (since 'agreed' to be 4.59 yrs following a more recent appeal decision). This means that the 'tilted balance' flowing from paragraph 11d)ii of the National Planning Policy Framework(NPPF) is engaged; it says the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) **Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:**

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the development in terms of it delivering housing – that planning permission should be granted. The other ‘non-impacts’ of the development are discussed later in the report.

In a recent allowed appeal decision relating to a proposal for 200 dwellings in countryside on the edge of Devizes the Inspector considered the housing land supply position, and concluded as follows (with emphasis added) –

“The proposal would help boost the Council’s supply of deliverable housing sites through a mix of market units next to a second-tier settlement that offers accessible facilities and services. The proposed units could be delivered in the short term, and they would help address the persistent shortfall of housing in Wiltshire when there is not a plan-led mechanism to address this until the DPD is potentially adopted. Against this backdrop, I do not consider the shortfall to be modest, regardless of the number of permissions which the Council have granted and the Council’s performance on the Housing Delivery Test. The extent of the shortfall has largely been flat in recent times despite the Council’s briefing notes. I therefore attach substantial weight to this social benefit in the context of the Framework’s aim to significantly boost the supply of housing.”

In another recent (July 2023) allowed appeal relating to a site in the countryside on the edge of Holt for up to 90 dwellings (ref. PL/2022/03315), the Inspector said the following –

“When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council’s position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future.”

There have been 26 appeals since 2019 where 5 year land supply has been a principal material consideration. 19 of the appeals have been allowed, with 12 of 15 allowed in the last 16 months. Those few appeals that were dismissed had, in the main, other technical

objections which tipped the balance the other way (for example, ecology, highway safety, loss of a country park, etc.). There are no technical objections relating to this application.

In order to address the shortfall the Council has issued two briefing notes, in September 2020 and April 2022. In section 6 of the second note – *What can we do to restore a five-year housing land supply?* – the note states that the Council will:

iii) *Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.*

In the Holt appeal decision the Inspector stated the following in relation to this Briefing Note –

“I afford significant weight to this Briefing Note, as it is a realistic attempt to address the shortfall and, as such, I also attach significant weight to this stated intention in paragraph 6.1. To my mind, this case falls under this intention, for although I found harm to the character and appearance of the area, that harm was primarily due to the effects of placing a housing estate on a field and so commonly arises when the site is outside a settlement. As such, while that is a policy objection I do not consider it to be a major one.

Overall, I attach significant weight to the content of the Framework in relation to the need for a 5-year supply and the consequences that flow from failing to identify that quantity of housing land. I also attach significant weight to the delivery of 90 dwellings, as it would make an appreciable contribution to addressing a shortfall of this size”.

9.1.4 Principle of development – conclusion

The Council does not currently have a 5-year supply of housing, and accordingly WCS Core Policies CP1, CP2 and CP32 cannot be given full weight. In the context of a lack of any detailed objections from statutory consultees, the NPPF ‘tilted balance’ favours the application as “*any adverse impacts of granting permission*” cannot demonstrably outweigh the benefits, a main benefit being the supply of housing, including up to 58 affordable units.

Notwithstanding the site’s location in ‘countryside’, it is considered to be reasonably sustainable being adjacent to the existing edge of the town and one of its principal employment areas. Whilst there would be some undoubted change to the landscape at and around the site, it is not considered that there would be sufficient ‘harm’ arising from this to warrant a refusal decision under WCS Core Policy 51 (Landscape).

There are no other ‘policy obstacles’ (as highways, drainage and ecology issues are all satisfactorily addressed in the application).

Regarding the relevance of the Neighbourhood Plans (NPs), the Heywood NP is at the very earliest stages of the plan-making process and so can be given no weight. The Westbury NP is more advanced, but does not cover the application site.

9.2 Design & Amenity

9.2.1 - Design

Core Policy 57 requires ‘a high standard of design in all new developments. Of particular relevance is paragraph (iii) which 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 rooflines to effectively integrate the building into its setting’.

The NPPF states at paragraph 126 that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 states Planning ... decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Core Policy 41 seeks to ensure that sustainable construction techniques and renewable energy is employed to ensure a scheme that is energy efficient and represents low carbon use in line with, and where possible, exceeding Building Regulations requirements.

Core Policy 57 further states that applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter).

The detailed considerations in respect of design are not for consideration under this outline application – that is, the layout, scale, appearance and landscaping of the development are points to be determined as part of later Reserved Matters applications. However, it is still necessary to look at these issues at a higher level to ensure that the proposed quantum of development (up to 145 dwellings) can be accommodated on the site whilst ensuring a high standard of design can be achieved.

Since the original submission the indicative layout plan has gone through several iterations to address concerns regarding design, ecology and noise.

The final proposed illustrative master plan for the site is shown below:



Based on this master plan it is concluded that up to 145 dwellings can be accommodated on the site within the terms of Core Policy 57 – that is, a high quality design can be secured without ‘over-development’ and in-keeping with the prevailing character of the area (e.g. in terms of density, appearance and layout). An adequate level of detail has been provided in the parameters plans and the updated Design and Access Statement (DAS). As the proposal is for ‘up to’ 145 there remains flexibility to reduce the number should this be necessary when the detailed plans are prepared.

Whilst the WC Urban Design Officer does have some detailed concerns, on the whole he supports the proposal. The detailed concerns are matters for the REM stage, and where necessary now can be addressed by conditions and/or informatives. Fundamentally, this is an outline application, and so detailed design matters are for future consideration. This said, at the request of the Public Protection and Urban Design officer, the DAS has been updated in any event to include more design principles, and so it provides a solid platform on which the

REM applications would be based.

The Design and Access Statement (DAS) at s.4.7 indicates that the detailed design would meet low carbon design requirements as set out in CP41 for sustainable construction techniques and low carbon energy. It states that the final design would include the following:

- Use of roof mounted solar PV and ASHP
- Provision of cycle storage
- EV charging
- Water efficiency
- Whole life-cycle waste audit
- Travel Plan

A condition would be imposed to ensure that the development is in general accordance with the DAS, and specifically a condition requiring conformity with this section of the DAS to ensure a low carbon development is secured at REM stage. Additionally, a condition requiring a design compliance statement to be submitted with each REM application is recommended to ensure high quality design is achieved that is locally distinctive.

Whilst design and layout are reserved matters, the applicant has confirmed that the site would be policy compliant in terms of affordable housing provision proposing 40% total, with 60% for rented and 40% for shared ownership as required by the WC Housing officer. This would be secured c/o a s106, and is included in the Draft Heads of Terms. Detailed advice has been provided by the Housing Officer as to the split and design of the affordable units and this, along with details of the exact location on the site for the affordable homes, will be a matter for discussion at the REM stage.

9.2.2 Residential Amenity

The illustrative layout satisfactorily demonstrates that a scheme of up to 145 dwellings could be accommodated on the site without giving rise to adverse residential amenity impacts.

Given the presence of the bat corridor and ecological buffer (addressed later in this report) to the north and east of the planned 'built' areas, there exists, on average, a gap of around 130-200m between the built area and the nearest properties on the West Wilts Trading Estate. This, together with other measures to manage noise, is sufficient to ensure that the amenity of future occupiers of the proposed development would not be compromised –



There are open fields adjacent to the larger parts of the south-west and north-east sides of the site. The closest existing residential properties are located on Hawkridge Park on part of the south-west side and also on the other side of The Ham to the south east corner of the proposed development –



The indicative Masterplan and Landscape and Ecology Parameter Plans demonstrate that there is the ability to incorporate 'back-to-back' distances of at least 21m between the proposed and existing properties, and this is generally considered to be an adequate separation distance. The expectation would be for the garden lengths of those new properties adjacent to common boundaries to be in the order of 11-12m minimum, so increasing the minimum separation in some areas. The Building Heights Parameter Plan indicates two-storey development near boundaries, with a small areas of potential three-storey development at the centre of the site only –



The access, land use, ecology, open space and building heights shown on the Parameters Plans define the limits of residential development on the site. Any subsequent REM application would have to align to these. It is evident from these plans that the relationships between the proposal and established surrounding developments are such that a detailed scheme can be prepared which would not give rise to any adverse harm to residential amenity.

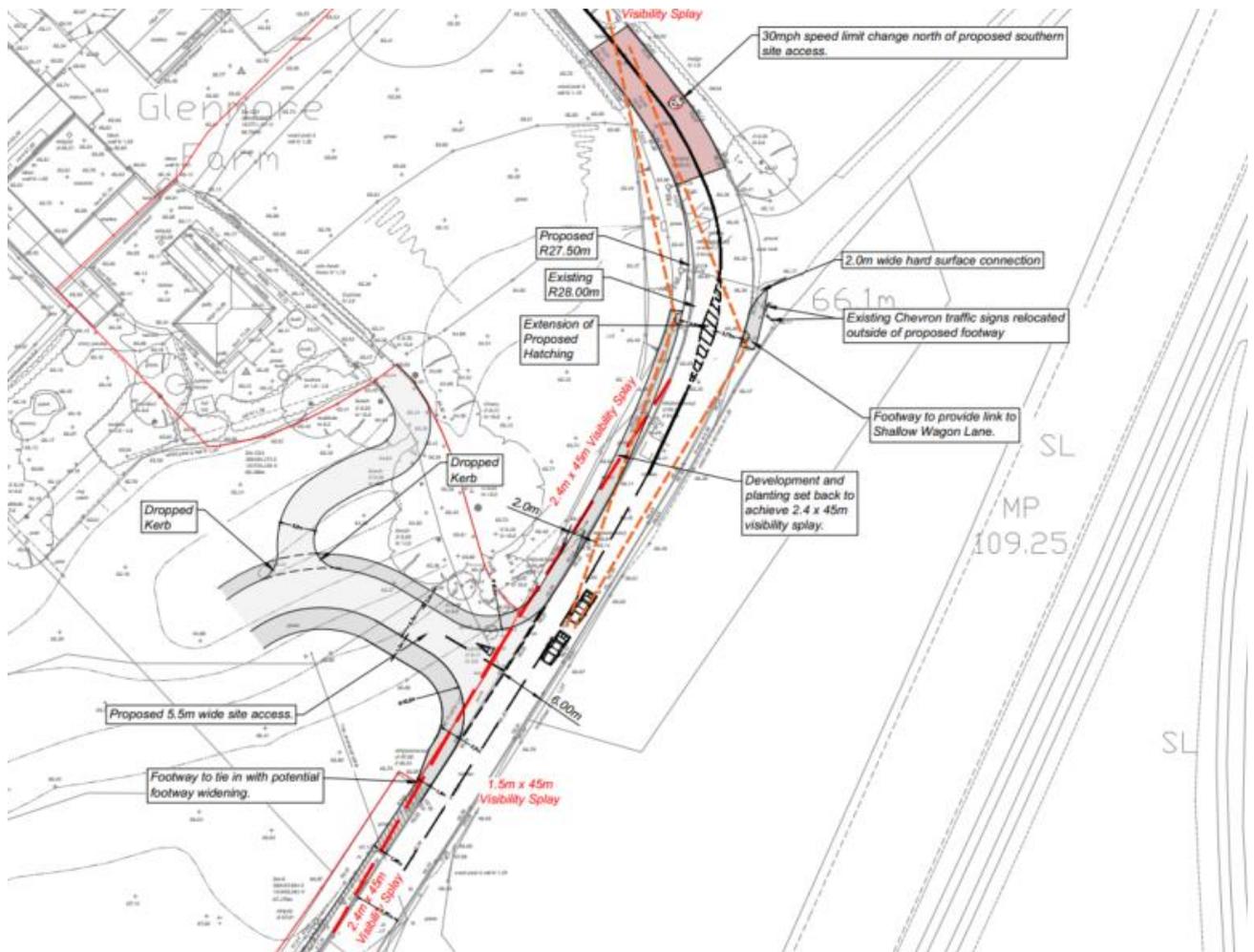
The amenities of the future occupants of the development is another matter for the REM stage. However, the indicative Masterplan, again, demonstrates that there is sufficient space to enable a scheme of up to 145 dwellings to come forward without giving rise to unacceptable amenity impacts for the future occupants of the development. Such conclusions can be reached as the

layout is realistic showing the typical features required of a housing development (e.g. parking spaces, amenity space, public open space, roads, footpaths, SUDs, play space, ecological buffers, attenuation ponds and strategic landscaping).

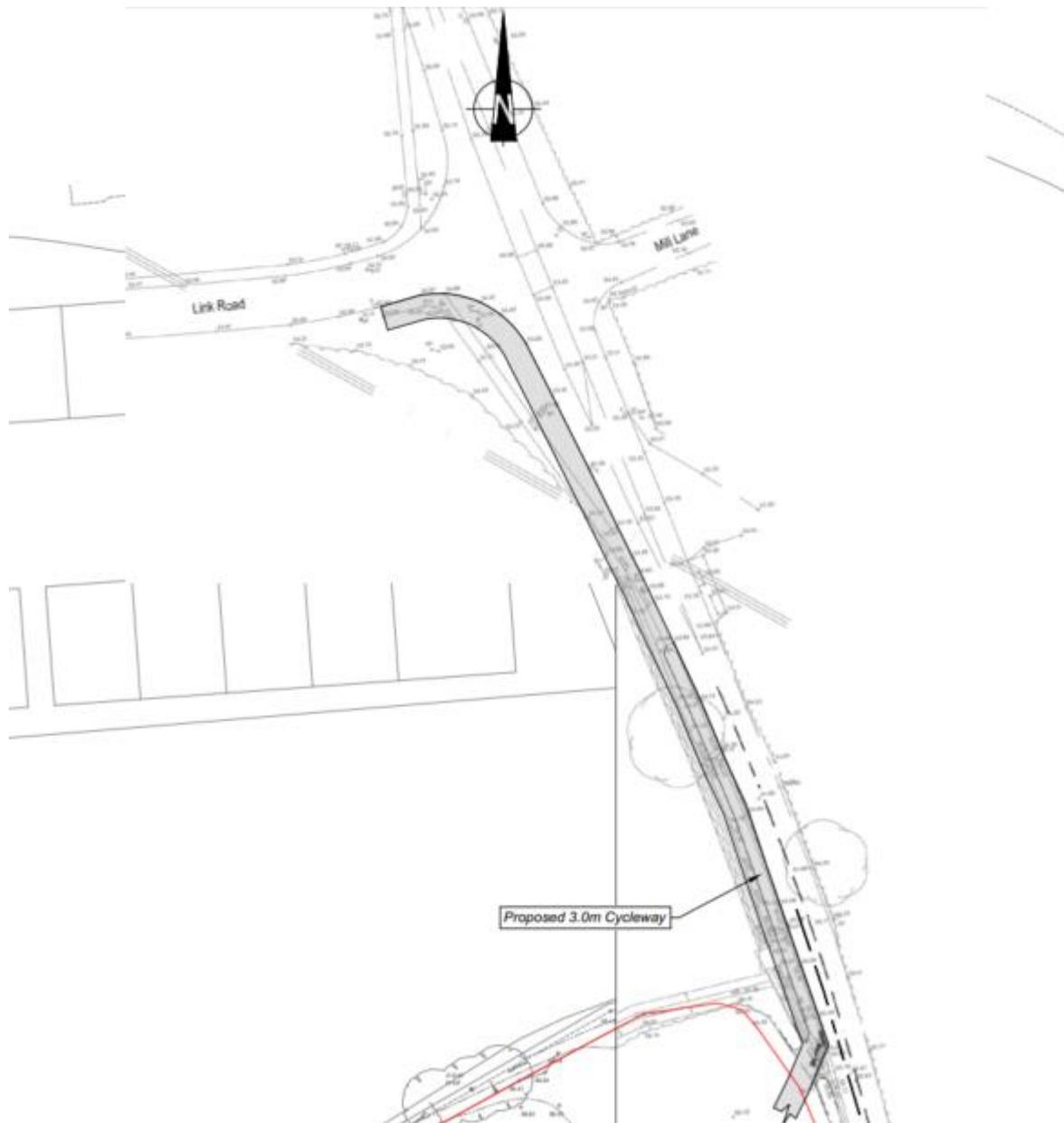
Noise from the adjacent trading estate and acoustic mitigation have also been considered, and these are addressed later in this report along with air quality.

9.3 Highways / Rights of Way

Means of access to the site is to be considered at this stage (that is, it is not a matter to be reserved). The proposed vehicular access to the planned development would be from The Ham (the existing accesses to the farm to be closed), and this is shown in the following snip from the 'Proposed Site Access Layout' drawing. The snip also shows some of the proposed off-site highways works planned within the vicinity of this site access –



In addition, a pedestrian/cycle access to the site is proposed in its north-east corner from Hawkeridge Road, with related off-site highways works to provide a cycleway between the new access and Link Road –



Paragraph 110 (b) of the NPPF requires that in assessing... specific applications for development, it should be ensured that...safe and suitable access to the site can be achieved for all users.

Paragraph 111 of the NPPF states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.

Paragraph 112 (c) of the NPPF also states that ...applications for development should create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles.... and respond to local character and design standards.

CP57 (ix) of the WCS requires new development to ensure "that the public realm including new roads and other rights of way are designed to create places of character which are legible, safe and accessible..." and CP57 (xiv) requires development to meet "the requirements of CP61 (Transport and New Development)".

CP61(ii) of the Wiltshire Core Strategy requires new development to be “capable of being served by safe access to the highway network” and within the supporting text for CP61, the Council recognises that it is critically important for good planning and safe highway interests for new development to benefit from a suitable connection to the highway “that is safe for all road users”.

CP64 requires sufficient parking to be provided in new development in line with residential parking standards and requires a reduction in reliance on the use of the private car where possible.

As explained at the start of this section of the report, the proposal is to close the existing access points to Glenmore Farm from The Ham and Hawkeridge Road and form a new, ‘main’ vehicular access from The Ham. Various new pedestrian routes and cycleways, including a 3m wide shared use cycleway through the development connecting The Ham to the entrance of Link Road, would also be provided. It is also proposed to provide a 2m wide footway within, and partly outside, the site, connecting the main access with existing pedestrian routes. These highways works have been agreed with the WC Highways Officer.

Transport Assessment and Framework Travel Plan –

The application is supported by a Transport Assessment and Framework Travel Plan (TA) produced in consultation with the WC Highways Team. It is considered to be robust in its assessment of the traffic impacts of the development. According to the TA the proposed development is forecast to generate 72-73 vehicle trips per peak hour where a trip is a one-way vehicular movement. Distribution of trips on the network has been calculated by reference to census data.

Whilst concern has been raised in terms of highway safety, road traffic personal injury traffic data has been examined for the local area, and no significant accident clusters or types have been identified. Traffic flows have been judged to a growth assessment year of 2026. Committed developments in the Westbury area have been taken into account.

No significant local junctions would be impacted by greater than 2.1 % increase in traffic as a result of the development. This is shown at Section 6.30 of the TA. Significant local junctions have been traffic-impact assessed for the growth year of 2026 using the appropriate software modelling tool for the type of junction.

The TA shows that the development would have an immaterial impact at congested junctions and is not modelled to exceed the design capacity elsewhere.

The detail of bus stop shelters has not been established and these would need to be specifically considered in an access condition. Details can be secured via condition with the costs met through s106 developer contributions.

Detailed discussions have been entered into between the applicant, the LPA and the LHA regarding pedestrian routes and desire lines, and sufficient visibility and safety for the pedestrians who are likely to cross at the Shallow Wagon Lane location of Hawkeridge Road given it is a sharp bend. Speed surveys have been undertaken and the concerns raised by the LHA have necessitated several iterations of highway designs.

The final proposed design has been subject to a Road Safety Level 2 Audit which demonstrates that the revised proposed pedestrian access and crossing point at the Shallow Wagon Lane would be sufficiently safe provided that the carriageway at the bend of Shallow

Wagon Lane is widened with an area of hatching road marking provided in the center of the carriageway, the footways are extended along The Ham and Hawkeridge Road and traffic signs which currently obstruct visibility are relocated to the satisfaction of the LHA. These works are shown on the above snip from the 'Proposed Site Access Layout' drawing.

Additional details of visibility splays are also shown on the above snip, and these can be conditioned. Additionally, the extension of the 30mph speed limit to the north of the bend at The Ham and Hawkeridge Road is considered necessary as a result of the development and likely desire lines. This is also a matter for conditions and/or S106 obligations.

The site is relatively close to existing local services and employment areas, with the existing pedestrian and cycle infrastructure near to the site offering reasonable walking and cycling opportunities. The site is also reasonably accessible to public transport services including buses and trains. Coupled with the proposed pedestrian and cycle access points into and out of the site, there is sufficient opportunities for future occupants to travel via sustainable modes as opposed to the private car. Notwithstanding this, it is considered that sufficient car parking can be provided for (at the REM stage).

To ensure sufficient provision of evening bus services, a contribution towards the running of this service is required by WC Highways, this being for £30,000 per year for five years to improve and retain the service.

Third party concerns –

Concern has been raised that the traffic count information and peak flows (ref RSA stage 2 point 1.7) were taken in May 2019 and the data does not reflect present traffic flows post pandemic. This is acknowledged but it is widely the case at almost all traffic count locations across the County that traffic levels now are lower than pre-pandemic due to the economic downturn and increased working from home; the levels referred to (May 2019) can therefore be taken to be a worst case.

Representations raised the concern that the removal of the originally proposed refuge island to accommodate vehicular access to and from Shallow Wagon Lane would result in road users being exposed with insufficient protection from traffic. In response to this, the senior highways engineer considers that the location is a leisure route for pedestrians only and not motorcycles. Pedestrian levels would therefore be low. The visibility distances have been examined and found to comply with vehicle speeds. The 30mph limit would be extended, subject to consultation and Council approval. There would be a new speed limit entrance gateway, also subject to consultation and separate approval. There is no requirement for there to be a refuge island provided at such a location under expected conditions. The proposed hatching in the centre of the road would further improve safety by slowing speeds and separating oncoming vehicles.

Concern was raised that the level of road-user activity would increase as a result of development in the area and those living in the proposed dwellings would increase the chances of road-user accidents. The forecast increases have been carefully examined and mitigation provided, as set out above.

Representations raise concern that the 30mph speed limit sign may have little effect and there is a lack of information to substantiate that it will. It is considered that it is better to extend the speed limit and comply with the speed limit guidance than not.

Some representations express concern that the revised highways plan for the stopping distance of an HGV at 30mph in wet weather is inadequate despite the proposed provisions

and revisions. This has been reviewed and the stopping sight distances have been calculated and examined and found to comply with guidance. The number of HGV's on this section of the network is low by comparison with other points on the wider network. The development would have an urbanising effect to which the extended speed limit and new speed limit gateway would contribute.

Concern has also been raised that even with the provision of visibility splays and the proposed extension of the 30mph vehicle speed limit the location of the access is unsafe. The WC Highways Officers have reviewed the proposals in detail and confirm that the visibility distances from the access location into the development are compliant with guidance, and the layout of the access is also correct and normal for a development of this level and at this type of location.

In conclusion, and subject to the following proposed conditions and s.106 obligations, it is considered that the residual cumulative impacts on the road network do not pose highway safety issues which would warrant refusal of the application under paragraph 111 of the NPPF; and the proposal is considered to comply with policies CP60, CP61, CP62 and CP64 of the WCS. The LHA's conclusions are subject to conditions and s106 obligations being entered into to make the development acceptable in planning terms. The highways conditions would cover the following:

- Access provided before 1st occupation.
- Prior to occupation of the 30th dwelling full details of two bus stops including shelters and raised height bus passenger access kerbing (one on Hawkridge Road for northbound passengers, and one on The Ham for southbound passengers) shall have been provided accordance with details to be first submitted to and approved by the Local Planning Authority.
- Prior to first occupation of any dwelling, 2 metre wide footways shall have been provided on The Ham / Hawkridge Road north-east and south-west of the access position, including a short section of footway on the opposite side of the road and relocation of several traffic signs out of the new footway area, all as indicated on drawing 4403/532/D
- Approval of a construction management statement prior to commencement
- Prior to first occupation of any dwelling the carriageway at the bend in Hawkridge Road located at the junction between Hawkridge Road / Shallow Wagon Lane shall have been widened with an area of hatching road marking provided in the centre of the carriageway as indicated on drawing 4403/532/D
- Prior to first occupation of any dwelling the access shall have been provided as detailed on drawing 4403/532/D including 2.4 x 45 metre nearside visibility splays at a height not exceeding 600mm above carriageway level in each direction.
- Prior to first occupation of any dwelling a full travel plan shall be submitted based on the framework travel plan. The full travel plan when approved shall be implemented including the appointment of a travel plan co-ordinator for three years from the date of first appointment, and provision of wayfinding signs to and from the town centre and rail station.
- Within three months of the commencement of the development the existing northern vehicular access point to Glenmore Farm (for the avoidance of doubt the vehicular

access to Hawkridge Road located 63 metres north-west of Shallow Wagon Lane) shall have been properly and permanently closed and the highway verge reinstated.

- The final development layout shall include a generally 3 metre wide shared use cycleway through the development connecting The Ham to the entrance of the Link Road Trading Estate as indicated on the Masterplan drawing number 191119L/02/01/H and on drawing 4403/532/D. Details of the shared use cycleway to be first submitted to and approved by the local Planning Authority.
- The final development layout shall include a 2 metre wide footway within the development area connecting the roads within the development to the rear of the strip of non-highway land running along The Ham frontage of the development, in the southern quarter of The Ham development frontage.
- The final development layout shall include a 3 metre wide shared use cycleway within the development area connecting the roads within the development to the boundary of the red lined site under this application, as indicated at note 7 on illustrative Masterplan 191119L/02/01/J.

The s106 obligations relating to highways matters are set out in detail later this report.

9.4 Landscape, Open Space and Visual Impact

The site is within the Avon Vale Countryside Character Area which covers a broad area from Frome in the south-west to the outskirts of Wootton Bassett in the north-east. This character area is an undulating, low-lying landscape of mixed, predominantly pastoral agriculture and small limestone-built towns, cut by the River Avon and its tributaries.

The site is framed by urban development both by residential development along The Ham and railway line to the south and by West Wilts Trading Estate to the north. The site is bordered to the west by residential development and fields and to the east by Hawkridge Road. Further employment land is also allocated within the Core Strategy at Hawkridge Farm north-east of the site.

The applicants have submitted a Landscape and Visual Impact Assessment (LVIA) with the application. This has looked at both the impact of the development on the landscape character of the area and on the visual effect it will have, assessing the amenity value of the views. It is based on the GLVIA 3 guidelines published by the Landscape Institute and this is considered fit for purpose. The principal conclusion of the LVIA is that the site is unremarkable in character and is in low-intensity agricultural use -

The site forms part of a wider urban fringe landscape, heavily influenced by its urban fringe location, adjoining road corridors and extent and variation of built form and land uses'. Despite this urban influence the site is visually contained 'by mature hedgerows and associated tree planting wrapping around from the east to the north and then to the west means the site relates more readily with the existing urban edge than the wider landscape'. The open southern boundary allows views from the site across the vale and Westbury to the rising scarp of Salisbury Plain and the iconic Westbury White Horse. However, it is noted there is 'limited visibility in the wider landscape setting due to containment afforded by vegetation and low-lying nature'.

Views from the chalk downland show the site within the context of a vast panoramic view. While it is easy to locate due to the Trading Estate and the solar farm it is not readily discernible

in the view. Careful consideration of roofing materials at REM stage would ensure any new development blends into the existing scene. Other views are limited to the immediate vicinity of the site, notably from The Ham road.

In terms of landscape and visual impacts, developing the site would introduce a new urban character with the permanent loss of two agricultural fields. It is noted that there would be limited impact on the topography and existing boundary vegetation and trees. There is the intention to enhance existing and provide new planting as part of the landscape and ecology mitigation package.

The findings of the LVIA are agreed – specifically that the effects on the landscape elements, the landscape itself and visual character are limited and localised to the immediate extent of the site. These effects are, therefore, not considered to have any significant impacts on the wider landscape.

Key landscape and visual mitigation recommended in the LVIA would need to be carried forward to the detailed design (REM) stage including the following:

- Retention and enhancement of existing hedgerows and trees and including landscape buffer zones offset from these.
- Introduction of hedgerows and street trees throughout the scheme to break up built form and filter views.
- Introduction of new hedgerows along the southern boundary of the site to filter short range views.
- Placing of the open space to the northern boundaries of the site and reduce landscape and visual impacts by placing the denser development nearer the existing settlement edge

The site is not short on space and the landscape buffers shown on the indicative layout plan suggest that, at REM stage, a robust scheme of landscaping can be accommodated that will ensure that there are no adverse visual consequences arising from the development of this site.

The site has no PROW crossing it and is not a designated landscape, nor is it deemed to be valued landscape as defined within the NPPF. Due to topography, the existing built form and vegetation around the site has a fairly high degree of visual enclosure which would be further enhanced by the proposed planting schemes. As such, the magnitude of effects of development are much more locally felt which ultimately reduces the extent of the harm. With the mitigation and enhancements measures demonstrated in this outline application, which can be secured as part of the detailed landscape and design work at REM stage, landscape character would be conserved in accordance with the requirements of Core Policy 51 (noting that this policy accepts a degree of harm provided it is mitigated to an acceptable level).

The Green Infrastructure Parameters Plan submitted as part of this application sets out the areas intended to provide landscape buffering, ecology corridors, attenuation, and public open space. The arboricultural officer supports the proposal in principle as there is a clear positive biodiversity net gain in respect of tree planting throughout the existing field boundaries, significant street tree planting to soften the built form, the creation of community orchards, a 23+m buffer zone between Hawkridge Road and the internal development as well as a 23m buffer zone between the existing hedgerows as shown on the landscape strategy parameter plan. This plan should be conditioned as part of any outline consent to ensure it is safeguarded at REM stage to deliver the required amount of green infrastructure to make the proposal acceptable. This will ensure the principles put forward at OUT stage are secured.

Initially the application proposed removal of the northeastern boundary hedgerow to enable highway works, however this was amended during consultations and the hedgerow is to be retained in full.

The Council has a Green Infrastructure (GI) Policy (CP 52) and whilst this site is not deemed to be public open space, it is considered to be GI. The GI parameters plan accompanying this application safeguards a reasonable amount of the space on site with the aims of delivering significant enhancements within these areas. Whilst some loss of GI is unavoidable to accommodate the new housing, it is being replaced around the edges with higher value/quality GI (e.g., extensive planting, attenuation ponds, and suitable wildlife corridors for ecology). In light of the above, it is considered that the development would not adversely affect the integrity and value of this section of GI and therefore, there the development would accord with CP52.

Open Space –

The updated Design and Access Statement, July 2022 confirms that the proposal could deliver 5.12ha which is also reflected on the revised Illustrative Masterplan (Dwg No. 191119 | 02 01 Rev. J). The northern public open space areas are designed to accommodate attenuation areas, ecological mitigation, orchard planting, open grassland for informal leisure and recreation and play areas. An updated illustrative landscape and open space concept plan is provided at page 31 of the updated DAS and an open space parameter plan can be conditioned to secure this open space together with the required provision of open space being secured through the s.106 in the event of approval of the scheme.



Ecology and Open Space/Green Infrastructure Parameter Plan

There is a requirement for 4,106.40 sq. m of public open space and 171.10 sq. m of play space, as well as a financial contribution of £34,220 towards off-site sports provision. This can be secured through the s.106 and the detailed landscaping scheme can be secured through a condition to be addressed at reserved matters stage. A Management plan for the

management of the public open space and common areas as well as a management company to oversee the management would also be required as part of any legal agreement. Full proposed Heads of Terms are set out below.

9.5 Heritage Impact

In respect of Listed buildings, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' sets out policies concerning heritage and sustainable development and requires a balanced approach to decision making with harm weighed against the public benefits resulting from proposals.

National Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance."

Historic England Advice Note 2 – Making changes to Heritage Assets illustrates the application of policies set out in the NPPF in determining applications for PP and LBC.

The red line boundary of the site itself does not include any designated heritage assets and as such, the assessment has considered 'setting' issues only.

The applicants have submitted a Historic Environment Desk-Based Assessment Heritage Impact Assessment (HIA). This have been considered by the WC Conservation Officer and the Assistant County Archaeologist.

Built Environment –

The main consideration is the effect on the Listed buildings group at Hawkeridge Farm. According to the HIA the effect on the group would be minor – however, the full effects on the significance of the buildings are at present unclear until the detailed design work progresses. Further the impacts on the views from the Westbury White Horse also merits consideration but this is a matter for the detailed design stage also, and the final design would be able to offer screening to lessen the impact on assets. There is nothing to suggest that suitable mitigation cannot be achieved at the detailed design stage and no objection is raised by the Conservation Officer to the principle of the development at this outline application stage.

Archaeology –

The site was the subject of an archaeological assessment in 2015 that included a geophysical survey and a trial trench evaluation. This established the presence of former field systems and traces of scattered settlement activity dating from the Roman period (AD43-AD410) in the north-eastern quarter of the site. These field systems and the scattered activity appear to be related to the main hub of Romano-British settlement located to the south-east of the site that has been known about for some time.

The results of this assessment have been recently summarised in the Desk Based Assessment (DBA) prepared by Wessex Archaeology. The DBA concludes that:

'Any adverse impact to buried archaeological features as a result of the implementation of the development proposals would be permanent and irreversible in nature. This potential adverse effect could be reduced through the implementation of an appropriate scheme of archaeological mitigation, in accordance with national and local planning policy. Given the known archaeological features within the Site, it is likely that archaeological mitigation will be required for any future works. It is recommended that the Wiltshire Council Archaeology Service is contacted to obtain their advice and to discuss their likely recommendations to the LPA.'

Following on from these conclusions, it is evident from the submitted indicative Masterplan that while no houses are proposed in the area of particular archaeological sensitivity, a 'wetland habitat/SuDS feature' has been located at the centre of the field system cluster, along with a 'Proposed Play Area' to the south-east. A cycle path and a footpath also cross this sensitive part of the site. It is likely that the creation of these features could have a negative impact upon the identified archaeological resource and therefore further archaeological work should be carried out to mitigate such an impact.

The mitigation works would need to consist of archaeological excavations to be conducted within the footprint of the wetland habitat/SuDS feature in the north east of the site, as well as the proposed play area. The construction of the footpath and cycle path would also need to be monitored by qualified archaeologists. In addition to this work a Heritage Management Plan (HMP) would be required, setting out the proposed stewardship of the open area to the north of the housing plots and how this would protect the area from any future impacts on the identified archaeological site in the north-east.

This mitigation work is recommended to be secured via a condition to be attached to any planning permission that may be issued. Accordingly, subject to conditions requiring a written scheme of archaeological investigation (WSI) and this being approved prior to commencement of development there is no heritage objection raised to this proposed outline application.

9.6 Flood Risk and Drainage

The site is located fully within Flood Zone 1, with the lowest risk of fluvial flooding, however the site's susceptibility to ground water and surface water flooding has been considered in the proposed drainage strategy.

Policy CP67 (Flood Risk) states that all new development should include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable.

The site is located within Flood Zone 1 and its development would not increase flood risk elsewhere, as demonstrated in the Flood Risk Assessment (FRA) and Drainage Strategy prepared by Trace Design which accompanies the application.

The ground conditions across the majority of the site require the management of surface water via attenuation basins. To this end, basins are proposed on the north side of the site with controlled discharge to a watercourse, in line with the SuDS hierarchy.

Extensive discussion between the applicant, case officer and the LLFA have determined the appropriate watercourse to drain to. This is Bitham Brook at Hawkeridge Mill. Specific consent has been provided from the owner of the Mill confirming landowner permission to discharge here. This can be secured through a Grampian condition.

The exact route of the surface water infrastructure would be determined by Wessex Water as part of the sewer requisition process at the detailed design stage. Wessex Water would contact the various landowners, look at available options and constraints and devise the most viable solution. This cannot be actioned without a planning consent but could be as part of the reserved matters design. Wessex Water have confirmed this position and have raised no objection to the proposal.

The Lead Local Flood Authority (LLFA), having reviewed all the relevant information, including the additional documentation sought by them and the EA during the application, have now removed their initial holding objection to the scheme.

The LLFA's latest response recommends a number of conditions. The information requested by them is reasonable and necessary to make the development acceptable in planning terms i.e., to ensure the scheme does not lead to increased flood risks elsewhere during both the construction and occupation phases of the development.

The illustrative layout plan submitted with this application has had regard to the need to deliver sustainable urban drainage (SUDs) features alongside a development of up to 145 dwellings. This is evidenced on the indicative Masterplan showing attenuation ponds to the north of the site.

The Environment Agency (EA) were consulted from the outset and raise no objection to the scheme subject to conditions requiring water efficiency measures to be included at reserved matters stage and a Construction Management Plan incorporating pollution prevention measures during construction.

Accordingly, the proposed development - subject to conditions - would accord with CP67 of the WCS and the NPPF.

9.7 Ecological Impact

WCS Policy CP50 (Biodiversity and Geodiversity) states that development proposals must demonstrate how they protect the features of nature conservation and geological value as part of the design rationale. These features are expected to be retained and managed favourably in order to sustain their ecological value, connectivity and functionality long-term.

A full Ecological Impact Assessment (EclA) has been submitted as part of the application and extensive detailed discussions with the Council's senior ecologist and officers at Natural England have been undertaken.

This assessment is considered to be a sound ecological baseline when combined with previous bat surveys of the area. It concludes that the site comprises of a collection of grassland fields used as horse paddocks with associated stable buildings. Habitats include native hedgerows and trees, ditches and a small remnant orchard. Ecological constraints, therefore, include hedgerow and tree habitats, the orchard, bats, nesting birds and great crested newts. Precautionary measures are recommended in relation to badgers and grass snake.

Salisbury Plain SPA –

The application site lies within the 6.4km buffer zone of the Salisbury Plain SPA, and in view of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan, the application is screened as requiring Appropriate Assessment under the Habitat Regulations due to the potential impact of new recreational pressure on stone curlews,

in combination and with other plans and projects. In February 2022 NE confirmed that the generic 2018 Appropriate Assessment for Salisbury Plain continues to apply. That Appropriate Assessment concluded no likely significant effect on the conservation objectives of the SPA for development within 6.4km of the SPA boundary provided that the previously agreed mitigation scheme continues to be implemented. Annual stone curlew monitoring and protection measures required by the mitigation scheme continue to be secured.

Bath and Bradford on Avon Bats SAC –

The site also lies within the Bath & Bradford on Avon Special Area of Conservation for bats (TBMS). Based on the TBMS guidance the site lies within the zones of medium risk for both loss/damage to bat habitat and for increased recreational pressure at woodlands used by Bechsteins' bats for breeding. Background information for the Appropriate Assessment is contained in the TBMS. No other European site is screened into the assessment.

The SAC's qualifying Features are as follows:

1. Bechstein's bat *Myotis bechsteinii*
2. Greater horseshoe bat *Rhinolophus ferrumequinum*
3. Lesser horseshoe bat *Rhinolophus hipposideros*

The conservation objectives for the site are: *"To ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring:*

- *The extent and distribution of the habitats of qualifying species;*
- *The structure and function of the habitats of qualifying species;*
- *The supporting processes on which the habitats of qualifying species rely*
- *The populations of qualifying species; and*
- *The distribution of qualifying species within the site.*

Supplementary advice was published by Natural England (last updated on 20 March 2019) and sets out further details of the requirements needed to achieve the conservation objectives. Of particular relevance to the Trowbridge area is the need to "Maintain the presence, structure and quality of any linear landscape features which function as flightlines. These should remain unlit functioning as dark corridors". In the Site Improvement Plan dated 1 April 2015, the lack of knowledge about the roosting habits of Bechstein's and the foraging / commuting habitats of all three SAC species is judged by Natural England to be a threat to achieving the conservation objectives of the SAC.

The Illustrative Masterplan indicates that the mitigation and enhancement measures recommended in Section 6 of the EclA have/could be incorporated into the layout at REM stage and therefore would be achievable at detailed design stage. The Masterplan is accompanied by an Ecology and Open Space/Green Infrastructure Parameter Plan. The following mitigation is recommended and required to mitigate the effects of the development and provide biodiversity net gain:

- A significant buffer of more than 100m from the northern hedgerow. To be maintained as high quality semi-natural greenspace to include woodland, scrub and grassland habitats of value to horseshoe and Bechstein's bats.
- All Core Bat Habitat to be buffered from the development by a minimum 22.5m corridor of natural habitats.
- Retention of central hedge within the public realm and enhancements (e.g. gap infilling and strengthening).

- Significant native tree and scrub planting at the edges of the Site as well as an additional area of orchard.
- New hedgerow planting measuring approximately 230m at un-vegetated southern and south-western boundaries
- Species specific mitigation including, but not exclusively bats, nesting birds, great crested newts and reptiles.



Ecology and Open Space/Green Infrastructure Parameter plan

The illustrative layout, for the most part, demonstrates a bat mitigation led approach. However, it must be recognised that the 22.5m 'Woodland and scrub buffer zones/ enhanced for bats' along core habitat (boundary hedgerows) as shown on the Illustrative Master Plan is the absolute minimum that is required to demonstrate compliance with the TBMS and must not be compromised or reduced in any way at the detailed stage. It is recommended that this be conditioned to ensure compliance at the detailed design stage.

In addition, the area of public open space with high quality grassland to the north is required to ensure the function of an important bat corridor is retained, that there will be no net loss of biodiversity and as an alternative space for recreation for impacts on the TBMS woodlands.

While the Trowbridge Bat Mitigation Strategy was specifically drawn up to support housing coming forward in Trowbridge, guidance in the TBMS on avoiding and mitigating impacts to bat habitat on site will apply equally in the Westbury area. As such the specific criteria which applications are checked against has been applied.

Following this a number of conditions have been identified as required to ensure the final

design of the development is acceptable in ecological terms. These relate to the provision of a Construction Environment Management Plan, a Landscape and ecological Management plan, a lighting plan and lighting modelling assessment to ensure dark corridors are retained and a detailed landscape planting plan.

As the site is within the Yellow Sensitivity Zone within the Trowbridge Bat Mitigation Strategy (TBMS) particular regard has been given to the impact of the development upon local bat populations – both in terms of habitat loss (building on the green fields) and by recreational pressure placed upon nearby habitats by new residents of the development.

The Site is located between Round Wood (approx. 2km) and Pickett and Clanger Woods (approx. 1.5 km) both of which are easily accessible by public footpaths and road. These woods are one of three publicly accessible woods south of Trowbridge each supporting a colony of Bechstein's bats which together are believed to form a meta population of national importance.

The Site is located in a sensitive area where increased housing will result in increased recreational pressure on these woodlands. The TBMS has been designed to accommodate increased recreational pressure from development planned in the core strategy, as informed by the WHSAP. No further housing has been allocated for Westbury through the WHSAP and minimal windfall housing is expected to come forward for land within the grey hatched zone of the TBMS.

The Council's proposals set out in section 9.1 of the TBMS are intended to mitigate for loss of habitat in the Trowbridge Community Area. In principle the contributions from this application would be adequate to purchase, plant up and maintain an amount of habitat in proportion to that proposed for development at Trowbridge. This contribution would be £777.62 per dwelling. The developer has agreed to contribute £777.62 per dwelling in principle and this can be secured through any s.106.

An 'alternative space for recreation' is proposed in the northern half of the Site to encourage residents to walk and or exercise dog's on-site. Whilst the broad wildlife corridor and opportunities for biodiversity enhancements provided are welcomed it is not considered likely to reduce the recreational impacts on TBMS woodlands.

It is considered that the CIL funded, Council led scheme, to offset residual effects from recreational pressure at these TBMS woodlands used by breeding bats will be able to cover impacts arising from the application under consideration.

Picket and Clanger Wood SSSI –

The submitted ecology reports recognise that the development will result in increased recreational impacts on Picket and Clanger SSSI. It is important to note that the mitigation schemes provided by adherence to the TBMS would not mitigate impacts on the SSSI and as such this has been considered separately as required by NE under the Habitat Regulations.

An assessment of impacts on the valuable features of this SSSI as detailed on the citation (including, but not exclusively, floristically-rich ancient woodland, diverse assemblage or rare and scarce species butterfly and moth species and woodland birds including ground nesting species) has not been submitted.

The most recent condition assessment for the SSSI (2021) states that parts of it are unfavourable and recovering. The SSSI is under management by a charity, the Woodland Trust, who will be responsible for changes in management to prevent increased recreational

pressure adversely affecting the SSSI. Without management by this charity impacts from increased recreational pressure would be harmful to the SSSI.

As such in absence of evidence that there would be no adverse impact on the SSSI a bespoke recreational mitigation strategy for the SSSI is required. The applicant has agreed in principle to pay a contribution to assist with management of recreational impacts on Picket and Clanger Wood SSSI. A method for calculating the visitor management costs has been shared with the applicant and discussions relating to the precise figure for the contribution are on-going with Natural England.

Notwithstanding this, the principle of a contribution is agreed and considered lawful in terms of the relevant statutory tests and as such the exact figure can be agreed through s.106 discussions in the event of any grant of permission. The fact that the principle has been agreed is sufficient to enable Natural England and the EC Ecologists to recommend approval of the scheme and the Committee to endorse this recommendation with the precise details to be delegated back to the Head of Service by the Committee to be finalized during the course of s.106 discussions.

Great Crested Newts –

To mitigate the loss of terrestrial habitat that could affect GCN, the submitted EclA states the development works would be licensed under the District Level Licensing (DLL) scheme. A completed Impact Assessment and Conservation Payment Certificate (IACPC) has been submitted confirming this application has been accepted into the scheme.

Biodiversity Net Gain –

The submitted BNG calculations predict an acceptable amount of net change in biodiversity could be achieved. The mitigation and enhancement outlined in section 6 of the EclA is predicted to result in a net change of habitat units of 6.53% and hedgerow units of 12.29%. The BNG calculation will need to be amended and re-submitted if there are any changes to the layout that effect the ecological parameters set at outline and shown the Parameters Plan.

Ecology Conclusions –

As part of the Appropriate Assessment it is possible to establish beyond reasonable scientific doubt that this application would not lead to adverse effects on the Bath and Bradford on Avon Bats SAC. Accordingly, the WC Ecologist raises no objection to the application subject to a number of conditions and mitigation measures as set out above, to be secured through a s.106 – these to mitigate TBMS habitat loss and recreational pressure on the local SSSI.

Natural England have endorsed this approach and have approved the Appropriate Assessment subject to the mitigation. NE have raised no objection to the application.

The recommended conditions are reasonable and necessary to make the development acceptable in planning terms and to ensure the ongoing maintenance and management of the site for the benefit of ecology. Section 106 contributions are also required towards the Trowbridge Bat Mitigation Strategy, to be paid before commencement with no option for return after ten years. As part of the s106 agreement there is also a requirement to set up and action a management company. The validity of this request is set out in a further section of this report.

Overall, with these conditions and s106 in place, and the positive recommendation on the AA, it can be concluded that the development can proceed without unacceptable harm to protected species or priority habitats.

9.8 Environmental Impact

There have been extensive discussions regarding noise, given the proximity of the site to the West Wilts Trading Estate to the north.

Whilst the layout is a reserved matter it has been accepted by the applicants that the layout of the development would play a part in mitigating the potential impacts of noise from the trading estate, together with other traffic related noise. Whilst the layout identified in the illustrative masterplan is not fixed and could be subject to change at reserved matters stage, it does demonstrate that a layout can be achieved where noise levels remain within good practice guidance levels without the necessity for bunds or high acoustic fencing.

Conditions are proposed to ensure amenity of new residents is safeguarded through design and layout, and on this basis there is no objection from the WC Public Protection Team. Temporary noise relating to the construction phase would be managed through a Construction and Environment Management Plan, which is a matter for a further condition.

In terms of Air Quality the Public Protection Team has, again, raised no objection subject to conditions requiring low energy vehicle infrastructure installation and a contribution to secured via a s.106 towards appropriate Air Quality Plan planning and implementation of the Air Quality Action Plan which has been accepted by the applicant.

The Contaminated Land Report submitted with the application raises no issues of note. However, a safeguarding condition is recommended to be attached to any planning permission requiring that in the event that contamination is encountered at any time when carrying out the approved development, the Council must be advised of the steps that will be taken to deal with it.

These conditions are reasonable and necessary to make the development acceptable in planning terms. The same conclusions are drawn on the s106 request with the precise figures to be agreed through s.106 negotiations.

9.9 Community Infrastructure Levy (CIL)

The new dwellings would be liable for CIL. The site would fall under charging zone 1 where the sum equates to £85 per square metre of residential floor space created. Floor space calculations can only be provided at detailed design stage and thus CIL calculations would be required at reserved matters stage.

10. S106 contributions

Core Policy 3 states that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development'. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework. These are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The infrastructure items listed below are those that are relevant to the Application site and are required in order to mitigate the impact of the proposed scheme. The Applicant has agreed to provide the following (the calculation is based on 145 dwellings):

Affordable Housing

CP43 states that on sites of five or more dwellings, affordable housing provision of at least 30% (net) will be provided within the 30% affordable housing zone and at least 40% (net) will be provided on sites within the 40% affordable housing zone (within which the site falls). CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people.

The applicant has agreed to provide 58 affordable housing units at nil subsidy which meets the 40% requirement, and would be transferred to a Registered Provider. Based on current housing need figures these would be a mix of 60% affordable rent and 40% intermediate housing with a unit mix of 2-bed flats, 2-bed bungalows and 2, 3, 4 person houses and should also not normally be in groups exceeding 12-15 dwellings. There is also a need for 10% of these affordable homes to be identified for extra care units (adapted for disabled residents or wheelchair adapted accommodation).

Recreation and Open Space

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 98 of the NPPF. Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport recreation provision an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhanced open spaces which would be included within the S106.

The proposal generates a public open space requirement of 4,106.40 sq. m of public open space and 171.10 sq. m of play all of which should be secured in perpetuity. The WC Play Officer is satisfied that this requirement can be met on site.

A leisure contribution of £34,220 towards offsite sports provision is also required with a target site for the contribution being agreed prior to approval at Reserved Matters stage.

Education

The NPPF (paragraph 95) encourages local authorities to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. In order to ensure this, Core Policy 3 lists the provision of education as a priority 1 theme where it is required due to the impacts of a development proposal.

Early Years - A contribution of £297,874 is required to go towards the funding of 17 pre- school places within the area made necessary by the proposal. The WC Early Years Officer has advised that the existing Early Years provision will not be able to support the needs of additional families requiring Early Years and Childcare in this area as they are all operating at high capacity.

No requirement is necessary for developer S106 contributions towards expanding primary and secondary school provision in this area.

Refuse

A contribution of £13,195 (£91 per dwelling x 145) would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development and is listed in Core Policy 3 as an infrastructure priority theme 1.

Air Quality

CP 55 seeks positive contributions to the aims of the Air Quality Strategy in Wiltshire and as such a financial contribution towards Air Quality Monitoring is required in areas where air quality is being monitored by the Council. A contribution with the exact amount to be confirmed to cover the cost of real time air quality monitoring equipment is being sought. This is considered reasonable and necessary as part of the Council's commitment to reducing emissions.

Ecology

At Appendix 2 of The Trowbridge Bat Mitigation Strategy (Habitat Mitigation Plan) a sum of £777.62 is required to be collected by S106 for each dwelling to address in-combination and residual effects of additional housing on bat habitats through new woodland and hedgerow planting. The total sum for this development would be $145 \times £777.62 = £112,754.90$.

The contribution towards the TBMS is to be paid before commencement, with no option for return after ten years. The setting up and terms of a management company is also required for maintaining bat habitat (marked on a plan) in a suitable condition for bats.

A bespoke recreational mitigation strategy for the Picket and Clanger Wood SSSI is required. A financial contribution (£tba) to assist with the management of recreational impacts is required.

These requests are considered under Core Policy 3 of the WCS as an infrastructure priority theme 1: specific projects needed to ensure compliance with the Habitats Regulations. As there is a direct link between the residual effects of additional housing on bat habitats the money is necessary to make the development acceptable and it also shows how it directly relates to this development. It is reasonable in scale and kind as it directly relates to the number of dwellings proposed for the site.

Highways

CP61 states that where appropriate contributions will be sought towards sustainable transport improvements and travel plans will be required to encourage the use of sustainable transport alternatives. CP63 identifies transport strategies for Wiltshire's Market Towns (Westbury being one of them) which seek to achieve a major shift to sustainable transport by helping to reduce reliance on the private car and by improving sustainable transport alternatives. Part of the funding for these strategies is to be derived from developer contributions. Such requests are also listed under Core Policy 3 as infrastructure priorities.

The following planning obligations are required:

- A contribution to cover 5 years, at £30,000 pa, total £150,000, index linked to improve or retain evening bus services to serve the development.
- Extension of the 30mph speed limit to just north of the bend at The Ham / Hawkridge Road including a new speed limit "gateway" (signs, a feature on the highway verges)

such as short sections of white gateway fencing, speed limit entry countdown bars on the carriageway, and gateway carriageway red speed limit surfacing).

- The developer to pay to the Council the required speed limit TRO costs, and to implement the speed limit alterations under the terms of the S278 Agreement.
- Reasonable endeavours to achieve a 2m wide footway connection across the strip of non-highway land connecting the development to The Ham in the southern quarter of The Ham development frontage. If these endeavours fail the Council will, subject to cabinet member approval in due course, seek to achieve the connection by other means including CPO.

More detailed breakdowns of the contributions are detailed in the LHA consultation response. The transport strategy contribution is based upon infrastructure that is directly related to the impacts of housing growth.

Travel Plan –

The S106 will secure the preparation and implementation of a Travel Plan to be submitted to the Council prior to the Commencement of Development and to be operational prior to the Occupation of the Dwellings.

The Travel Plan must include or be accompanied by a Resident's Walking Guide that includes information highlighting local recreational routes, encourages their use and explains the issues relating to the rare local bat populations. The Resident's Walking Guide should also signpost residents to nearby suitable recreation destinations.

Such contributions are necessary to mitigate the impacts of the development on the surrounding highways network and to encourage more sustainable travel movements to and from the development.

Contributions towards NHS facilities

Concern has been raised in the representations and by the local Councillor that there is significant pressure on the local GP and health services and as such contributions towards these facilities should be requested and provided for by the developer.

The NHS has been consulted, and contacted for a reply on more than one occasion by the case officer but no consultation reply has been forthcoming.

In absence of any formal request from the NHS, no contributions have been sought. It is important to note that only certain contributions towards health facilities can be requested by LPA's from applicants following a recent High Court judgment in *R (on the application of University Hospitals of Leicester NHS Trust) v Harborough DC* [2023] EWHC 263 (admin). As a result of this judgment LPA's are no longer lawfully allowed to request contributions towards general local health services ultimately because this is funded through central government and not local authorities. As such the local authorities have no powers or jurisdiction or lawful basis to request such contributions towards local facilities. The only situation where an LPA can request contributions is where a specific funding gap relating to a specific project has been identified as a result of the development and this project is committed to and the required contributions can be reasonably and accurately calculated.

In this case, the NHS has not put forward any details of funding gaps for local committed health service related projects nor requested any specific funding for any specific projects that may be impacted on as a result of this development. Accordingly, there is no lawful basis upon which the LPA can request such contributions from the developer and as such has not done

so in this case.

11. Conclusion (The Planning Balance)

At the heart of the NPPF there is a presumption in favour of sustainable development, this requiring local planning authorities to approve development proposals that accord with the development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining applications are out-of-date, permission should be granted in any event.

The Council cannot currently demonstrate a 5-year supply of deliverable housing land; at the time of preparing this report the current supply figure as set out in the latest Housing Land Supply Statement is 4.6 years (and accepted to be 4.59 as per the Holt appeal). With this recognition the strategic policies of the Core Strategy must be considered out of date, and so the tilted balance flowing from paragraph 11d)ii of the National Planning Policy Framework (NPPF) is engaged. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Whilst the proposed development lies outside of Westbury's settlement boundary and so conflicts with the strategic level policy requirements (CP1 & CP2), this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Westbury and make contributions to off-site infrastructure through S106 contributions and CIL.

As already set out, there are no adverse impacts that would significantly and demonstrably outweigh the benefits that this particular development in this location on the edge of a sustainable settlement would bring. The proposal would relate well to the spatial form of Westbury using existing road infrastructure and would offer accessible walking and/or cycling routes into the town and its services and facilities. The application site would also make s106 contributions to the bus service and pre-school.

Fundamentally the site would make an important contribution to the current identified housing need in Wiltshire without causing other demonstrable harm.

The benefits

Provision of entry level AH / housing to address 5YRHLS shortfall –

Given the lack of a 5yr HLS within the county, the widely acknowledged nationwide housing crisis, the further shortage of affordable housing both locally and nationally, and the provision of up to 145 dwellings with 40% to be delivered as affordable, it is considered that significant weight should be given to this benefit. The development would make a very important contribution to the Council's housing land supply and this point should attract substantial positive weight.

Expenditure on construction and investment in the area / creation of construction jobs –

Some positive weight should also be attributed to this benefit, providing a boost to the economy through the provision of all associated construction jobs with a development of this

scale. After all, the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. A limited, yet still positive, amount of weight can also be attributed to the economic expenditure from future occupants of the development within the local economy.

Financial contributions towards off site infrastructure –

Whilst these contributions are required to make the development acceptable in planning terms, some of the contributions would be of benefit to the local population and, without the development would be unlikely to happen.

The 'harms'

As noted above, any harm identified would need to be both significant and demonstrable in order to justify refusing the planning application. In this case, after various amendments and improvements throughout the life of the application, it is concluded that there would be no significant or demonstrable harm arising from this development that cannot otherwise be mitigated through the detailed design process at REM stage, the use of appropriately worded planning conditions, and/or via s106 contributions/obligations.

Neutral

It is noted that lack of identified harm against policies of the WCS is not a benefit of the scheme but would be a neutral aspect of it. The lack of technical objections raised to the development and its conformity with the development plan are therefore neutral points on the balance.

Conclusion

No significant or demonstrable harm has been identified that would outweigh the benefits (in the case of the provision of market and affordable housing, significant benefits) that this development would accrue. In the absence of any identified planning harm, it is therefore recommended that this application be approved subject to the conditions listed below and the satisfactory completion of a s106 legal agreement containing the contributions identified in this report.

RECOMMENDATION:

That the Head of Development Management be authorised to grant planning permission, subject to:

- 1. completion of archaeology trial trenching and any necessary changes to conditions/plans arising from the results on the proviso that any substantial material changes to the scheme as a result of finds will require the application to be taken back to the Strategic Planning Committee; and,**
- 2. following satisfactory resolution of 1, completion of a planning obligation/Section 106 agreement covering the matters set out in this report;**

and subject also to the planning conditions listed below –

Conditions:

- 1 The development hereby permitted shall be begun either before the expiration of three

years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 An application for approval of the reserved matters specified in Condition 3 below, must be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site.

The development shall be carried out in accordance with the approved details. The reserved matters shall be submitted as a single phase, unless otherwise agreed by the Local Planning Authority.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. The development hereby permitted shall make provision for the following:

- (a) Up to 145 dwellings;
- (b) Public open space to be sited, laid-out and equipped in accordance with the West Wiltshire Leisure and Recreation DPD (or any subsequent replacement DPD); and to include at least 4,106 sq m of general public open space and at least 171 sq m of equipped play space.

The 'layout of the development' and the 'scale of the development' (as to be submitted and approved under condition no. 2) shall accommodate the above broadly in accordance with the following plans –

- Dwg Ref: 191119L 02 01 J (Illustrative Masterplan) dated 06/22
- Dwg Ref: 191119 PP 01 (Building Height Parameter Plan) dated 11/22
- Dwg Ref: 191119 PP 04 Rev A (Areas Parameter Plan) dated 11/22
- Dwg Ref: 191119 PP 02 (Open Space Parameter Plan) dated 11/22
- Doc Ref: 191119 R 02 01 D (Design & Access Statement) dated 07/22
- Doc Ref: 4712_01E_EcIA Ecological Impact Assessment

Prior to commencement of the development, a programme, or phasing plan, for the delivery and completion of the dwellings and the public open space(s) shall be first submitted to, and approved in writing by, the local planning authority. The dwellings

and the public open space(s) shall then be delivered and completed in accordance with the approved programme.

REASON: To ensure the creation of a sustainable development which is in character with its surroundings and in accordance with the terms of the planning application.

5. The 'means of access' to the site and the off-site highways works shall be provided in accordance with the following drawing –
 - Dwg Ref: 4403-532 D (Proposed Site Access Layout) dated 17/08/23

In addition, the final layout shall include a 3 metre wide shared-use cycleway within the application site, as indicated at note 7 on illustrative Masterplan 191119L/02/01/J.

Prior to commencement of the development, a programme for the delivery and completion of the means of access, the off-site highways works and the shared-use cycleway shall be first submitted to, and approved in writing by, the local planning authority. The means of access to the site, the off-site highways works and the shared-use cycle way shall then be delivered and completed in accordance with the approved programme.

All visibility splays shown on Dwg Ref: 4403-532 D (Proposed Site Access Layout) dated 17/08/23 shall be provided prior to first use of the new means of access to the site from The Ham by any vehicle other than any vehicle connected with the initial construction of this access. The visibility splays shall thereafter be retained clear of any obstructions to visibility in perpetuity.

REASON: To ensure proper and timely delivery of the means of access to the site and the off-site highways works in accordance with an agreed programme and in the interests of highway safety and sustainability.

6. Application/s for the approval of the reserved matters shall be in accordance with section 4.7 of the approved Design and Access Statement (Dwg Ref: 191119 R 02 01 D) regarding sustainability. A Sustainability Statement shall be submitted with each reserved matters application which demonstrates this, and the development shall be implemented in accordance with the Sustainability Statement.

REASON: to comply with policy CP41 and in the interests of climate change.

7. No development shall commence within the area edged in red on the Location Plan (Ref 191119L/01 01) until:
 - a) A written programme of archaeological investigation, which should include on-site work (i.e. trial trenching) and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

8. No development approved by this permission shall commence until a scheme for water

efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and climate change adaptation.

9. No development shall commence on site until a scheme for the discharge of surface water from the site has been submitted to and agreed in writing by the local planning authority. This should include detailed drainage calculations which demonstrate that discharge rates from the whole developed area (2.507ha) of the site do not exceed:

- 1 in 1 year storm event - 1.65 l/s
- 1 in 30 year storm event - 4.14 l/s
- 1 in 100 year storm event - 5.15 l/s

REASON: To ensure that the development does not increase local flood risk (as a result of increase impermeability and sub-catchment transfer)

INFORMATIVE:

As part of the above condition, detailed drainage information must include:

- Calculations and drawings for the drainage system design showing conveyance routes are designed to convey without flooding the critical 1 in 30 year + climate change rainfall event.
 - Calculations and drawings for the drainage system design showing attenuation features are designed to attenuate without flooding the critical 1 in 100 year rainfall event + climate change.
 - Calculations should include an allowance for increased surface water runoff, as a result of urban creep, in accordance with LASOO guidance.
 - Hydraulic Models should set the MADD factor / additional storage volume factor to 0m³ / ha in order to prevent an overestimation of storage capacity in the proposed drainage network.
 - As a result of the discharge to the surface water sewer, the applicant should also confirm the above hydraulic parameters are met when considering a surcharged outfall.
10. (a) No development shall commence on site until a detailed drainage ownership and management plan has been submitted to the local planning authority for approval in writing. This shall detail the required maintenance activities for drainage (including SuDS) features, along with details on how frequently these activities will be completed, and the party responsible for maintenance (e.g. private residential owners / Wessex Water / private management company). The development shall be carried out and latterly maintained in accordance with the approved drainage ownership and maintenance plan.
- (b) Also no development shall commence on site until copies of legal agreements which confirm that the developer has the right to cross 3rd party land and discharge to the ordinary watercourse in perpetuity have been submitted to the local planning authority and agreed in writing. The legal agreements must demonstrate that the developer has permission to cross third party land to enable the drainage system to be constructed, and for it to be maintained throughout its whole design life.

REASON; To prevent an increase in local flood risk (as a consequence of poor maintenance) over the design life of the development.

INFORMATIVE: If a new sewer is requisitioned by Wessex Water, then part (b) of this condition will not be required; however evidence of the requisitioned sewer will be required, as well as confirmation from Wessex Water that the applicant is permitted to discharge to their asset.

11. The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:
- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
 - ii. A description of management responsibilities;
 - iii. A description of the construction programme;
 - iv. Site working hours and a named person for residents to contact;
 - v. Detailed Site logistics arrangements;
 - vi. Details regarding parking, deliveries, and storage;
 - vii. Details regarding dust mitigation;
 - viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
 - ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
 - x. Details of how surface water quantity and quality will be managed throughout construction;
 - xi. Details of the safeguarding measures to deal with the following pollution risks:
 - the use of plant and machinery
 - wheel washing and vehicle wash-down and disposal of resultant dirty water
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes
 - xii. Details of safeguarding measures to highway safety to include:
 - A Traffic Management Plan (including signage drawing(s))
 - Routing Plan
 - Details of temporary/permanent Traffic Regulation Orders
 - pre-condition photo survey - Highway dilapidation survey
 - Number (daily/weekly) and size of delivery vehicles.
 - Number of staff vehicle movements.
 - xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - a. Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
 - b. Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of 'alternative space for recreation'.
 - c. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
 - d. Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, badger and dormice.
 - e. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of

when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- f. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- g. Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

12. Prior to the start of construction ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The LEMP will detail long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development (other than small, privately owned, domestic gardens) including, but not exclusively: Wildlife ponds and wetland for SUDS, Floodplain Wetland Mosaic (wet grassland, scrapes, reedbed), native tree and scrub planting, semi-natural neutral meadow grassland and retained hedge, scrub and trees.

The LEMP will include:

- A phasing plan demonstrating the timing of habitat creation works in relation to Zone A and Zone B TBMS landscape buffers and advanced planting proposals including predevelopment provision of 'alternative space for recreation' will be completed in advance of or alongside vegetation stripping.
- A plan specifying the location and type of integral bird nesting features (including for swift) and bat roosting features to be provided. Numbers to be provided in line with best practice guidelines.
- Distinguishing between formal and informal open space and land required to meet mitigation and BNG objectives.
- Details of how habitats created will be managed to achieve predicted BNG gains for the duration of the development.
- A mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.
- Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented as approved in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

13. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

Where light spill has the potential to impact bat habitat, a lighting impact assessment must be submitted with the reserved matter application(s) to demonstrate the requirements of section 8.3 of the Trowbridge Bat Mitigation Strategy February 2020 are met.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed. This condition will be discharged when a post-development lighting survey conducted in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

14. No development shall commence on site until an Acoustic Design Scheme for the protection of the proposed dwellings from external traffic noise has been submitted to and approved in writing by the Local Planning Authority. The Acoustic Design Scheme shall use Good Acoustic Design (in accordance with the Professional Practice Guidance: Planning and Noise New Residential Development (May 2017 or later versions)) to achieve the following noise limits:

- a. bedrooms shall achieve an 8-hour LAeq (23:00 to 07:00) of 30dB(A) and an L_{Amax,F} of 45dB based on the 10th highest measured level.
- b. living rooms and dining rooms shall achieve a 16-hour LAeq (07:00 to 23:00) of 35dB(A)
- c. external noise levels within private external amenity spaces shall not exceed 55 dB LAeq,16hr (0700 – 2300)

The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained. For the avoidance of doubt, using closed windows to achieve the internal noise level target shall only be considered once all other good acoustic design acoustic mitigation measures have been utilised.

A post completion report, prepared by the acoustic consultancy who designed the Acoustic Design Scheme or other suitably qualified expert, shall be submitted to the LPA to a timetable as detailed within the approved Acoustic Design Scheme to confirm

compliance with the approved scheme and approved in writing by the LPA. Any additional steps required to achieve compliance shall be taken, as necessary. The report shall provide evidence that the approved Acoustic Design Scheme has been fully implemented.

REASON: To safeguard the amenities of the occupiers of the new development.

INFORMATIVE: A good acoustic design process should be followed to ensure that the internal noise criteria are achieved with windows open. Using closed windows to achieve the internal noise level target shall only be considered once all other good acoustic design acoustic mitigation measures have been utilised. When relying on closed windows to meet the internal guide values, there needs to be an appropriate method of ventilation that does not compromise the façade insulation or the resulting internal ambient noise level.

15. No development shall commence on site until an Acoustic Design Scheme for the protection of internal noise levels and private external amenity areas of the proposed dwellings from entertainment and industrial noise has been submitted to and approved in writing by the local planning authority. The Acoustic Design Scheme shall use Good Acoustic Design (in accordance with the Professional Practice Guidance: Planning and Noise- New Residential Development (May 2017 or later versions)) and it shall include the site layout (showing barrier blocks), internal dwelling layouts, façade construction including design and installation and manufacturers details of windows and ventilation and boundary treatments.

Unless alternative criteria are agreed with the local planning authority for areas of the site which are within 320 m of the West Wiltshire Trading Estate boundary, (ie closer than existing dwellings), the design shall achieve a rating level (LArTr), due to noise from West Wiltshire Trading Estate, of equal to and no greater than typical background sound levels (LA90T) for facades with openable windows to habitable rooms (living rooms and bedrooms) and for private external amenity areas when assessed using BS4142:2014+A1:2019 or any subsequent version.

Unless alternative criteria are agreed with the local planning authority, internal noise levels from entertainment noise, shall be designed to not exceed the following:

- NR 20 dB Leq, 15 minutes
- NR 20 dB LFM_{ax}
- The LFN Reference Curve within Table 9 of NANR45 revision 1 December 2011 - Procedure for the Assessment of Low Frequency Noise Complaints.

A post completion report, prepared by the acoustic consultancy who designed the Acoustic Design Scheme or other suitably qualified expert, shall be submitted to the LPA to a timetable as detailed within the approved Acoustic Design Scheme to confirm compliance with the approved scheme and approved in writing by the LPA. Any additional steps required to achieve compliance shall be taken, as necessary. The report shall provide evidence that the approved Acoustic Design Scheme has been fully implemented. The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To safeguard the amenities of the occupiers of the new development.

Informative: A good acoustic design process should be followed to ensure that the

internal noise criteria are achieved with windows open. Using closed windows to achieve the internal noise level target shall only be considered once all other good acoustic design acoustic mitigation measures have been utilised. When relying on closed windows to meet the internal guide values, there needs to be an appropriate method of ventilation that does not compromise the façade insulation or the resulting internal ambient noise level.

16. Prior to commencement of development a scheme for the provision of at least one public 'rapid charging' point in a publicly accessible parking area or bay shall be submitted to and improved in writing by the local planning authority. The public rapid charging point shall be installed and be ready for use prior to the first occupation of the 100th dwelling or in accordance with a programme to be first agreed by the local planning authority, whichever is the sooner. The public rapid charging point shall thereafter be retained and shall remain operational at all times (other than when undergoing reasonable maintenance).

REASON: In the interests of mitigating the impact of the development on the environment in accordance with Core Policy 60(vi).

17. Prior to commencement of the development a Construction Traffic Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan shall include details of construction vehicle routing, construction staff vehicle parking areas within the site, local road cleaning, and measures to prevent excessive mud and dust being deposited on the public highway. The site construction shall be carried out in accordance with the approved plan.

REASON: In the interests of highway safety and road user convenience.

18. Within three months of the commencement of the development the existing northern vehicular access point to Glenmore Farm (for the avoidance of doubt the vehicular access to Hawkrigde Road located 63 metres north-west of Shallow Wagon Lane) shall have been properly and permanently closed and the highway verge reinstated. Thereafter the access point shall remain closed in perpetuity.

REASON: In the interests of preventing continued use of an unsafe access point to the public highway when an alternative good standard access point is available for use.

19. Prior to occupation of the 30th dwelling, or in accordance with a programme to be first approved in writing by the local planning authority, two bus stops including shelters and raised height bus passenger access kerbing (one on Hawkeridge Road for northbound passengers, and one on The Ham for southbound passengers) shall have been provided in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: in the interests of providing safe and convenient access to public transport for occupiers of the development.

Further Informatives:

The development should include water-efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered. An appropriately submitted scheme to discharge the condition will include a water usage calculator showing how the

development will not exceed a total (internal and external) usage level of 110 litres per person per day.

The applicant is advised to receive all necessary Highway Authority Approvals before commencing works within the Highway.

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25 January 2024

SHERBORNE OFFICE
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Sent Via Email

Dear Gen,

Application Reference: PL/2021/03749 – Land at Glenmore Farm, Westbury

Email: info@lva.co.uk

We write in response to the notification dated 18 January 2024 that the outline planning application for residential development (up to 145 dwellings) at Glenmore Farm, Westbury (Application Reference: PL/2021/03749), which currently benefits from a resolution to grant planning permission, is to be remitted back to Wiltshire Council's Strategic Planning Committee for re-determination on 7th February 2024, this time with an Officer recommendation for refusal.

We understand that this is solely as a result of the publication of the revised National Planning Policy Framework (NPPF, 19th December 2023), and the assumption by the Council that as a direct result of progress of the Local Plan Review, beyond Regulation 19 stage, that the Council need now only demonstrate a 4-year land supply in accordance with Paragraph 226 of the NPPF.

By consequence the Council considers that paragraph 11d) and the tilted balance is no longer engaged and therefore the harms resulting from the aforementioned planning application in the Council's opinion outweigh the benefits. Such a conclusion is the opposite to that of both Officer's and Councillors when reaching the positive resolution in November 2023.

We understand that in all other respects, there have been no other changes to the consideration of the application. Accordingly, we assume therefore that there has been no change to the range of benefits identified within the November 2023 committee report. We assume further that the only additional harm arising is solely related to the fact that in the Council's opinion that the weight given to the conflict with spatial policies is greater than it was in November 2023.

It is the case that Wiltshire Council has since early 2020 been unable to demonstrate a Five-Year Housing Land Supply and prepared Briefing Notes for Members in both June 2020 and April 2022 that advised Members that a key plank of seeking to address the continued supply shortfall would be to:

“Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.”

Fundamentally therefore the Council recognised that the Plan strategy and therefore settlement boundaries were failing. By consequence the Council should consider favourably sites beyond defined settlement boundaries. We understand that the Briefing Notes to Members have not been withdrawn.

It is the case, based on the November 2023 Strategic Planning Committee, that the Glenmore Farm site falls exactly within the category of Sites that Members were being advised to consider favourably. Yet simply because the Council now considers it need only demonstrate a 4-year land

supply it no longer needs to consider favourably such applications because they are the wrong side of a settlement boundary which is fundamentally failing to deliver sufficient housing.

We disagree with such an approach because it remains the case that the current Plan Strategy continues to fail, is likely to result in a deficient land supply position by the end of the plan period (2026), and that by the Council's own evidence the Council will only return a positive land supply position at the point of adoption of the new Local Plan.

Housing Land Supply

It is our position that the Council is interpreting the wording of Paragraph 226 incorrectly. We read this to require an assessment for a 4-year land supply over 4 years as opposed to the Council's interpretation that the test is demonstrate only 4 years over a 5-year assessment window. We are aware of other authorities, such as Charnwood Borough Council in Leicestershire, who are considering their position at Planning Committee as we have interpreted Paragraph 226. Housing Land Supply Statements recently released by Bracknell Forest Council and St Albans also calculate their supply on this basis. We are aware that there are Planning Barristers and legal opinion who also support our interpretation, regardless as to whether that may or may not have been the Government's intention.

We find it somewhat surprising that the Council has obtained a legal opinion on this topic and is unwilling to share it but will rely on that to rush schemes back to Planning Committee where it plainly might be the case that clarification will be provided such that the Council's assessment is incorrect and therefore either applications will be reported back to the committee again or that the Council will have to concede matters at appeal with the clear potential in our view that the Council may have to defend applications for costs for unreasonable behaviour.

The Council defer to their latest Housing Land Supply Statement, dated May 2023, which sets out that the authority can demonstrate a supply of 4.6 years (including a 5% buffer) which is set over a five-year period of 2022/2023 – 2027/2028.

We feel that Wiltshire's use of the 2022/2023 delivery figures as a base date is not appropriate considering we are now in 2024. In the absence of an updated Statement, it would be reasonable and pragmatic to use 2023/2024 as a starting point. When reviewing the figures from 2023/2024 onwards over a four-year assessment period/timeframe, the Council can only demonstrate a supply of 3.7 years (without a buffer applied).

In the absence of any clarification from Central Government, we either consider the requirements of Paragraph 77 need to be taken literally (four-year supply calculated over a four-year assessment period/timeframe), or that the redetermination of the application is delayed until a time that further clarity has been provided.

In the event the Council's interpretation of Paragraph 226 is correct and the four-year land supply figure is taken over five-year period, we still dispute that four years worth of housing (4.60 as per the council's most recent Housing Land Supply Statement published May 2023) can be demonstrated. We intend to submit detailed evidence shortly to support this view but for now provide the following headline comments:

- It is our current position that the Council's land supply position sits around 3.8 years against a five-year housing land supply requirement (2023-2028), even without a 5% buffer. Our position is based on the following factors:
 - Insufficient permissions have been granted in the base period April 2022 – 2023 to maintain a rolling 4/5YHLS;
 - The Council have incorporated very high delivery rates on sites with only one outlet, this also does not account for the slowdown in market which the industry is

currently experiencing, with developers over the last 1-2 years almost halving their outputs; and

- Sites have not come forward as anticipated due to issues with services and utilities, RM applications stalling which indicates difficulties with negotiating contracts with landowners, inclusion of sites with outline permission that have been in the system for over 3 years with no signs of agreement, and assuming two/three outlets will be delivering on site when there is limited evidence of this.

Notwithstanding all of the above, we also consider that a decision on the application should also be approached by considering whether the material considerations in favour of the proposal outweigh the conflict with the development plan (flat balance). No other harm is alleged, and this is noted in the Report for Strategic Planning Committee which states in the Conclusion section the following (red text our emphasis):

II. Conclusion (The Planning Balance)

At the heart of the NPPF there is a presumption in favour of sustainable development, this requiring local planning authorities to approve development proposals that accord with the development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining applications are out-of-date, permission should be granted in any event.

The Council cannot currently demonstrate a 5-year supply of deliverable housing land; at the time of preparing this report the current supply figure as set out in the latest Housing Land Supply Statement is 4.6 years (and accepted to be 4.59 as per the Holt appeal). With this recognition the strategic policies of the Core Strategy must be considered out of date, and so the tilted balance flowing from paragraph 11d)ii of the National Planning Policy Framework (NPPF) is engaged. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Whilst the proposed development lies outside of Westbury's settlement boundary and so conflicts with the strategic level policy requirements (CP1 & CP2), this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Westbury and make contributions to off-site infrastructure through S106 contributions and CIL.

As already set out, there are no adverse impacts that would significantly and demonstrably outweigh the benefits that this particular development in this location on the edge of a sustainable settlement would bring. The proposal would relate well to the spatial form of Westbury using existing road infrastructure and would offer accessible walking and/or cycling routes into the town and its services and facilities. The application site would also make s106 contributions to the bus service and pre-school.

Fundamentally the site would make an important contribution to the current identified housing need in Wiltshire without causing other demonstrable harm.

The benefits

Provision of entry level AH / housing to address 5YRHLS shortfall –

Given the lack of a 5yr HLS within the county, the widely acknowledged nationwide housing crisis, the further shortage of affordable housing both locally and nationally, and the provision of up to 145 dwellings with 40% to be delivered as

affordable, it is considered that significant weight should be given to this benefit. The development would make a very important contribution to the Council's housing land supply and this point should attract substantial positive weight.

Expenditure on construction and investment in the area / creation of construction jobs – Some positive weight should also be attributed to this benefit, providing a boost to the economy through the provision of all associated construction jobs with a development of this scale. After all, the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. A limited, yet still positive, amount of weight can also be attributed to the economic expenditure from future occupants of the development within the local economy.

Financial contributions towards off site infrastructure –

Whilst these contributions are required to make the development acceptable in planning terms, some of the contributions would be of benefit to the local population and, without the development would be unlikely to happen.

The 'harms'

As noted above, any harm identified would need to be both significant and demonstrable in order to justify refusing the planning application. In this case, after various amendments and improvements throughout the life of the application, it is concluded that there would be no significant or demonstrable harm arising from this development that cannot otherwise be mitigated through the detailed design process at REM stage, the use of appropriately worded planning conditions, and/or via s106 contributions/obligations.

Neutral

It is noted that lack of identified harm against policies of the WCS is not a benefit of the scheme but would be a neutral aspect of it. The lack of technical objections raised to the development and its conformity with the development plan are therefore neutral points on the balance.

Conclusion

No significant or demonstrable harm has been identified that would outweigh the benefits (in the case of the provision of market and affordable housing, significant benefits) that this development would accrue. In the absence of any identified planning harm, it is therefore recommended that this application be approved subject to the conditions listed below and the satisfactory completion of a s106 legal agreement containing the contributions identified in this report.

It is our stance that significant weight should be attributed towards the provision of new open market and affordable housing, large areas of Public Open Space and Green Infrastructure, a new safe pedestrian and cycle link to West Wilts Trading Estate, improvement in Biodiversity through Biodiversity Net Gain, and significant S106 contributions which total in excess of £700,000 and are detailed below:

- Leisure (off-site sports provision): £34,220
- Education: £297,874
- Refuse and Recycling: £13,195
- Air Quality: £66,650
- Ecology (Trowbridge Bat Mitigation Strategy): £112,754.90
- Ecology (Picket and Clanger SSSI): £29,547.27
- Evening Bus service: £150,000

Housing Need

The provision of housing is a key aim of national planning policy. It has been clear over the past few years that the Council has fallen behind in delivering housing across Core Strategy and Site Allocation DPD allocated sites (hence the five-year housing land supply shortfall which has been in place since 2020).

It is the case that Wiltshire is almost at the end of the current Plan period however there continues to be and will always be the need to deliver more housing. This is true of both market and affordable housing. We know that this proposal would deliver up to 145 homes with an associated policy compliant affordable housing provision of 58 homes. A meaningful contribution. Such a contribution becomes all the more stark when consideration is given to the Council's latest evidence on such topics which is set out in the Wiltshire Local Housing Needs Assessment Update: Volume II (February 2023). At paragraph 4.18, the analysis **"concluded that 4,063 households are currently living in unsuitable housing and are unable to afford their own housing"**.

Further of those households, 1,762 currently occupy affordable housing that does not meet the current householder's needs, mainly due to overcrowding. In addition, it concludes that over the proposed 18-year plan period affordable housing need would comprise 30,010 households, equivalent of an average of 1,667 per annum.

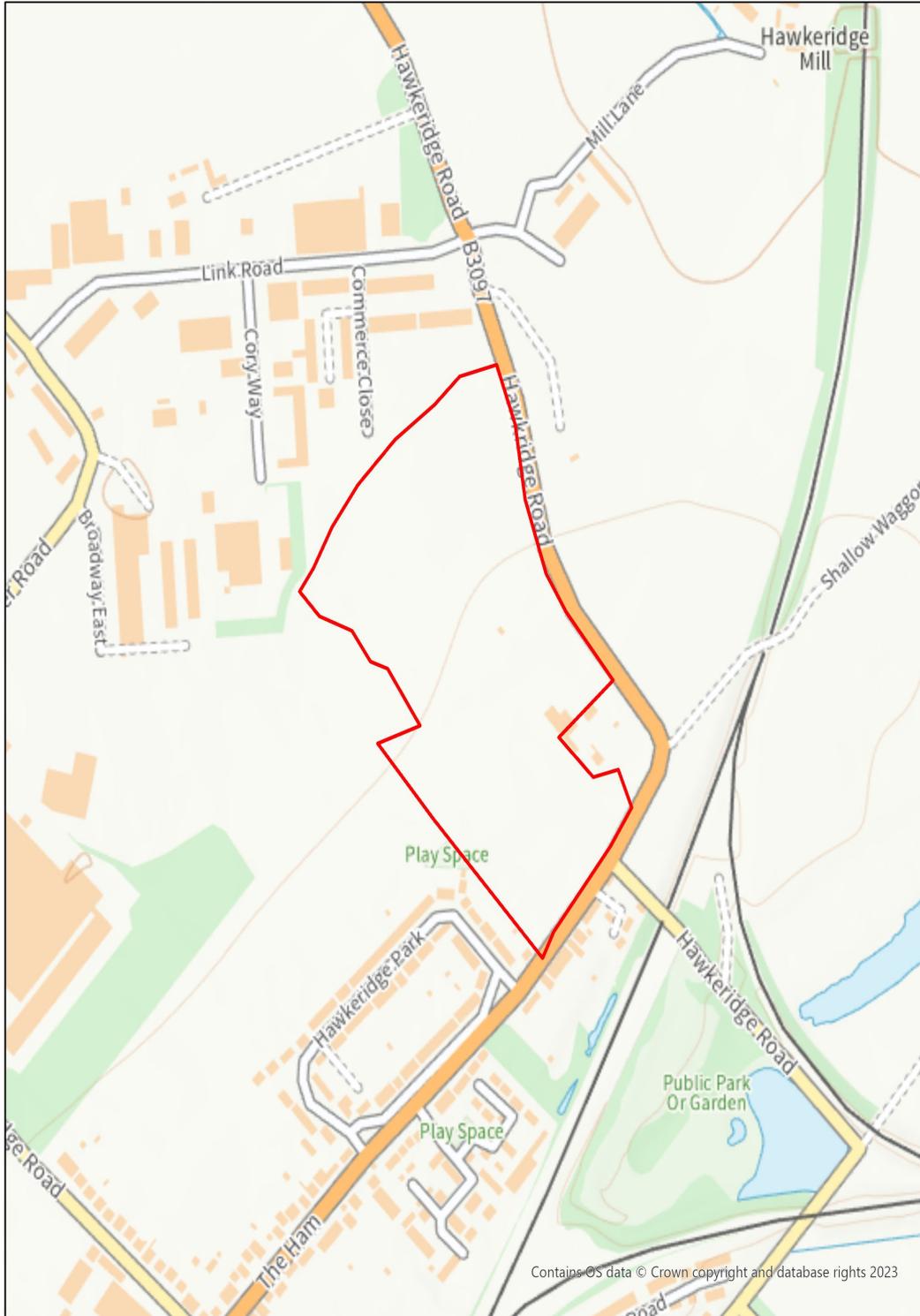
It is our view that the Council in seeking to take a series of applications back to committee, where they have already resolved to grant planning permission, is counter intuitive and without rational thought and is done solely for political merit.

The parties that loose out in such situations are not those who already benefit from home ownership, but those in acute affordable need, who don't often have a voice at committee meetings, and those people that the Council's own evidence have concluded are living in unsuitable housing. Yet all of this is put aside because the Council considers it can reward itself for continuing to fail to deliver enough housing.

In our view, a shortfall in five- or four-year housing land supply isn't deemed necessary to grant permission, and that the material considerations, plenty of which are associated with this application, should warrant approval.

Westbury LVA LLP

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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 6 March 2023 |
| Application Number | PL/2022/08155 |
| Site Address | Land to the West of Semington Road, Melksham, Wiltshire |
| Proposal | Outline planning permission for up to 53 dwellings including formation of access and associated works, with all other matters reserved. |
| Applicant | Terra Strategic |
| Town/Parish Council | Melksham Without CP |
| Electoral Division | Melksham Without West & Rural (Cllr Jonathan Seed) |
| Type of application | Outline Planning |
| Case Officer | Ruaridh O'Donoghue |

1. Purpose of Report

The purpose of the report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 (and related revised Planning Practice Guidance) that have a material impact on this planning application, and to consider the recommendation that the application now be refused planning permission.

2. Background

On 29 November 2023 the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (committee report attached as annex 1). Work commenced on the legal agreement, although it has not been completed and so the planning permission has not been given. In making its decision to approve subject to the legal agreement the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this 'gap' the authority becomes aware of new, or changed, material considerations, then the relevant law requires the authority to have regard to these considerations before finally determining the application.

In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a changed material consideration that must be taken into account. The effects of the changes in relation to this planning application are set out below:

- The principle of development (namely conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy and the weighting to be given to these policies);
- Related to the above, does the revised NPPF change the planning balance?
- Are there now any restrictive Wiltshire Core Strategy policies that have become more relevant on the balance?
- Implications for the Joint Melksham Neighbourhood Plan ('made' July 2021)

3. Housing land supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

76. *Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:*
- a) their adopted plan is less than five years old; and*
 - b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*
77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.*

Paragraph 226 referred to in paragraph 77 states the following –

226. *From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.*

For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards

meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing.

4. Current housing land supply position and consequences for the 'planning balance'

The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. In subsequent appeals this figure has been reassessed to be 4.59 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is now starting from a 'level' position rather than 'tilted'. In terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant.

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (particularly Core Policies 1 and 2), it follows that planning applications which conflict with the policies should not normally be granted – that is, unless other policies or material considerations indicate that the housing delivery policies should not be followed – and other restrictive policies may have increased relevance. The weight to now be given to the policies and to the other material considerations is addressed below.

5. Joint Melksham Neighbourhood Plan

An additional change to the NPPF is paragraph 14. This relates to situations where planning applications for housing are being determined in areas that have neighbourhood plans in place (less than five years old) and where those neighbourhood plans contain policies and allocations to meet that area's housing requirement. Where this situation applies, the 'tilted' balance will not apply, meaning that speculative housing planning applications are less likely to be recommended for approval where there is conflict with the neighbourhood plan. Because the Wiltshire Core Strategy is now not subject to a tilted balance, the changed paragraph 14 is not relevant; the policies of the Joint Melksham Neighbourhood Plan should be given full weight in any event.

6. Response from Applicant

The agent acting on behalf of the applicant considers that paragraph 226 should not be applied in the way set out above. The following reasons are given (full response on behalf of the applicant at Annex 2):

- The updated NPPF does not state that the process of identifying sites for four years' worth of housing is required to be undertaken during the processing of a planning application and, in this case, following an initial resolution to approve. Rather the requirement is to identify and update the Council's annual Housing Land Supply Statement (HLSS).
- The Council is required to identify its four-year housing requirement over a four-year period and not a five-year period.
- Additionally, the Council's May 2023 HLSS records an under delivery for 2019/20, 2020/21 and 2021/22. The Council needs to, therefore, consider if a further 20% buffer is required by operation of paragraph 77.
- An attempt to hastily transpose the five-year housing requirement would represent a misinterpretation of paragraph 226 of the NPPF and would be a potentially challengeable decision.

The applicant concludes that it would be perverse and irrational to not await the publication of a revised HLSS before issuing planning permission for the site where a resolution to grant has already been determined.

Separately the applicant states that this development would provide 100% affordable housing, and their remains a pressing need for such housing across the county.

7. Officer Response to the Applicant's Comments

The above response from the applicant is based on their own Counsel's opinion. It is, therefore, a legal opinion rather than law, and, of course, one that they are entitled to express. The Local Planning Authority's opinion is that it has interpreted paragraph 226 correctly and, therefore, does benefit from only having to demonstrate a 4-year housing land supply (HLS) over a 5-year period, which it can; (this approach has subsequently been conformed as correct in updated Planning Practice Guidance). This applies to the determination of this application and to any application that is in the same position. The Local Planning Authority also maintains that past housing delivery rates are such that the buffer need no longer apply to the county's HLS.

It is clear that the Local Planning Authority's position on the matter differs from that of the applicant. The committee is advised to consider the application based on the advice the Local Planning Authority has received, but with due regard to the applicant's position – this in view of there being no qualifying statements, guidance or case law relating to the updated NPPF at this time. It is in view of this situation that it is perhaps not surprising to find the LPA's opinion differing to that of the applicant.

The above said, there is one point in the applicant's response that is agreed, and that is the need for affordable housing. Despite the changes in the NPPF, and the LPA having now to demonstrate a 4-year HLS, there remains a need for affordable housing within the Melksham Community Area and more widely across the county. A proposal that would provide 100% (53 units) affordable housing would be of benefit to the Council in addressing this need.

8. Applying the planning balance to this case

The 'harms' –

Principle – Housing delivery policies –

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. Within the Settlement Strategy, Melksham is defined as a Market Town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. Because the application site lies beyond the limits of development, it is within the countryside. Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by "... recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services".

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Melksham – and further states that housing should not be permitted outside the limits except in the few circumstances explained in the policy, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. This application

site is not allocated in either the Wiltshire Core Strategy or any site allocations DPD or Neighbourhood Plan.

WCS Core Policy 15 sets out a Spatial Strategy for the Melksham Community Area. The policy states that development in the Community Area should be in accordance with Core Policy 1.

Policy 6 ('Housing in Defined Settlements') of the Joint Melksham Neighbourhood Plan (NP) states that proposals for sustainable housing will be supported where they accord with the settlement boundary provisions of the WCS Core Policy 2 (and the WHSAP). Policy 1 ('Sustainable Design and Construction') is concerned with sustainability in general.

Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with WCS Core Policies 1, 2 and 15 and NP policies 1 and 6. Proposed development which does not accord with Core Policies 1, 2 and 15 and NP policies 1 and 6 is considered to be unsustainable in the overarching context of the Wiltshire Core Strategy and the NPPF. In view of the revised NPPF, substantial weight must now be given to this 'in principle' conflict with these housing delivery policies and, by association, that part of paragraph 180 of the NPPF which requires regard to be given to the intrinsic character of the countryside.

Landscape Impact –

Core Policy 51 ('Landscape') is a restrictive policy rather than a housing delivery policy. It is a policy which is intended to restrict development that would not protect, conserve and where possible enhance landscape character, or that could not be mitigated as far as possible through sensitive design and landscape measures. Core Policy 57 ('Ensuring high quality design and place shaping') has related criteria.

Under the circumstances of the 'tilted' planning balance (and in general), the weight to be given to landscape effects was in most cases outweighed by the significant weight required to be given to the housing land supply shortfall. This application is evidence of this – when considered by the Strategic Planning Committee in November 2023 the effects of the planned development on landscape were not considered to be sufficiently significant to tip the tilted balance and so amount to a landscape reason for refusal (or, in terms of paragraph 11(d) of the NPPF, any adverse effects did not "significantly and demonstrably" outweigh the benefits of granting planning permission for housing). In reaching this conclusion the Committee had regard to the housing land supply shortfall and the specific circumstances of the proposal (in terms of its detailed design and layout and its proposed measures to mitigate its effects on the landscape), and the earlier appeal decision relating to adjoining land where similar conclusions were reached on this point.

However, now that there is a level planning balance, restrictive planning policies – notably here, CP51 (and the related parts of CP57) – are now more relevant because significant weight is no longer to be given to the housing land supply shortfall. This increased relevance does not mean that the restrictive policies can, or should, be given more weight – the weight they can, or should, be given is the same as before (because the landscape effects of the proposed development have not changed); rather it is the effect of this same weight and its consequences for the planning balance that are material.

For this application, and as a starting point, the landscape effects of developing this open field in 'countryside' to accommodate housing that is now not required to address a housing land supply shortfall is considered to be deserving of modest weight. This is when taking account of the baseline assessment of the field – which is essentially, and in isolation, an open field in the countryside which would be 'lost' to the development. But then factoring in the wider

circumstances of the field and the characteristics of the locality, and the actual proposal – that is, the site’s relationship with established and approved developments, the nature of existing established landscaping, and the landscape mitigation measures presented in the proposal, these effects and the modest weight to be attributed to them are not considered to amount to a sustainable reason for refusing planning permission in any event. In accordance with CP51, and as demonstrated in the planning application, the modest ‘negative impacts’ can be mitigated through sensitive design and landscape mitigation appropriate for the locality.

In allowing the appeal for the site adjoining this application site the Inspector had regard to CP51 (and the related parts of CP57), this in the context of landscape effects being an original reason for refusal in that case. Notwithstanding that part of the context of this earlier appeal decision was at the time the housing land supply shortfall, the Inspector stated the following:

*“The appeal scheme conflicts with Development Plan policies. Policies CP1, CP2, CP15, CP51 and CP57 and JMNP policies 1, 6 and 17 are consistent in seeking to resist development beyond settlement boundaries and the protection of the countryside. However, **although I find conflict between the appeal scheme with these policies, the level of harm arising would be localised by its relationship to surrounding development, the configuration of the site, its limited extension west within the main field boundary and the strength of existing boundary hedgerows which could allow the base for effective landscape mitigation.** I therefore conclude that there would be Modest/Negligible harm to the landscape character and appearance of the area arising from the appeal scheme”.*

More specifically with regard to the ‘gap’ between Melksham and Berryfield, the Inspector stated the following:

“Furthermore, there are no specific Development Plan policies which seek to protect the Gap between Melksham and Berryfield and the proposed development would not significantly erode it.”

These conclusions in relation to the appeal site which immediately adjoins the application site confirm that the level of harm and conflict with CP51 (and relevant parts of CP57), although deserving of modest weight, would not amount to a justifiable reason for refusing the planning application now. The proximity of the appeal site to the planning application site is such that this must be treated as a significant material consideration.

Loss of Agricultural Land –

The site is an arable field designated as Grade 2 agricultural land, and is, therefore, ‘best and most versatile’. The overall area of land affected by the proposal – c. 2.6ha – has not changed and so continues to be relatively modest. Natural England is generally concerned where areas greater than 20ha are being lost and the application site falls well below this threshold. This said, the loss of Grade 2 agricultural land is a factor to be considered on the planning balance, and with the change to the housing land supply position, this is a material consideration now of increased relevance. In the light of the limited size of the field that would be lost, it is considered that modest weight should be attributed to this point.

The benefits –

Location of Development –

Melksham is a market town which is capable of significant growth as identified by CP1 of the WCS. As such, the quantum of development (53 dwellings) can be considered proportionate in the context of the adjacent settlement (Melksham). Very modest weight can be attributed to this.

The original committee report refers to the site as being a reasonably sustainable (accessible) location, albeit in the countryside. Although outside of the limits of development of Melksham, the site does more or adjoin, and therefore, its proximity to the town centre allows access by a genuine choice of transport modes. Modest weight can be attributed to this accessibility.

Provision of affordable housing (AH) –

Given the shortage of affordable housing both locally and nationally, and the provision of a 100% AH scheme comprising 53 units, this is a matter which must be given significant weight. Noting this is different weighting to what was set out in the original report to committee, the committee's attention is drawn to a scheme for 210 dwellings more recently allowed on appeal on Land South of Western Way, Melksham (ref: PL/2022/08504). This scheme will deliver up to 63 units of AH.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In the light of this – and bearing in mind the size of the scheme (53 units is not a large site) – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is of note that the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the expenditure from future occupants of the development within the local economy.

Lack of any other technical objections –

As noted previously, the scheme has not been the subject of any technical objections from consultees. Only limited weight can be afforded to this point.

9. Conclusion

Whilst the landscape effects and the loss of 'best and most versatile' agricultural land continue to be negative consequences, the level of harm arising is not considered to be of such magnitude or significance to amount to a sustainable reason for refusing planning permission. Nevertheless, harm is still harm, and so this must be factored on the planning balance.

There is, however, significant harm generated by the conflict with the development plan housing delivery policies – CP 1, 2 and 15 of the Wiltshire Core Strategy, as well as Melksham Neighbourhood Plan policies 1 and 6. This attracts substantial weight which, in isolation, is capable of forming a reason for refusal against the principle of the proposal.

The 'in principle' objection identified above is not outweighed by the benefits that would arise from the development (notably, the provision of 100% affordable housing and the economic benefits identified).

It is, therefore, concluded that, in light of the changes to the NPPF, there now arises a level of conflict with the development plan sufficient to justify refusing the application.

Recent appeal decision –

On 9 February 2024 an appeal relating to a proposal for up to 30 dwellings on a windfall (unallocated) site at Land south of Pound Lane, Semington was dismissed (ref. PL/2022/09397). In dismissing the appeal the Inspector noted the following –

6. *As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis*

Planning Balance

15. *It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.*
16. *The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.*
17. *The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).*
18. *My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.*
19. *The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.*
20. *However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.*

21. *Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.*
22. *Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.*
28. *The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.*

This very recent appeal decision – relating to a site elsewhere in Wiltshire – aligns with the Local Planning Authority's interpretation of the updated NPPF and how it should now be applied in cases such as this. As in the appeal case, the proposal conflicts with the Council's Spatial Strategy and development plan as a whole; this conflict – and the fact that the planning balance is now level – is not outweighed by any other material considerations.

RECOMMENDATION:

That planning permission be refused for the following reasons:

1. Principle of Development

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the County, and in doing so identifies four tiers of settlement - Principal Settlement, Market Town, Local Service Centre, and Large and Small Village. Within the Settlement Strategy Melksham is defined as a Large Village. The Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined boundaries, or 'limits of development'. Beyond the limits of development is countryside. The application site lies beyond / outside the limits of development of Melksham, and so is in the countryside.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier. The policy states that within the limits of development of those settlements with defined limits there is a presumption in favour of sustainable development; but outside the defined limits – that is, in the countryside – other in circumstances as permitted by other policies of the Plan, development will not be permitted, and that the limits of development may only be altered through identification of sites for development through subsequent Site Allocations Development Plan Documents and Neighbourhood Plans.

Core Policy 15 of the Wiltshire Core Strategy sets out the 'Spatial Strategy' for the Melksham Community Area in which the site lies. It states that development in the Melksham Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

The proposal is for outline planning permission to erect up to 53 dwellings, etc. on the application site, which is in the countryside. Under Core Policies 1, 2 and 15, this does not comply with the Settlement and Delivery Strategies as a matter of principle. The Strategies are designed to ensure new developments satisfy the fundamental principles of sustainability, and so it follows that where a proposal such as this fails to comply with them then it will be unsustainable in this overarching context. The application site is not identified for development in a Site Allocations Development Plan Document, and it is not allocated in a Neighbourhood Plan document. Furthermore, there are no material considerations or exceptional circumstances, including set out in other policies of the Plan, which override the core policy's position. The proposal is, therefore, contrary to Core Policies 1, 2 and 15 of the Wiltshire Core Strategy, Policies 1 and 6 of the Melksham Neighbourhood Plan and paragraphs 2, 7-15, 47 and 180(b) of the National Planning Policy Framework (NPPF), comprising unsustainable development.

2. Lack of a signed Legal Agreement

The proposed development fails to provide and/or secure adequate provision for necessary on-site and, where appropriate, off-site infrastructure to make the application proposal acceptable in planning terms. The application is therefore contrary to policy CP3 of the adopted Wiltshire Core Strategy, and the National Planning Policy Framework, specifically the central social and environment sustainable development objectives enshrined within paragraph 8.

INFORMATIVE TO APPLICANT:

Reason for refusal 2 relates to the failure of the applicant to secure affordable housing and other financial contributions for the site. In the event of an appeal it may be possible to address this through a suitably worded Planning Obligation.

ANNEX 1: 29 November 2023 Committee Report

ANNEX 2: Applicant response to revised NPPF

REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 29 November 2023 |
| Application Number | PL/2022/08155 |
| Site Address | Land to the West of Semington Road, Melksham, Wiltshire |
| Proposal | Outline planning permission for up to 53 dwellings including formation of access and associated works, with all other matters reserved. |
| Applicant | Terra Strategic |
| Town/Parish Council | Melksham Without CP |
| Electoral Division | Melksham Without West & Rural (Cllr Seed) |
| Type of application | Outline Planning |
| Case Officer | Ruaridh O'Donoghue |

Reason for the application being considered by Committee

The application is before the Strategic Planning Committee at the request of Councillor Seed. The 'call-in' is on behalf of Melksham Without Parish Council who have concerns regarding the principle of further development in this location. The PC's full concerns are set out in section 8 below.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved. The report addresses the concerns raised by the PC who requested that this application be determined by the Committee.

2. Report Summary

The main issues to be considered are:

- Whether the proposal constitutes EIA development
- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);

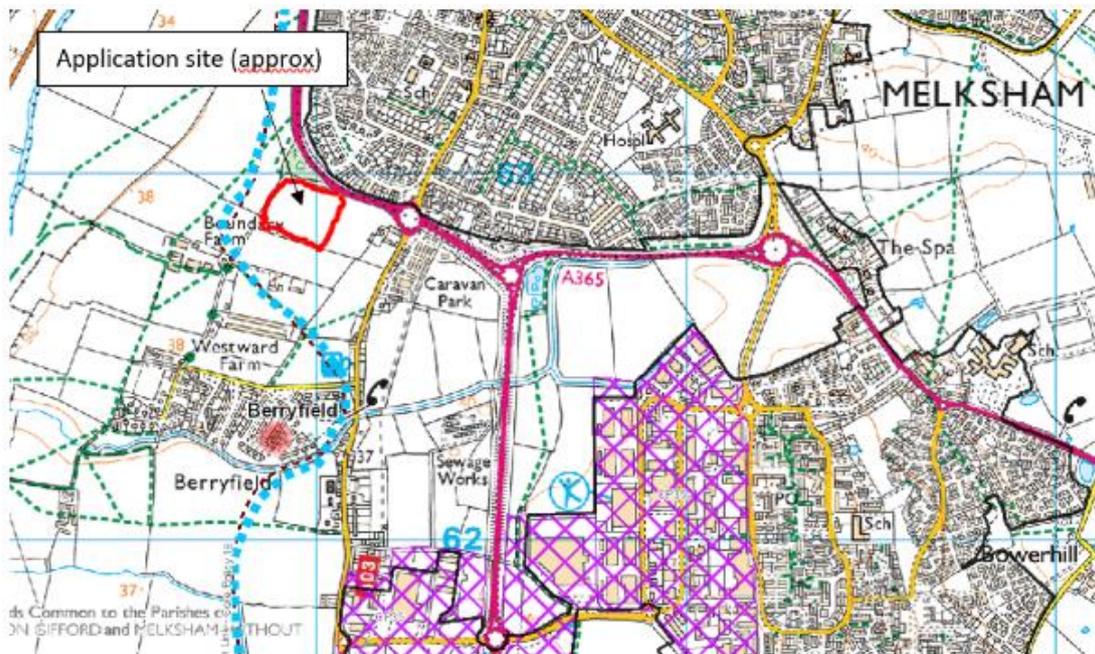
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)?
- Whether there will be any land contamination / air quality issues (CP 55)?
- Whether the proposal results in the loss of best and most versatile agricultural land (NPPF 170)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms?

3. Site Description and location

The site of approximately 2.6ha in area is located within Melksham Without Parish on land located to the south of the Market Town of Melksham (see figure 1 below). More specifically it lies on the southern side of the Western Way to the west of the Semington Road and the existing houses of Townsend Farm.

The application site is currently an agricultural field, unaffected by urban development, and is surrounded by popular Public Rights of Ways (PRoWs) and the Kennet and Avon Canal towpath / Sustrans Route (National Cycleway Route 4, from London to Fishguard) to the north (approximately 180m away), a recreational route and strategic right of way. The site forms an important transitional feature, and a visual and physical break between the developed part of the village and the open countryside beyond.

The site is generally flat. There are no Public Rights of Way that cross the site however, there are a number in close proximity notably, MELW116, MELW117 and MELW2.



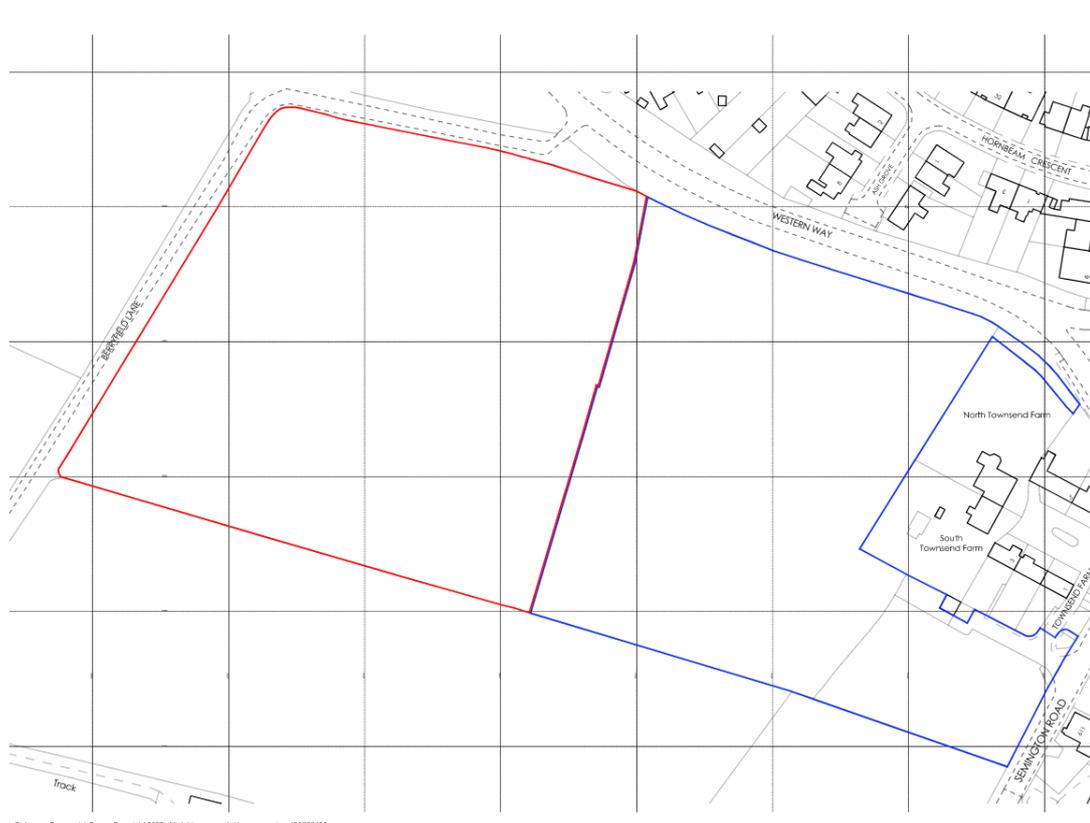


Figure 1 – Site Location Plans

The site is surrounded by some field hedging and trees however in places it is not complete and therefore, clear views are offered into the site from a number of vantage points. Furthermore, all the trees and hedging are deciduous and therefore, in the winter months the site is much more open in the landscape.

In terms of planning constraints, there are no landscape or heritage designations that cover the site. There are no TPOs on the site.

The site is located outside of the defined Limits of Development for the Melksham and therefore, in planning policy terms is considered to be in the open countryside.

Although the site is entirely located within Flood Zone 1, the Wiltshire Strategic Flood Risk Assessment (SFRA) mapping places shows that it is within an area at risk from groundwater flooding. According to the SFRA, groundwater levels on the site are between 0.025m and 0.5m below the ground surface.

4. Planning History

| Reference | Description | Decision |
|---------------|--|------------------------------|
| 17/01095/OUT | Outline planning application for residential development - formation of Access and associated works | Refused |
| 18/04650/OUT | Outline planning application for residential development of 108 dwellings, formation of access and associated works. | Withdrawn |
| 20/07334/OUT | Outline planning permission for up to 50 dwellings | Refused Allowed at appeal |
| PL/2023/00808 | Approval of reserved matters following Outline application 20/07334/OUT approved under Appeal ref APP/Y3940/W/21/3285428 for up to 50 dwellings, (appearance, scale, layout and landscaping) | Pending determination |

In respect of 20/07334/OUT, it should be noted that, at the time the appeal was allowed, the Council was unable to demonstrate a 5-year Housing Land Supply (5yr HLS). The absence of 5yr HLS meant that paragraph 11d was engaged. The application of policies within the framework did not indicate that development should be refused on the site. The provision of a 100% affordable housing scheme was considered to be a substantial benefit. The Inspector did not identify any significant material planning harm (the Council raised a landscape objection) other than it being located outside the limits of development (LoD) of Melksham. Any conflict with development plan policies was given limited weight and was judged to be outweighed by the substantial benefits identified.

Furthermore, limited weight was given to the conflict with the Melksham Neighbourhood Plan. The principal policy that the application conflicted with was Policy 6 which mirrors CP2 of the WCS – i.e. seeks to restrict development outside of the LoD. Given that the Inspector was already giving reduced weighting to CP2, it was considered that a similarly aimed policy in the NP should also be addressed in the same manner in terms of weighting.

5. The Proposal

This is an outline application with all matters reserved bar access for a development of up to 53 dwellings (of which 100% would be affordable) with access and associated works. It is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Flood Risk Assessment and Drainage Statement
- Surface Water Drainage Strategy
- Transport Statement
- Travel Plan
- Agricultural Assessment
- Tree Plan/Report
- Noise Impact Assessment
- Landscape and Visual Appraisal
- Ecological Impact Assessment

- Biodiversity Net Gain Metric
- Parameters Plan
- Illustrative Masterplan

Whilst the masterplan (see figure 2 below) is indicative (save for the access), it seeks to show a possible layout of how the housing could fit on the site in an acceptable and policy compliant manner.

This indicative layout shows that vehicular access would be connected to the Semington Road via the Phase 1 development to the east which is currently subject to ‘reserved matters’ application PL/2023/00808 (the layout of which is as detailed below in figure 2). The access would lead on to a central spine road which branches into cul-de-sacs. Public open space and landscaping is shown to be formed around the edges of the site with pedestrian access links into Phase 1 and on to Berryfield Lane. Attenuation features are shown around the edges of the site.



Figure 2 – Indicative layout

The below plan (figure 3) is a proposed Parameters Plan. This Plan would fix at outline stage certain parameters for the planned development (e.g. built development and green infrastructure) which, if approved, could not be altered at later reserved matters stage(s) (unless a variation to the outline consent is first applied for). The Plan shows green infrastructure (GI), attenuation features, the vehicular access point and principal routes, pedestrian connections and residential development areas. It also shows that the net developable area of housing would be approximately 1.6 ha. For the 53 dwellings, this equates to c. 33 dwellings/ha, which is comfortably within expected tolerances for an edge of settlement development in a relatively rural location. This mirrors the density of phase I. The plan shows approximately 1 ha of the site as GI.



Figure 3 – Parameters Plan

The second Parameters Plan (see figure 4) deals with ecological matters. The Plan fixes other aspects of the GI with a more detail showing:

- The GI space that is fixed to enable biodiversity net gains to be secured on the site (including RPA's, tree and hedgerow planting);
- that light levels at the northern, southern and western boundaries would be maintained as existing to minimise the impact on protected species such as bats; and,
- vegetated garden spaces and the land taken up by the footprint of houses.



Figure 4 – Ecological Parameters Plan

Below are some photos of the site. They show the extent of tree planting that exists around the boundaries and the limited intervisibility between the site and its surroundings. Some photos are taken from the Landscape and Visual Impact Assessment (LVIA) that accompanies the application, and others from a previous application. The difference in seasons shows summer and winter impacts.



View looking east from Berryfield Lane across the site (taken from LVIA)



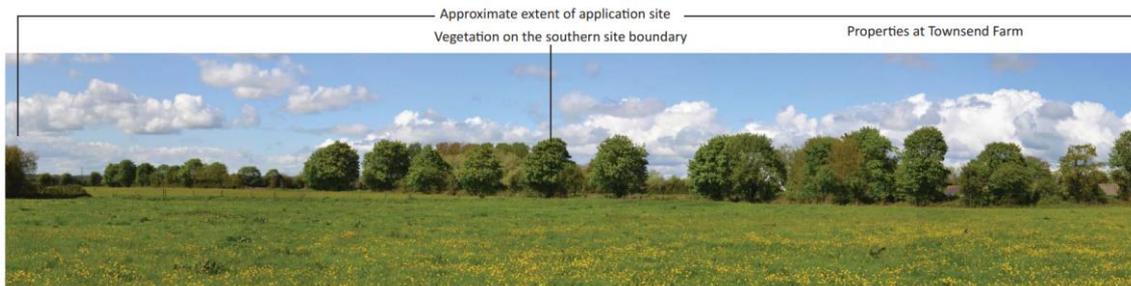
View looking south-west from Berryfield Lane, adjacent to A350 (taken from LVIA)



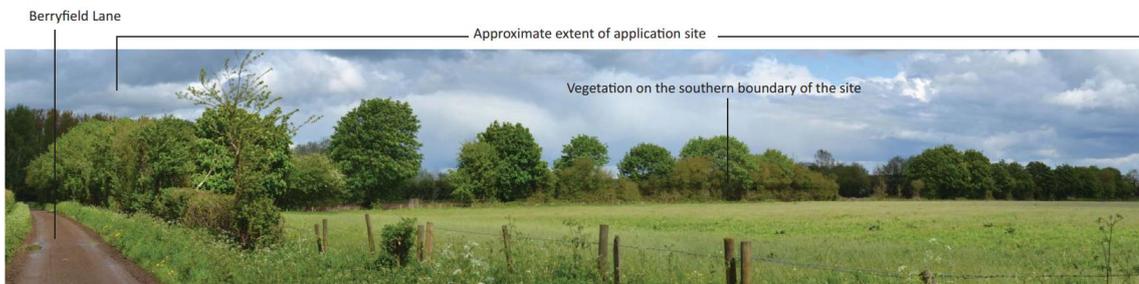
View from the middle of the field looking north towards the A350 (taken from LVIA for 20/07334/OUT)



View from the middle of the site looking west towards Berryfield Lane (taken from LVIA for 20/07334/OUT)



View Looking north-west to the southern boundary of the site (taken from LVIA for 20/07334/OUT)



View Looking north-west from Berryfield Lane to the southern boundary of the site (taken from LVIA for 20/07334/OUT)



View from Semington Road looking west at the point of access (© Google Streetview)

6. Planning Issues

The main issues to be considered are:

- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)?
- Whether there will be any land contamination / air quality issues (CP 55)?
- Whether the proposal results in the loss of best and most versatile agricultural land (NPPF 170)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms?

7. Planning Policy

Wiltshire Core Strategy 2015 (WCS)

- CP1 – Settlement Strategy
- CP2 – Delivery Strategy
- CP3 – Infrastructure Requirements
- CP41 – Sustainable Construction and Low Carbon Energy
- CP43 - Providing Affordable Homes
- CP45 – Meeting Wiltshire’s Housing Needs
- CP48 – Supporting Rural Life
- CP50 – Biodiversity and Geodiversity
- CP51 - Landscape
- CP52 – Green Infrastructure
- CP55 – Air Quality
- CP56 – Land Contamination
- CP57 – Ensuring High Quality Design and Place Shaping
- CP58 – Ensuring the Conservation of the Historic Environment
- CP60 – Sustainable Transport

- CP61 – Transport and New Development
- CP62 – Development Impacts on the Transport Network
- CP64 – Demand Management
- CP67 – Flood Risk

Wiltshire Waste Core Strategy

WCS6 (Waste Audit)

Saved Policies for the West Wiltshire District Local Plan (1st Alteration)

- U1a Foul Water Disposal
- U2 Surface Water Disposal
- U4 Ground Source Protection Areas

Other

- The Wiltshire Waste Core Strategy (adopted 2009)
- Wiltshire Housing Site Allocations Plan (adopted Feb 2020)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework July 2021 (NPPF)
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)

8. Summary of consultation responses (including comments on the revised scheme where indicated as a second response).

Melksham Without Parish Council:

First response – Objection

- *The site is outside the settlement boundary and is in the village of Berryfield, which is classed as a “Small Village” in the Core Strategy. Please also refer to Policy 6: Housing in Defined Settlements of the made Melksham Neighbourhood Plan regarding development in the small villages of Beanacre and Berryfield.*
- *This site was previously turned down in May 2017 for 160 dwellings, and the reasons for that refusal still stand. Precedent is also set within the assessment of the principle of development for 16/11901/OUT on applications in the Semington Road area that do not fall under the existing built area of Berryfield or within the settlement boundary of Melksham Town. The site therefore conflicts with Core Policy 2 of the Wiltshire Council Core Strategy as it is outside the defined limits of development and has not been brought forward through the Site Allocations DPD or the Melksham Neighbourhood Plan.*
- *Whilst there currently is a lack of 5-year land supply, the Melksham area has exceeded the number of dwellings required by the Core Strategy by 2026 and the protection of paragraph 14 in the NPPF is valid with a current adopted Melksham Neighbourhood Plan less than 2 years old. This was confirmed by the Planning Inspector for the appeal at the adjacent site 20/07334/OUT; AP-36412.*
- *The development proposed is for 100% affordable housing, which conflicts with Wiltshire Council’s Core Strategy Policy 43 ie ‘the need for developing mixed, balanced and inclusive communities, affordable housing units to be dispersed throughout a development and designed to be high quality, so as to be indistinguishable from other*

developments'. On recently meeting Sovereign Housing at pre-app stage for the adjacent site (20/07334/OUT) they mentioned that the 50 dwelling site was about the right size for a wholly affordable housing site for themselves. On their proposed pre-app drawing for that development, it is shown as Phase 1, and this proposal is described as Phase 2 with a connecting road shown between them. The applicant is the same for both sites at outline stage.

- If Wiltshire Council are minded to approve this application, please refer to the published Housing Needs Assessment undertaken for the review of the Melksham Neighbourhood Plan to give a steer on the mix of type and tenure that are needed in the Neighbourhood Plan area, and in fact broken down into smaller settlement areas within the NHP area - https://www.melkshamneighbourhoodplan.org/_files/ugd/c4c117_4c8411b64439472fbf cf8e856799e2c9.pdf
- The loss of Grade 2 agricultural land (Best Most Versatile land). It is noted that it is suggested within one of the developer's submission documents that this particular parcel of land was unsuitable for agricultural use and was fallow. The parish council do not want to see the loss of good quality land from agricultural use. Residents from the neighbouring Townsend Farm development confirm that this year rapeseed had been grown and cultivated in the field and for the last 15+ years there had always been either crops or animals on the land.
- Highway safety concerns with regard to access to the site as Semington Road is quite narrow where the access is proposed. In addition, the highway safety for residents in terms of accessing facilities in the town with them having to cross the busy A350. Whilst the light controlled crossing to the east had recently been upgraded as part of the Active Travel project by Wiltshire Council, there was still an informal, desire line across the east of the A350 roundabout to access the town centre and Aloeric school. The proposed site entrance is very close to the entrance to the Mobile Home Park and in addition to the road calming measures already in place this could lead to congestion and traffic issues, especially on the Semington Road roundabout at the A350. The A350 is a primary route, with some 20,000 vehicles using it per day.
- Access to schools and lack of school places. Whilst Aloeric School may be the nearest, this requires people having to cross the busy A350. The proposed primary school at Pathfinder Place, Bowerhill is not yet built and there is no footpath proposed from Berryfield to Pathfinder Place for those wishing to access the school on foot. St George's Primary School in Semington is some distance away and for access by vehicle would require a circuitous route via the A350 due to the Bus Gate at the entrance to Semington Village from the Semington Road. It was noted that there is no pre-school provision at Aloeric school and this needed to be borne in mind for any potential walking route being assessed for early years children. The parish council raised concerns about the recent Road Safety Report for 20/01938 of which children would be using the same route to school. This contradicted itself by saying that the route was safe as children would be accompanied by an adult, and elsewhere reported that the assessor witnessed an unaccompanied child on a scooter en route to school. In addition, children may be accessing other primary schools at Bowerhill and the proposed school at Pathfinder Place
- The application makes no reference to a contribution to the proposed Melksham Link canal restoration by the Wilts & Berks Canal Trust (12/01080).
- The erosion of the rural buffer and visual green gap between the town of Melksham and the small village of Berryfield.

Should Wiltshire Council be minded to approve this application the Parish Council would like to see the following conditions included in the Heads of Terms for the S106 Agreement:

- There are practical art contributions.

- A LEAP (Local Equipped Area of Play) is provided which includes bins and benches as well as public open space and the regular emptying of bins to be reflected in any future maintenance contribution.
- The Parish Council wish to enter into discussions on being the nominated party for any equipped play area for the site, and the associated maintenance contribution.
- Bus shelters to be provided in Semington Road with WiFi connectivity to provide Real Time Information.
- The road layout is such that there are no dead ends in order that residents and refuse lorries do not need to reverse out of roads.
- There is a visible delineation between the pavement and the road.
- As no community facility is being provided from this application, that a contribution is made towards the running costs of the new village hall being provided as part of planning application 16/00497/OUT on Semington Road.
- A contribution is made to public transport.
- A contribution towards the canal scheme.
- Equipment is provided for teenagers, such as a teen shelter with WiFi connectivity.
- The provision of circular walking routes with the provision of benches and bins
- The provision of bird, bat and bee bricks, reptile refugia and hibernacula in order to increase biodiversity and wildlife in the development

Further to the following comment previously made, the parish council request additional weight is attributed to this comment due to the proposals in the Government's current NPPF consultation to be implemented in Spring 2023 that more weight is attributed to recognise the food production value of the farmland.

The loss of Grade 2 agricultural land (Best Most Versatile land). It is noted that it suggested within one of the developer's submission documents that this particular parcel of land was unsuitable for agricultural use and was fallow. The parish council do not want to see the loss of good quality land from agricultural use. Residents from the neighbouring Townsend Farm development confirm that this year rapeseed had been grown and cultivated in the field and for the last 15+ years there had always been either crops or animals on the land.

Second response – maintain objection

We have reviewed the documentation submitted and have no further comments to make at this time. We would refer both the planning officer and application back to our previous comments dated 31 January 2023 which remain current and valid.

Wiltshire Council Spatial Planning: Comments

The proposal is not supported in principle as it would not accord with the strategy and pattern of development anticipated by the WCS and Joint Melksham Neighbourhood Plan. Therefore, from a strategic policy perspective, the proposal would not constitute sustainable development and thereby also conflict with the principle aims of the National Planning Policy Framework.

This must be set against other material considerations, the most pertinent of which is the current housing land supply position. Whilst the Council are unable to demonstrate a 5 yr HLS, careful consideration should be given to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as a whole, and any material considerations, on a case-by-case basis. This will need to include consideration of what weight to assign to the most important policies.

However, whilst the Council are currently unable to demonstrate a 5 year HLS, it can demonstrate a 3 year HLS and NPPF paragraph 14 is relevant with regards to the Joint Melksham Neighbourhood Plan with all four criteria being met. Therefore, for applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

Wiltshire Council Highways: no objections subject to conditions to cover:

- Compliance with the Residential Travel Plan
- Access to the development provided to base course level with visibility splays prior to occupation.
- Submission of a Construction Traffic Management Plan
- Pedestrian connection to Berryfield Lane prior to occupation of 20th dwelling.
- Landscaping scheme to include impenetrable boundary to north to prevent indiscriminate access onto the A350 where there are no pavements.

And planning obligations to cover:

- Travel Plan monitoring for 5 years
- Payment of green travel vouchers to each household
- A time limited and index linked contribution towards improving walking and cycling routes in the vicinity of the development.

Wiltshire Council Lead Local Flood Authority: no objection

After submission of additional information requested by the drainage officer, no objections to the development subject to conditions.

Wiltshire Council Climate Team: comments

Advice and guidance based on current planning policy with regards to addressing climate change with the development. Positive weight should be given on the planning balance should a development take an ambitious approach to sustainable construction.

Wiltshire Council Affordable Housing: no objection subject to affordable housing provision

Should it be decided that this site is suitable for residential development, under the relevant Core Policies of the Wiltshire Core Strategy, on-site affordable housing provision would be required. Their consultation response sets out the obligations placed upon the developer should they decide to deliver the scheme as 30% nil subsidy with the remainder (70%) of the affordable housing with subsidy or as 100% granted funded/with subsidy.

Wiltshire Council Education: No objection subject to financial contributions towards early years education places. There is sufficient capacity at primary and secondary level to accommodate the pupils from this development.

Wiltshire Council Landscape Officer: Comments

The hedge along Berryfield Lane will require substantial 'gapping up' and reinforcement to create a strong screening edge to the west. Also expect more street trees to be included in any proposed detailed application to ensure the plans are in accordance with the NPPF para 131 'treelined streets'. No community orchard planting is shown on the scheme which could be planted up in the PoS between phase 1 and phase 2. Again, this is a requirement within the NPPF para 131.

Rain gardens and bio-retention swales to be considered in accordance with both CIRIA best practice guidance on SUDs and the recently released Natural England Green Infrastructure Design Guidelines.

Should it be decided to approve, the following also required:

- 1 - a Detailed Planting plan noting species, densities, and specifications (To National Plant Specification)
- 2 - A Landscape and Ecology Management Plan setting out how the planting will be maintained from installation through to maturity.
- 3 - A Tree / utilities coordination plan showing how street trees and utilities including street lighting have been properly coordinated to ensure no clashes between root growth and that trees have enough room to grow to maturity both above and below ground without impacting on services.

Wiltshire Council Archaeology: no objection / comments

This application area forms part of a larger site that has been the subject of a geophysical survey and a trial trench evaluation. This evaluation identified an area of later prehistoric and Romano-British field systems and possible settlement activity that straddles the current application as well as application 20/07334/OUT located immediately to the east. Following discussion between the County Archaeologist and the applicant's archaeological consultants it was agreed that the area of archaeological activity identified by the evaluation could be explored via an open area excavation. This excavation would effectively mitigate the impact of the development upon the archaeological resource. The outcomes from a Written Scheme of Investigation (WSI) are awaiting following commencement of the excavation.

As the excavation would address the archaeological issues in both the western and eastern parts of the site, there are no other comments.

Wiltshire Council Waste and Recycling: No objections subject to the payment of £101 per dwelling to cover the cost of waste and recycling containers for each new dwelling.

Details of standards expected for access to waste collection services provided for detailed design at RM stage.

Wiltshire Council Public Open Space: no objection

The requirements for POS for this proposal would be as follows-

- 1851.18 sq.m of Open Space to be provided on site
- 93.81 sq.m of Play to be provided on site
- 1250.80 sq.m of Sports to be provide on site where possible if this was not the case a monetary contribution of £12,508.80 would be required to upgrade existing sports provisions in the local area.

Wiltshire Council Public Protection: No objections subject to conditions to cover the submission of a Construction and Environmental Management Plan, the undertaking of an Air Quality Screening Assessment, submission of a contaminated land report and to ensure development is carried out in accordance with the noise assessment report.

Wiltshire Council Ecology: no objection subject to conditions

Wiltshire Council Urban Design:

First response - Comments / objections

Fundamentally the application appears to demonstrate poor quality design, because the Outline plans use an out of date/misleading indicative layout for Phase 1 which it is proposing to be an extension to integrate with; yet a REM submission (PL/2023/00808) has been simultaneously made, which contradicts the design concept proposed on this Outline, and no mention of the revised proposed detailed is made in the DAS for this outline. The DAS is intended to explain the design rationale in a reliable way.

There is one telling example of how poor design processes such as this impacts the quality of the design, and how piecemeal development which the applicant is pursuing is also at odds with high quality design: the adjacent proposed REM layout actually omits the POS and equipped play feature in its N-W corner, which this Outline application implied it will utilise and link into. and even such an implication is wrong, as the POS officer has responded that equipped play is expected on this site. My advice is that this requirement be determined on the basis of the total housing potential of the sites, not each site in isolation. And whilst the LPA will naturally object to the non-compliance of the REM with its own Outline, it is inexplicable that the applicant is submitting such contradictory proposals and narratives at the same time.

Also that REM application seeks to create a new hedge to deliberately sever the two sites, whereas the concept underpinning this Outline application shows the two sites integrating across a shared linear POS.

Also that adjacent Outline had committed to deliver a tree-lined avenue which this Outline would be expected to continue. Despite that fact that the subsequent REM on that site appears to be attempting to remove that feature (which the LPA will no doubt object to) there is no justification for this Outline to suppose it would not be expected to commit to deliver it also.

With the applicant's design process appearing to be uninformed, uncoordinated and unreliable, it is just not possible to give positive, constructive urban design feedback on this Outline. Perhaps once the adjacent REM is resolved, the applicant can make some more coherent proposals which do not contradict with what is permitted in the adjacent field.

Aside from this fundamental concern, the parameter plan and indicative layout can already be shown to be inadequate and incompliant with CP57 and the National Design Guide. I have attached an annotated version of these to highlight some (not all) of the problems and reserve the right to provide a more comprehensive UD response if and when a revised design proposal is submitted.

Second response – no objections

I have no objections in principle to this proposal and would at this stage only seek to advise upon the next stage regarding more detailed architectural design and detailing.

On page 12 of the Design and Access Statement there are some rather alarming photographs of ornate barge/fascia boards. These should not be replicated in any form on the new houses, nor should PVC canopies over front entrance doors be considered.

This site is a long way from the historic core of Melksham and therefore there is no obligation to try and reflect the historic architecture and townscape that can be seen on the High Street. There is no justification to produce “traditional elevational design”, as stated in paragraph

12.2.1 of the D&AS. Doing so will only lead down the road to ubiquitous pastiche standard houses types that are seen everywhere, but are representative of nowhere.

A sentence in paragraph 12.3.1 states “Any reserved matters scheme should look to avoid pastiche and seek to embrace modern interpretations of local character”. This paragraph is a lot more reassuring. I would clarify things further by strongly recommending that the proposed house elevations should have a modern aesthetic, but be constructed of traditional materials, principally brick, real stone and render.

With regards to the roofing materials, the sort of high-quality scheme that we all wish to see here will be best achieved by using small unit sized clay or natural slate quarry tiles. Large unit sized concrete tiles should be avoided.

Wessex Water:

First response - Objection

The Illustrative layout, drawing ref 3888-03, submitted in support of the application shows what appears to be an attenuation pond in the southwest corner of the site that is in direct conflict with the existing 6” public water main, this is not acceptable to Wessex Water and as such the applicant will need to amend the site layout to ensure that required easement is maintained.

With this in mind we would request a holding objection on the layout until the applicant has demonstrated how they propose to accommodate the 3m easement required either side of the water main and unfettered access

Alternatively, the applicant may wish to consider diverting this water main, application for water main diversion (at the developers cost) can be permitted but the developer must prove satisfactory hydraulic conditions and that there will be no loss in capacity within the diverted main, all new water mains must be constructed to the current adoptable standards. Early consultation with our Sewer Protection Team is advised.

9. Publicity

The application was advertised initially by way of a site notice and neighbour notification letters. An advert was also placed in the press for the application. There have been a series of amendments to the application which were advertised by way of neighbour notification letters. 10 letters of objections to the development have been received and no support letters. The material planning considerations that have come out of all of this are summarised below
–

Need

- The only reason the adjacent site was successful at appeal was because of a last minute change to the housing type to 100% affordable homes. This application has 30% affordable homes so would not meet the inspector's requirement regarding the previous appeal.

Ecology / Environment

- Access road cuts through a wildlife haven and will therefore destroy it.
- Development of this field will further destroy the wildlife in the area.
- Loss of Grade 2 best and most versatile agricultural land contrary to paragraph 112 of NPPF.
- Salisbury & Wilton Swifts has reviewed this outline planning application as we believe all new developments should provide habitat opportunities for those species such as swifts who prefer, or can adapt to, the built environment.

Loss of Green Space/Congglomeration

- The Planning Inspector allowed the 50 houses on the adjacent site as he stated in his report: “...*this amount of development would still allow a transition between Melksham to the North and open rural land to the South*”. This application would mean that this would be lost.

Location/Sustainability

- The site is in an unsustainable location, far away from any facilities and goes against the published Melksham Neighbourhood plan for where the residents of the town want housing development to be earmarked. It has not been brought forward through the proper channels and the site is outside of the settlement boundary limits.

Infrastructure

- Impact on local infrastructure – lack of school and doctor surgery places is already an issue.
- This development and its counterpart offer nothing to the existing local community in terms of facilities or infrastructure, but will instead create further pressure on our already over-subscribed medical facilities, schools and pre-school facilities, and erode our existing quality of life.
- Melksham is currently overpopulated considering the existing public resources and infrastructure. Ad-hoc planning applications should be turned down unless they significantly contribute to the community or town at large.

Pollution

- Concern was also expressed about the increase in particulates and other emissions from car exhausts, causing a rise in the pollution of the air we all breathe especially when there are queues around all our homes. This can only become worse because of the extra cars joining and queuing along Semington Road.
- As the proposed site is lower than the A350 then I would have thought that this would have a detrimental impact on the quality of air for future residents.

Contrary to Development Plan

- It would conflict with the Wiltshire Core Strategy on Housing, as the site is in open countryside outside the limits of development defined for Melksham and thus contrary to Core Policy 1, 2 and CP15.

Contrary to National Policy

- The published Melksham Neighbourhood plan means that the less than 5-year land supply issue of recent times is reduced to 3 years. The Council housing supply number is well over 4 years currently so this means that all elements of WC's Strategic plan and the National Planning Policy Framework should apply to this proposed development.

Contrary to Neighbourhood Plan

- This area has not been identified for development as part of the Melksham Neighbourhood plan.
- We do have a Melksham Neighbourhood Plan, which was brought about after consultation with local residents and organisations. It is an iterative process, with land being brought forward for consideration for future development. This application is not plan-led; it is speculative, and allowing it would simply demonstrate that whatever the local residents, organisations and businesses plan for a sustainable and well thought out future for the town and its surrounding villages, in the end developers can use loopholes in the law to force through applications.

Highways Safety/Parking

- Traffic congestion as cars queue up to join the A350 from this scheme and all the other developments recently allowed along the Semington Road.
- There have been recent works to improve and add a cycle lane to the pedestrian crossing across Semington Road near the roundabout with the A350, and to improve the crossing for pedestrians and cyclists across bypass on the east side of the roundabout. However there is still a pedestrian path leading west of the roundabout, and to cross on this side is simply dangerous, albeit appealing in that it appears to be the quicker route when walking to the Aloeric School or into town.
- Semington Road is now marked and signposted as part of the National Cycle Network - so to introduce another road leading onto Semington Road (and very near to the crossing), with over 200 cars using it (as indicated by the number of parking spaces on the two planning applications) is reckless to say the least. How can one organisation suggest that a route is safe for cyclists while another allows hundreds more cars to use it?

Other

- This development if allowed would encourage additional applications along the west side of Semington Road - further destroying agricultural land and leading to coalescence of Melksham Town with Berryfield village.
- This development makes no contribution to the Wilts and Berks enabling development.

10. Planning Considerations

10.1 Principle of Development

The NPPF advocates the primacy of the development plan stating that, first and foremost, decisions must be made in accordance with the development plan unless material considerations indicate otherwise (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). Any conflict identified with the development plan policy must be given weight on the planning balance.

10.1.1 Wiltshire Core Strategy and Joint Melksham Neighbourhood Plan –

The Wiltshire Core Strategy (WCS) sets out a ‘Settlement Strategy’ and ‘Delivery Strategy’ for development across the County. WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – ‘Principal Settlements’, ‘Market Towns’, ‘Local Service Centres’, and ‘Large and Small Villages’. Within the Settlement Strategy, Melksham is defined as a Market Town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Melksham – and further states that housing should not be permitted outside the limits except in the few circumstances explained at paragraph 4.25, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan.

The Council adopted the Wiltshire Housing Sites Allocation Plan (WHSAP) in February 2020. It does not allocate further land for development at Melksham.

WCS Core Policy 15 sets out the Council’s sustainable plan-led approach to delivering development that responds to and reflects economic, social and environmental needs for the Melksham Community Area. Paragraph 5.82 of the WCS states that the strategy for

Melksham is “... to ensure an appropriate and balanced mix of housing and employment growth is managed to provide contributions to town centre improvement and delivery of enhanced services in the town”.

The Joint Melksham Neighbourhood Plan 2020-2026 (NP) was ‘made’ in July 2021. It sets out principles for new housing and good design through Policies 1 and 6; to a larger extent Policy 6 relies on the WCS to define the settlement boundary and the circumstances under which new housing will be permitted in the NP area. This said, standalone Policy 7 allocates land at Middle Farm, Whitley for approximately 18 residential units.

The application site is not allocated in either the WCS or the WHSAP (nor the NP). Therefore, as the site lies outside of the limits of development and none of the exception policies apply, the proposal does not accord with the WCS Core Policies CP1, CP2 and CP15, and the general principles set out in the Neighbourhood Plan.

10.1.2 Five-year housing land supply and relevant appeal decisions –

The above said, the Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land, and this is a significant material consideration. According to the most up to date Housing Land Supply Statement (dated April May 2023 (base date: April 2022)), the number of years deliverable supply is 4.6 years (since ‘agreed’ to be 4.59 yrs following a more recent appeal decision). This means that the ‘tilted balance’ flowing from paragraph 11d)ii of the National Planning Policy Framework(NPPF) is engaged; it says the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the proposed development in terms of it delivering housing – that planning permission should be granted. The other ‘non-impacts’ of the development are discussed later in the report.

In a recent allowed appeal decision relating to a proposal for 200 dwellings in countryside on the edge of Devizes the Inspector considered the housing land supply position, and concluded as follows –

“The proposal would help boost the Council’s supply of deliverable housing sites through a mix of market units next to a second-tier settlement that offers accessible facilities and

services. The proposed units could be delivered in the short term, and they would help address the persistent shortfall of housing in Wiltshire when there is not a plan-led mechanism to address this until the DPD is potentially adopted. Against this backdrop, I do not consider the shortfall to be modest, regardless of the number of permissions which the Council have granted and the Council's performance on the Housing Delivery Test. The extent of the shortfall has largely been flat in recent times despite the Council's briefing notes. I therefore attach substantial weight to this social benefit in the context of the Framework's aim to significantly boost the supply of housing."

In another recent (July 2023) allowed appeal relating to a site in the countryside on the edge of Holt for up to 90 dwellings (ref. PL/2022/03315), the Inspector said the following –

"When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council's position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future."

There have been 26 appeals since 2019 where 5-year land supply has been a principal material consideration. 19 of the appeals have been allowed, with 12 of 15 allowed in the last 16 months. Those few appeals that were dismissed had, in the main, other technical objections which tipped the balance the other way (for example, ecology, highway safety, loss of a country park, etc.). There are no technical objections relating to this application.

In order to address the housing supply shortfall the Council has issued two briefing notes, in September 2020 and April 2022. In section 6 – *What can we do to restore a five-year housing land supply?* – the note states that the Council will:

iii) Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.

In the Holt appeal decision the Inspector stated the following in relation to this Briefing Note:

"I afford significant weight to this Briefing Note, as it is a realistic attempt to address the shortfall and, as such, I also attach significant weight to this stated intention in paragraph 6.1. To my mind, this case falls under this intention, for although I found harm to the character and appearance of the area, that harm was primarily due to the effects of placing a housing estate on a field and so commonly arises when the site is outside a settlement. As such, while that is a policy objection I do not consider it to be a major one. Overall, I attach significant weight to the content of the Framework in relation to the need for a 5- year supply and the consequences that flow from failing to identify that quantity of housing land. I also attach significant weight to the delivery of 90 dwellings, as it would make an appreciable contribution to addressing a shortfall of this size"

A further appeal decision of relevance to this specific application site is 20/07334/OUT which relates to the land to the immediate east (that is, the other half of the same field). This appeal – for up to 50 affordable housing units – was allowed in May 2022 when the Council did not have a 5 yr HLS. The decision letter, again, sets out the weight to be attributed to a development plan in these circumstances. It also sets out how much weight was/(should) be given to the provision of affordable housing, and it more specifically addresses the Joint Melksham NP policies. In the appeal, the location of the development at the edge of the limits of development of Melksham, the fact that the Council had allowed housing development to

the south, and the accessibility of the site to services and facilities by means other than the private car, were determinative factors. The inspector stated that:

“...in terms of accessibility of the proposed scheme to local services I accept that the appeal scheme conflicts with Policies CP1, CP2 and CP15 and JMNP 1 and 6. However, the level of harm would be limited given its location which allows good access to services by a genuine choice of transport modes.”

As it was a scheme comprising solely affordable housing (AH), the Inspector gave substantial weight to the provision of this. The Council’s delivery record of AH and the pressing needs within the Melksham community area were also determinative in the conclusion. The Inspector stated at paragraph 77:

“I conclude, therefore, that there is a pressing need for affordable housing and the appeal scheme is not in conflict with Policies CP43 and CP45. As with all the other main issues this is a matter for the planning balance.”

Turning to the current application, the proposal is for a similar level of housing (53 vs the 50 allowed on appeal within the same field). The current application is also proposing 100% affordable housing as per the scheme allowed at appeal. The Council is still unable to demonstrate a 5yr HLS some 12 months on from the appeal decision. All of these points allude to a very similar set of circumstances for the current application.

In addition, it is also of note that since the appeal was determined pedestrian improvement works have been undertaken to the Semington Road roundabout making it safer and easier for people to access Melksham town centre on foot or by bicycle. This is an enhancement to the accessibility credentials of the site that were found acceptable by the appeal Inspector in any event.

In light of these circumstances, it is considered the weighting the appeal Inspector applied to the WCS and Melksham NP policies when determining the application on the other half of the field should also be applied to the current application. This is not just a matter of consistency in decision making but is also in view of the very similar circumstances of the two sites – understandable given that they are part of the same field. Whether or not the conflict with development plan policy is considered to outweigh the benefits is a matter for the planning balance. However, in view of paragraph 11d being engaged, and furthermore in view of the presumption in favour of sustainable development applying, it would be necessary to demonstrate significant other harm in the event of a resolution to refuse planning permission.

Objections have been received regarding Melksham already having more housing than previously identified and that the Melksham Community Area has already met its indicative housing figures. However, this is a scheme for 100% affordable housing and the appeal decision referred to above also addresses this at paragraph 99, where it states:

“Despite the achievement of housing requirements for Melksham, delivering affordable housing remains a pressing need for the whole Council. The fact that the Council has specific requirements for community areas has still resulted in a need to increase substantially the supply of land for affordable housing. The Council’s suggested Action Plan designed to improve management arrangements, lacks additional resources and for this reason, is unlikely to deliver a step change in affordable housing delivery as would be required to fully address this issue.”

In view of the age of the Wiltshire Core Strategy it is a necessary requirement of the NPPF to assess housing need at the county level and not locally – and in accordance with the appeal

Inspector's conclusions quoted above. As already set out, at the county level Wiltshire Council is presently unable to demonstrate the required 5-year housing land supply.

Whilst the Melksham NP may allocate additional housing, it was not considered by the appeal Inspector that this addressed the acute need for affordable housing within the Melksham Community Area. At paragraph 75 the Inspector said the following:

“Although 534 affordable dwellings have been completed between 2009/10-2020-21 and around 277 units are in the pipeline or being delivered, the level of affordable housing need is acute. In contrast on this single issue the inclusion of just 6 affordable dwellings in the single housing allocation of the JMNP does not readily reflect the extent of housing need in the area.”

10.1.3 Principle of development – conclusion

The Council does not currently have a 5-year supply of housing, and accordingly WCS Core Policies CP1, CP2 and CP15 cannot be given full weight. In the context of a lack of any detailed objections from statutory consultees, the NPPF 'tilted balance' favours the application as *“any adverse impacts of granting permission”* cannot demonstrably outweigh the benefits, the main benefit being the supply of housing, which in this case would be 100% affordable.

Notwithstanding the site's location in 'countryside', it is considered to be reasonably accessible being adjacent to the existing edge of the town. Whilst there would be some undoubted change to the landscape at and around the site, it is not considered that there would be sufficient 'harm' arising from this to warrant a refusal decision under WCS Core Policy 51 (Landscape). There are no other 'policy obstacles' (as highways, drainage, ecology and other detailed issues are all satisfactorily addressed in the application – these are addressed later in the report).

Regarding the relevance of the Joint Melksham Neighbourhood Plan (NP), paragraph 14 of the NPPF provides guidance, stating the following –

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made:

The NP was made in July 2021 meaning that it became part of the development plan more than two years ago. It follows that in accordance with paragraph 14, the policies of the NP cannot significantly and demonstrably outweigh the benefits of the proposal in supplying housing. And in any event, as the NP relies to a certain extent on the WCS housing delivery policies which are now out of date in the context of the NPPF – and in view of the conclusions in the appeal decision for the adjacent land about the importance of affordable housing – less weight can be afforded to the NP policies anyway.

10.2 Design

The detailed considerations in respect of design are not for consideration under this outline application i.e., the layout, scale, appearance, and landscaping of the development are points to be determined as part of a later Reserved Matters application(s). However, it is still necessary to look at these issues at a higher level to ensure that the figure of 53 dwellings can be accommodated on the site whilst ensuring a high standard of design can be achieved.

The Urban Design Officer (UDO) originally objected to the application on the basis that the originally submitted documentation did not adequately demonstrate that the scheme would comply with the requirements of Core Policy 57 to secure high-quality design. The detailed points can be seen within the UDO's comments and so they are not repeated here.

The scheme has since evolved with a revised indicative layout, Design and Access Statement (DAS) and parameters plan. Upon further consultation with the UDO they did not wish to raise any specific objection to the proposal only to highlights areas that ought to be addressed as part of a reserved matters submission.

Turning to the indicative layout plan which shows one possible way in which 53 dwellings could be accommodated on the site, the following points are noted:

- The dwellings and their gardens appear to be appropriately scaled.
- Policy compliant levels of parking are shown on the indicative layout.
- Policy compliant levels of public open space have been demonstrated with sufficient gaps left for strategic planting to mitigate against any possibly visual effects.
- Sufficient space appears to have been left for attenuation and the safeguarding of Wessex Water infrastructure that crosses the southwest corner of the site.
- An appropriate level of space appears to have been left to ensure no net loss to biodiversity and to ensure that enhancement can take place.
- It shows a suitable level of cycle and pedestrian connectivity into and around the site and appropriate levels of integration with the phase 1 scheme to the east.
- Buildings are shown to face the public realm to give natural surveillance to streets and also to provide a continuous frontage to the street scene.

With the above points in mind and noting that the proposal equates to 33 dwellings per hectare, the scheme is not considered to constitute an overdevelopment of the site. A scheme is therefore capable of being brought forward on the site in a policy compliant manner that would accord with the principles enshrined within the NPPF and to that of Core Policy 57 of the WCS which seeks to deliver high quality design.

The DAS shows some analysis of local context has gone into the consideration of the proposal and the indicative layout and parameter plan largely reflects the layout approved as part of the phase 1 development.

The parameters plan will need to be conditioned as a 'fixer' to the layout that is presented at reserved matters stage. This is necessary to ensure an appropriate amount of space is left to provide public open space, landscaping, biodiversity enhancements, attenuation and statutory easements to Wessex's infrastructure. It is also required to ensure the right amount of pedestrian and cycle connections are delivered throughout the site.

Given the commitments in the DAS – and on the assumption that planning permission is given – it would be prudent to condition this document so that development is carried out in general accordance with it to ensure its positive features are carried forward to the reserved matters stage, such as, the proposals to address climate change that would be built into the development, and the emphasis on the Reserved Matters scheme avoiding pastiche architecture and instead seeking to embrace modern interpretations of local characteristics.

10.3 Landscape, Open Space and Visual Impact

The decision to allow up to 50 dwellings on land to the east of this site but within the same field is a significant material consideration as it represents an important landscape change. The baseline assessment of the land within this application must now include the permission for 50 dwellings on the eastern half of the field. It should also be acknowledged that the

principle of allowing residential development in part of this field has already been set. The landscape considerations under this application are centred on what, if any, the additional impacts of 53 dwellings would have on the character and appearance of the area, and whether any identified impacts would be adverse or not.

The principal conclusions on landscape impacts by the Inspector for the above-mentioned appeal are seen in paragraph 47 and 48 of the decision letter. Whilst the Council raised an objection on landscape grounds, the Inspector did not agree with the Council's conclusions on the matter. In the paragraphs referred to above, the Inspector stated that:

“The appeal scheme conflicts with Development Plan policies. Policies CP1, CP2, CP15, CP51 and CP57 and JMNP policies 1, 6 and 17 are consistent in seeking to resist development beyond settlement boundaries and the protection of the countryside. However, although I find conflict between the appeal scheme with these policies, the level of harm arising would be localised by its relationship to surrounding development, the configuration of the site, its limited extension west within the main field boundary and the strength of existing boundary hedgerows which could allow the base for effective landscape mitigation. I therefore conclude that there would be Modest/Negligible harm to the landscape character and appearance of the area arising from the appeal scheme.

Furthermore, there are no specific Development Plan policies which seek to protect the Gap between Melksham and Berryfield and the proposed development would not significantly erode it.”

The applicants have submitted a Landscape and Visual Impact Assessment (LVIA) which seeks to address the level of landscape harm associated with the development. It assesses the baseline landscape and visual context of the site and appraises the development's impact upon them, including from any sensitive visual receptors. The Council's Landscape Officer does not raise any objections to the methodology employed in the LVIA nor to the conclusions on the baseline assessment and appraisal of landscape and visual sensitivity.

The LVIA concludes overall at paragraphs 7.20 and 7.21 that:

“The development envelope also retains key areas of green infrastructure and open space along the site's boundaries, serving a variety of functions in terms of mitigation, including the formation of a robust boundary to development, which is sufficient to retain separation between Melksham and Berryfield village to the south, and allow a transition between the man-made and natural landscape.

Overall, the proposed development incorporates such a strategy which is based on a generous proportion of green infrastructure, open space, and landscape planting, situated across the site at points where it will serve best to avoid or reduce potential impacts.”

The Council's Landscape Officer has not disagreed with the central conclusions of the LVIA.

Whilst the comments of third parties and the Parish Council are noted in respect of landscape considerations, given what has been set out above, the level of harm that would arise from this scheme would not amount to significant harm that would warrant an objection under Core Policies 51 and 57 of the WCS, and to the policy of the NPPF to take account of the intrinsic value and beauty of the countryside.

However, the Landscape Officer's conclusions are based upon conditions which would require:

1. A Detailed Planting plan noting species, densities, and specifications (To National Plant Specification)
2. A Landscape and Ecology Management Plan (LEMP) setting out how the planting will be maintained from installation through to maturity.
3. A Tree / utilities coordination plan showing how street trees and utilities including street lighting have been properly coordinated to ensure no clashes between root growth and that trees have enough room to grow to maturity both above and below ground without impacting on services.

With regards the above suggested conditions, this is an outline application where all matters (bar access), including landscaping are reserved. It would be expected at REM stage that a detailed planting scheme is submitted, and a tree / utilities plan can also be submitted at that stage. Should sufficient details not be supplied at REM stage, then the LPA can choose to refuse that reserved matter or if appropriate, request the details via planning conditions. As such, it is not necessary to insist upon those conditions as part of an OUT consent. However, the condition relating to the submission of a LEMP is considered reasonable and necessary at this stage and can therefore form part of any permission given.

That said, this application does include a parameter plan which sets aside sufficient land as green infrastructure to deliver, amongst other things, landscape mitigation. It is considered that the parameters plan sets aside sufficient space to enable a reserved matters scheme of up to 50 dwellings to come forward with the appropriate level of landscape mitigation. As such, there is an appropriate level of details within this OUT consent to enable the 'in-principle' landscape matters to be considered and a judgement reached that the scheme is considered to comply with the requirement of Core Policy 51 of the WCS. It should be noted that this policy allows for harm to be mitigated through robust landscaping proposals which would come forward at REM stage. The LPA would be able to refuse an REM layout that does not accord with the parameters plan submitted at OUT stage or indeed, one that does not provide sufficient landscape mitigation/controls.

10.4 Heritage Impact

This application area forms part of a larger site that has been the subject of a geophysical survey and a trial trench evaluation. This evaluation identified an area of later prehistoric and Romano-British field systems and possible settlement activity that straddles the current application as well as application 20/07334/OUT located immediately to the east. Following discussion between the County Archaeologist and the applicant's archaeological consultants it was agreed that the area of archaeological activity identified by the evaluation could be explored via an open area excavation. This excavation would effectively mitigate the impact of the development upon the archaeological resource. The County Archaeologist has subsequently reviewed and approved a Written Scheme of Investigation (WSI) for these works and they currently awaiting the commencement of the excavation.

There are no above ground heritage assets that stand to be affected by this outline proposal and, in light of the above, the County Archaeologist is not objecting to this proposal. In principle, therefore it is considered that a scheme for up to 53 dwellings can be delivered at REM stage without giving rise to any harm to above or below ground heritage assets. As such, the requirements of Core Policy 58 are met.

10.5 Agricultural Land

The site is considered to be a Grade 2 arable field and is, therefore, defined as 'best and most versatile' agricultural land. An Agricultural Appraisal report was prepared for the earlier application 17/01095/OUT to assess the quality of the land for residential development across the whole field. The overall amount of land that is being lost is not significant in area (Natural

England are generally concerned where areas greater than 20ha are being lost). The application site falls well below that threshold. Whilst the loss of Grade 2 agricultural land is a factor to be considered on the planning balance, it is not in this case a matter to which significant weight can be afforded in the context of the housing supply shortfall.

10.6 Flood Risk and Drainage

Paragraph 159 of the Framework says that:

“... inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”.

Paragraph 161 goes on to states that:

“All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

- a) applying the sequential test and then, if necessary, the exception test as set out below; ...”*

The NPPF is clear at paragraph 162 of the Framework when it states that:

“Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”

The below map (figure 5) is taken from the Strategic Flood Risk Assessment (SFRA). Although the site is located within Flood Zone 1, this map shows that the site is within an area of ground water flooding.

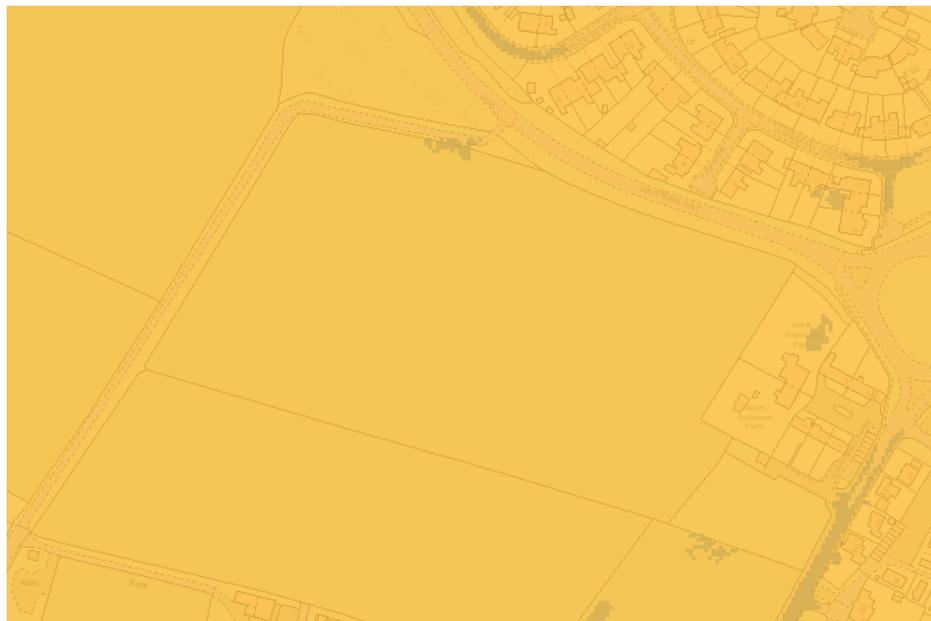


Figure 5 – Ground water Flooding Map

The SFRA sets out what is classified as a High Risk source of other flooding. On page 54 it states that these are sites where:

- *More than 10% of the site is at risk from surface water flooding in the 1 in 1,000- year event*
- *More than 10% of the site is within highest risk category in JBA Groundwater map (groundwater is <0.025m below the surface in the 1 in 100-year event) [Red layer Appendix G SFRA 2019]*
- *More than 75% of the site is within the second highest risk category in JBA Groundwater map (groundwater is between 0.025m and 0.5m below the surface in the 1 in 100-year event) [Orange Layer Appendix G SFRA 2019]*

It is noted from the above map extract that the site in question is covered by more than 75% of the second highest risk category in the Groundwater map. In light of this, the SFRA mapping is indicating that sequential testing should be applied to the development, in line with the requirements of the Framework as the site is within an area of ground water flood risk and the application is for a development type that is not exempt from the test, as specified in footnote 56 of the Framework.

However, it is noted that the SFRA is only one source of evidence that can be used to assess whether the site is in fact within a groundwater vulnerable area. The applicants have submitted their own flood risk assessment. In addition to this, they have also submitted a groundwater flooding technical note and a response note to the groundwater flooding issue that was raised by officers. All of these documents have been reviewed by the Lead Local Flood Authority (LLFA) and – as is evident from its final response in October 2023 – there are no objections to the FRA or the notes, subject to conditions.

As such, there is no need for sequential testing on this site as it is accepted that levels of ground water flooding are not within the high-risk categories where such testing is mandated. In the light of the LLFA comments, it can be concluded that ‘in principle’ the development can proceed without increasing flood risk elsewhere. The conditions suggested by the LLFA are both necessary and reasonable in order to ensure flood risk is not increased elsewhere.

Wessex Water have infrastructure in the southwest corner of the site (a distribution main) and, as per its policy, will not accept any building over it or within the 3m statutory easements either side of it. They also require unfettered access to their infrastructure. As a result of their comments, the applicants have amended the parameters plan which now shows the infrastructure on the plan and satisfies the requirements of Wessex Water in terms of easement and access. Wessex Water’s latest comments (18 October 2023) reflect this position. As such, Wessex Water has removed its initial holding objection to the application.

In its earlier response dated 31 January 2023, Wessex Water confirmed that it had infrastructure that could be connected to – to accommodate new mains water and foul sewerage. It also confirmed agreement in principle to the discharge of surface water run-off from the site to an existing surface water sewer network to the northwest of the site.

Given that the site is within an area (Wessex Water) identified by the EA as subject to serious water stress it is prudent to ensure water efficiency opportunities are maximised to mitigate the impacts of climate change, in the interests of sustainability and to use natural resources prudently in accordance with the NPPF. To this end, and in the event of planning permission being given, a condition is required to ensure the optional requirement Building Regulation standard Part G for water consumption limited to 110 litres per person per day.

10.7 Ecological Impact

The Council's Ecologist's final comments confirm that there are no ecology objections to the development subject to conditions. This was upon submission of further details requested by the Ecologist.

The conditions are to cover the following:

- Restriction on the installation of external lighting
- Compliance with the Ecological Parameters Plan, BEMP and BNG Assessment.
- To ensure the biodiversity mitigation and enhancement measures are carried out
- The submission of a Landscape and Ecological Management Plan (LEMP)
- The submission of a Construction and Environmental Management Plan (CEMP)

These conditions are reasonable and necessary to ensure that matters of ecological importance relating to the site are not impacted upon by the development both during the construction and operational phase.

With the plans and documents supplied to date on ecological matters and with the above conditions in place, it is considered that the development would not have an adverse impact on protected species, priority habitats or the ecology of the area more generally. As such, the scheme is considered to accord with Core Policy 50 of the WCS and to the relevant paragraphs of the NPPF (notably, 180 requiring biodiversity net gains).

10.8 Environmental Impact

The Council's Public Protection team have no objection to the development provided the following elements are covered:

- Submission of a Construction and Environmental Management Plan (CEMP)
- Undertaking of an Air Quality Screening Assessment.
- A condition to cover any unexpected land contamination issues that arise on site.
- That the recommendations of the Noise Impact Assessment noted in chapter 5 are applied.

These conditions are reasonable and necessary to make the development acceptable in planning terms. Notably, in respect of the CEMP as the development backs on to existing dwellings.

However, it is noted the Phase I Desk Study by Georisk lists at Section 9 of that report what further work is required in any Phase II Ground Investigation study. It is reasonable, therefore, to request compliance with Section 9 of that report as opposed to applying the WC standard contaminated land condition. Furthermore, the Phase I study does not identify any geo-constraints that would preclude development or warrant significant remedial action.

10.9 Highways / Rights of Way

Core Policy 60 of the WCS states that the Council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

Paragraph 111 of the July 2021 NPPF states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

In summary, the Local Highways Authority (LHA) have reviewed all the relevant information (access plans, Transport Assessment and Travel Plan) and do not have an objection to the scheme subject to a number of conditions and s106 contributions towards improving walking and cycling routes in the vicinity of the development, monitoring of the Travel Plan and provision of green travel vouchers.

With regards to the conditions, these are to cover the following matters:

- Implementation of the Travel Plan
- Provision of the vehicular access onto the Semington Road (granted under 20/07334/OUT) to base course level prior to occupation.
- Provision of a construction traffic management plan prior to commencement in the interests of highways safety
- Provision of 2m wide walking link onto Berryfield prior to occupation of the 20th dwelling
- That the landscaping scheme provides impenetrable landscaping on the northern boundary to prevent indiscriminate access onto the A350.

These conditions are both reasonable and necessary to ensure the development can proceed in an acceptable manner.

In light of the comments from the LHA, it is considered that the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development.

It should also be noted that improvement works have been carried out to the Semington Roundabout to encourage pedestrians to cross at the eastern rather than western arm of the roundabout. This has addressed earlier objections that were raised by the LHA in relation to the development of this field. Furthermore, whilst it is appreciated application 20/07334/OUT was only for 50 dwellings, the Inspector in deciding that appeal raised no 'in principle' objections on highways grounds that would prejudice this further quantum of housing from coming forward.

10.10 Community Infrastructure Levy (CIL)

The new dwellings would be liable for CIL. The site would fall under charging zone 2 where the sum equates to £85 per square metre of residential floor space created. Floor space calculations can only be provided at detailed design stage and thus CIL calculations would be required at reserved matters stage.

In addition to CIL payments, further financial obligations towards infrastructure specific to a development proposal are secured through section 106 contributions.

11. S106 contributions

Core Policy 3 advises that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework. These are:

- Necessary to make the development acceptable in planning terms

- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The infrastructure items listed below are those that are relevant to the Application site and are required in order to mitigate the impact of the proposed scheme. Whilst there may have been some differentials were the site to be delivered as one, rather than 2 phases, the changes would be very subtle in nature and not raise any concerns with officers that would question the recommendation it has decided to make. The Applicant has agreed (see Appendix A) to provide the following (the calculation is based on the net addition of dwellings which is 53):

Affordable Housing

CP43 states that on sites of 5 or more dwellings, affordable housing provision of at least 30% will be provided and transferred to a Registered Provider. The above policy requires affordable housing to be secured via a legal agreement. CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people.

The applicant is proposing 100% AH and so the policy requirement of 30% is met. This would need to be delivered as 30% nil subsidy with the remainder (70%) of the affordable housing with subsidy or as 100% grant funded/with subsidy.

Recreation and Open Space

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 98 of the NPPF. With regards to the development plan, Policy LP4 of the Leisure and Recreation Development Plan Document 2009 (LRDPD) requires a contribution to open space and sports facilities. Core Policy 52 of the WCS supports this by stating that accessible open space standards should be in accordance with the adopted Wiltshire Open Space Standards. Open space is listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS.

To comply with the above policy it is necessary to secure on-site public open space to ensure the health and well-being of the future occupants of the development site. The increase in population caused by the development would have an impact on existing leisure facilities and, it is therefore necessary to upgrade a local facility to cater for the likely increased demand.

The proposal generates a public open space requirement of 1,851.18m² public open space with 93.81m² of this as equipped play all of which should be secured in perpetuity.

A leisure contribution of £12,508.80 is required towards the upgrade of Bowerhill Sports Field at Lancaster Road and/or upgrade of playing pitch and/or ancillary services within the vicinity of the site. This is considered a reasonable request as existing sports facility within the vicinity of the site are likely to be used by residents of the new development.

The provision of open space is to serve the needs of the future occupants of the housing scheme and thus its provision on-site is directly related to the development. The improvements to off-site leisure facilities directly relates to the increase to the local population caused by this development.

The respective amounts are considered to be fair and reasonable and are based on the Council's current standards set out in Policy LP4 of the LRDPD.

Education

The NPPF (paragraph 95) encourages Local Authorities to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. In order to

ensure this, Core Policy 3 lists the provision of education as a priority 1 theme where it is required due to the impacts of a development proposal.

Early Years - A contribution of £70,088 is required to go towards the funding of 4 pre-school places within the area at a cost of £17,522 per place. The Early Years Officer has advised that the existing Early Years provision will not be able to support the needs of additional families requiring Early Years and Childcare in this area as they are all operating at high capacity.

Refuse

The Wiltshire Core Strategy at para 4.41 Core Policy CP3 identifies sustainable waste management facilities as essential components of daily life and therefore critical to delivering our strategic goal of building more resilient communities. Waste management is listed as place shaping infrastructure under priority theme 1 of Core Policy 3 of the WCS.

A contribution of £5,353 (£101 per dwelling x 53) would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development.

The provision of bins, and the services required to support waste collection, is a burden on the Council that is directly related to new developments. The sum requested here directly relates to the size of development proposed. £101 is the cost of purchasing the necessary waste and recycling containers for a single dwelling in Wiltshire and so the costs are considered fair and reasonable.

Public Art

An indicative public art contribution figure (based on £300 per dwelling) for the applicant to deliver the integration of public art for this site would be £15,900 for 53 dwellings. It is expected that no more than 10% of this figure should be spent upon the production of a public art plan.

Art and design in the public realm will help to mitigate the impact of development by contributing to good design, place-shaping, infrastructure and engage communities with the development.

The above contribution is considered reasonable and necessary in line with the following policies of the development plan:

- Core Policy 3 promotes and defines public art as a type of place-shaping infrastructure and states that the cost of providing infrastructure can be met through the use of planning obligations.
- Core Policy 57 promotes “the use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm.”
- Saved West Wiltshire District Plan 1st Alteration Policy I2 also makes reference to The Arts.
- The Planning Obligations Supplementary Planning Document (October 2016) refers to the 2011 guidance note of art and design in the public realm.

In addition, the NPPF recognises that cultural wellbeing is part of achieving sustainable development and includes cultural wellbeing within the twelve core planning principles that underpin both plan-making and decision-taking. The PPG complements the NPPF and states that “*Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using.*”

Highways

Core Policy 60 of the WCS seeks to reduce the need to travel particularly by private car, and supports and encourages the sustainable, safe and efficient movement of people and goods within and through Wiltshire. CP 61 states that where appropriate contributions will be sought towards sustainable transport improvements and that travel plans will be required to encourage the use of sustainable transport alternatives. Such requests are also listed under Core Policy 3 as infrastructure priority theme 1. The following planning obligations are sought by the LHA:

In order to maximise walking and cycling from the development site, to increase the sustainability of the site and, to offset the vehicle travel impacts of the development, a contribution of £74,200 (£1400 per dwelling) is sought towards active travel enhancements in the local vicinity (notably, the provision of a route to the planned school at Pathfinder Way). This is based on the contribution provided by phase 1 (20/07334/OUT) comprising 50 dwellings where £70,000 has been secured in the legal agreement towards the costs of improving pedestrian accessibility in the vicinity of that development. That sum was considered to meet the three tests set out in paragraph 57 of the Framework by the appeal Inspector.

A contribution has been requested towards a Travel Plan Monitoring fee of £1,500 per annum for 5 year period, totalling £7,500.

A payment of £200 for green travel vouchers to each household. This would total £10,600 based on a scheme of 53 units.

Such contributions are necessary to mitigate the impacts of the development on the surrounding highways network and to encourage more sustainable travel movements to and from the development.

12. Conclusion (The Planning Balance)

At the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In this context, the Wiltshire Core Strategy is not up-to date as the Council finds itself without a 5yr HLS. As such paragraph 11d (the 'tilted balance') of the NPPF, is engaged. No technical policies of the NPPF that protect areas or assets of particular importance have provided a reason for refusing the proposed development. As such, the tilted balance has effect under paragraph 11d)ii and 'footnote 8' which requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when assessed as a whole.

The 'harms' –

The site lies outside the Limits of Development of the 'Market Town' of Melksham contrary to Core Policies 1, 2 and 15 of the WCS which are strategic policies that all seek to establish and control where new housing proposals in Wiltshire will be acceptable.

The proposal also conflicts with the Melksham Neighbourhood Plan Policy 1 which aims for a carbon neutral future, through amongst other matters, reducing dependency on private transport and requiring development within settlement boundaries (Policy 6).

It is clear therefore that the scheme does not conform with the development plan when taken as a whole. However, whilst these policies are predicated on the principles underpinning the Framework, the policies cannot be afforded full weight given the housing land supply position of c. 4.6 years.

Nonetheless, the level of harm against these policies is only considered to be limited, for the following reasons:

- the size of the scheme is appropriate for Melksham as a market town which is capable of significant growth as identified by CP1 of the WCS.
- although outside of the LoD, it is noted that the site is located just outside and therefore, its proximity to the town centre allows access by a genuine choice of transport modes.

However, the conflict with the development plan is still harm which militates against the grant of planning permission.

No other harm has been identified against this proposal that is not otherwise capable of being addressed through the use of planning conditions or via planning obligations as part of a s106 agreement.

The benefits –

Provision of entry level AH / housing to address 5yr HLS shortfall –

Given the lack of a 5YRHLS within the county, the widely acknowledged nationwide housing crisis, the further shortage of affordable housing both locally and nationally, and the provision of a 100% AH scheme comprising 53 units, this is a matter which must be given substantial weight.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In light of the above – and bearing in mind the size of the scheme (53 units is not a large site) – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is noted that the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the economic expenditure from future occupants of the development within the local economy.

Financial contributions towards off site infrastructure –

Whilst these contributions are required to make the development acceptable in planning terms, some of the contributions would be of benefit to the local population and, without the development, would be less to happen. In this case, a contribution to provide improvements to an off-site sports facility would not only be of benefit to future occupants of the development who may choose to use these facilities, but to many locals who already use them. Some limited positive weight can be attributed to this point.

Neutral impacts –

The lack of identified harm against technical policies of the WCS is not a benefit of the development but would be a neutral aspect of it. The lack of technical objections and the conformity with the development plan are therefore neutral points on the balance.

Conclusion –

It is considered that the adverse impacts of granting planning permission (the conflict with CP 1 2 and 15 of the WCS as well as Melksham NP policies 1 and 6 (the development plan)) would not be significantly and demonstrably outweighed by the benefits (notably provision of 100% affordable housing and economic benefits), when assessed against the policies in this Framework taken as a whole.

RECOMMENDATION:

Defer and Delegate to the Head of Development Management to grant full planning permission subject to first completion of a Section 106 legal agreement to cover the matters set out in Section 11 of the report, and subject to the following conditions –

Conditions:-

- 1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 An application for approval of the reserved matters specified in Condition 3 below, must be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- a. The scale of the development;
- b. The layout of the development;
- c. The external appearance of the development;
- d. The landscaping of the site.

The development shall be carried out in accordance with the approved details. The reserved matters shall be submitted as a single phase, unless otherwise agreed by the Local Planning Authority.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Dwg Reg: 3888 - 01A - Location Plan
- Dwg Ref: MSW-BWB-ZZ-XX-DR-YE-0001_Ecological Parameters Plan_S2_P02 - Ecological Parameters Plan
- Dwg Ref: 3888 - 02 Rev B - Parameters Plan

REASON: For the avoidance of doubt and in the interests of proper planning.

5 The development hereby permitted shall be carried out in general accordance with the design and layout principles in the following:

- Design and Access Statement dated August 2022

REASON: For the avoidance of doubt and in the interests of proper planning.

6 The development hereby permitted shall make provision for the following:

- (a) Up to 53 dwellings;
- (b) Public open space to be sited, laid-out and equipped in accordance with the West Wiltshire Leisure and Recreation DPD (or any subsequent replacement DPD); and to include at least 1851.18 sq m of general public open space and at least 93.81 sq m of equipped play space.

The 'layout of the development' (as to be submitted and approved under condition no. 3) shall accommodate the above in broadly in accordance with the Parameter Plan (no. 3888-02 Rev B).

Prior to commencement of the development, a programme, or phasing plan, for the delivery and completion of the dwellings and the public open space(s) shall be first submitted to, and approved in writing by, the local planning authority. The dwellings and the public open space(s) shall then be delivered and completed in accordance with the approved programme.

REASON: To ensure the creation of a sustainable development which is in character with its surroundings and in accordance with the terms of the planning application.

7 No development shall commence on site until the following details have been submitted to and approved in writing by the Local Planning Authority:

- a. a sensitivity analysis has been undertaken on the network considering surcharged outfall conditions;

- b. overland exceedance routes have been shown on a drainage plan for flows in excess of the 1 in 100 year plus climate change (40%) rainfall event;
- c. clear arrangements are in place for ownership and ongoing maintenance of SuDS over the lifetime of the development;
- d. submit calculations which demonstrate that the proposed drainage design provides a sufficient level of water treatment; and,
- e. Additional groundwater monitoring should be undertaken during the winter months to establish peak seasonal levels.

REASON: To minimise the risk to people and property during high return period storm events, to ensure that the surface water drainage performs as designed, to avoid flooding due to lack of maintenance and to prevent pollution of the receiving watercourse.

8 Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include:

- a) Long term objectives and targets in accordance with the Calculation of Biodiversity Net Gain using Defra Metric 3.1 report (Biodiversity Net Gain Assessment, Document Number: MSW-BWB-ZZ-XX-RP-LE-0004_BNGP2, Rev: P02, Date: October 2023 by BWB Consulting).
- b) Management responsibilities and maintenance schedules for each ecological feature within the development for a period of no less than 30 years from the commencement of the scheme as identified in:
 - Ecological Parameters Plan, Drawing ref: MSW-BWB-ZZ-XX-DR-YE- 0001, Rev: P02, Date: 26.10.2023 by BWB Consulting
 - Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWB-ZZ-XX-RP-LE-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting
- c) The mechanism for monitoring success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheet(s).
- d) A procedure for review and necessary adaptive management in order to attain targets.
- e) Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

9 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person and telephone number for residents to contact;

- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
- x. Details of how surface water quantity and quality will be managed throughout construction;
- xi. Details of the safeguarding measures to deal with the following pollution risks:
 - the use of plant and machinery
 - wheel washing and vehicle wash-down and disposal of resultant dirty water
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes
- xii. Details of safeguarding measures to highway safety to include:
 - A Traffic Management Plan (including signage drawing(s))
 - Routing Plan
 - Details of temporary/permanent Traffic Regulation Orders
 - pre-condition photo survey - Highway dilapidation survey
 - Number (daily/weekly) and size of delivery vehicles.
 - Number of staff vehicle movements.
- xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
 - Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of TBMS zones A and B and predevelopment provision of hedgerow mitigation/ translocation along Firs Hill A361.
 - Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
 - Method statement to include pollution prevention measures for construction of causeway over Lambrok Stream to minimise harm to the watercourse and protected and notable species with regular monitoring.
 - Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, otter, water vole, badger and dormice with regular monitoring.
 - Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

- 10 No development shall commence on site until a Phase II Ground Investigation report has been submitted to and approved in writing by the Local Planning Authority. The report should address the issues raised in Section 9 of the Phase I Desk Study by Georisk Management dated July 2022.

REASON: In order to reduce the risks associated with land contamination in accordance with Core Policy 56 of the Wiltshire Core Strategy.

- 11 Prior to the commencement of construction, an Air Quality Assessment (AQA) or Screening Assessment must be submitted to and approved in writing by the Local Planning Authority. This must quantify the effect of the development on existing local authority air quality monitoring locations and sensitive receptors as well as the proposed development. It must also identify and make adjustments for all core strategy-based development in the development's locality. Use of CUREd data in the AQA is expected along with any other currently accepted approaches to AQA.

REASON: In order to comply with Core Policy 55 which states that development proposals, which by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality, will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

- 12 The development shall be carried out in accordance with the mitigation measures detailed in Section 5 of the submitted Noise Impact Assessment by BWB dated 22nd August 2022 and maintained as such in perpetuity.

REASON: To protect the amenities of the future occupants of the development site from noise generated by the A350 (Western Way).

- 13 No residential unit shall be occupied until those parts of the Residential Travel Plan capable of being implemented prior to occupation have been implemented. Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied. The Residential Travel Plan Co-ordinator shall be appointed and carry out the identified duties to implement the Residential Travel Plan for a period from first occupation until at least 2 years following occupation of the last residential unit.

REASON: In the interests of reducing the amount of private car movements to and from the development.

- 14 No residential unit shall be occupied until the vehicular access to Semington Road granted approval under planning permission 20/07334/OUT has been provided to base course level including its visibility splays. The access shall have been completed to wearing course level prior to occupation of the 50th dwelling served by it.

REASON: In the interests of safe and convenient access to the development.

- 15 Prior to the occupation of the 20th dwelling unit hereby approved, a walking link 2 metres wide shall be provided between the roads on the development and Berryfield Lane, The link so provided shall thereafter be maintained and kept available for use.

REASON: In the interests of good pedestrian accessibility.

- 16 The landscaping scheme submitted for the development shall include intensive and impenetrable landscaping on the northern boundary.

REASON: To prevent indiscriminate access from the public open space on the northern side of the development to the A350 with its high traffic flows and lack of pedestrian facilities.

- 17 The dwellings shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.

REASON: The site is in an area of serious water stress requiring water efficiency opportunities to be maximised, to mitigate the impacts of climate change in the interests of sustainability, and to use natural resources prudently in accordance with the National Planning Policy Framework.

- 18 No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of conserving biodiversity.

- 19 The development will be carried out in strict accordance with the following documents:

- Ecological Parameters Plan, Drawing ref: MSW-BWB-ZZ-XX-DR-YE-0001, Rev: P02, Date: 26.10.2023 by BWB Consulting
- Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWBZZ-XX-RP-E-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting
- Biodiversity Net Gain Assessment, Document Number: MSW-BWB-ZZ-XX-RP-LE-0004_BNGP2, Rev: P02, Date: October 2023 by BWB Consulting

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

- 20 The biodiversity mitigation and enhancement measures will be incorporated into the development in accordance with:

- Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWB-ZZ-XXRP-LE-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting

The installation of these features will be supervised by a professional ecologist and this part of the condition will be discharged when photographic evidence of installed features have been submitted to and approved in writing by the local planning authority. These measures will continue to be available for wildlife for the lifetime of the development.

REASON:

To mitigate for impacts to biodiversity arising from the development.

Informatives:

Protected Species

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

Artificial Lighting

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

Drainage MADD Factor

Within the calculations, the MADD factor / Additional storage volume must be set to zero. If a value other than 0m³/ha is selected for the MADD value, the applicant will need to provide quantitative evidence to demonstrate that this is appropriate.

APPENDIX A

S106 HEADS OF TERMS

PL/2022/08155 – Lane West of Semington Road

HEADS OF TERMS (Based on 53 Dwellings)

| SUBJECT | REQUEST | AMOUNT | AGREED |
|---------------------------|---|--------------------|---------------|
| Affordable Housing (AH) | On site delivery of 30% at nil subsidy with the remainder (70%) of the AH with subsidy or as 100% granted funded/with subsidy. | 53 Units | X |
| Public Open Space | Delivery of 1,851.18m ² of public open space, of which 93.81m ² is to be equipped play space | N/A | X |
| | Upgrade of Bowerhill Sports Field at Lancaster Road and/or upgrade of playing pitch and/or ancillary services within the vicinity of the land | £12,508.80 | X |
| Waste & Recycling | Provision of waste and recycling containers @ £101 per dwelling | £5,353 | X |
| Education | Early years provision x 4 places | £70,088 | X |
| Public Art | Public art scheme to be delivered on site (£300 per dwelling) x 53 units | £15,900 | X |
| Highways | Active travel enhancements in the local vicinity ((notably, the provision of a route to the planned school at Pathfinder Way). | £74,200 | X |
| | Travel Plan Monitoring Fee for 5 years @ £1500 per annum | £7,500 | X |
| | Green Travel Vouchers @ £200 per dwelling | £10,600 | X |
| TOTAL SUM OF MONEY | | £196,149.80 | X |

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F.A.O Ruaridh O'Donoghue

Planning Department, Wiltshire Council
County Hall,
Bythesea Rd,
Trowbridge
BA14 8JN

19 January 2024

Delivered via email

**APPLICATION REFERENCE: PL/2022/08155 – LAND WEST OF SEMINGTON ROAD,
MELKSHAM**

Dear Ruaridh,

This letter follows our telephone conversation on the 17th of January 2024 and confirmation via email (on 18th January '24) regarding the intention for our application at Land West of Semington Road, Melksham (LPA ref. PL/2022/08155) to be returned to the Strategic Committee, after being given a resolution to grant permission on the 29th of November 2023. It is our understanding that the reasoning behind the application returning to committee is that Wiltshire Council consider they can rely on a 4-year housing land supply following the updated December 2023 National Planning Policy Framework (NPPF), so the 'titled balance' is disengaged. Wiltshire Council now consider that this means full weight can be afforded to the relevant Plan policies, namely CP 1 and CP2. It is our understanding that this will result in the recommendation changing from granting to refusing, with this justification that substantial weight is to be attributed to the Plan policies.

For reference, the arguments put forward by Terra can be summarised as:

- ***The recommendation for refusal does not appropriately consider the acute and pressing need for affordable housing that exists within the District,***
- ***There has been no change in material considerations since the updated NPPF was published which would warrant the change in recommendation to refusal,***
- ***It has always been the case that a 5-year housing land supply position has been a minimum expectation. This remains in a 4-year scenario. This application has already been determined on its merits and it was granted permission. It is extremely short-sighted and inappropriate for the recommendation to change to one of refusal; and***
- ***The recommendation for refusal is short sighted and does not adequately account for the allowed appeal decision on the eastern half of this field.***

Terra's Response

1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Development Plan “unless material considerations indicate otherwise.”
2. Regarding compliance with Development Plan, *Cornwall Council v Corbett*, reminded us that a breach of a particular development plan policy – even a policy expressed in very trenchant terms – does not necessarily equate to a failure to accord with the development plan as a whole. It is not uncommon for development plan policies to pull in opposite directions, and it is not a mechanical or mathematical exercise in reaching a determination. Instead, the exercise calls for a series of judgments to be made, which may include determining the relative importance of the policy and the extent to which the proposal may conflict with it.
3. In this case, we not only assert that the ‘breach’ of any policies may be slight, but also that the policies are out of date. This is particularly in light of the Plan period running from 2006 – 2026, meaning there is less than two years left until the policies completely expire. In addition, there is strong support from other policies, particularly those regarding the delivery of affordable homes.
4. As outlined in Paragraph 60 of the updated NPPF, it remains “*the Government’s objective of significantly boosting the supply of homes*”. This objective was reiterated in a recent appeal decision for a 100% affordable housing site in North-East Derbyshire, (dated the 17th of January 2024)¹. The Inspector reminds us (para 54) that a five (or four) year housing land supply is not a maximum number and, in that case, the benefits of the scheme (particularly the delivery of affordable housing) was considered to outweigh the harms. **This was despite a common ground that the Council had a 6.94 year supply.**
5. We assert that there are two material considerations that indicate that planning should be granted for the application in question:
 - a) Irrespective of whether the policies in the Plan are given substantial weight, or reduced weight (such as “moderately significant weight”² as per the appeal on the adjacent site), the harms which may arise as a result of any policy conflict are “limited” and/or “modest/negligible” (as per your previous Officer’s committee report for this application and as per the appeal decision for the adjacent site).
 - b) The benefit of delivering a scheme for 100% affordable housing, in the context of Wiltshire’s substantive unmet affordable housing need, should be given substantial weight.
6. In the appeal decision for the adjacent site, as referenced in your Officer’s committee report for this site, it is identified that any conflict with Development Plan policies CPI, CP2, CPI5, CP5I and CP57 and JMNP policies 1, 6 and 17, would lead to “Modest/Negligible harm to the landscape character and appearance of the area arising from the appeal scheme”. On balance, your Officer’s report for the current application draws similar conclusions for the current application.
7. Indeed, your Officer’s report confirms that:

“... the level of harm that would arise from this scheme would not amount to significant harm that would warrant an objection under Core Policies 51 and 57 of the WCS, and to the policy of the NPPF to take account of the intrinsic value and beauty of the countryside ... As such, there is an appropriate level of details within this OUT consent to enable the ‘in-principle’ landscape matters to be considered

¹ Appeal decision 3322479, Land to the North and North West of The Homestead, Dark Lane, Calow, S44 5AD

² Paragraph 93, Appeal decision 3285428, Land west of Semington Road, Melksham

and a judgement reached that the scheme is considered to comply with the requirement of Core Policy 51 of the WCS. [Emphasis added] It should be noted that this policy allows for harm to be mitigated through robust landscaping proposals which would come forward at REM stage ...”

8. Furthermore, the appeal site has now been granted Reserved Matters approval and the developer, Living Space Housing, will be commencing on site within the next month. This will fundamentally change the context of the site from a standalone agricultural field. This is something which should appropriately be taken into account when considering the surrounding context.
9. Within your Officer’s report, the below is written under ‘harms’:

“It is clear therefore that the scheme does not conform with the development plan when taken as a whole. However, whilst these policies are predicated on the principles underpinning the Framework, the policies cannot be afforded full weight given the housing land supply position of c. 4.6 years.

Nonetheless, the level of harm against these policies is only considered to be limited [emphasis added], for the following reasons:

- the size of the scheme is appropriate for Melksham as a market town which is capable of significant growth as identified by CPI of the WCS.
- although outside of the LoD, it is noted that the site is located just outside and therefore, its proximity to the town centre allows access by a genuine choice of transport modes.

However, the conflict with the development plan is still harm which militates against the grant of planning permission.”

10. We would agree that “nonetheless” or in essence, irrespective of land supply position, the harm arising from any alleged policy conflict is “limited”.
11. Regarding agricultural land, we would continue to agree with your original Committee Report assertion that “the overall amount of land that is being lost is not significant in area (Natural England are generally concerned where areas greater than 20ha are being lost). The application site falls well below that threshold.” Furthermore, through the introduction of development in the eastern half of the same field, it would now be impractical, unfeasible and unviable to farm this piece of land in isolation. Therefore, this also only leads to a modest or limited harm when considered relative to the probability of it ever fulfilling its potential as suitable agricultural land.
12. Meanwhile, the benefit of delivering 100% affordable housing should continue to attract substantial weight, as per the appeal on the adjacent site, given that the Inspector previously noted that the affordability ratio is increasing, the number of people on the housing register is increasing, waiting times for family homes range from between **3.1 - 10.7 years**. This is not insignificant. There are 840 people with a registered unmet affordable housing need within Melksham and Melksham Without alone and there was (at the time) a negative 344 dpa differential between the number of affordable homes required to be delivered per annum and the number of affordable homes actually being delivered. Indeed, since 2021, the number of people on the housing register in Wiltshire has increased by 16%, demonstrating a worsening since the appeal was heard, such that the weight to this benefit should further increase to “very substantial”.
13. In the context of the Neighbourhood Plan, when the appeal was heard and determined for the adjacent site, the Neighbourhood Plan was still within the first 2 years of being made. Under the previous NPPF, the Inspector found that the protections of Paragraph 14 were engaged. Despite this, the Inspector still allowed the appeal due to the acute and “pressing need affordable housing” as referred to above, demonstrating the merits of the scheme. Under the context of the updated NPPF, the application of Paragraph 14 therefore remains unchanged despite the extension of the time period from 2 years to 5 years.

14. The Inspector for the adjacent scheme previously identified that it is “extremely unlikely” that this shortfall will be made up in the remaining plan period, with now (less than) 2-years left on the plan period **(and even less if this application were to be locally refused and subsequently appealed, as per our absolute intention).**
15. Furthermore, this is a position Wiltshire Council themselves accept, further to the “Final Report of the Housing Allocations Policy Task Group” presented to the “Environment Select Committee” on 7th November 2023³. The report to committee notes that, within this financial year, the Council are starting to see a more marked decrease in delivery, before setting out an intention to ensure delivery and maintain a provision of affordable homes across Wiltshire.
16. The Council are currently pursuing a Local Plan review which has reached Regulation 19 stage. The most recent Local Development Scheme for Wiltshire, published just last month, confirms the intention to submit the Plan in Q2 of this year, with adoption expected before the end of 2024.
17. Paragraph 76 of the new Framework require Councils to be able to demonstrate at least a five-year supply of specific, deliverable sites upon conclusion of the Examination. This reflects paragraph 68(a) of the previous Framework which required policies to identify a supply of ‘specific, deliverable sites for years one to five of the plan period’. As it stands, the Regulation 19 version of the emerging Local Plan for Wiltshire heavily relies on a Phased approach to the housing trajectory, with the majority of homes delayed to the later years of the Plan period. This approach has been heavily criticised through the representations submitted by the Home Builder Federation (HBF) and other representations to the Local Plan review consultation. In reflecting upon those representations and the requirements of the NPPF, should the Council wish to demonstrate a five-year supply upon the adopted of the plan, then we submit that, as identified above, this site is clearly available and capable of delivery within those first five years and, as such, can assist towards the Council supply.
18. Regardless of weight to be attached to the adopted Development Plan policies, the harms arising from any policy conflicts is limited, whilst the benefits remain substantial. Additionally, as per your original committee report, the accessibility and relative sustainability of the site has improved since the adjacent appeal. This is particularly due to the completed highway improvements. Therefore, “material considerations” plainly indicate that a departure from the Development Plan is fully justified in this instance, such that planning approval can be granted.
19. **This would be a set of circumstances clearly unique to this application and this application site, being for 100% affordable housing and within the balance of a field containing an already allowed appeal for a comparable scale of development. Therefore, this would not in any way set a detrimental precedent from the Council’s perspective.**
20. Irrespective of this being our position, it should be noted that in the appeal decision for the adjacent site, the Inspector concluded that the tilted balance was found to be engaged due to both a lack of housing land supply AND “the most important policies being out of date”. Therefore, if the policies have been found to be out of date, they must be afforded reduced weight. We would suggest “moderately significant weight” would again be appropriate as per the appeal decision for the adjacent site, particularly given there is less than 2-years remaining on the Plan period. The Plan is at least 3-years out-of-date and the Council have reviewed the Plan policies themselves and deemed it in need of a review and updating.
21. The question also remains to be answered as to whether this alone would once more be capable of engaging the tilted balance – a matter on which, for the moment, we reserve our position.

³ Update on Wiltshire Housing Development Partnership, Environment Select Committee, 7th November 2023

Planning Balance

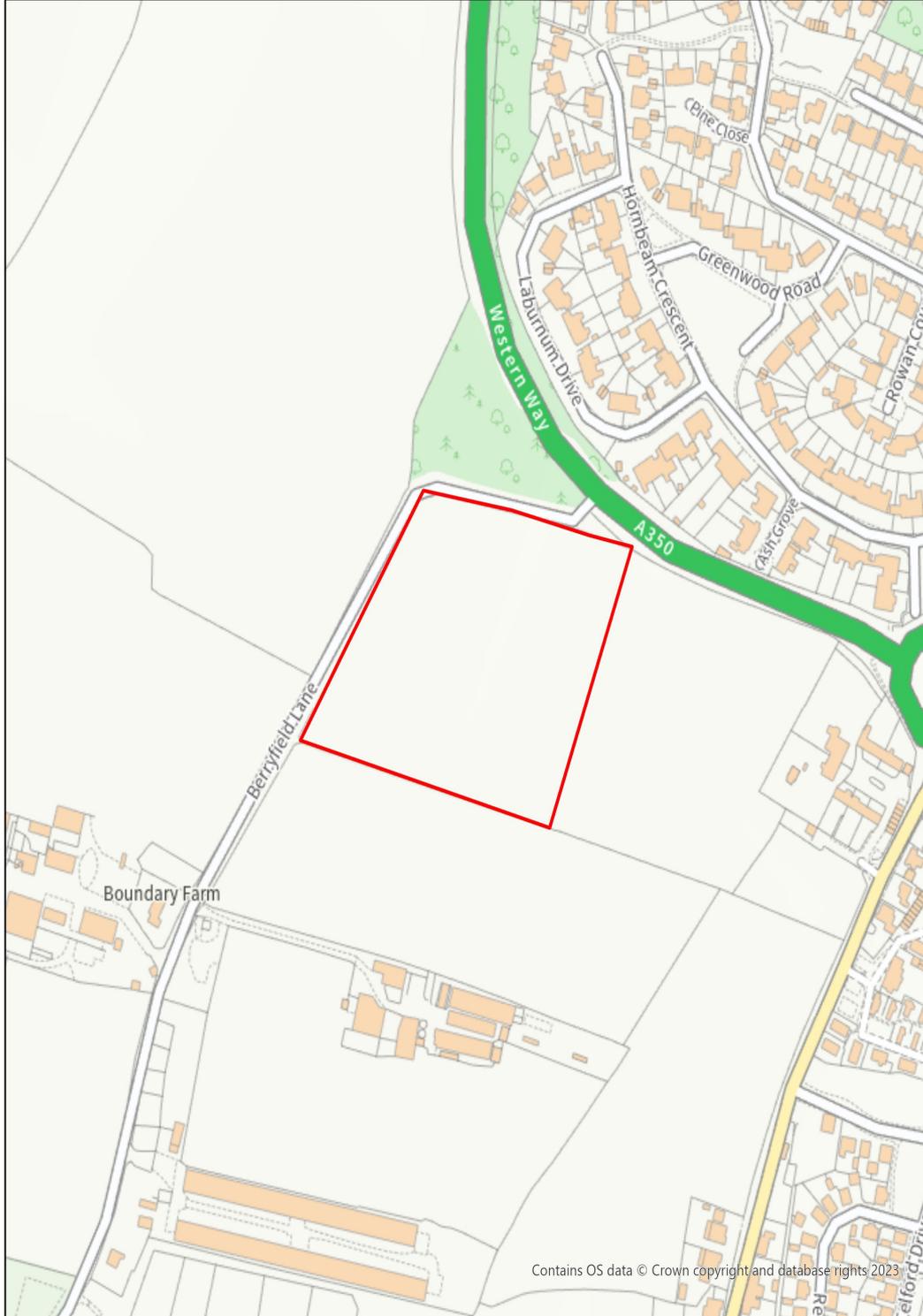
22. Taking the above into account, we put forward the below table which represents what we consider appropriate weighting for the scheme’s harms and benefits:

| | Weighting | |
|---------------------------|-------------------------------|--------------------|
| | Harms | Benefits |
| Local Plan Policies | <i>Moderately significant</i> | |
| Affordable housing | | <i>Substantial</i> |
| Landscape | <i>Limited</i> | |
| Agricultural Land | <i>Limited</i> | |
| Locational Sustainability | | <i>Moderate</i> |
| Economic benefits | | <i>Moderate</i> |
| Financial Contributions | | <i>Limited</i> |
| Technical | <i>Neutral</i> | |

Conclusion

23. To conclude, we submit that on balance the benefits of the scheme clearly outweigh the alleged conflict with the relevant Development Plan policies. The Planning Balance clearly weighs in favour of the scheme, even without the engagement of the “tilted balance”. The recommendation to grant permission and the resolution to grant permission for the scheme should be maintained.
24. The application should be considered on its own merits. The application is for 100% affordable housing within the balance of a field which has been granted planning permission for a similar development. This application has notable benefits which would outweigh the perceived harms and would in no way set a detrimental precedent for future decisions to be made by the LPA under the guise of the updated NPPF.
25. If the application is refused, it would be our absolute intention to appeal the decision.

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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|--|
| Date of Meeting | 6 March 2024 |
| Application Number | PL/2022/09532 |
| Site Address | Land at Romsey Road, Whiteparish, Salisbury, Wilts |
| Proposal | Outline application (all matters reserved except external access) for residential development of up to 25 dwellings with access to Romsey Road, parking, opens space, landscaping and drainage |
| Applicant | Macra Ltd. |
| Town/Parish Council | Whiteparish Parish Council |
| Electoral Division | Alderbury and Whiteparish – Cllr Richard Britton |
| Type of application | Outline |
| Case Officer | Lynda King |

1. Purpose of Report

The purpose of the report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 (and related revised Planning Practice Guidance published in February 2024) that have a material impact on this planning application, and to consider the recommendation that the application now be refused planning permission.

2. Background

On 16 August 2023 the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (committee report attached as annex 1). Work commenced on the legal agreement, although it has not been completed and so the planning permission has not been given. In making its decision to approve subject to the legal agreement the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this ‘gap’ the authority becomes aware of new, or changed, material considerations, then the relevant law requires the authority to have regard to these considerations before finally determining the application.

In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a changed material consideration that must now be taken into account. The effects of the changes in relation to this planning application are set out below.

- The principle of development (namely conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy and the weighting to be given to these policies);
- Related to the above, does the revised NPPF change the planning balance?
- Are there now any restrictive Wiltshire Core Strategy policies that have become more relevant on the balance?

3. Housing supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

76. *Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:*
- a) their adopted plan is less than five years old; and*
 - b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*
77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.*

Paragraph 226 referred to in paragraph 77 states the following –

226. *From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.*

For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a

supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing.

4. Current housing land supply position and consequences for the 'planning balance'

The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. In subsequent appeals this figure has been reassessed to be 4.59 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is now starting from a 'level' position rather than 'tilted'. In terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant.

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (particularly Core Policies 1 and 2), it follows that planning applications which conflict with the policies should not normally be granted – that is, unless other policies or material considerations indicate that the housing delivery policies should not be followed – and other restrictive policies may have increased relevance. The weight to now be given to the policies and to the other material considerations is addressed below.

5. Response from applicant

The agent acting on behalf of the applicant has submitted a detailed rebuttal to the weight to be applied to the changes to the NPPF in respect of this application, which is set out in full at Annex 2 to this report.

The agent does not disagree that for the purposes of this application, the site lies outside of the settlement boundary of Whiteparish and is therefore contrary to the settlement strategy set out in the Core Strategy. However, the agent argues that there are other material considerations that are powerful enough, in this case, to justify a decision that is not in accordance with the development plan. The agent sets out the legislative framework within which the planning system works to remind Members that they should determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The material considerations the agent considers appropriate to consider in this instance are briefly set out below:-

- The revised NPPF sets out how the planning system should achieve sustainable development and when the presumption in favour of sustainable development is engaged.
- Until the Council publishes a revised Housing Land Supply Statement there is no guarantee that the authority will meet the requirement to demonstrate a minimum of 4 year's worth of deliverable housing sites against a 4 year target, not 5 years, if para 226 of the NPPF is triggered.
- Paras 60 and 77 of the NPPF still require LPAs to 'significantly boost the supply of homes'.
- WC produced a Briefing Note in respect of the revised NPPF on 16 January and it is pointed out that within the text the LPA states the following – "pragmatically, this means that fewer speculative residential planning applications are likely to be granted, until such time as the Council's housing land supply dips below 4 years." Therefore, the Council accepts that some speculative development will be approved.

- The applicant contends that the policies most important for determining the application are out of date as the Council has failed to deliver a sufficient supply of land to provide for the housing needs of the County, especially for affordable housing.
- When the site was considered by the Strategic Planning Committee in August 2023 the Officer Report (see annex 1 to this report) stated that there were no policy objections in respect of Policies CP60 and CP61 in relation to the sustainability of the site in relation to transport and accessibility objectives. Nor were there any site specific access objections (Policy CP62).
- The location is not at risk of flooding, and accords with Policy CP67.
- The proposed layout accords with Policy CP57.
- The site would not have an adverse impact on the landscape setting of the village, and would accord with Policy CP51..
- The provision of 40% affordable dwellings on the site accords with Policy CP43. There is an acknowledged shortfall of affordable housing in the village and none has been provided since 2008. There are no sites within the village where the quantum of affordable housing required could be provided.
- The mix of houses proposed accords with Policy CP45.
- The Council's Ecologists have confirmed that the proposal complies with the requirements of CP50, subject to an agreed mitigation strategy to be secured through a legal agreement.
- Other necessary infrastructure, required to comply with Policy CP3, can be secured through a legal agreement, the Heads of Terms of which were set out in the Officer Report.
- Strong support for the scheme was put forward by the Headmaster of the village school as there is a current shortfall in pupil numbers. A calculation based on the Council's own figures would see this development resulting in enough pupils to sustain the school in the future.
- Para 83 of the NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Para 99 recognises the importance of a sufficient choice of school places is available, and para 97 comments that the planning system must guard against the unnecessary loss of valued facilities and services.
- The site provided more Open Space than is actually required for a scheme of this size.
- The site will provide biodiversity net gain on the site, with 10.09% habitat gain and 175.64% hedgerow gain.
- The applicant originally offered a condition to ensure that the development would come forward at a pace in advance of that normally required by commencement conditions . That offer is again made, with a reduced time limit for the approval of reserved matters from 3 years to 2, and the commencement of development within 1 year from the approval of the final reserved matter. This indicates that the site is deliverable within a relatively short period of time.
- The emerging Wiltshire Local Plan identifies the need for an additional 42 dwellings within the parish, but does not propose to amend the settlement boundary or allocate a site for this development. The application site for 25 dwellings on the edge of the village would assist in meeting this recognised need.
- The scheme would provide economic benefits to the area through the generation of jobs during the construction phase, and the increase in household spend in the area from the new households.

6. Officer Response to the Applicant's Comments

The Committee will need to consider the degree of weight to be given to the above arguments when considering this application, but this in the context of the Spatial Settlement Strategy of the Core Strategy which seeks (with limited exceptions) to concentrate

development within the defined settlements of the County, and this carries significant weight against allowing development in what is effectively open countryside for the purposes of planning.

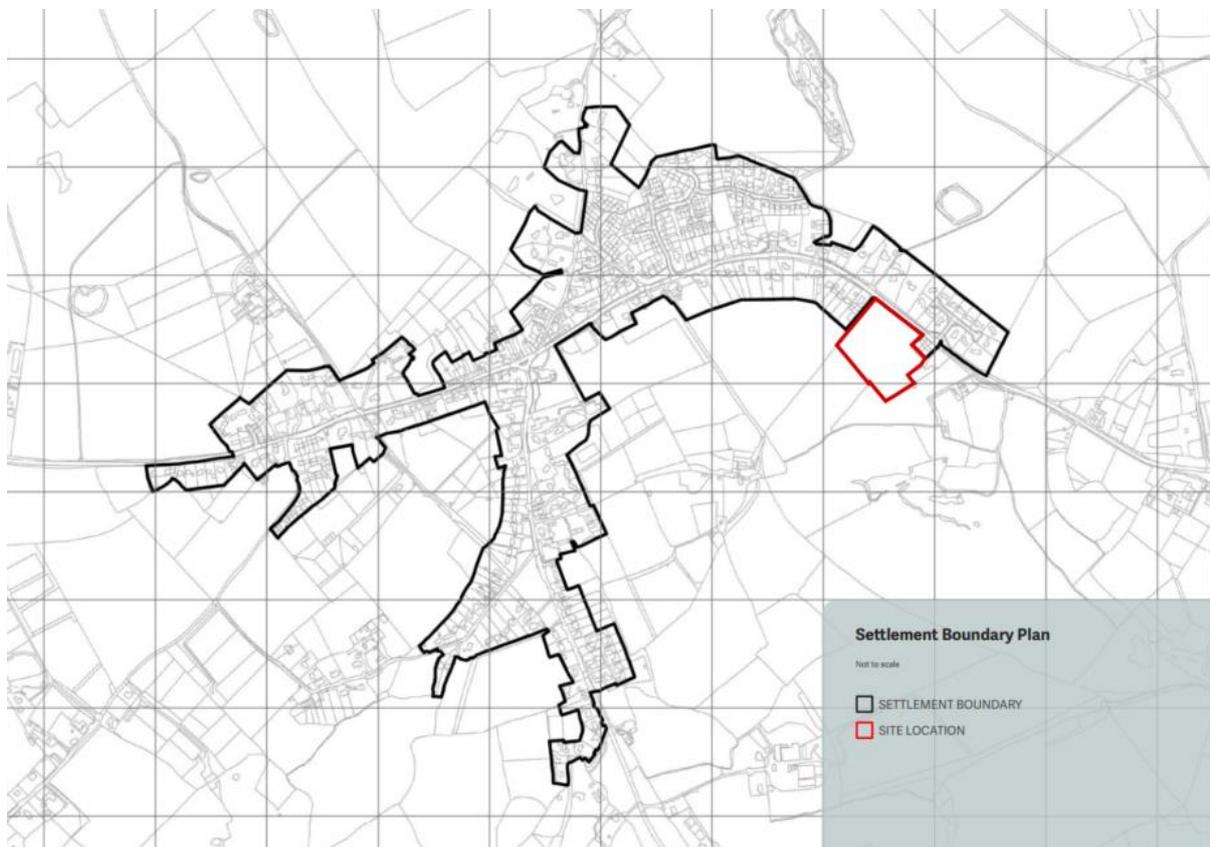
The Local Planning Authority's opinion is that it has interpreted paragraph 226 correctly and, therefore, does benefit from only having to demonstrate a 4-year housing land supply (HLS) over a 5-year period, which it can. This applies to the determination of this application and to any application that is in the same position.

Regarding the status of the planning balance, The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted February 2020. The purpose of the WHSAP is/was to revise, where necessary, the WCS settlement boundaries and allocate new sites for housing across the plan period in order to demonstrate the rolling supply. The WHSAP is not out of date, and so NPPF paragraph 11(c) is relevant for the purposes of decision-taking (not paragraph 11(d)).

The Committee is advised to consider the application based on the legal advice the Local Planning Authority has received, but with due regard to the applicant's position – this in view of there being no qualifying statements, guidance or case law relating to the updated NPPF at this time. It is in view of this situation that it is perhaps not surprising to find the LPA's opinion differing to that of the applicant.

7. Applying the planning balance to this case

The site lies outside of, but immediately adjacent to, the settlement boundary of Whiteparish as defined in the Development Plan as can be seen on the plan below:-



The 'harms' –

Principle –

Housing delivery policies –

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. Within the Settlement Strategy, Whiteparish is defined as a Large Village. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. Because the application site lies beyond the limits of development, it is within the countryside. Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by “.... *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services*”.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Whiteparish – and further states that housing should not be permitted outside the limits except in the few circumstances explained in the policy, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. This application site is not allocated in either the Wiltshire Core Strategy or any site allocations DPD or Neighbourhood Plan. Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with Core Policies 1 and 2.

The supporting text to Policy CP1 states that:- *At Large Villages settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries. These settlement boundaries will also be reviewed as part of the Housing Sites Allocations DPD as set out in the council's Local Development Scheme, in order to ensure that they remain up to date and properly reflect building that has happened since they were first established. Small housing sites are defined as sites involving fewer than 10 dwellings.* The settlement boundary of Whiteparish was revisited as part of the considerations of the Wiltshire Housing Site Allocations Plan (2020) and the application site was not included within that revised settlement boundary. The scheme is for 25 dwellings and therefore exceeds the 10 dwellings limit set out above.

WCS Core Policy 23 sets out a Spatial Strategy for the Southern Wiltshire Community Area. The policy states that development in the Community Area should be in accordance with Core Policy 1.

Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with WCS Core Policies 1, 2 and 23. Proposed development which does not accord with Core Policies 1, 2 and 23 is considered to be unsustainable in the overarching context of the Wiltshire Core Strategy and the NPPF. In view of the revised NPPF, substantial weight must now be given to this 'in principle' conflict with the housing delivery policies and, by association, that part of paragraph 180 of the NPPF which requires regard to be given to the intrinsic character of the countryside.

Landscape Impact –

Core Policy 51 ('Landscape') is a restrictive policy rather than a housing delivery policy. It is a policy which is intended to restrict development that would not protect, conserve and

where possible enhance landscape character, or that could not be mitigated as far as possible through sensitive design and landscape measures. Core Policy 57 ('Ensuring high quality design and place shaping') has related criteria.

Under the circumstances of the 'tilted' planning balance (and in general), the weight to be given to landscape effects was in most cases outweighed by the significant weight required to be given to the housing land supply shortfall. This application is evidence of this – when considered by the Strategic Planning Committee in August 2023 the effects of the planned development on landscape were not considered to be sufficiently significant to tip the tilted balance and so amount to a landscape reason for refusal (or, in terms of paragraph 11(d) of the NPPF, any adverse effects did not "significantly and demonstrably" outweigh the benefits of granting planning permission for housing). In reaching this conclusion the Committee had regard to the housing land supply shortfall and the specific circumstances of the proposal (in terms of its detailed design and layout and its proposed measures to mitigate its effects on the landscape) and related other material considerations.

However, now that there is a level planning balance, restrictive planning policies – notably here, CP51 (and the related parts of CP57) – are now more relevant because significant weight is no longer to be given to the housing land supply shortfall. This increased relevance does not mean that the restrictive policies can, or should, be given more weight – the weight they can, or should, be given is the same as before (because the landscape effects of the proposed development have not changed); rather it is the effect of this same weight and its consequences for the planning balance that are material.

For this application, and as a starting point, the landscape effects of developing this open field in 'countryside' to accommodate housing that is now not required to address a housing land supply shortfall is considered to be deserving of modest weight. This is when taking account of the baseline assessment of the field – which is essentially, and in isolation, an open field in the countryside which would be 'lost' to the development. But then factoring in the wider circumstances of the field and the characteristics of the locality, and the actual proposal – that is, the site's relationship with established and approved developments, the nature of existing established landscaping, and the landscape mitigation measures presented in the proposal, these effects and the modest weight to be attributed to them are not considered to amount to a sustainable reason for refusing planning permission in any event. In accordance with CP51, and as demonstrated in the planning application, the modest 'negative impacts' can be mitigated through sensitive design and landscape mitigation appropriate for the locality.

In this respect, the conclusions of the Landscape and Visual Impact Assessment which accompanies the planning application are agreed – notably the following:

While an established component of the landscape of the local area will be lost, the overall character of the study area will not be significantly changed, such that the post-development condition of the landscape as a whole will only be marginally altered from the pre-development circumstance. As such, the Overall Magnitude of Landscape Effect is Moderate and thus the proposals will have an Overall Level of Landscape Effect of Moderate.

And:

While the development will see a notable change in the land use character of the site, the overall effect on the visual amenity of the wider study area will be limited by intervening woodland, hedges and landform restricting views. While from some locations development will be noticeably distinct, it would be unlikely to affect the established visual character as a

whole. As such the Overall Magnitude of Visual Change is Moderate, resulting in the Overall Level of Visual Effect being Moderate.

Loss of Agricultural Land –

The site is an arable field designated as Grade 3 agricultural land, and is, therefore, not 'best and most versatile'. The overall area of land affected by the proposal – c. 1.7ha – has not changed and so continues to be relatively modest. Natural England is generally concerned where areas of best and most versatile agricultural land greater than 20ha are being lost. This said, the loss of any agricultural land is a factor to be considered on the planning balance, and with the change to the housing land supply position, this is a material consideration now of increased relevance. In the light of the grade of the agricultural land and the limited size of the field that would be lost, it is considered that limited weight should be attributed to this point.

The benefits –

Location of Development –

The original committee report refers to the site as being a reasonably accessible location in the context of Whiteparish, albeit that it is in the countryside. The site lies on the edge of the village, a little distant from the facilities within the settlement, although the footpath network in the vicinity of the site does allow for access to the village school, for example, without having to use village roads.

Provision of affordable housing –

Given the shortage of affordable housing both locally and nationally this is a matter which must be given significant weight. The development would result in 40% of the units, 10 in total, being provided as affordable housing, in accordance with the requirements of Policy CP43. No affordable housing has been delivered in the village for a number of years. The housing mix proposed, with about 60% of the total dwellings being 2 or 3 bedroom, with 80% of the affordable houses being either 2 or 3 bedrooms, is compliant with the Housing Mix required by Policy CP45.

Supporting local education provision –

Strong support for the scheme has been put forward by the Headmaster of the Village school as there is a current shortfall in pupil numbers locally, and this situation has been substantiated by the Education Authority's information on low pupil numbers. This is a material consideration to be given significant weight.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In the light of this – and bearing in mind the size of the scheme (53 units is not a large site) – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is of note that the construction industry has been highlighted by the

government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the expenditure from future occupants of the development within the local economy.

Lack of any other technical objections –

As noted previously, the scheme has not been the subject of any technical objections from consultees. Only limited weight can be afforded to this point.

8. Conclusion

Applying the ‘planning balance’, it is considered that the conflict with the spatial strategy with regard to the location of the proposed development does demonstrably and significantly outweigh the benefits – including delivery of up to 25 dwellings, 40% of which would be affordable, and sustaining the local school – on this site due to the fact that one of the major considerations when considering the application at the Strategic Planning Committee meeting in August 2023 was the Council’s lack of a 5 year Housing Land Supply and the need to apply the ‘tilted balance’ to the consideration of the weight to be given to the out of date policies of the Core Strategy.

The above situation has now changed with the amendments to the NPPF in December 2023, and the strategic policies that set the settlement strategy for the Core Strategy have regained their primacy. The delivery of this site is no longer required to aid the delivery of the Council’s Housing Land Supply and the benefits of the scheme do not outweigh the requirement that development is in accordance with the policies of the Development Plan. As the permission has not been issued following the resolution to grant from the Committee in August 2023, due to the S106 not yet being completed, the application falls to be re-considered in light of the material change in circumstances that has occurred between the first recommendation to Members and the current situation. The application is therefore recommended for refusal.

Recent appeal decision –

On 9 February 2024 an appeal relating to a proposal for up to 30 dwellings on a windfall (unallocated) site at Land south of Pound Lane, Semington was dismissed (ref. PL/2022/09397). In dismissing the appeal the Inspector noted the following –

6. *As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal’s main issue on this basis*

Planning Balance

15. *It is the appellant’s view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.*

16. *The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.*
17. *The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).*
18. *My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.*
19. *The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.*
20. *However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.*
21. *Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.*
22. *Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.*
28. *The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would*

deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.

This very recent appeal decision – relating to a site elsewhere in Wiltshire – aligns with the Local Planning Authority’s interpretation of the updated NPPF and how it should now be applied in cases such as this. As in the appeal case, the proposal conflicts with the Council’s Spatial Strategy and development plan as a whole; this conflict – and the fact that the planning balance is now level – is not outweighed by any other material considerations.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. Principle of Development

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the County, and in doing so identifies four tiers of settlement - Principal Settlement, Market Town, Local Service Centre, and Large and Small Village. Within the Settlement Strategy Whiteparish is defined as a Large Village. The Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined boundaries, or 'limits of development'. Beyond the limits of development is countryside. The application site lies beyond / outside the limits of development of Whiteparish, and so is in the countryside.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier. The policy states that within the limits of development of those settlements with defined limits there is a presumption in favour of sustainable development; but outside the defined limits – that is, in the countryside – other in circumstances as permitted by other policies of the Plan, development will not be permitted, and that the limits of development may only be altered through identification of sites for development through subsequent Site Allocations Development Plan Documents and Neighbourhood Plans.

Core Policy 23 of the Wiltshire Core Strategy sets out the 'Spatial Strategy' for the Southern Wiltshire Community Area in which the site lies. It states that development in the Southern Wiltshire Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

The proposal is for outline planning permission to erect up to 25 dwellings, etc. on the application site, which is in the countryside. Under Core Policies 1, 2 and 23, this does not comply with the Settlement and Delivery Strategies as a matter of principle. The Strategies are designed to ensure new developments satisfy the fundamental principles of sustainability, and so it follows that where a proposal such as this fails to comply with them then it will be unsustainable in this overarching context. The application site is not identified for development in a Site Allocations Development Plan Document, and it is not allocated in a Neighbourhood Plan document. Furthermore, there are no material considerations or exceptional circumstances, including set out in other policies of the Plan, which override the core policy's position. The proposal is, therefore, contrary to Core Policies 1, 2 and 23 of the Wiltshire Core Strategy and paragraphs 2, 7-15, 47 and 180(b) of the National Planning Policy Framework (NPPF), comprising unsustainable development.

2. Lack of a signed Legal Agreement

The proposed development fails to provide and/or secure adequate provision for necessary on-site and, where appropriate, off-site infrastructure to make the application proposal acceptable in planning terms. The application is therefore contrary to policy CP3 of the

adopted Wiltshire Core Strategy, and the National Planning Policy Framework, specifically the central social and environment sustainable development objectives enshrined within paragraph 8.

INFORMATIVE TO APPLICANT:

Reason for refusal 2 relates to the failure of the applicant to secure affordable housing and other financial contributions for the site. In the event of an appeal it may be possible to address this through a suitably worded Planning Obligation.

ANNEX 1: 1 November 2023 Committee Report

ANNEX 2: Applicant response to revised NPPF

REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|--|
| Date of Meeting | 16 August 2023 |
| Application Number | PL/2022/09532 |
| Site Address | Land at Romsey Road, Whiteparish, Salisbury, Wilts |
| Proposal | Outline application (all matters reserved except external access) for residential development of up to 25 dwellings with access to Romsey Road, parking, opens space, landscaping and drainage |
| Applicant | Macra Ltd. |
| Town/Parish Council | Whiteparish Parish Council |
| Electoral Division | Alderbury and Whiteparish – Cllr Richard Britton |
| Type of application | Outline |
| Case Officer | Lynda King |

Reason for the application being considered by Committee

The application has been called to Committee as it represents a significant departure from the policies of the development plan, and which is recommended for approval.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle
- Highway Safety
- Drainage
- Layout and Housing Mix
- Ecology
- S106

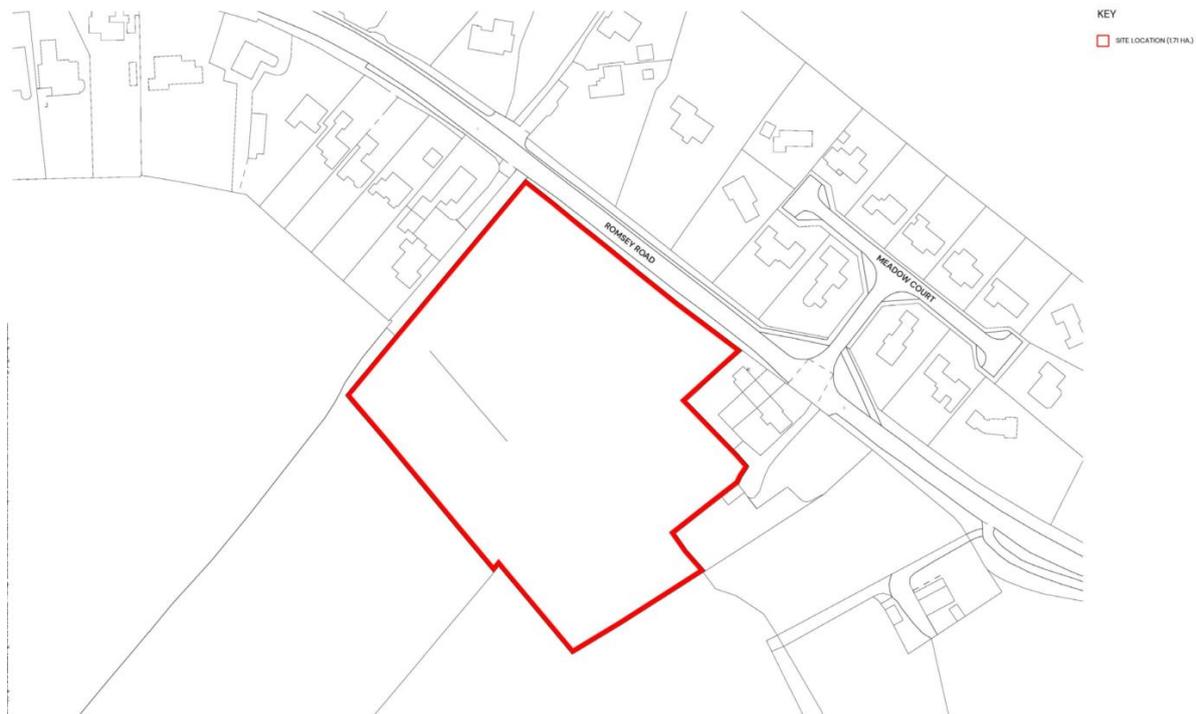
The application has generated an objection from Whiteparish Parish Council, which was qualified and will be referred to later in the report, as well as 26 letters of objection and 6 of support from third parties.

3. Site Description

The site lies on the eastern edge of the village of Whiteparish, to the south of the Romsey Road (A27) which passes through the settlement.

It consists of a grassy field, which gently slopes downward in a south-westerly direction. The land level is slightly higher than the adjacent main road, and there is a substantial hedge along the field edge. To the east and north-west are residential properties and there is a small cul de sac of 14 large dwellings known as Meadow Court to the north-east across the Romsey Road.

The site contains a small number of trees on what look to be old hedgerow lines, as well as an area of scrub. Hedgerows also define the boundaries adjacent to the neighbouring dwellings. There is a low voltage power line that crosses the site from north to south. Running parallel to the north-south boundary adjacent to the two dwellings to the west is a Public Right of Way (footpath WHIT7), which lies outside of the application site. There is a bus stop on the north side of Romsey Road, along with a footpath that runs into the village centre.



Location plan

4. Relevant Planning History

S/1984/0625 – Outline 13 detached dwellings, access and garages. Refused 27.06.1984. Appeal dismissed.

S/1986/0833 – Outline 19 dwellings with garages and construction of estate road and access. Refused 17.06.1986. Appeal withdrawn.

5. The Proposal

This application, which is in Outline with all matters reserved except for access, proposes the construction of up to 25 dwellings with access off Romsey Road, and associated parking, open space, landscaping and drainage.

6. Local Planning Policy

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

NPPF - Paragraph 11 sets out the presumption in favour of sustainable development.

Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Relevant NPPF sections include:

Section 8 – promoting healthy and safe communities

Section 11- making effective use of land

Section 12- achieving well-designed places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

National Design Guide (2021)

Manual for Streets 2 (2010)

Wiltshire Core Strategy:

CP1 – Settlement Strategy

CP2 – Delivery Strategy

CP3 - Infrastructure Requirements

CP23 – Spatial Strategy: Southern Wiltshire Community Area

CP43 – Affordable Housing

CP45 – Meeting Wiltshire's housing needs

CP50 - Biodiversity and Geodiversity

CP51 - Landscape

CP57 - Ensuring High Quality Design & Space Shaping

CP60 - Sustainable Transport

CP61 - Transport & Development

CP62 - Development Impacts on the Transport Network

CP64 - Demand Management

CP67 – Flood risk

Wiltshire Housing Site Allocations Plan (2020)

7. Summary of consultation responses

Whiteparish Parish Council – Support (caveated)

..... resolved, with 7 councillors in support and 1 against, to comment that they are aware the development is contrary to provision of policies CP1, CP2, CP23, CP51, CP57, CP60 and CP61. However, given the need in Whiteparish for more affordable housing the Parish Council would be prepared to support this scheme providing the level of affordable housing is increased to a minimum of 50%. This would potentially enable the village school and other

local businesses to become more sustainable. Should such a change in the development balance between market and affordable housing not be forthcoming the Parish Council will not support further planning applications on this site.

WC Archaeology – No objections, subject to condition, following the receipt of a geophysical survey of the site.

WC Climate Change – continues to encourage the applicant to be more ambitious in their approach to the NPPF's aims of delivering sustainable development, tackling climate change and radically reducing greenhouse gas emissions.

WC Drainage – The application has been supported with a Site Specific Flood Risk Assessment, and subject to conditions no objection is raised.

WC Ecology – No objection to additional submitted material, subject to conditions and the need for a legal agreement to secure the necessary mitigation for the additional nitrogen burdens from the development. This equates to £227,700

WC Education – No requirements for contributions towards Early Years or Primary educational needs. Evidence shows the availability of 66 places in the All Saints CE Primary school, compared to an overall capacity of 147 places. There is a requirement towards the provision of Secondary Education at Trafalgar School in Downton of £114,700 to be secured by legal agreement.

WC Highways – No objection subject to conditions.

WC Housing Enabling Team – Core Policy 43 of the Wiltshire Core Strategy (as amended by the National Planning Policy Framework) sets out a requirement for 40% on-site affordable housing provision within the 40% Affordable Housing Zone, on all sites of 10 or more dwellings. There is therefore a requirement to provide 10 affordable units within a scheme of 25 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing. The proposal to provide 10 affordable housing units therefore meets the policy requirement.

WC Public Open Space – No objection to the amount of open space shown to be provided on site. In addition, there is a requirement for a contribution towards off site sports space of £17,100 to be secured via a legal agreement. Details of how the on-site play space will be managed in perpetuity with also be covered in the legal agreement.

WC Public Protection – No objection, subject to conditions regarding noise assessments due to proximity of A27.

WC Rights of Way – no comment received.

WC Spatial Planning – The proposal is not supported in principle as it does not accord with the strategy and pattern of development anticipated by the WCS. Therefore, from a strategic policy perspective, the proposal does not constitute sustainable development and would conflict with the principal aims of the National Planning Policy Framework.

Other material considerations may apply, the most pertinent of which is the current housing land supply position. Whilst the Council is unable to demonstrate a 5YHLS, careful consideration should be given to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations, on a case-by-case

basis. This will need to include consideration of what weight to assign to the most important policies.

WC Urban Design – Object. The design would not accord with Core Policy 57.

WC Waste and Recycling – no objection subject to condition and contribution to be collected via S106 of £2,525.

Wessex Water – No objection.

8. Publicity

This application was advertised through a site notice and letters to neighbouring properties.

26 Letters of objection were received raising the following issues:

- The site is outside the currently defined settlement boundary of Whiteparish, and therefore is contrary to the Core Strategy, particularly CP1, CP2, CP23, CP51, CP57, CP60 and CP61.
- The location of the access is not safe
- There is a range of wildlife that uses the site and the immediate area
- Concerns about the capacity of the local sewage system to cope with additional housing
- Over development of the site.
- Overlooking of existing dwellings to the north, and also blocking their light.
- Village facilities such as the Doctor's Surgery are already oversubscribed.
- Village has little public transport so the development will result in more cars on the road.
- The land is prone to being waterlogged.
- The development would lead to the loss of valuable agricultural land.
- There is no footpath on this side of the A27.
- Is there adequate space for all the car parking to be on site, not on the A27.
- The 30mph speed limit on the A27 in the vicinity of the site is not adhered to.
- If the verges and recreation area are re-wilded then they may be a fire risk in the summer.
- A similar application was refused on appeal in 1984, and an application refused in 1986 and the same reasons apply today.
- Concern about the loss of habitat for both flora and fauna.
- There are brown field sites that could be used instead.
- Strain on local infrastructure, including the school.
- There is no parking in the village to serve the school or shop and parents would take their children to school by car as the footpaths are inadequate.
- The existing power line that crosses the site would have to be re-located.
- The electricity demand will increase due to the need for charging points and heat pumps, which will be noisy.
- Overspill parking from the site could take place in Meadow Court.
- Design will be out of keeping with this edge of settlement location.
- The train station at West Dean can only be reached by car.
- Affordable housing is in the wrong part of the village.
- Who will pay to maintain the open space and play equipment on the site? The village has sufficient play areas and sports facilities at the moment.
- The development will lead to light pollution.

6 letters of support were received, raising the following points:

- Affordable housing is needed so that young people can stay in the village
- New residents will be able to support the village facilities such as the shop, school pubs etc. All these facilities could be in danger of shutting.
- School numbers are dropping and the school could be in danger of shutting.
- Detailed letters of support have been submitted by the Headteacher and the Chair of Governors of the local school explaining that the school is currently in a vulnerable position due to falling pupil numbers and it is considered that the development of family housing would in fact greatly benefit the school in terms of pupil numbers and sustainability moving forward.
- The price of the average house in the village is out of the range of most local young people and the provision of affordable housing would allow people to live locally, get on the housing ladder, and for those houses to continue to benefit the local community.
- The lack of affordable housing in pushing local people out of the village.

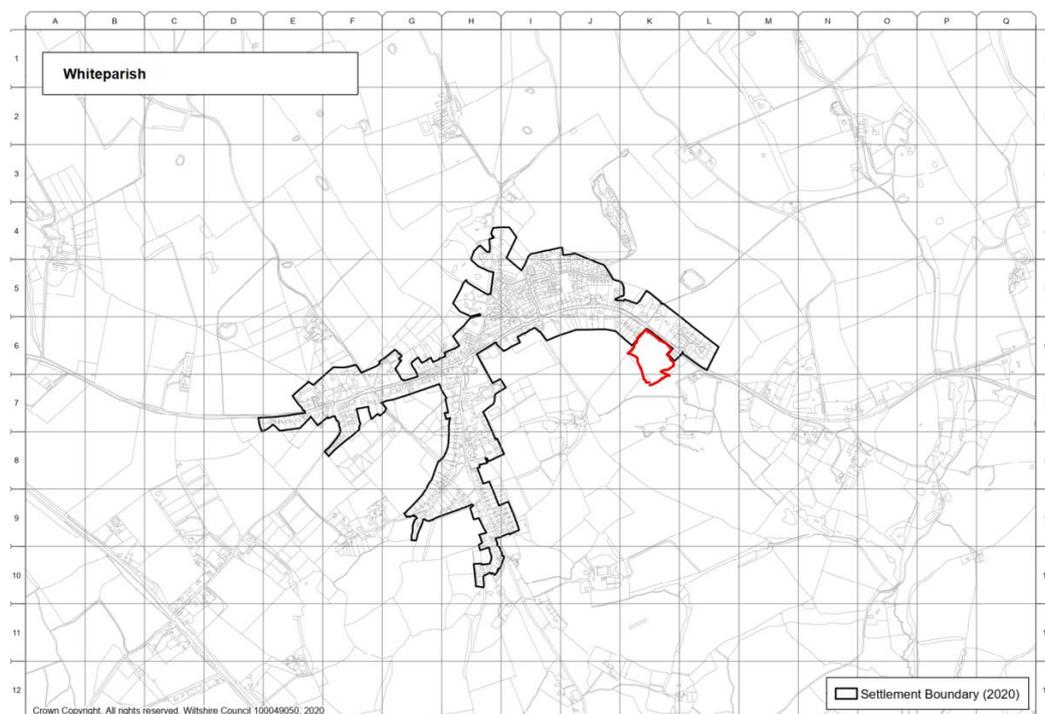
Salisbury and Wilton Swifts - require the installation of swift bricks and bat roosting features as part of the development.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle of development

The application site lies outside of the settlement boundary of Whiteparish, as defined in the 2020 Wiltshire Housing Sites Allocations Plan, shown on the plan below:-



The village is defined as a Large Village in Policy CP23, and Policy CP2 states that within the limits of development, as defined on the Policies map, there is a presumption in favour of sustainable development in such a location, which is limited to that needed to help meet the housing needs of the settlements and to improve employment opportunities, services and facilities. (CP1).

The supporting text for CP1, at para 4.15 of the Core Strategy, comments that:-

At Large Villages settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries. These settlement boundaries will also be reviewed as part of the Housing Sites Allocations DPD as set out in the council's Local Development Scheme, in order to ensure that they remain up to date and properly reflect building that has happened since they were first established. Small housing sites are defined as sites involving fewer than 10 dwellings (i.e. not a major application).

Therefore, this proposed development is contrary to the provisions of the current Development Plan as it lies outside of the settlement boundary of the settlement and is of a scale not normally considered appropriate within a Large Village. The implications of this policy position with regards to the considerations to be given to such an application where the Council cannot demonstrate a 5 Year Housing Land Supply situation are discussed in more detail in the section on the Planning Balance below.

9.2 Highway safety

The Council's Highways Officers have commented that the site is located outside of the existing village policy boundary and the proposal is therefore considered as contrary to the sustainability policies contained in the Wiltshire Core Strategy (Core Policies 60 and 61) and the National Planning Policy Framework 2019 (Section 9, paras 102, 103, 108 & 110), which aim to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. However, it is acknowledged that a policy objection may not be appropriate in this instance.

The proposed point of access will be located within the 30mph speed limit, the speed limit changes to 40mph around 150m to the east of the site. The submitted Transport Statement contains an assessment of the speeds of vehicles passing the site and has resulted in a requirement for the upper most visibility splays in Manual for Streets of 2.4m by 59m in both directions. This is agreed and accepted. The splays can be achieved in land within the ownership of the applicant or highway land. There is a strip of vegetation to the west of the access which contains an oak tree which is to remain, in order to protect the visibility splay in this direction the vegetation will be cutback 0.5m behind the visibility splay. This is acceptable although it is essential that the visibility splay is maintained particularly in seasons of growth and must be conditioned accordingly.

The presence of the oak tree has influenced the route of the footway across the frontage to the west which will be setback from the edge of carriageway behind the vegetation and oak tree and re-joins the edge of carriageway further to the west. This is an acceptable layout. A footway is also proposed in the eastern direction to the existing cottages.

It is noted that the access road is shown as 5.5m in width with 2m footways continuing into the site, together with 6m junction radii.

There is no highway objection subject to a recommendation for conditions to be attached should permission be granted.

Therefore, the concerns expressed by local residents about the adequacy of the access to accommodate the development have been addressed satisfactorily by the Highways Officer. The matter of whether the site is a sustainable location for development are addressed further in this Report.

9.3 Drainage

The site lies in an area of potential for Ground water flooding, as set out in the Council's Strategic Flood Risk Assessment 2019. However, this document contains a disclaimer which in effect comments that the mapping of areas at potential risk of flooding from groundwater is indicative only and that further site specific investigations should be carried out to establish whether there is a specific risk to development from groundwater.

The site is not at risk of flooding from any other source, such as fluvial or surface water according to the SFRA, which is more robust on these areas of flood risk.

The NPPF and NPPG guidance was updated in 2021 to ensure that LPA's took account of all sources of flooding when considering planning applications for developments, such as dwellings. The guidance seeks to direct development away from areas of high flood risk, from whatever source (paras 159 and 161 of the NPPF). Paragraph 162 affirms that development should not be permitted if there are reasonably available sites with a lower risk of flooding that can accommodate the development proposed.

To establish if there are reasonably available sites with a lower risk of flooding than the application site, the applicants were required to undertake a Sequential Test, as required by the NPPF. This Test looks to see if there are any other development sites that could deliver the same quantum of development, either as part of a single large site or an amalgam of smaller sites, as proposed by the application within an area to be agreed by the LPA.

In this instance the guidance set out in the NPPG was followed, which states that:-

For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location.

Due to the acknowledged concerns expressed by the Headteacher and Chair of Governors of the local school regarding the needs of the local school for more pupils (set out in the representations submitted in respect of this application and substantiated by the Council's Education Department), it was agreed that the area of search could be the Parish of Whiteparish, which equates to the current catchment area of the school.

The subsequent Sequential Test submitted by the applicants, and examined by your Officers, concluded that there was no alternative area within the Parish, either as a single

site or a conglomeration of smaller sites, that would deliver the quantum of development proposed as part of this application.

National guidance goes on to consider that even if a site passes the sequential test, it should be accompanied by a site specific Flood Risk Assessment to establish that there is no risk of flooding without mitigation from the development.

The application is accompanied by a detailed Flood Risk Assessment which has carried out detailed analysis of the site's conditions and has concluded that there is no risk of groundwater flooding. The Council's Drainage Consultants have examined this document and its supporting information and have concluded that the development will not be at risk from any source of flooding, and that the proposals to deal with surface water from the site are acceptable, subject to conditions requiring more details at the Reserved Matters stage.

On that basis it is concluded that the development will not present a flood risk to existing or proposed residents and that no objection be raised to the scheme on flood risk grounds.

9.4 Layout and Housing Mix

The scheme, which is in Outline only with all matters other than the point of access reserves, does contain an illustrative Master Plan. The plan, and the indicative schedule of accommodation and unit mix are set out below:-



The Council's Urban Design Officer has concerns about the proposed layout in that it is felt that a development of this scale on the edge of the village will not enhance local distinctiveness and does not relate positively to its landscape setting and the existing pattern of development, as required by policy CP 57.

The comments of the Urban Design Officer are noted. The application is accompanied by a detailed Design and Access Statement that assesses the development patterns across the whole of the village, as well as the immediate surroundings of the application site. The village historically developed in a linear fashion along the line of the Romsey Road, and later along Common Road, to the south of this road. The village continued to expand to the east and west of the village centre in the late twentieth century, including the cul-de-sac of

agreement. The comments of the Parish Council, which seeks a higher proportion of the site to be affordable, are noted, but there is no policy mechanism to provide a greater proportion of the site to be affordable than is proposed by this scheme.

Policy CP45 requires that the type, mix and size of both market and affordable housing is designed to address local housing needs. The Council's Strategic Housing Market Assessment identifies that there is the greatest need for 2 and 3 bedroom properties. This application indicates that about 60% of the total dwellings will be 2 or 3 bedroom, with 80% of the affordable units being 2 or 3 bed, and 2 being 1 bed. This housing mix is compliant with the requirements of policy CP45.

9.5 Ecology

Policy CP50 requires development to demonstrate how they protect features of nature conservation and geological value as part of the design rationale. All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development. The application was accompanied by a Preliminary Ecological Appraisal and Construction Environment Management Plan. In addition, CP50 requires all development to seek opportunities to enhance biodiversity.

Major development must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. Ecological enhancements of the site are proposed, as explained within the Net Gain Assessment and recommendations within the Ecological Appraisal.

The Council's Ecologists have concluded that the proposal complies with the requirements of Policy CP50, subject to conditions to secure the details of the proposed enhancements and their implementation and retention.

The site also lies within the zone of influence for the New Forest protected sites which includes the New Forest SPA, New Forest SAC and New Forest Ramsar site. It is screened into appropriate assessment under the Habitats Regulations 2017 (as amended) on account of its potential to cause adverse effects through increased recreational pressure, which may occur alone and in-combination with other plans and projects.

The Council has adopted a mitigation strategy for the above impacts, and it has been concluded that this development will comply and deliver the required mitigation via CIL, and that the scheme will not lead to adverse effects on the New Forest Protected sites.

The application site is located within/adjacent to the statutorily designated (Mottisfont Bat SAC –Barbastelle 7500m SAC Parcel Buffer). A test of likely significance has been carried out by the relevant Competent Authority (Wiltshire Council) as required by Regulation 63 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This concluded that, given the scale and nature of the development combined with the bat survey results and separation of more than 6km between the closest SAC unit, there is no mechanism for adverse effect/any temporary construction impacts and operational impacts would be de-minimus. This test of significance has been undertaken using the outline application. Given the layout at RM may differ the HRA for the Mottisfont Bat SAC will be repeated at that stage.

The site also lies within the River Test Catchment, and whilst the application site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Test

catchment which drains into the Solent. This region is protected by a number of international designations including the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, Portsmouth Harbour SPA and Ramsar site, Solent and Southampton Water SPA and Ramsar site; as well as the nationally designated Sites of Special Scientific Interest (SSSIs) that underpin these international designations.

Natural England currently advises that every permission for new dwellings in the River Test Catchment Area could result in increased nutrients entering the Solent area (Guidance dated June 2020) from the increase in waste water and land use change. Accordingly, the Local Planning Authority considers this proposal is likely to lead to significant effects on the European Sites and an Appropriate Assessment (AA) is required.

Wiltshire Council has now agreed a mitigation strategy to counterbalance the nitrogen burdens from planned development, and the above application would be applicable to enter into a S106 agreement to contribute towards the necessary nitrogen credits, to the sum of £227,700.

9.6 S106

To enable the application to comply with local planning and Council policies which relate to development on this scale and in this location, the applicants are required to contribute towards the provision of necessary infrastructure via a legal agreement under S106 of the Planning Act. In accordance with the CIL Regulations 122 any planning obligations must be:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The applicants have agreed that the S106, if planning permission is resolved to be granted, that the Heads of Terms of the legal agreement should cover the following:-

- 40% on-site provision of affordable housing in accordance with the requirements of Policy CP43, including an appropriate mix of tenure and house sizes;
- £227,700 towards Nitrate mitigation (nutrient neutrality);
- £114,700 towards the provision of 5 secondary school places in the catchment;
- Provision of specified on- site equipped play space and casual play space, and a financial contribution of £17,100 to be used for formal sports within Whiteparish;
- £2,525.00 towards the provision of waste and recycling containers for 25 dwellings;
- A contribution towards the Council's costs of drafting the Agreement.

10. Conclusion (The Planning Balance)

'Tilted balance'

This planning application proposes the construction of up to 25 dwellings outside of the settlement boundary of the Large Village of Whiteparish, and is therefore considered contrary to the settlement policies of the Development Plan, namely CP1, CP2 and CP23.

However, as Members are aware, the Council cannot currently demonstrate a 5 Year Housing Land Supply and the revised Local Plan is not far enough advanced towards adoption to carry significant weight in the determination of this application.

The lack of a 5 year supply of housing land is a significant factor that need to be taken into account when considering this application.

Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says development should be in accordance with the development plan '*unless material considerations indicate otherwise*', and this is reaffirmed in the Framework. Therefore, whilst the development plan has primacy in decision making, there are situations where material considerations could indicate a decision that was otherwise than in accordance with the plan.

Paragraph 11(d) of the NPPF, relating to the presumption in favour of sustainable development, states that:-

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

'Foot note 8' comments that policies can be considered to be out of date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

This means that the housing land supply shortfall in effect results in the development plan policies that are most important in determining the application being deemed to be out-of-date. Moreover, the NPPF para 11(d) adds that in such a situation planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Members will be aware of the *5 Year Housing Land Supply and Housing Delivery Test Briefing Note No22-09* (the Briefing Note) which seeks to outline how the Council can restore its 5-year Housing Land Supply in the face of an acknowledged shortfall (which currently stands at 4.59 years). In this regard, a 3-pronged strategy is outlined in paragraph 6.1. The third of these says the Council will *Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.*

An Inspector in a recent Appeal decision in respect of 90 dwellings on the edge of the Large Village of Holt, near Melksham, where the appeal was allowed, (Ref PL/2022/03315) stated that (para 54) –

When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council's position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future.

He also commented, at para 65 of his decision letter, that –

If housing land supply cannot be achieved within the defined settlement boundaries then, as the Briefing Note implies, housing may need to be accepted, contrary to the development plan, on sites outside of those boundaries where there are no other major policy obstacles to the decision. Such instances may well mean the development occurs on a field with a consequent effect on the landscape. It is also fair to assume there is an acceptance that, in such a situation, the new housing would often be more distant from the services than the housing within the settlement.

This is a similar situation to the application under consideration here. The site lies on the edge of the village, a little distant from the facilities within the settlement, although the footpath network in the vicinity of the site does allow for access to the village school, for example without having to use village roads. It would result in the loss of a small field on the edge of the village, but would not have a great impact on the landscape setting of Whiteparish due to the existing (and largely to be retained) vegetation along the road frontage and the topography of the site, being at a slightly higher level than the surrounding road. No objection to the scheme has been raised by the Council's Highways Authority, Ecologists, Archaeologists, Drainage Engineers, Education Department or Housing Enabling Officers. Strong support for the scheme has been put forward by the Headmaster of the Village school as there is a current shortfall in pupil numbers locally, and this situation has been substantiated by the Education Authority's information on low pupil numbers.

Applying the 'tilted balance', it is considered that the conflict with the spatial strategy with regard to the location of the proposed development does not demonstrably and significantly outweigh the benefits of delivering up to 25 dwellings, 40% of which would be affordable, on this site. The application is therefore recommended for approval.

RECOMMENDATION

Grant planning permission, subject to the prior completion of a S106 Agreement in respect of the Heads of Terms referred to above, and subject to the following conditions:-

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

The scale of the development;

The layout of the development;

The external appearance of the development;

The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 3) An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 4) Approved plans

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Site Location Plan – drawing no. P22-1712_DE_001_A_01, received on 12 December 2022
- Proposed Access Arrangement- drawing no. 1294-008, received on 12 December 2022
- Land Use Plan- drawing no. P22-1712_DE_004_B_01, received on 12 December 2022.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 5) No development above slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/ the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 6) No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 7) No development shall commence on site until a scheme of hard and soft

landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 8) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 9) No development shall commence within the redline boundary marked on Pegasus Group Drawing: P22-1712_DE_001_A-01, dated 09/08/2022 until:
- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and
 - b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their

importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

- 10) Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 11) Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

The CEMP shall also address the following:-

- i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person for residents to contact;

- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust and noise mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable, and the development is carried out in such a way as to not cause a nuisance to local residents.

- 12) Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 13) No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: to avoid illumination of habitat used by bats.

- 14) The residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water consumption levels (which includes external water usage).

Within 3 months of each phase being completed and the housing being brought into use, a water efficiency report certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval.

REASON: To ensure compliance with the prevailing mitigation strategy for nutrient neutrality in the water catchment within which this development is located.

- 15) No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point

2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 59 metres to the west and 59 metres to the east from the centre of the access in accordance with the approved plans (ref: 1294-008). Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 16) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

- 17) No development shall commence until full construction details of the proposed 2m wide footway across the site frontage together with dropped kerbs and tactile paving, street lighting and drainage, has been submitted to and approved by the Local Planning Authority; the footway and associated work shall be constructed in accordance with the approved details prior to first occupation of the development.

REASON: In the interests of highway safety.

- 18) There shall be no burning undertaken on site at any time.

REASON: In the interests of the amenities of local residents.

- 19) Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

REASON: In the interests of the amenities of local residents.

- 20) Prior to commencement of development an acoustic report shall be submitted to the LPA for approval in writing prior to implementation. The report shall demonstrate that the internal and external amenity standards of BS8233:2014 Guidance on sound insulation and noise reduction for buildings (or any subsequent version) and WHO Guidelines for Community Noise (1999) can be achieved within the development. The report must include full details of any scheme of mitigation required to achieve this which, if approved, must be implemented in full and maintained in that way in perpetuity.

General: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to BS8233: 2014 (or any subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014. The report should also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB L_{Amax} between the hours of 23:00 and 07:00.

REASON: In the interests of the amenities of local residents and the occupiers of the new dwellings.

- 21) No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority.

The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;
- ii. The cutting or other processing of building materials on site;
- iii. Wheel washing and vehicle wash down facilities;
- iv. The transportation and storage of waste and building materials;
- v. The recycling of waste materials (if any)
- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: In the interests of the amenities of local residents.

- 22) Concurrent with the reserved matters application a Sustainable Energy Strategy (SES) shall be submitted for the approval in writing by the local planning authority. The SES shall set out the measures to deliver sustainable construction and climate change adaption, and include an implementation schedule and any approved infrastructure shall be provided in accordance with the approved schedule.

REASON: To ensure that the development is carried out to the prevailing sustainable construction and climate change adaption principles.

- 23) For the avoidance of doubt, the number of dwellings to be developed on the site shall not exceed 25 in number.

REASON: To ensure that the development is carried out in accordance with the principles considered at the Outline stage.

Informative Notes

- 1) This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the XXXX.
- 2) The development hereby approved could be subject to the Community Infrastructure Levy. Wiltshire Council has now adopted a Community Infrastructure Levy (CIL) charging schedule. CIL is a charge that local authorities can place on new development in their area. The money generated through CIL will contribute to the funding of infrastructure to support growth.

More information and the charging schedule for CIL can be found using the following link:

<http://www.wiltshire.gov.uk/planninganddevelopment/dmcommunityinfrastructurelevy.htm>

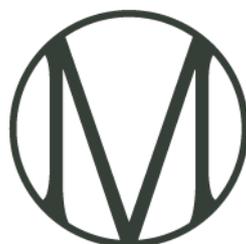
- 3) The programme of archaeological work required by Condition 9 will comprise:
- i) an initial phase of exploratory archaeological investigation (a field evaluation) prior to the commencement of development to establish if there are any areas of archaeological interest that will be impacted by the proposed development
 - ii) Further archaeological investigation of any areas of archaeological interest, either prior to the commencement of, or during, development
 - iii) A programme of post-fieldwork assessment, analysis, reporting and publication commensurate with the significance of the archaeological results.
- 4) A water efficiency calculation will be needed to discharge condition 14. For guidance on how to do this and what is required, please refer to the following document: 'The Building Regulations 2010 – Sanitation, hot water safety and water efficiency', Appendix A (p36-44).
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/504207/BR_PDF_AD_G_2015_with_2016_amendments.pdf
- 5) There is a low risk that great crested newts may occur at the development site. Great crested newts are protected all times by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a great crested newt mitigation licence if an offence is likely. For all construction and ground clearance works it is advised to follow advice from an independent ecologist.
- 6) The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.
- 7) The applicant will be required to enter into a S278 (Highways Act) legal agreement with Wiltshire Council for the footway work and bellmouth.
- 8) The layout for the Reserved Matters application shall broadly follow that set out on the Illustrative Masterplan (drawing no. P22-1712_DE_003_B_01).

Planning Statement

Addendum

Land at Romsey Road, Whiteparish

January 2024



MASTER

LAND & PLANNING



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Project Ref: 22/023
Date of Issue: 23rd January 2024
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1. Introduction

- 1.1. Master Land & Planning Ltd are instructed by Macra Ltd ('the Applicant') in respect of Planning Application reference PL/2022/09532 for '*Outline application (all matters reserved except external access) for a residential development of up to 25 dwellings with access to Romsey Road, parking, open space, landscaping and drainage*' ('the Application') at Land at Romsey Road, Whiteparish, Wiltshire ('the Site').
- 1.2. The Application was determined at the Strategic Planning Committee on 16th August 2023 following a detailed Officer Report (OR) and recommendation for approval as stated in **Appendix A**.
- 1.3. The Application was approved by the Committee subject to completion of a Section 106 Legal Agreement. The Minutes of the Committee are enclosed at **Appendix B**.
- 1.4. An email from the Case Officer dated 17th January 2024 ('the Email') and enclosed at **Appendix C** explains the LPA's revised position on this Application. The Applicant contests these matters.
- 1.5. The purpose of this Statement is to address the matters raised in the Email and should be read as an addendum to the Planning Statement submitted to the LPA on 23rd January 2023.
- 1.6. In summary, it is the Applicant's position that there exist other material considerations (as summarised in Section 7) that are powerful enough, in this unique case, to justify a decision otherwise than in accordance with the development plan:
 - Significantly boosting the supply of housing.
 - The provision of affordable housing.
 - Maintaining the vitality of the rural community, including the provision of family homes that directly assists declining pupil numbers at the Whiteparish All Saints CoE Primary School.
 - Sizeable over-provision of on-site open space to the benefit of the wider community.



- Environmental benefits, including the delivery of biodiversity net gains.
- Measurable economic benefits during construction and post-construction phases.
- Implementing the development in a timely manner by a local SME housebuilder.
- Complying with the emerging Local Plan spatial strategy which defines a residual of 42 homes at Whiteparish which cannot be delivered within the out-of-date settlement boundary.



2. Planning Framework

- 2.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with an application for planning permission the LPA shall have regard to the provisions of the development plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.2 For the purposes of this application, the development plan comprises the Wiltshire Core Strategy 2006 to 2026 (CS) adopted January 2015, the Wiltshire Housing Site Allocation Plan (HSAP) adopted February 2020 and retained saved policies of the Salisbury District Local Plan 2011 (LP) adopted June 2003.
- 2.3 Other material considerations include the National Planning Policy Framework (the Framework) as revised December 2023 that describes how the planning system should achieve sustainable development and when the presumption in favour of sustainable development is engaged. The Planning Practice Guidance (PPG) provides further interpretation of the policies of the Framework.
- 2.4 In terms of emerging plans, the Wiltshire Local Plan Pre-Submission Draft Plan for Regulation 19 (eLP) was published in September 2023. In respect of neighbourhood planning, there is no designated neighbourhood area for the civil parish of Whiteparish.



3. Housing Land Supply

3.1 The Email references housing land supply as follows:

"The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. This figure exceeds the 4 year threshold now relevant to Wiltshire..."

3.2 In the event that NPPF paragraph 226 is triggered, it requires authorities to demonstrate a minimum of 4 years worth of deliverable housing sites against a 4 year target, not 5 years.

3.3 Wiltshire Council have yet to publish any housing land supply position statement for the purposes of paragraphs 77 and 226 in the NPPF. An email from Spatial Planning dated 23rd January 2024 confirms *"We are due to publish the Housing Land Supply Statement in the next few months."*

3.4 It should not be assumed that 4+ years supply measured against a 5 year requirement target will result in translating into a 4+ year supply measured against a 4 year target.

3.5 The LPA must also consider paragraphs 60 and 77. These confirm the importance of *"significantly boosting the supply of homes"* and that any monitoring of housing land supply is against the minimum expectations. Applying the policies of the NPPF does not preclude the granting of planning permission for housing if an LPA considers this minimum requirement has been met.



4. Briefing Note 24-01

4.1 The LPA have published a Briefing Note 24-01 on 16th January 2024 concerning the Revised NPPF, as enclosed at **Appendix D**.

4.2 The Applicant wishes to comment on the following statements in the Briefing Note.

"Pragmatically, this means that fewer 'speculative' residential planning applications are likely to be granted, until such time as the council's housing land supply dips below four years."

4.3 'Fewer' is not 'none'. Planning applications must continue to be assessed on their own merits, including all material considerations to establish whether there are reasons to depart from the development plan.

"Developers whose planning applications are at appeal are likely to want to challenge the council's four-year housing land supply figure. While the council will robustly defend its position, any successful challenge could impact on the council's published figure."

4.4 The changes introduced by the NPPF have not been tested through appeals or the Courts and as such otherwise suitable applications should continue to be treated favourably.

"The council's housing land supply figure can only be retained during the two-year period if suitable planning applications for housing development continue to be granted. If the council refuses too many planning applications, housing supply will drop to below four years and the 'tilted' balance in favour of approval will once again apply."

4.5 Crucially, this instruction within the Briefing Note confirms that suitable planning applications for housing development must continue to be granted. The Romsey Road, Whiteparish scheme is a suitable planning application for housing as demonstrated by the OR and Strategic Planning Committee decision.



5. Whether the policies which are most important for determining the application are out-of-date?

5.1 The Email continues by stating the following flowing from their interpretation of their housing land supply position:

"...and this means that the planning balance is now 'level' rather than 'tilted'. With a level balance full weight must be given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) – namely Core Policies 1 (Settlement Strategy) and 2 (Delivery Strategy)."

5.2 Footnote 8 of the NPPF includes circumstances when development plan policies are defined by the NPPF to be out-of-date, when applying the presumption in favour of sustainable development under paragraph 11(d). Footnote 8 is not an exhaustive list.

5.3 The LPA must not presume that their own interpretation on housing land supply results in (1) the presumption in favour of sustainable development not being engaged; and (2) that 'full weight' must be given to Policies CS1 and CS2. The Applicant contends there are other factors at play in determining whether reduced weight should be afforded to Policies CS1 and CS2 (and CP23), including whether these are out-of-date.

5.4 Paragraph 69(b) of the NPPF requires planning policies to identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the Plan. It is a matter of fact that the CS is time-limited to 2026, was not reviewed within a short period promised to the CS Examining Inspector, and the eLP is being prepared because surety of supply is needed over an extended period. The eLP proposes a range of new allocations throughout Wiltshire in order to meet needs, including the backlog of affordable housing needs – as the Local Housing Need Volume 2 confirms *"4,063 households are currently living in unsuitable housing and are unable to afford their own housing."* These needs for affordable housing and wider housing needs cannot be met within the pre-existing settlement boundaries that have been, and remain, ineffective as a primary tool operated by Policies CP1 and CP2.



5.5 The Applicant therefore contends that the policies most important for determining the planning application are out-of-date. As a consequence, the presumption in favour of sustainable development in paragraph 11 of the NPPF is engaged.



6. Other Material Considerations

6.1 The duties imposed by section 70(2) of the 1990 Act and section 38(6) of the 2004 Act leave with the decision-maker a wide discretion to consider other material considerations relevant to the specific case before them. The Applicant presents the following material considerations for the LPA's consideration.

Strategic Planning Committee 16th August 2023

6.2 The OR to the Committee remain a material planning consideration which held:

- There are no policy objections under Policies CP60 and CP61 concerning the sustainability of the site location in relation to transport and accessibility objectives. The Officer held that *"The site lies on the edge of the village, a little distant from the facilities within the settlement, although the footpath network in the vicinity of the site does allow for access to the village school, for example without having to use village roads."*
- The proposed access to the site (not a reserved matter) would have no unacceptable impact on highway safety. The Application accords with Policy CP62.
- The location of the site accords with the sequential risk based approach to locating development and there are no residual flood risks defined within the submitted Flood Risk Assessment. The Application accords with Policy CP67.
- *"The indicative masterplan of the application site....seeks to provide a layout which provides a clear landscape setting to the site on the edge of the village"* and the design principles defined in the DAS for the reserved matters to be prepared under, would accord with Policy CP57.
- In landscape terms the Officer held that *"It would result in the loss of a small field on the edge of the village, but would not have a great impact on the landscape setting of Whiteparish due to the existing (and largely to be retained) vegetation along the road frontage and the topography of the site, being at a slightly higher*



level than the surrounding road." The Application was judged to accord with Policy CP51.

- The provision of 10 affordable dwellings (40%) accords with Policy CP43.
- The type, mix and size of both market and affordable housing has been designed to address local housing needs as required by Policy CP45. This Application indicates that about 60% of the total dwellings will be 2 or 3 bedroom, with eight of the affordable units being 2 or 3 bed, and two being 1 bed.
- The Council's Ecologists have concluded that the proposal complies with the requirements of Policy CP50, subject to conditions to secure the details of the proposed enhancements and their implementation and retention. Other ecological impacts can also be addressed through mitigation, as per the heads of terms.
- Other infrastructure impacts required under Policy CP3 can be addressed through mitigation, including financial contributions. Heads of terms were agreed between the Applicant and the LPA.
- The absence of housing land supply measured against the NPPF (4.59 years measured over 5 years at the time of the Committee) was considered to represent "*a significant factor*" to be taken into account.
- The OR confirmed that "*Strong support for the scheme has been put forward by the Headmaster of the Village school as there is a current shortfall in pupil numbers locally, and this situation has been substantiated by the Education Authority's information on low pupil numbers.*"

6.3 The Application was determined by the Committee with a resolution of 11 members in favour of approving the Application, none against and 1 abstention.

6.4 The Chair of the Committee Cllr Greenman concluded the meeting by addressing the Applicant personally stating:



"...you know what we've been saying. We want this development to go forward quickly and in a sensitive and responsible fashion."

Affordable housing need

- 6.5 The Housing Enabling Team response dated 13th January 2023 confirms that demonstrable needs for affordable housing and adaptive housing exist. The Application would contribute towards meeting these demonstrable unmet needs in accordance with Policies CP43 and CP45. The S106 is being proceeded on the basis of delivering on-site 1, 2 and 3 bedroom affordable housing.
- 6.6 Affordable housing should be met locally in the Parish. The Parish Council's consultation response of 27th January 2023 supported the application and expressed a focus on boosting the supply of affordable housing at Whiteparish to represent a very significant factor to help the vitality of the community.
- 6.7 There is presently a low stock of affordable homes in the civil parish with the last re-let in April 2022 receiving 67 bids. There have no new approvals for affordable housing in Whiteparish since 2008¹. The settlement boundary is very tightly drawn, whereby any small scale infill sites would not trigger an affordable housing contribution. The delivery of a wide mix of homes including affordable housing will only be achievable by breaching the settlement boundary.

Vitality of the rural community

- 6.8 Paragraph 83 of the NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 99 recognises the importance of a sufficient choice of school places is available, which must be read alongside paragraph 97 that the planning system must guard against the unnecessary loss of valued facilities and services.
- 6.9 The Whiteparish All Saints C of E Primary School response dated 19th January 2023 (**Appendix E**) confirms the school has capacity of 150 places, a reduced PAN of 105, with 18 available pupil places with a forecast decline to 28 places by 2024/25. A

¹ S/2008/1555 'Newton Lane, Whiteparish' – Erection of 7 dwellings (rural affordable housing) and alteration of access



reduction to 28 surplus places against a PAN of 105 is a 73% capacity and below the 75% threshold where Wiltshire Council may bring forward proposals to close a village school. The response explains the impact of declining pupil roll, including the inability to sustain a separate Year R provision, stating:

“These trends and projected pupil numbers leave the school in a very vulnerable position financially and put the school at a very high risk of not being able to maintain its current 4 class structure. Therefore, additional family housing within the school’s catchment area will have a positive impact on pupil numbers and allow the school to continue to flourish at the heart of the local community. It is certainly not the case that the building of these homes would put additional stress on the school, as claimed in some objections to the planning application. It would in fact greatly benefit the school in terms of pupil numbers and sustainability moving forward.”

- 6.10 The Wiltshire Planning Obligations SPD at 5.10 confirms that the likely number of pupils arising from a development will be calculated using a pupil product figure of 0.31 per dwelling for primary aged pupils. The SPD continues at 5.12 states all one bed properties are considered unlikely to generate school age children and so are discounted entirely. A 30% discount is given on the social housing element of applications. An estimate is provided in the below table, demonstrating that the development is likely to result in a very positive contribution towards pupil numbers, a minimum of 7 pupils. These 7 pupils would boost the school to 80% of capacity, above the 75% threshold.

| Unit type and tenure | Units (indicative) | Discount | Primary pupil contribution |
|--|--------------------|----------|----------------------------|
| 1 bed affordable rent | 2 | 100% | 0 |
| Other affordable rent | 4 | 30% | 1 |
| Other affordable tenures and open market | 19 | 0% | 6 |

Open Space provision

- 6.11 The Policy R2 requirements for public open space can be met on-site. The illustrative masterplan and DAS identify how two areas of open space can be accommodated to the north-east and along the entire western boundary extending to approximately 8400sqm, far exceeding the policy requirements for 380sqm of open space and a LAP



of 285sqm. The amount of open space provided on-site is a significant over-provision of 7735sqm.

Biodiversity net gain

6.12 The NPPF confirms that opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. The Application was made prior to the implementation of statutory BNG and as such the baseline is a net gain, this could be as little as 0.1%. The Biodiversity Net Gain Preliminary Design Stage Report demonstrates that the proposed site will result in a habitat net gain of 10.09% and a hedgerow net gain of 175.64%.

Economic benefits

6.13 The economic benefits were not presented in the OR and we therefore not before the Strategic Planning Committee.

6.14 There will be positive economic benefits of the proposed residential development that are material considerations and carry significant positive weight.

6.15 Based on the construction costs of building, for every £75,000 of construction expenditure, one full time temporary local job is created for the period of the project. Based on the anticipated construction budget of circa £5m to £6m this would result in 67 to 80 construction jobs² which will boost the local construction sector and suppliers.

6.16 The creation of the 25 residential households will directly help commercial and retail businesses in the area. The average gross disposable household income per head³ in Wiltshire for working households is £22,987.00 per annum thus the development could see an estimated total potential disposable income of households of around £574,675,

² See "Forecasting the Number of Jobs created through Construction", Published by D Forbes (2012) association of Researchers in Construction Management.

³ Gross disposable household income (GDHI) is the amount of money that all of the individuals in the household sector have available for spending or saving after they have paid direct and indirect taxes and received any direct benefits. GDHI is a concept that is seen to reflect the "material welfare" of the household sector – Source <https://www.ons.gov.uk/economy/regionalaccounts/grossdisposablehouseholdincome/bulletins/regionalgrossdisposablehouseholdincomegdhi/1997to2020>



a proportion of which will be spent locally thereby helping to sustain local businesses and services.

- 6.17 The provision of much needed housing provides an immediate boost for the local area, including the construction industry, as highlighted by DEMOS research: “House building – in whatever form it takes – is seen by many as highly beneficial to the economy in the current climate. It would stimulate growth and create jobs in a variety of construction – related industries, reduce spending on housing benefit and bring down the cost of living...”⁴

Implementation in a timely manner

- 6.18 Paragraph 81 of the NPPF states:

“To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability.”

- 6.19 The Applicant offered a reduced timetable than the default period, however this did not feature in the OR and was not before the Strategic Planning Committee.
- 6.20 It remains the Applicant’s position that they would accept a reduced time limit for the submission of applications for the approval of the reserved matters from 3 years to 2-years and the commencement of development within 1 year from approval of the final reserved matter. The Applicant promotes the ability to reduce the time period is based on experience of similar sized projects and the time taken to secure developer interest in the land, preparation of the reserved matters and thereafter a commencement on-site.

⁴ See “The Top of the Ladder” published in 2013.



Emerging Wiltshire Local Plan 2020-2038 (eLP)

6.21 The Regulation 19 Pre-Submission Draft Plan consultation of September 2023 post-dates the Committee and should be afforded weight as this defines the direction of travel for new development in the county.

6.22 The eLP confirms that Whiteparish will remain a 'Large Village' in the settlement hierarchy. Table 4.8 proposes to distribute growth of 46 dwellings to Whiteparish, with a residual of 42 dwellings at 1st April 2022. The Applicant submits:

- This scale of development cannot come forward within the existing settlement boundary as there are no available sites – as demonstrated by the Sequential Test submitted to the LPA in June 2023.
- The scale of the development for 25 homes is entirely in-keeping with the planned levels of growth for Whiteparish. This is not a disproportionately scaled development.
- The proposed 25 homes would make a very important contribution towards the eLP requirement, on a site that has been judged by the OR and the 16th August Committee as entirely suitable for residential development.
- There is no designated neighbourhood area for Whiteparish, meaning there is no surety on how the emerging requirement can be delivered by means other than a planning application at this location which was determined in August 2023 to be a suitable site for housing. There have been no site changes that affect the determination that the site is suitable for housing.



7. Summary of the benefits

| Topic | Benefit | Policy Driver |
|---|---|--|
| Significantly boosting the supply of homes | The spatial and delivery strategy for Wiltshire defined in the development plan remains ineffective and out-of-date notwithstanding the NPPF of December 2023. The Briefing Note confirms that housing land supply in Wiltshire can only be retained if <i>“suitable planning applications for housing development continue to be granted.”</i> There is also no surety of supply after 5-years contrary to the NPPF. Paragraph 60 of the Framework refers to the Government’s objective of significantly boosting the supply of homes and the scheme would create additional housing choice and competition in the housing market. In the light of this and the <u>minimum</u> requirements for deliverable housing land supply, the up to 25 dwellings proposed is a social benefit to which to attach substantial weight . This is particularly as the scheme is of a scale which could come forward relatively quickly in response to meeting current housing needs. | NPPF para.8 and Section 5 |
| Affordable Housing | The 40% affordable housing provided would comply with CS Policy CP43. There is an acute need for affordable housing in Wiltshire and Whiteparish with affordability worsening and a lack of affordable homes in the village, as recognised by the Parish Council. This is a specific social benefit to which substantial weight should be afforded. These needs cannot be met within the existing settlement boundary. | CP43, CP45, NPPF paras. 8, 64-66 |
| Vitality of Rural Communities | The new residents would support local businesses within Whiteparish where accessibility to other centres is available by public transport. The scheme would help to maintain the viability of its services and facilities, including the Primary School as confirmed by the Head Teacher and Chair of Governors, that should be afforded substantial weight given the trends of declining primary ages pupils leaves the school in a very vulnerable position financially and put the school at a very high risk of not being about to maintain a separate Year R provision. | CP1, CP2, NPPF paras. 8, 83, 96, 97 and 99 |
| Open Space | The scheme will provide formal and informal open space and green infrastructure and secure its long-term management for use by the new and existing community. The quantum of open space will exceed local policy requirements enabling | R2, NPPF paras. 96 and 102 |



| | | |
|--|--|-------------------------------|
| | access by other residents in the community and is a factor of moderate weight in favour of the development. | |
| Environmental | Biodiversity of the site will be protected, diversified and improved through new hedgerow and tree planting and delivery of new garden spaces and formal and informal green spaces. Overall, the proposal will achieve a net gain in biodiversity and this is a measurable positive environmental benefit . | CP50, NPPF paras. 180 and 186 |
| Economic | The development would provide appreciable economic benefits through the generation of jobs during the construction period, both directly and indirectly that should be afforded significant weight . | NPPF paras. 8 and 85 |
| Implementation in a timely manner | The Applicant proposes a reduced time limit for the submission of applications for the approval of the reserved matters from 3 years to 2-years and the commencement of development within 1 year from approval of the final reserved matter. This benefit will enable those outlined above to be realised sooner. | NPPF para 81 |
| Emerging Local Plan | Whiteparish has a proposed residual housing requirement for 42 homes. The development is in full accordance with the scale of development envisaged at Whiteparish in the period 2020-2038. These needs cannot be met within the existing settlement boundary, which must be breached in order to deliver sustainable development for Whiteparish, as defined by the eLP and the NPPF. | eLP and NPPF para48 |



8. Conclusion

- 8.1 It remains common ground between the Applicant and the LPA that the Application does not strictly accord with Policies CP1, CP2 and CP23 due to the site location outside, but adjoining, the Whiteparish settlement boundary. However, the duties imposed by section 70(2) of the 1990 Act and section 38(6) of the 2004 Act leave with the decision-maker a wide discretion to consider other material considerations relevant to the specific case before them.
- 8.2 Irrespective of the LPA's housing land supply position, the settlement boundary for Whiteparish remains ineffective in supporting sustainable development. This settlement boundary is out-of-date. There are demonstrable unmet needs that cannot be met within this boundary and an urgent need to boost the supply of family homes to support the local school. Fundamentally, it must be breached in order to deliver the eLP residual housing requirement for 42 homes. Moreover, the Briefing Note confirms that the LPA must continue to grant planning permission for housing on suitable sites to maintain supply.
- 8.3 The OR and the Strategic Committee of 16th August 2023 demonstrates there are no technical or environmental impacts (that cannot be mitigated). The site is very well related to the settlement and public transport, in a location that contributes to the vitality of the rural community, receiving support from the community. The site is a suitable location for housing and can deliver a development that accords with the development management policies of the development plan.
- 8.4 Despite the LPA's Email in January 2024, it is clear that the Site and the development of 25 homes is still desperately needed. There are a range of other material considerations summarised in Section 7 that are powerful enough, in this unique case, to justify a decision otherwise than in accordance with the development plan when applying the duty in Section 38(6) of the Act. The Applicant agrees with Cllr Greenman's closing remarks to the Strategic Committee:

"...We want this development to go forward quickly and in a sensitive and responsible fashion."



Appendix A – Officer Report to Strategic Planning Committee

REPORT FOR STRATEGIC PLANNING COMMITTEE**Report No.**

| | |
|----------------------------|--|
| Date of Meeting | 16 August 2023 |
| Application Number | PL/2022/09532 |
| Site Address | Land at Romsey Road, Whiteparish, Salisbury, Wilts |
| Proposal | Outline application (all matters reserved except external access) for residential development of up to 25 dwellings with access to Romsey Road, parking, opens space, landscaping and drainage |
| Applicant | Macra Ltd. |
| Town/Parish Council | Whiteparish Parish Council |
| Electoral Division | Alderbury and Whiteparish – Cllr Richard Britton |
| Type of application | Outline |
| Case Officer | Lynda King |

Reason for the application being considered by Committee

The application has been called to Committee as it represents a significant departure from the policies of the development plan, and which is recommended for approval.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle
- Highway Safety
- Drainage
- Layout and Housing Mix
- Ecology
- S106

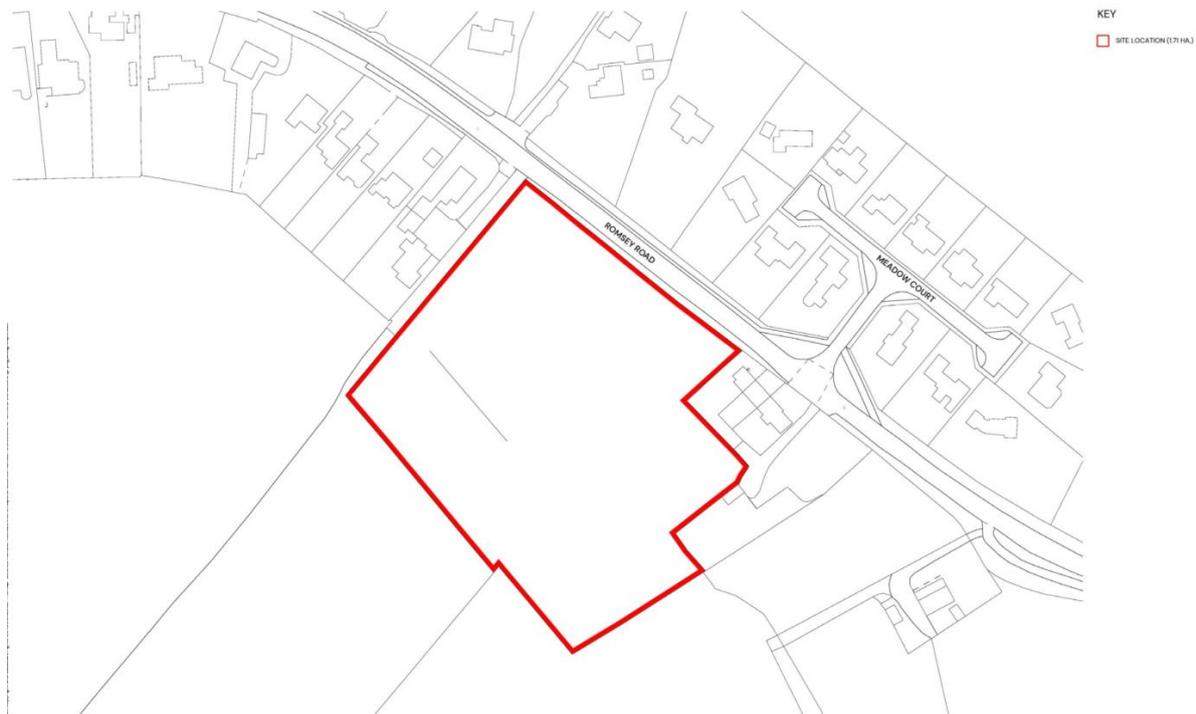
The application has generated an objection from Whiteparish Parish Council, which was qualified and will be referred to later in the report, as well as 26 letters of objection and 6 of support from third parties.

3. Site Description

The site lies on the eastern edge of the village of Whiteparish, to the south of the Romsey Road (A27) which passes through the settlement.

It consists of a grassy field, which gently slopes downward in a south-westerly direction. The land level is slightly higher than the adjacent main road, and there is a substantial hedge along the field edge. To the east and north-west are residential properties and there is a small cul de sac of 14 large dwellings known as Meadow Court to the north-east across the Romsey Road.

The site contains a small number of trees on what look to be old hedgerow lines, as well as an area of scrub. Hedgerows also define the boundaries adjacent to the neighbouring dwellings. There is a low voltage power line that crosses the site from north to south. Running parallel to the north-south boundary adjacent to the two dwellings to the west is a Public Right of Way (footpath WHIT7), which lies outside of the application site. There is a bus stop on the north side of Romsey Road, along with a footpath that runs into the village centre.



Location plan

4. Relevant Planning History

S/1984/0625 – Outline 13 detached dwellings, access and garages. Refused 27.06.1984. Appeal dismissed.

S/1986/0833 – Outline 19 dwellings with garages and construction of estate road and access. Refused 17.06.1986. Appeal withdrawn.

5. The Proposal

This application, which is in Outline with all matters reserved except for access, proposes the construction of up to 25 dwellings with access off Romsey Road, and associated parking, open space, landscaping and drainage.

6. Local Planning Policy

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

NPPF - Paragraph 11 sets out the presumption in favour of sustainable development.

Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Relevant NPPF sections include:

Section 8 – promoting healthy and safe communities

Section 11- making effective use of land

Section 12- achieving well-designed places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

National Design Guide (2021)

Manual for Streets 2 (2010)

Wiltshire Core Strategy:

CP1 – Settlement Strategy

CP2 – Delivery Strategy

CP3 - Infrastructure Requirements

CP23 – Spatial Strategy: Southern Wiltshire Community Area

CP43 – Affordable Housing

CP45 – Meeting Wiltshire's housing needs

CP50 - Biodiversity and Geodiversity

CP51 - Landscape

CP57 - Ensuring High Quality Design & Space Shaping

CP60 - Sustainable Transport

CP61 - Transport & Development

CP62 - Development Impacts on the Transport Network

CP64 - Demand Management

CP67 – Flood risk

Wiltshire Housing Site Allocations Plan (2020)

7. Summary of consultation responses

Whiteparish Parish Council – Support (caveated)

..... resolved, with 7 councillors in support and 1 against, to comment that they are aware the development is contrary to provision of policies CP1, CP2, CP23, CP51, CP57, CP60 and CP61. However, given the need in Whiteparish for more affordable housing the Parish Council would be prepared to support this scheme providing the level of affordable housing is increased to a minimum of 50%. This would potentially enable the village school and other

local businesses to become more sustainable. Should such a change in the development balance between market and affordable housing not be forthcoming the Parish Council will not support further planning applications on this site.

WC Archaeology – No objections, subject to condition, following the receipt of a geophysical survey of the site.

WC Climate Change – continues to encourage the applicant to be more ambitious in their approach to the NPPF's aims of delivering sustainable development, tackling climate change and radically reducing greenhouse gas emissions.

WC Drainage – The application has been supported with a Site Specific Flood Risk Assessment, and subject to conditions no objection is raised.

WC Ecology – No objection to additional submitted material, subject to conditions and the need for a legal agreement to secure the necessary mitigation for the additional nitrogen burdens from the development. This equates to £227,700

WC Education – No requirements for contributions towards Early Years or Primary educational needs. Evidence shows the availability of 66 places in the All Saints CE Primary school, compared to an overall capacity of 147 places. There is a requirement towards the provision of Secondary Education at Trafalgar School in Downton of £114,700 to be secured by legal agreement.

WC Highways – No objection subject to conditions.

WC Housing Enabling Team – Core Policy 43 of the Wiltshire Core Strategy (as amended by the National Planning Policy Framework) sets out a requirement for 40% on-site affordable housing provision within the 40% Affordable Housing Zone, on all sites of 10 or more dwellings. There is therefore a requirement to provide 10 affordable units within a scheme of 25 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing. The proposal to provide 10 affordable housing units therefore meets the policy requirement.

WC Public Open Space – No objection to the amount of open space shown to be provided on site. In addition, there is a requirement for a contribution towards off site sports space of £17,100 to be secured via a legal agreement. Details of how the on-site play space will be managed in perpetuity with also be covered in the legal agreement.

WC Public Protection – No objection, subject to conditions regarding noise assessments due to proximity of A27.

WC Rights of Way – no comment received.

WC Spatial Planning – The proposal is not supported in principle as it does not accord with the strategy and pattern of development anticipated by the WCS. Therefore, from a strategic policy perspective, the proposal does not constitute sustainable development and would conflict with the principal aims of the National Planning Policy Framework.

Other material considerations may apply, the most pertinent of which is the current housing land supply position. Whilst the Council is unable to demonstrate a 5YHLS, careful consideration should be given to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations, on a case-by-case

basis. This will need to include consideration of what weight to assign to the most important policies.

WC Urban Design – Object. The design would not accord with Core Policy 57.

WC Waste and Recycling – no objection subject to condition and contribution to be collected via S106 of £2,525.

Wessex Water – No objection.

8. Publicity

This application was advertised through a site notice and letters to neighbouring properties.

26 Letters of objection were received raising the following issues:

- The site is outside the currently defined settlement boundary of Whiteparish, and therefore is contrary to the Core Strategy, particularly CP1, CP2, CP23, CP51, CP57, CP60 and CP61.
- The location of the access is not safe
- There is a range of wildlife that uses the site and the immediate area
- Concerns about the capacity of the local sewage system to cope with additional housing
- Over development of the site.
- Overlooking of existing dwellings to the north, and also blocking their light.
- Village facilities such as the Doctor's Surgery are already oversubscribed.
- Village has little public transport so the development will result in more cars on the road.
- The land is prone to being waterlogged.
- The development would lead to the loss of valuable agricultural land.
- There is no footpath on this side of the A27.
- Is there adequate space for all the car parking to be on site, not on the A27.
- The 30mph speed limit on the A27 in the vicinity of the site is not adhered to.
- If the verges and recreation area are re-wilded then they may be a fire risk in the summer.
- A similar application was refused on appeal in 1984, and an application refused in 1986 and the same reasons apply today.
- Concern about the loss of habitat for both flora and fauna.
- There are brown field sites that could be used instead.
- Strain on local infrastructure, including the school.
- There is no parking in the village to serve the school or shop and parents would take their children to school by car as the footpaths are inadequate.
- The existing power line that crosses the site would have to be re-located.
- The electricity demand will increase due to the need for charging points and heat pumps, which will be noisy.
- Overspill parking from the site could take place in Meadow Court.
- Design will be out of keeping with this edge of settlement location.
- The train station at West Dean can only be reached by car.
- Affordable housing is in the wrong part of the village.
- Who will pay to maintain the open space and play equipment on the site? The village has sufficient play areas and sports facilities at the moment.
- The development will lead to light pollution.

6 letters of support were received, raising the following points:

- Affordable housing is needed so that young people can stay in the village
- New residents will be able to support the village facilities such as the shop, school pubs etc. All these facilities could be in danger of shutting.
- School numbers are dropping and the school could be in danger of shutting.
- Detailed letters of support have been submitted by the Headteacher and the Chair of Governors of the local school explaining that the school is currently in a vulnerable position due to falling pupil numbers and it is considered that the development of family housing would in fact greatly benefit the school in terms of pupil numbers and sustainability moving forward.
- The price of the average house in the village is out of the range of most local young people and the provision of affordable housing would allow people to live locally, get on the housing ladder, and for those houses to continue to benefit the local community.
- The lack of affordable housing in pushing local people out of the village.

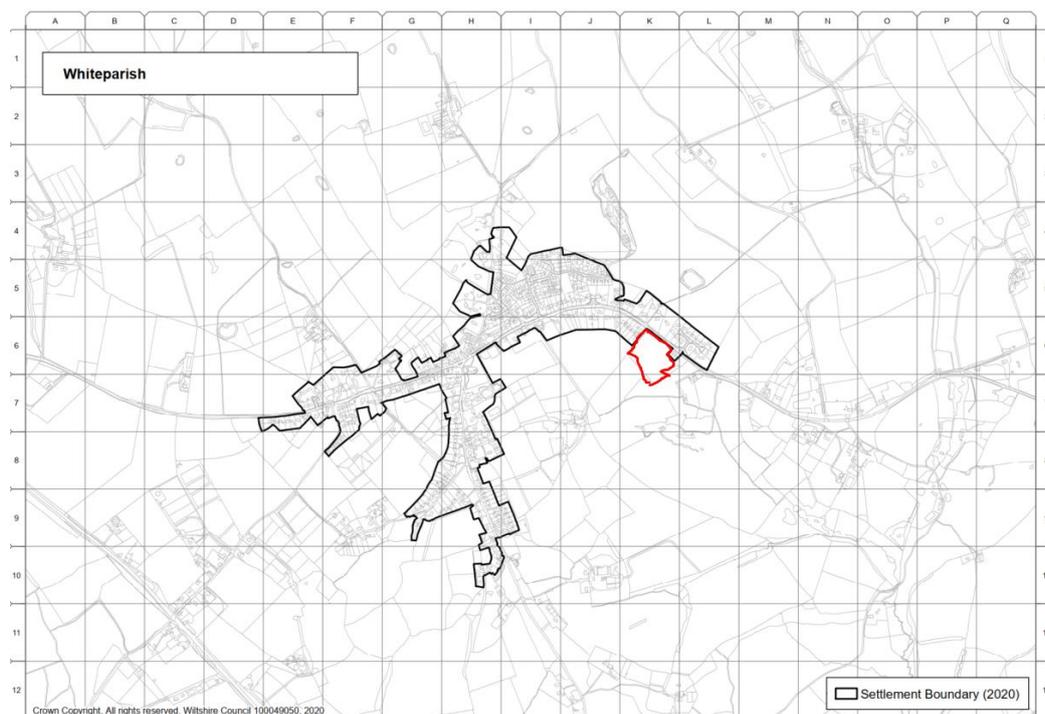
Salisbury and Wilton Swifts - require the installation of swift bricks and bat roosting features as part of the development.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle of development

The application site lies outside of the settlement boundary of Whiteparish, as defined in the 2020 Wiltshire Housing Sites Allocations Plan, shown on the plan below:-



The village is defined as a Large Village in Policy CP23, and Policy CP2 states that within the limits of development, as defined on the Policies map, there is a presumption in favour of sustainable development in such a location, which is limited to that needed to help meet the housing needs of the settlements and to improve employment opportunities, services and facilities. (CP1).

The supporting text for CP1, at para 4.15 of the Core Strategy, comments that:-

At Large Villages settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries. These settlement boundaries will also be reviewed as part of the Housing Sites Allocations DPD as set out in the council's Local Development Scheme, in order to ensure that they remain up to date and properly reflect building that has happened since they were first established. Small housing sites are defined as sites involving fewer than 10 dwellings (i.e. not a major application).

Therefore, this proposed development is contrary to the provisions of the current Development Plan as it lies outside of the settlement boundary of the settlement and is of a scale not normally considered appropriate within a Large Village. The implications of this policy position with regards to the considerations to be given to such an application where the Council cannot demonstrate a 5 Year Housing Land Supply situation are discussed in more detail in the section on the Planning Balance below.

9.2 Highway safety

The Council's Highways Officers have commented that the site is located outside of the existing village policy boundary and the proposal is therefore considered as contrary to the sustainability policies contained in the Wiltshire Core Strategy (Core Policies 60 and 61) and the National Planning Policy Framework 2019 (Section 9, paras 102, 103, 108 & 110), which aim to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. However, it is acknowledged that a policy objection may not be appropriate in this instance.

The proposed point of access will be located within the 30mph speed limit, the speed limit changes to 40mph around 150m to the east of the site. The submitted Transport Statement contains an assessment of the speeds of vehicles passing the site and has resulted in a requirement for the upper most visibility splays in Manual for Streets of 2.4m by 59m in both directions. This is agreed and accepted. The splays can be achieved in land within the ownership of the applicant or highway land. There is a strip of vegetation to the west of the access which contains an oak tree which is to remain, in order to protect the visibility splay in this direction the vegetation will be cutback 0.5m behind the visibility splay. This is acceptable although it is essential that the visibility splay is maintained particularly in seasons of growth and must be conditioned accordingly.

The presence of the oak tree has influenced the route of the footway across the frontage to the west which will be setback from the edge of carriageway behind the vegetation and oak tree and re-joins the edge of carriageway further to the west. This is an acceptable layout. A footway is also proposed in the eastern direction to the existing cottages.

It is noted that the access road is shown as 5.5m in width with 2m footways continuing into the site, together with 6m junction radii.

There is no highway objection subject to a recommendation for conditions to be attached should permission be granted.

Therefore, the concerns expressed by local residents about the adequacy of the access to accommodate the development have been addressed satisfactorily by the Highways Officer. The matter of whether the site is a sustainable location for development are addressed further in this Report.

9.3 Drainage

The site lies in an area of potential for Ground water flooding, as set out in the Council's Strategic Flood Risk Assessment 2019. However, this document contains a disclaimer which in effect comments that the mapping of areas at potential risk of flooding from groundwater is indicative only and that further site specific investigations should be carried out to establish whether there is a specific risk to development from groundwater.

The site is not at risk of flooding from any other source, such as fluvial or surface water according to the SFRA, which is more robust on these areas of flood risk.

The NPPF and NPPG guidance was updated in 2021 to ensure that LPA's took account of all sources of flooding when considering planning applications for developments, such as dwellings. The guidance seeks to direct development away from areas of high flood risk, from whatever source (paras 159 and 161 of the NPPF). Paragraph 162 affirms that development should not be permitted if there are reasonably available sites with a lower risk of flooding that can accommodate the development proposed.

To establish if there are reasonably available sites with a lower risk of flooding than the application site, the applicants were required to undertake a Sequential Test, as required by the NPPF. This Test looks to see if there are any other development sites that could deliver the same quantum of development, either as part of a single large site or an amalgam of smaller sites, as proposed by the application within an area to be agreed by the LPA.

In this instance the guidance set out in the NPPG was followed, which states that:-

For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location.

Due to the acknowledged concerns expressed by the Headteacher and Chair of Governors of the local school regarding the needs of the local school for more pupils (set out in the representations submitted in respect of this application and substantiated by the Council's Education Department), it was agreed that the area of search could be the Parish of Whiteparish, which equates to the current catchment area of the school.

The subsequent Sequential Test submitted by the applicants, and examined by your Officers, concluded that there was no alternative area within the Parish, either as a single

site or a conglomeration of smaller sites, that would deliver the quantum of development proposed as part of this application.

National guidance goes on to consider that even if a site passes the sequential test, it should be accompanied by a site specific Flood Risk Assessment to establish that there is no risk of flooding without mitigation from the development.

The application is accompanied by a detailed Flood Risk Assessment which has carried out detailed analysis of the site's conditions and has concluded that there is no risk of groundwater flooding. The Council's Drainage Consultants have examined this document and its supporting information and have concluded that the development will not be at risk from any source of flooding, and that the proposals to deal with surface water from the site are acceptable, subject to conditions requiring more details at the Reserved Matters stage.

On that basis it is concluded that the development will not present a flood risk to existing or proposed residents and that no objection be raised to the scheme on flood risk grounds.

9.4 Layout and Housing Mix

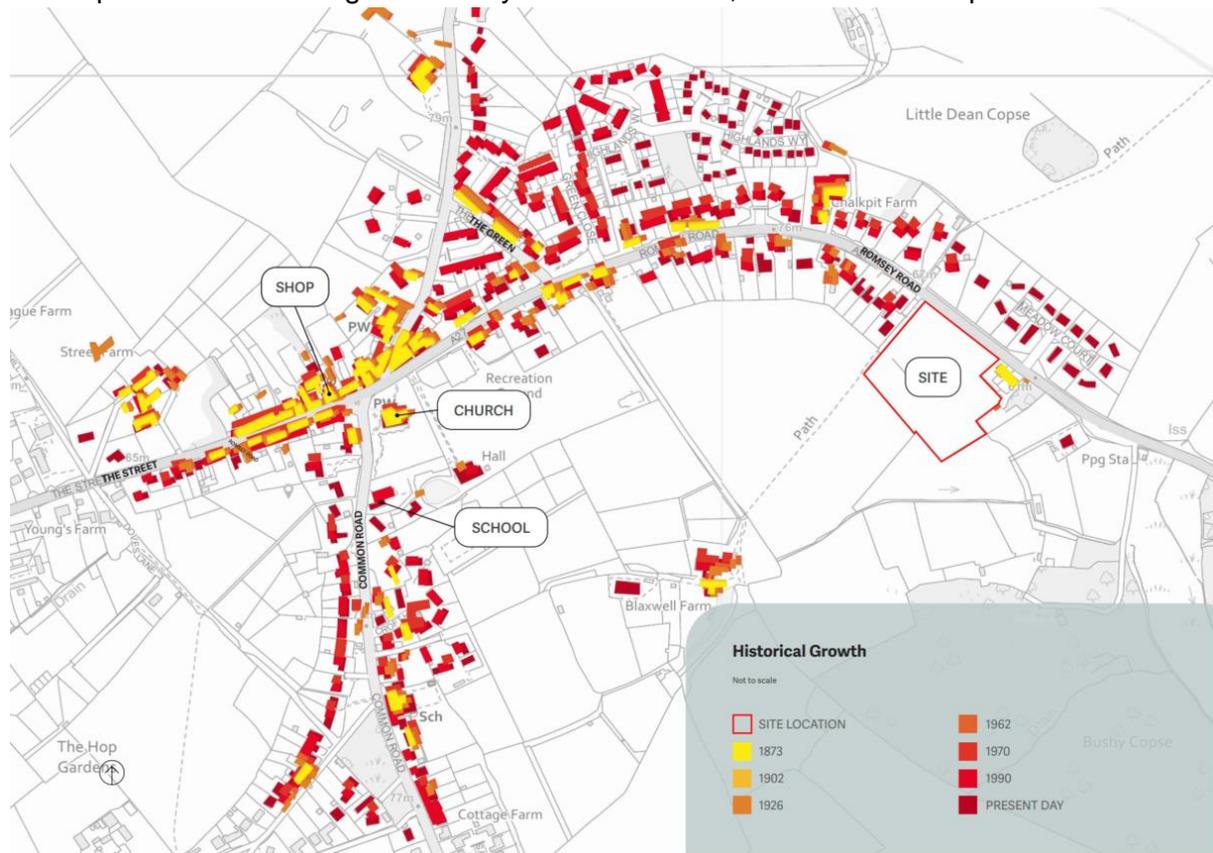
The scheme, which is in Outline only with all matters other than the point of access reserves, does contain an illustrative Master Plan. The plan, and the indicative schedule of accommodation and unit mix are set out below:-



The Council's Urban Design Officer has concerns about the proposed layout in that it is felt that a development of this scale on the edge of the village will not enhance local distinctiveness and does not relate positively to its landscape setting and the existing pattern of development, as required by policy CP 57.

The comments of the Urban Design Officer are noted. The application is accompanied by a detailed Design and Access Statement that assesses the development patterns across the whole of the village, as well as the immediate surroundings of the application site. The village historically developed in a linear fashion along the line of the Romsey Road, and later along Common Road, to the south of this road. The village continued to expand to the east and west of the village centre in the late twentieth century, including the cul-de-sac of

Meadow Court to the north of the application site. The largest area of non-linear development is around Highlands Way off Green Close, as shown on the plan below:-



The indicative masterplan of the application site, as set out at the beginning of this section, seeks to provide a layout which provides a clear landscape setting to the site on the edge of the village with the provision of an area of open space on its southern edge, where the dwellings will then face this space so as to not present the rear gardens and associated means of enclosure when viewed from the adjacent footpath, as well as structural planting within this area. The indicative layout within the site is linear in form and aligns with the existing dwellings to the south east (a terrace of bungalows) and the larger dwellings to the north west. The southern boundary of the development is to be defined by the access road serving the dwellings fronting it, which will give a clear edge to the built form in this location.

However, it should be noted that this is an outline application with all matters reserved and the final layout and form will be considered under any subsequent reserved matters application, if this outline application is approved. An informative note can be added to the decision to request that the reserved matters application closely follows the Illustrative Masterplan, and the application also includes a Parameters Plan, which indicates the areas to be developed for housing, and as areas of open space. This plan can form part of the approved plans for the scheme.

This application seeks to provide a housing mix that meets the requirements of the village, in particular the need to provide additional affordable housing, which is recognised by the comments of the Parish Council and others as lacking in Whiteparish.

Policy CP43 requires that 40% of the dwellings on the site should be affordable, and the Council’s Housing Enabling Officer has confirmed that the current proposals meet the requirements of this policy, with the provision of 10 affordable units to be secured via a S106

agreement. The comments of the Parish Council, which seeks a higher proportion of the site to be affordable, are noted, but there is no policy mechanism to provide a greater proportion of the site to be affordable than is proposed by this scheme.

Policy CP45 requires that the type, mix and size of both market and affordable housing is designed to address local housing needs. The Council's Strategic Housing Market Assessment identifies that there is the greatest need for 2 and 3 bedroom properties. This application indicates that about 60% of the total dwellings will be 2 or 3 bedroom, with 80% of the affordable units being 2 or 3 bed, and 2 being 1 bed. This housing mix is compliant with the requirements of policy CP45.

9.5 Ecology

Policy CP50 requires development to demonstrate how they protect features of nature conservation and geological value as part of the design rationale. All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development. The application was accompanied by a Preliminary Ecological Appraisal and Construction Environment Management Plan. In addition, CP50 requires all development to seek opportunities to enhance biodiversity.

Major development must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. Ecological enhancements of the site are proposed, as explained within the Net Gain Assessment and recommendations within the Ecological Appraisal.

The Council's Ecologists have concluded that the proposal complies with the requirements of Policy CP50, subject to conditions to secure the details of the proposed enhancements and their implementation and retention.

The site also lies within the zone of influence for the New Forest protected sites which includes the New Forest SPA, New Forest SAC and New Forest Ramsar site. It is screened into appropriate assessment under the Habitats Regulations 2017 (as amended) on account of its potential to cause adverse effects through increased recreational pressure, which may occur alone and in-combination with other plans and projects.

The Council has adopted a mitigation strategy for the above impacts, and it has been concluded that this development will comply and deliver the required mitigation via CIL, and that the scheme will not lead to adverse effects on the New Forest Protected sites.

The application site is located within/adjacent to the statutorily designated (Mottisfont Bat SAC –Barbastelle 7500m SAC Parcel Buffer). A test of likely significance has been carried out by the relevant Competent Authority (Wiltshire Council) as required by Regulation 63 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This concluded that, given the scale and nature of the development combined with the bat survey results and separation of more than 6km between the closest SAC unit, there is no mechanism for adverse effect/any temporary construction impacts and operational impacts would be de-minimus. This test of significance has been undertaken using the outline application. Given the layout at RM may differ the HRA for the Mottisfont Bat SAC will be repeated at that stage.

The site also lies within the River Test Catchment, and whilst the application site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Test

catchment which drains into the Solent. This region is protected by a number of international designations including the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, Portsmouth Harbour SPA and Ramsar site, Solent and Southampton Water SPA and Ramsar site; as well as the nationally designated Sites of Special Scientific Interest (SSSIs) that underpin these international designations.

Natural England currently advises that every permission for new dwellings in the River Test Catchment Area could result in increased nutrients entering the Solent area (Guidance dated June 2020) from the increase in waste water and land use change. Accordingly, the Local Planning Authority considers this proposal is likely to lead to significant effects on the European Sites and an Appropriate Assessment (AA) is required.

Wiltshire Council has now agreed a mitigation strategy to counterbalance the nitrogen burdens from planned development, and the above application would be applicable to enter into a S106 agreement to contribute towards the necessary nitrogen credits, to the sum of £227,700.

9.6 S106

To enable the application to comply with local planning and Council policies which relate to development on this scale and in this location, the applicants are required to contribute towards the provision of necessary infrastructure via a legal agreement under S106 of the Planning Act. In accordance with the CIL Regulations 122 any planning obligations must be:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The applicants have agreed that the S106, if planning permission is resolved to be granted, that the Heads of Terms of the legal agreement should cover the following:-

- 40% on-site provision of affordable housing in accordance with the requirements of Policy CP43, including an appropriate mix of tenure and house sizes;
- £227,700 towards Nitrate mitigation (nutrient neutrality);
- £114,700 towards the provision of 5 secondary school places in the catchment;
- Provision of specified on- site equipped play space and casual play space, and a financial contribution of £17,100 to be used for formal sports within Whiteparish;
- £2,525.00 towards the provision of waste and recycling containers for 25 dwellings;
- A contribution towards the Council's costs of drafting the Agreement.

10. Conclusion (The Planning Balance)

'Tilted balance'

This planning application proposes the construction of up to 25 dwellings outside of the settlement boundary of the Large Village of Whiteparish, and is therefore considered contrary to the settlement policies of the Development Plan, namely CP1, CP2 and CP23.

However, as Members are aware, the Council cannot currently demonstrate a 5 Year Housing Land Supply and the revised Local Plan is not far enough advanced towards adoption to carry significant weight in the determination of this application.

The lack of a 5 year supply of housing land is a significant factor that need to be taken into account when considering this application.

Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says development should be in accordance with the development plan '*unless material considerations indicate otherwise*', and this is reaffirmed in the Framework. Therefore, whilst the development plan has primacy in decision making, there are situations where material considerations could indicate a decision that was otherwise than in accordance with the plan.

Paragraph 11(d) of the NPPF, relating to the presumption in favour of sustainable development, states that:-

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

'Foot note 8' comments that policies can be considered to be out of date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

This means that the housing land supply shortfall in effect results in the development plan policies that are most important in determining the application being deemed to be out-of-date. Moreover, the NPPF para 11(d) adds that in such a situation planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Members will be aware of the *5 Year Housing Land Supply and Housing Delivery Test Briefing Note No22-09* (the Briefing Note) which seeks to outline how the Council can restore its 5-year Housing Land Supply in the face of an acknowledged shortfall (which currently stands at 4.59 years). In this regard, a 3-pronged strategy is outlined in paragraph 6.1. The third of these says the Council will *Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.*

An Inspector in a recent Appeal decision in respect of 90 dwellings on the edge of the Large Village of Holt, near Melksham, where the appeal was allowed, (Ref PL/2022/03315) stated that (para 54) –

When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council's position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future.

He also commented, at para 65 of his decision letter, that –

If housing land supply cannot be achieved within the defined settlement boundaries then, as the Briefing Note implies, housing may need to be accepted, contrary to the development plan, on sites outside of those boundaries where there are no other major policy obstacles to the decision. Such instances may well mean the development occurs on a field with a consequent effect on the landscape. It is also fair to assume there is an acceptance that, in such a situation, the new housing would often be more distant from the services than the housing within the settlement.

This is a similar situation to the application under consideration here. The site lies on the edge of the village, a little distant from the facilities within the settlement, although the footpath network in the vicinity of the site does allow for access to the village school, for example without having to use village roads. It would result in the loss of a small field on the edge of the village, but would not have a great impact on the landscape setting of Whiteparish due to the existing (and largely to be retained) vegetation along the road frontage and the topography of the site, being at a slightly higher level than the surrounding road. No objection to the scheme has been raised by the Council's Highways Authority, Ecologists, Archaeologists, Drainage Engineers, Education Department or Housing Enabling Officers. Strong support for the scheme has been put forward by the Headmaster of the Village school as there is a current shortfall in pupil numbers locally, and this situation has been substantiated by the Education Authority's information on low pupil numbers.

Applying the 'tilted balance', it is considered that the conflict with the spatial strategy with regard to the location of the proposed development does not demonstrably and significantly outweigh the benefits of delivering up to 25 dwellings, 40% of which would be affordable, on this site. The application is therefore recommended for approval.

RECOMMENDATION

Grant planning permission, subject to the prior completion of a S106 Agreement in respect of the Heads of Terms referred to above, and subject to the following conditions:-

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

The scale of the development;

The layout of the development;

The external appearance of the development;

The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 3) An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 4) Approved plans

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Site Location Plan – drawing no. P22-1712_DE_001_A_01, received on 12 December 2022
- Proposed Access Arrangement- drawing no. 1294-008, received on 12 December 2022
- Land Use Plan- drawing no. P22-1712_DE_004_B_01, received on 12 December 2022.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 5) No development above slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/ the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 6) No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 7) No development shall commence on site until a scheme of hard and soft

landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 8) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 9) No development shall commence within the redline boundary marked on Pegasus Group Drawing: P22-1712_DE_001_A-01, dated 09/08/2022 until:
- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and
 - b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their

importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

- 10) Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 11) Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

The CEMP shall also address the following:-

- i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person for residents to contact;

- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust and noise mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable, and the development is carried out in such a way as to not cause a nuisance to local residents.

- 12) Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 13) No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: to avoid illumination of habitat used by bats.

- 14) The residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water consumption levels (which includes external water usage).

Within 3 months of each phase being completed and the housing being brought into use, a water efficiency report certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval.

REASON: To ensure compliance with the prevailing mitigation strategy for nutrient neutrality in the water catchment within which this development is located.

- 15) No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point

2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 59 metres to the west and 59 metres to the east from the centre of the access in accordance with the approved plans (ref: 1294-008). Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 16) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

- 17) No development shall commence until full construction details of the proposed 2m wide footway across the site frontage together with dropped kerbs and tactile paving, street lighting and drainage, has been submitted to and approved by the Local Planning Authority; the footway and associated work shall be constructed in accordance with the approved details prior to first occupation of the development.

REASON: In the interests of highway safety.

- 18) There shall be no burning undertaken on site at any time.

REASON: In the interests of the amenities of local residents.

- 19) Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

REASON: In the interests of the amenities of local residents.

- 20) Prior to commencement of development an acoustic report shall be submitted to the LPA for approval in writing prior to implementation. The report shall demonstrate that the internal and external amenity standards of BS8233:2014 Guidance on sound insulation and noise reduction for buildings (or any subsequent version) and WHO Guidelines for Community Noise (1999) can be achieved within the development. The report must include full details of any scheme of mitigation required to achieve this which, if approved, must be implemented in full and maintained in that way in perpetuity.

General: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to BS8233: 2014 (or any subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014. The report should also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB L_{Amax} between the hours of 23:00 and 07:00.

REASON: In the interests of the amenities of local residents and the occupiers of the new dwellings.

- 21) No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority.

The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;
- ii. The cutting or other processing of building materials on site;
- iii. Wheel washing and vehicle wash down facilities;
- iv. The transportation and storage of waste and building materials;
- v. The recycling of waste materials (if any)
- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: In the interests of the amenities of local residents.

- 22) Concurrent with the reserved matters application a Sustainable Energy Strategy (SES) shall be submitted for the approval in writing by the local planning authority. The SES shall set out the measures to deliver sustainable construction and climate change adaption, and include an implementation schedule and any approved infrastructure shall be provided in accordance with the approved schedule.

REASON: To ensure that the development is carried out to the prevailing sustainable construction and climate change adaption principles.

- 23) For the avoidance of doubt, the number of dwellings to be developed on the site shall not exceed 25 in number.

REASON: To ensure that the development is carried out in accordance with the principles considered at the Outline stage.

Informative Notes

- 1) This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the XXXX.
- 2) The development hereby approved could be subject to the Community Infrastructure Levy. Wiltshire Council has now adopted a Community Infrastructure Levy (CIL) charging schedule. CIL is a charge that local authorities can place on new development in their area. The money generated through CIL will contribute to the funding of infrastructure to support growth.

More information and the charging schedule for CIL can be found using the following link:

<http://www.wiltshire.gov.uk/planninganddevelopment/dmcommunityinfrastructurelevy.htm>

- 3) The programme of archaeological work required by Condition 9 will comprise:
- i) an initial phase of exploratory archaeological investigation (a field evaluation) prior to the commencement of development to establish if there are any areas of archaeological interest that will be impacted by the proposed development
 - ii) Further archaeological investigation of any areas of archaeological interest, either prior to the commencement of, or during, development
 - iii) A programme of post-fieldwork assessment, analysis, reporting and publication commensurate with the significance of the archaeological results.
- 4) A water efficiency calculation will be needed to discharge condition 14. For guidance on how to do this and what is required, please refer to the following document: 'The Building Regulations 2010 – Sanitation, hot water safety and water efficiency', Appendix A (p36-44).
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/504207/BR_PDF_AD_G_2015_with_2016_amendments.pdf
- 5) There is a low risk that great crested newts may occur at the development site. Great crested newts are protected all times by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a great crested newt mitigation licence if an offence is likely. For all construction and ground clearance works it is advised to follow advice from an independent ecologist.
- 6) The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.
- 7) The applicant will be required to enter into a S278 (Highways Act) legal agreement with Wiltshire Council for the footway work and bellmouth.
- 8) The layout for the Reserved Matters application shall broadly follow that set out on the Illustrative Masterplan (drawing no. P22-1712_DE_003_B_01).



Appendix B – Minutes of Strategic Planning Committee

Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 16 AUGUST 2023 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Howard Greenman (Chairman), Cllr Tony Trotman (Vice-Chairman), Cllr Ernie Clark, Cllr Adrian Foster, Cllr Sarah Gibson, Cllr Pip Ridout, Cllr James Sheppard, Cllr Elizabeth Threlfall and Cllr Robert Yuill

Also Present:

Cllr Richard Britton, Cllr Nick Botterill and Cllr Martin Smith

47 **Apologies**

Apologies were received from Cllr Carole King.

48 **Minutes of the Previous Meeting**

The minutes of the meeting held on 25 April 2023 were presented for consideration, and it was,

Resolved:

To approve and sign as a true and correct record the minutes of the meeting held on 25 April 2023.

49 **Declarations of Interest**

In relation to agenda item 7, 20/08618/FUL - Land west of A429 (Crudwell Road), North of Malmesbury, Wilts – Cllr Elizabeth Threlfall declared two matters for the sake of transparency. These were:

- That Cllr Threlfall was a Member of the Strategic Planning Committee and was also a local division Member for the application and had called it in along with another unitary division Member.
- That the landowner for the application was the Charlton Park Estate. Every year they held a festival called the Womad festival and this was the largest event in Cllr Threlfall's division. They had gifted her two 4 day passes to the event, which had a face value of £260. However, the Cllr only attended the event for 2 hours on 2 of the days and as such the pro-rata value was thought to be less than £50. This had been recorded on the Cllr's gift register in accordance with procedure.

Cllr Threlfall stated that she had sought advice from both Democratic Services and Legal and was advised that none of the above precluded the Cllr from taking part in the debate and vote.

Cllr Threlfall confirmed that she had an open mind, with no bias and that she was not predetermined. The Cllr would listen to everything said during debate with interest and would make her decision following the debate.

50 **Chairman's Announcements**

There were no Chairman's announcements.

51 **Public Participation**

The procedures for public participation were detailed and noted.

52 **Planning Appeals and Updates**

The planning appeals update was received as set out in the agenda.

A member of the public, Francis Morland, had registered to speak to the item. The main points raised included that he believed that Wiltshire Council did have a 5 year Housing Land Supply (HLS) but was choosing not to demonstrate it. He raised issues with the methodology used by the Council to calculate the 5 year HLS. He also cited appeals which he felt should have a bearing on matters, and that many appeals for sites on windfall greenfield sites were allowed. He raised concerns that some appeals were not included in the report.

Mr Morland then highlighted the decision of the Committee on 11 January 2023 regarding 15/04736/OUT - Land south east of Trowbridge and the fact that the deadline for the S106 agreement had passed and permission had neither been granted or refused.

In response the Chairman stated that whilst he would be pleased if we had a 5 year HLS, the methodology to calculate the 5 year HLS was what it was and they had to work with it and go on the figures officers provided.

The Chairman clarified that appeals got reported to the Committee which the application had originally been to. The appeal he was concerned was missing had been reported to the Northern Area Planning Committee.

The Chairman explained that regarding the resolution for 15/04736/OUT - Land south east of Trowbridge, it had been delegated to the Head of Development Management to refuse planning permission if the S106 was not agreed. The S106 agreement involved in that application was extremely complicated and whilst the deadline had passed, a timeline had been developed that the officers expected the applicant to adhere to. At present they were adhering to that timeline, and whilst that continued to be the case, they would not refuse the permission, so the agreement was still being worked on at present.

53 **20/08618/FUL - Land west of A429 (Crudwell Road), North of Malmesbury, Wilts**

Public Participation

Peter Grubb (agent) spoke in support of the application.

Robin Aird spoke in support of the application.

Adrian Walker (Development Management Team Leader) presented a report which recommended that planning permission be granted, subject to conditions, for the installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of up to 49.9MW, including mounting system, battery storage units, inverters, underground cabling, stock proof fence, CCTV, internal tracks and associated infrastructure, landscaping and environmental enhancements for a temporary period of 40 years and a permanent grid connection hub.

The officer showed the Committee the slides relating to the application, whilst explaining key details.

The site was located in open countryside North of Malmesbury. Plans of the site were shown and it was highlighted that the grid connection point was approximately 6 km away to the East, this would be connected to the solar farm by an underground cable. Access to the site would be via the A429. The site was not in a protected landscape but was close to the Cotswolds Area of Outstanding Natural Beauty (AONB) which was about 800m to the West.

The solar panels would be fixed, facing South, with a maximum height of 2.8m and an angle of 25 degrees above horizontal. Slides of how these may look on site were shown along with the grid connection point.

There was an ecological mitigation and enhancement plan for the application. This included habitat creation and enhancement of grassland. There would be a biodiversity net gain which exceeded that which was required.

The site was on agricultural land, which was mostly grade 3b or grade 4. 10% of the land was grade 3a (good quality), that equated to about 6.2 hectares. This fell below the limit which would concern Natural England. The land could still play a part agriculturally and environmentally as livestock could graze amongst the solar panels.

There would be a minor adverse effect on the landscape. The cumulative impact on visual amenity was also considered as there were several solar farms in the area, and a cumulative impact would occur when you could see two or more developments from one viewpoint. However, in this instance you could not see this site and other solar farms from the viewpoints.

Construction of the site was estimated to take 4 months, which could cause some temporary disruption.

Both the local and national planning policy context was to support renewable energy projects if the impacts were (or could be made) acceptable.

It was explained that at present solar farms covered 0.1% of the land in the UK. This would likely increase to 0.3% of the land in the UK in order to help meet the net zero targets. This was far less than the land used for farming or even for golf courses. The proposal would help to cut greenhouse gas emissions. It was also a temporary change, albeit for 40 years. There would be no adverse effect on protected species or habitat and the proposal would bring ecological enhancement through biodiversity net gain. It was therefore concluded that the benefits outweighed any limited harm and as such the application was recommended for approval.

Members of the committee then had the opportunity to ask technical questions of the officer. In response to the questions the officer explained that it was possible to graze sheep among the solar panels, but this was not a requirement. The impact assessment for the site had been undertaken with the height of 2.8m and was not found to be significant.

The biodiversity net gain had to be considered against the current Local Plan, where the requirement was 10%, and not against the draft Local Plan where the aim was 20%. The draft Local Plan carried little weight at present. The proposal exceeded the 10% required.

Contributions from the applicant to the community could not be conditioned for as they were not required, and it was not a planning consideration. The proposal for the connection cable from the site to the grid connection point was to not put it within the highway. Wherever possible it would go in the verge, however there would be occasions when it did need to cross the road.

Condition 2 was explained to the Committee; the use was for 40 years of exporting electricity. It was highlighted that the National Planning Policy Framework (NPPF) did not require applicants to demonstrate the overall need for renewable or low carbon energy.

Members of the public then had the opportunity to present their views, as detailed above.

One of the unitary division members for the application, Cllr Martin Smith (Sherston), spoke to the item. Cllr Smith highlighted some of the benefits of the scheme in that it would provide home grown electricity, improving energy security and would help to lower emissions, helping in the climate emergency. The applicants had made accommodations to avoid archaeology and to site the panels further from the road, mitigating impact on local residents. Cllr Smith felt that there should be community contributions, which it sounded like there would be from the agents statement. Cllr Smith stated that if he was on the Committee he would recommend the application for approval, and he could not see sound planning reasons for refusing the application.

Cllr Elizabeth Threlfall (Brinkworth), another unitary division Member for the application also spoke to the item. To give some background Cllr Threlfall highlighted that there was a super substation near Minety and there were already several solar farms in the area and applications for others were likely to be forthcoming. At some point the cumulative effect must be considered. The need for renewable energy was not a planning matter to be debated. So, there was a need to look at the application in question and the proposed mitigations.

Cllr Threlfall explained that the area involved was remarkably undeveloped so there were few residents who would be affected. However, it was also an unspoilt landscape next to an AONB, but the AONB had not objected. The panels had been moved further back from the roads in the proposal, but at a height of 2.8m, it was inevitable that they would still be seen, so conditions 10 and 11 regarding the hedging and maintenance of that were welcomed. The listed buildings in the wider vicinity would be largely screened from the site. It was not ideal that some of the land was grade 3a, however it was only 2 small areas. Regarding the cumulative effect there was a screen of landscaping between this site and other solar farms to help prevent interactivity. The officer had concluded that the application was not without harm but that this was outweighed by the benefits, so she looked forward to hearing the Committee's views.

The Chairman opened the item for debate and requested that the first Cllr to speak proposed a motion to debate. Cllr Adrian Foster, seconded by Cllr James Sheppard, proposed that planning permission be granted, with conditions as per the officer recommendation. Both were supportive of the application.

The Chairman stated that this was the fifth solar farm application to be considered by the Committee since April 2022. He suspected that more would come soon and knew of two in the offing. The Chairman had concerns regarding agricultural production, as whilst the site could still be used for grazing sheep, grain supply was an issue at the moment, and this had been heightened by the war in the Ukraine. However, the Chairman also understood the real need for sustainable energy and possible capacity issues with supply which could be faced in the future. He therefore felt that one should look on the application favourably.

The Chairman also gave details regarding a recent appeal that was won in Shropshire for a solar farm. This had originally been refused by Shropshire Council as the site was in an AONB and was on 95% grade 3a agricultural land. There were also existing and planned solar farms in the vicinity. Despite this, the Inspector had allowed the appeal. However, the Inspector did state that this was not blanket support for similar applications and each one had to be assessed on its own merits.

Members highlighted that the UK only produced 0.5% of the world's grain, so losing a site of this size would have little effect on the world's supply. Grass was also a good carbon sink.

Cllr Threlfall queried whether, if the Committee were minded to approve, it would be possible to amend the reason for condition 10 (regarding hard and soft landscaping), adding that it should reduce intervisibility with other solar farms. The officer stated that this would be possible. This was accepted as a friendly amendment by the proposer and seconder.

Some Members drew attention to the Natural England and the Campaign to Protect Rural England (CPRE) objections. They also highlighted that the agent had stated that yields would reduce due to climate change and as such using this agricultural land for a solar farm rather than for growing crops was counter intuitive. The sum to the local parish council was also felt to be low.

The Officer clarified that Natural England objection had been that there was no views assessment submitted with the application, however, later in the process a views assessment was submitted. The CPRE objection still stood.

Members felt the application had to be assessed on planning grounds and paragraph 158 of the NPPF was highlighted, which stated that applications should be approved if impacts were (or could be made) acceptable.

At the conclusion of the debate it was,

Resolved:

That having taken into account the environmental information, that planning permission is granted, subject to the conditions set out below:

Conditions:

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 permission hereby granted shall be for a temporary period and shall expire 40 years from the date that electricity from the development is first exported to the electricity distribution network ('First Export Date') or no later than 45 years from the date of this decision, whichever is the soonest. Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than 1 calendar month after that First Export Date. Within 6 months of the date of expiry of this planning permission, or, if sooner, the cessation of the use of the solar panels for electricity generation purposes for a continuous period of 6 months, the solar panels together with any supporting/associated infrastructure including the inverter stations, security equipment, poles and fencing shall be removed from the land and the land restored to its former agricultural condition in accordance with a scheme of work to be submitted to,**

and approved in writing by, the local planning authority. The scheme of work, including a restoration plan and a decommissioning scheme that takes account of a recent ecological survey, shall be submitted to the local planning authority not less than six months before the removal of the installation.

REASON: In the interests of amenity and the circumstances of the use and to ensure the long-term management of landscape and ecological features retained and created by the development and in the interests of the significance of the heritage assets and their setting.

3. The development hereby permitted shall be carried out in accordance with the following approved plans and details:

- **SITE LOCATION PLAN 20.09_100 REV E**
- **SITE BLOCK PLAN – PROPOSED 20.09_301 REV F**
- **SITE BLOCK PLAN (DNO AREA) – PROPOSED 20.09_302 REV D**
- **TYPICAL BATTERY STORAGE UNIT – DETAIL**
- **Tree Constraints Plan - 10693 TCP 05_Bishoper Farm (1/12)**
- **Planning, Design and Access Statement – March 2021**
- **Appendix 4.2A - Outline Landscape and Ecology Management Plan – November 2022**
- **Archaeological Evaluation - CR1155_1 October 2022**
- **Transport Statement - 16423-HYD-XX-XX-RP-TP-4001-P1 – March 2021**
- **Flood Risk Assessment - 16467-HYD-XX-XX-RP-FR-0001 – January 2021**
- **Solar Photovoltaic Glint and Glare Study - 10088A**
- **Arboricultural Technical Note – March 2023**

REASON: For the avoidance of doubt and in the interests of proper planning.

4. The development hereby approved shall be carried out in strict accordance with the following plans/reports:

- **Figure 1: Ecological Mitigation and Enhancement Plan. Rev. 1. Ref: 1098-EMEP-F1 (GE Consulting, 23/03/2021).**
- **Tree Constraints Plan (Aspect Arboriculture, March 2023).**
- **Arboricultural Technical Note (Aspect Arboriculture, March 2023).**
- **Tree Schedule (Aspect Arboriculture, March 2023).**
- **Tree Protection Plan (Aspect Arboriculture, March 2023).**
- **Environmental Statement Volume 1: Chapter 6.0 Ecology and Nature Conservation Rev. 1. (Savills, March 2021).**
- **Appendix 4.3 Great Crested Newt Survey Addendum Report - 1098 – GCN – CB (GE Consulting October 2022).**

- Appendix 4.4: Bat Automated Detector Survey Addendum Report – 1098-BAT-RP (GE Consulting October 2022).
- Appendix 4.5 Ecological Monitoring Strategy – 1098 -EMS-RP (GE Consulting, November 2022).

REASON: To ensure compliance with planning policy and secure the protection and mitigation for the habitats and species recorded.

5. No development shall commence on site until a scheme for the discharge of surface water from the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

6. 'No development shall commence within the area indicated by application 20/08618/FUL until:
 - a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order to enable the protection of any matters of archaeological interest.

INFORMATIVE: The work is to be carried out following the standards and guidelines for Strip, Map and Record excavations as set out by the Chartered Institute for Archaeologists (CIfA). The costs of this work are to be met by the applicant.

7. No development shall commence within the area indicated by application 20/08618/FUL until:
An Archaeological Management Plan, setting out how the archaeological exclusion zones are to be scoped out of the development and then protected from impacts during the developmental and operational phases of the proposals, has been submitted to and approved by the Local Planning Authority

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order to enable the protection of any matters of archaeological interest.

INFORMATIVE: The AMP is to be prepared by qualified archaeologists following the standards and guidelines of the Chartered Institute for Archaeologists (CIfA). The costs of this work are to be borne by the applicant.

8. Prior to the commencement of works, including ground works/excavation, site clearance, vegetation clearance and boundary treatment works a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order to ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

9. Prior to the commencement of works, including ground works/excavation, site clearance, vegetation clearance and boundary treatment works, an Ecological Construction Management Plan (EcCMP) shall be submitted to the local planning authority for approval in writing. The EcCMP shall include a marked up plan showing details of biodiversity protection zones for the main site and the sub-station/DNO site and shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
 - b) Working method statements for protected/priority species, such as nesting birds and reptiles.
 - c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the preconstruction/construction related elements of strategies only.
 - d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors;

including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved EcCMP.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order to ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

10. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- dimensioned stand-off distances from new development to important retained landscape features such as hedgerows and watercourses.
- a detailed planting specification and plan showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure. Security / deer proof fence layouts must not isolate existing areas of woodland or hedgerows and watercourses. The security fencing shall maintain functional green infrastructure connectivity for larger wildlife species to pass through the solar PV site.
- Location of temporary car park and storage area/s;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. containers, storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the

development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area, and to reduce intervisibility with other solar farms.

11. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first operation of the development or the completion of the development whichever is the sooner, or in accordance with a schedule and timetable to be agreed in writing by the Local Planning Authority. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

11. No development shall commence on site (including any works of demolition), until a Construction MANAGEMENT Statement, together with a site plan, which shall include the following:
 1. the parking of vehicles of site operatives and visitors;
 2. loading and unloading of plant and materials;
 3. storage of plant and materials used in constructing the development;
 4. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 5. wheel washing facilities;
 6. measures to control the emission of dust and dirt during construction;
 7. a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 8. measures for the protection of the natural environment.
 9. hours of construction, including deliveries;
 10. pre-condition photo survey

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order to minimise

detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

13. No development, at the Solar Farm area at Crudwell Road, shall take place until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

REASON: In the interests of highway safety.

14. No development, at the Solar Farm area at Crudwell Road, shall take place until details of a consolidated and surfaced vehicle access, has been submitted to and approved in writing by the Local Planning Authority. The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

15. No development, at the Solar Farm area at Crudwell Road, shall take place until details of a consolidated and surfaced vehicle turning space for post-construction purposes has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first brought into use until that turning space has been completed in accordance with the approved details. Such turning space shall always thereafter be retained and kept clear of obstruction.

REASON: To enable vehicles to enter and leave the site in forward gear in the interests of highway safety.

16. No development, at the Grid Connection compound, shall take place until details of the visibility splays have been submitted to and approved in writing by the Local Planning Authority. Such splay will have no obstruction to visibility at or above a height of 900mm above the nearside carriageway level, and shall thereafter be maintained free of obstruction at all times.

REASON: In the interests of highway safety.

17. No development, at the Grid Connection compound, shall take place until details of a consolidated and surfaced vehicle access has been submitted to and approved in writing by the Local Planning Authority. The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

18. No development, at the Grid Connection compound, shall take place until details of a consolidated and surfaced vehicle turning space for

post-construction purposes has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first brought into use until that turning space has been completed in accordance with the approved details. Such turning space shall always thereafter be retained and kept clear of obstruction.

REASON: To enable vehicles to enter and leave the site in forward gear in the --interests of highway safety.

19. No construction or operational artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

No external lighting shall be installed on-site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication "The Reduction of Obtrusive Light" Guidance Note 01/21 (reference GN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site and in the interests of conserving biodiversity.

20. Notwithstanding the details hereby approved, the finished colour for all cabins, substation containers, fencing and any other structure that forms a part of this development shall be finished in a dark green (RAL 6007) and shall be maintained as such thereafter.

REASON: In the interests of preserving the character and appearance of the area.

21. Within three months of the end of the construction phase a compliance report shall be submitted to the local planning authority. The report shall detail all works overseen by the ecologist/EcoW and all compliance checks undertaken as detailed in the Ecological Construction Management Plan by the competent person prior to, during and post-completion of construction works. Associated dates of visits to site shall be stipulated in the compliance report and photographic evidence shall be provided.

REASON: To ensure works are undertaken in strict accordance with an approved plans prior to and during construction, and that works are conducted in line with current best practice and are supervised by

a suitably licensed and competent professional ecological consultant/ECoW where necessary.

22. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

23. In the event that contamination is encountered at any time when carrying out the approved development, the Local Planning Authority must be advised of the steps that will be taken by an appropriate contractor; to deal with contamination and provide a written remedial statement to be followed by a written verification report that confirms what works that have been undertaken to render the development suitable for use.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Informatives:

21. Informative

- Flows from solar farm sites should be restricted to the greenfield rates and volumes for equivalent storm events for all return periods up to the 1 in 100year event.
- If a formal outfall to a watercourse / sewer is provided, any increase in discharge rates as a result of climate change shall be attenuated on site.
- It will not be acceptable for a solar farm site to increase discharge rates above greenfield rates.
- The drainage proposal take opportunities available for improving the character and quality of the area through the provision of amenity, biodiversity and climate change resilience in accordance with the National Planning Policy Guidance
- SuDS should be selected to provide source controls, and treatment / management “trains” throughout the site. Applicants should use multiple features around the site and avoid relying on single site-wide features (wherever possible) in order to provide the required levels of water quantity / quality management.

22. Informative:

The drainage strategy should discuss how the erosion risk from a sheet flow off panels will be managed in order to prevent erosion of channels over time, which could concentrate and direct surface water

runoff. It is noted that most solar farms may be largely permeable, and Section 5.2 of the FRA does state:

Whilst it is accepted that there may be a concentration of run-off from the bottom edge of the panels (albeit the likelihood of this is minimised as a result of the vertical and horizontal gaps between the panels, as shown in Figure 4), any rainwater unable to infiltrate at that point will flow across the ground between the proposed panel rows and beneath the downslope rows and infiltrate there as per the existing 'natural' situation, i.e. the same surface area will be available for infiltration compared to the pre-development situation. This arrangement will ensure that existing drainage patterns will not be altered, and therefore that flood risk is not increased off-site.

The LFA requires that overland flows will still need to be managed to prevent discharge and increase in flood risk to 3rd party land. It is anticipated that for solar farms, overland / exceedance flows will be captured and conveyed in linear features such as swales / ditches.

1. The applicant is required to submit greenfield runoff rates, to be calculated using one of two methods:
 - Flood Estimation Handbook (FEH); or
 - Institute of Hydrology Report 124 (IH124) based on Flood Studies Report (FSR)
 2. The applicant should submit calculations to demonstrate that the any SuDS features provide sufficient water quality treatment to prevent pollution of receiving watercourses / groundwater.
 3. It is noted that solar panels are not listed in the SuDS Manual – for the purposes of analysis, Solar Panels should be assessed as being like roofs. Roads should continue to be assessed as per normal, based on guidance in the CIRIA SuDS Manual.
 4. The applicant should demonstrate that NFM principles have been applied as far as reasonably practicable in accordance with CIRIA C802, in order to manage surface water runoff from the site.
 5. The application is to provide a robust land management plan which should include checklists and details of the regime for monitoring vegetation cover including frequency of visits, and set out remedial measures that could be implemented if problem areas are identified
23. Informative:
Groundwater Protection - The site falls within a groundwater Source Protection Zone 1 (SPZ 1). This is a zone of protection surrounding a nearby drinking water borehole, which is highly vulnerable to

pollution. It therefore requires careful protection from contamination. Further information on SPZs can be found at <http://www.environment-agency.gov.uk/homeandleisure/37833.aspx> This will particularly be the case during the construction phase.

24. Informative:

Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery**
- wheel washing and vehicle wash-down**
- oils/chemicals and materials**
- the use and routing of heavy plant and vehicles**
- the location and form of work and storage areas and compounds**
- the control and removal of spoil and wastes.**

25. Informative:

The application may involve the creation of a new vehicle access/dropped kerb to Oaksey Road. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

54 PL/2022/09532 - Land at Romsey Road, Whiteparish, Salisbury, Wilts

Public Participation

Ivor Ellis spoke in objection to the application

Hollie Sturgiss (agent) spoke in support of the application.

Matt Allsopp (applicant) spoke in support of the application.

Lynda King (Senior Planning Officer) presented a report which recommended that planning permission be granted, with conditions and subject to an S106 agreement, for an outline application (all matters reserved except external access) for residential development of up to 25 dwellings with access to Romsey Road, parking, opens space, landscaping and drainage.

Key details were stated to include the following: the application was before the Committee as it was contrary to policy, due to the site being outside the settlement boundary of the village. However, as Wiltshire Council did not currently have a demonstrable 5 year Housing Land Supply (HLS), then the application could be considered for approval.

The officer ran through the slides for the application, the site was a field on the edge of the village, although it was contained by existing properties. Hedgerows

would be reinforced, and the application would result in an improvement in biodiversity. There was a significant additional area of landscaping at the back of the site. The access points to the site were shown, a footpath would be added on the inside of the hedge boarding the site. There was an existing footpath along the outside edge of one side of the site, which was not part of the site and was not affected by it. The path inside the development would link to the existing footpath. There was a bus stop adjacent to the site and a pedestrian crossing point as the road only had a pavement along one side.

The village of Whiteparish had grown in a linear fashion over time, to the South East and West along the roads.

The application was an outline application, with all matters reserved except for access. The development would go no further south than existing surrounding development and the houses faced over open space giving a pleasant edge to the site.

The accommodation mix was detailed, 60% were 2 and 3 bedroom houses, there would also be some 1 bedroom units and some 4 bedroom units.

The parish council were generally supportive of the application; however, they would have preferred the percentage of affordable housing to be 50% rather than 40%. The officer explained that would not be policy compliant, so the amount remained at 40%. Increasing the percentage of affordable housing would also have affected the viability of the application. The proposal would bring a significant benefit to the settlement in terms of affordable housing as there had not been any development there for some time.

Few objections had been received, and the local primary school had been supportive, as they were struggling with pupil numbers which affected their viability, and the development would likely bring families with young children to the village.

Issues raised by those opposed to the application included highways safety, the speed of traffic, and that there was no footpath. The site was in a 30mph zone, close to where it changed to a 40mph zone. Highways officers had assessed the application and had no objections, subject to conditions.

The applicant had submitted a pre application and had worked to address as many of the points raised as possible. Drainage on the site had held up the application as there was a possible high risk of ground water. A flood risk assessment had been undertaken and the drainage engineers were satisfied that the strategy proposed was sound.

The site met ecological requirements. As the site was in the zone of influence for the New Forest, CIL payments would be used to mitigate any harm caused to the New Forest. The site was also in a bat buffer area and so there would be lighting conditions to minimise light pollution which could affect the bats. The site was also in the River Test catchment area and so was affected by nitrate neutrality. Therefore, the applicants would pay to enter into the Councils

mitigation scheme. The application was subject to an extensive S106 agreement.

The officer explained that the tilted balance applied to this application. Whilst it was technically contrary to policy, Wiltshire Council's 5 year HLS was stated recently at an appeal regarding an application in Holt (PL/2022/03315), to be 4.59 years, which could not be termed as a moderate shortfall, but was significant. Whilst the new Local Plan would help the situation, it would be some time before that came into effect, if approved.

The officer stated that as the application was only for 25 dwellings; related well to the settlement; had affordable housing; had support from the local primary school; had tacit support from the parish Council; and had no significant objections, it was recommended for approval on the tilted balance.

Members of the Committee then had the opportunity to ask technical questions of the officer. Details were sought on the Holt appeal decision and why our HLS was now at 4.59 years when it was at 4.7 years and whether a shortage of staff had held up the new Wiltshire Core Strategy and new Local Plan. The officer stated that there was a shortage of planning staff across the country, so the situation was not unique to Wiltshire. Spatial Planners were very specialist and there was an even greater shortage of those.

In response to a question regarding whether the mix of housing was appropriate for the area, the officer explained that housing enabling officers had assessed the application and agreed that the mix was appropriate and this would be covered in the S106 agreement.

The officer confirmed that the village was classed as a large village and that it did not have a neighbourhood plan. The concept had been lodged but not progressed. It was also confirmed that the village had a residual requirement of 42 houses in the Local Plan.

Members queried whether the Holt appeal decision cited by the officer was relevant as it only referred to the Holt application, so could not be used as a precedent. The officer stated that it was a material consideration so should be considered, and whilst each application should be considered on its own merits, this application was similar in many ways to the Holt application.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Richard Britton (Alderbury & Whiteparish), spoke to the application. Cllr Britton stated that a development of 25 houses was significant in the village, and the objections to the application had been clearly described by Mr Ellis during public participation, which included that the application was contrary to the development plan, was outside of the settlement boundary and contrary to the following core policies, CP1, CP2, CP57, CP60 and CP61. Road safety and the footpaths were also highlighted as issues.

Cllr Britton felt it was significant that the parish council were not present to object, their only issue with the application stemmed from the percentage of affordable housing which they would prefer was 50% rather than 40%.

Cllr Britton took part in the Community Speed Watch in the village and was surprised by the low volume of traffic on the A road through the village.

Cllr Britton was a staunch supporter of settlement boundaries, however in this instance, due to the provision of affordable housing and the application helping to address problems at the primary school with pupil numbers, he was in support of the application and invited the Committee to support it as well.

The Chairman opened the item for debate and invited the first Member to speak to make a proposal. Cllr Tony Trotman, seconded by Cllr Sarah Gibson proposed that planning permission be granted, with conditions, subject to a successful S106, as per the officer recommendation.

Cllr Trotman stated that whilst this went against many core policies, the village needed affordable housing. As such and with the tilted balance in play due to the lack of a 5 year HLS, he felt that this small development sat well within the village even if it was outside the settlement boundary, particularly with the soft edge proposed. Hence his support for the application.

Cllr Gibson concurred, stating that the 5 year HLS figures were what they were. She was supportive of small applications by small developers as they were often much more deliverable. Cllr Gibson felt that it was a sensible application and in the right area.

Members discussed at length the issues regarding the 5 year HLS. Some Members felt that the Council had been reduced to planning by appeal. They expressed frustration and felt that the Committee's hands were tied, meaning that they could not make proper decisions on anything except solar farms and Gypsy and Traveller sites. Some questioned what the strategy was to overcome the situation.

Members also discussed some of the issues raised by the speaker in objection to the application. The public footpath went directly from the site to the school, which was good. Whilst it may have styles at present, these could be replaced in the future with gates. Others felt that the footpaths would not be used and that residents would drive to the school, increasing traffic.

Many Members felt that whilst they did not want to go against policy there were many advantages to this application.

During debate Members discussed adding and amending informatives. An informative was suggested on page 70 of the agenda, whereby the reserved matters application should broadly follow that set out on the illustrative masterplan, Members queried if this could be added. The officer confirmed that this had already been added as informative 8. Members further questioned the

use of the word broadly in that informative and requested that it be changed to 'closely'. The officer confirmed that it could.

On page 80, informative 2 regarding the Community Infrastructure Levy (CIL) stated that the development could be liable to CIL, Members queried whether this could be changed to say that it will be subject to CIL. The officer explained that the scheme was partially CIL compliant, as the affordable housing would not be subject to CIL, but the open market housing would be. It was confirmed that the parameters of CIL could not be changed by the Committee, but the wording of the informative could be altered as suggested to say 'will be subject to CIL' instead of 'could be subject to CIL'.

These amendments to the informatives were accepted as friendly amendments by the proposer and seconder of the motion.

In response to a question, it was confirmed that when the reserved matters application came in, this could be called in by the local Member if they chose to do so.

At the conclusion of the debate it was,

Resolved:

To grant planning permission, subject to the prior completion of a S106 Agreement in respect of the Heads of Terms referred to above, and subject to the following conditions:-

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.**

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:**
The scale of the development;

The layout of the development;

The external appearance of the development;

The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 3) An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4) **Approved plans**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- **Site Location Plan – drawing no. P22-1712_DE_001_A_01, received on 12 December 2022**
- **Proposed Access Arrangement- drawing no. 1294-008, received on 12 December 2022**
- **Land Use Plan- drawing no. P22-1712_DE_004_B_01, received on 12 December 2022.**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 5) No development above slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/ the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 6) No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in

accordance with the approved details prior to the development being.

REASON: In the interests of visual amenity and the character and appearance of the area.

7) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

8) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

9) No development shall commence within the redline boundary marked on Pegasus Group Drawing: P22-1712_DE_001_A-01, dated 09/08/2022 until:

a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

10) Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

11) Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.

b) Working method statements for protected/priority species, such as nesting birds and reptiles.

c) Mitigation strategies already agreed with the local planning authority

prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.

- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

The CEMP shall also address the following:-

- i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person for residents to contact;
- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust and noise mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable, and the development is carried out in such a way as to not cause a nuisance to local residents.

- 12) Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding

mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 13) No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: to avoid illumination of habitat used by bats.

- 14) The residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water consumption levels (which includes external water usage). Within 3 months of each phase being completed and the housing being brought into use, a water efficiency report certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval.

REASON: To ensure compliance with the prevailing mitigation strategy for nutrient neutrality in the water catchment within which this development is located.

- 15) No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 59 metres to the west and 59 metres to the east from the centre of the access in accordance with the approved plans (ref: 1294-008). Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 16) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

- 17) No development shall commence until full construction details of the proposed 2m wide footway across the site frontage together with dropped kerbs and tactile paving, street lighting and drainage, has

been submitted to and approved by the Local Planning Authority; the footway and associated work shall be constructed in accordance with the approved details prior to first occupation of the development.

REASON: In the interests of highway safety.

18) There shall be no burning undertaken on site at any time.

REASON: In the interests of the amenities of local residents.

19) Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

REASON: In the interests of the amenities of local residents.

20) Prior to commencement of development an acoustic report shall be submitted to the LPA for approval in writing prior to implementation. The report shall demonstrate that the internal and external amenity standards of BS8233:2014 Guidance on sound insulation and noise reduction for buildings (or any subsequent version) and WHO Guidelines for Community Noise (1999) can be achieved within the development. The report must include full details of any scheme of mitigation required to achieve this which, if approved, must be implemented in full and maintained in that way in perpetuity.

General: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to BS8233: 2014 (or any subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014. The report should also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.

REASON: In the interests of the amenities of local residents and the occupiers of the new dwellings.

21) No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;**
- ii. The cutting or other processing of building materials on site;**
- iii. Wheel washing and vehicle wash down facilities;**
- iv. The transportation and storage of waste and building materials;**
- v. The recycling of waste materials (if any)**

- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: In the interests of the amenities of local residents.

- 22) Concurrent with the reserved matters application a Sustainable Energy Strategy (SES) shall be submitted for the approval in writing by the local planning authority. The SES shall set out the measures to deliver sustainable construction and climate change adaption, and include an implementation schedule and any approved infrastructure shall be provided in accordance with the approved schedule.

REASON: To ensure that the development is carried out to the prevailing sustainable construction and climate change adaption principles.

- 23) For the avoidance of doubt, the number of dwellings to be developed on the site shall not exceed 25 in number.

REASON: To ensure that the development is carried out in accordance with the principles considered at the Outline stage.

Informative Notes

- 1) This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the XXXX.
- 2) The development hereby approved will be subject to the Community Infrastructure Levy. Wiltshire Council has now adopted a Community Infrastructure Levy (CIL) charging schedule. CIL is a charge that local authorities can place on new development in their area. The money generated through CIL will contribute to the funding of infrastructure to support growth.

More information and the charging schedule for CIL can be found using the following link:

<http://www.wiltshire.gov.uk/planninganddevelopment/dmcommunityinfrastructurelevy.htm>

- 3) The programme of archaeological work required by Condition 9 will comprise:
- i) an initial phase of exploratory archaeological investigation (a field evaluation) prior to the commencement of development to establish if there are any areas of archaeological interest that will be impacted by the proposed development
 - ii) Further archaeological investigation of any areas of archaeological interest, either prior to the commencement of, or during, development
 - iii) A programme of post-fieldwork assessment, analysis, reporting and publication commensurate with the significance of the archaeological results.
- 4) A water efficiency calculation will be needed to discharge condition 14. For guidance on how to do this and what is required, please refer to the following document: 'The Building Regulations 2010 – Sanitation, hot water safety and water efficiency', Appendix A (p36-44).
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/504207/BR_PDF_AD_G_2015_with_2016_amendments.pdf
- 5) There is a low risk that great crested newts may occur at the development site. Great crested newts are protected all times by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a great crested newt mitigation licence if an offence is likely. For all construction and ground clearance works it is advised to follow advice from an independent ecologist.
- 6) The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.
- 7) The applicant will be required to enter into a S278 (Highways Act) legal agreement with Wiltshire Council for the footway work and bellmouth.

8) The layout for the Reserved Matters application shall closely follow that set out on the Illustrative Masterplan (drawing no. P22-1712_DE_003_B_01).

Note: Cllr Ernie Clark requested that the fact he abstained from the vote was recorded.

55 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 1.05 pm)

The Officer who has produced these minutes is Tara Hunt of Democratic Services, direct line 01225 718352, e-mail tara.hunt@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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Appendix C – Email dated 17th January 2024

Aaron Smith

From: King, Lynda <Lynda.King@wiltshire.gov.uk>
Sent: 17 January 2024 18:10
To: Aaron Smith
Subject: RE: Section 106 Agreement, Land at Romsey Road, Whiteparish - App No. PL/2022/09532 [FootAnstey-DOCUMENTS.261472.1]

Follow Up Flag: Follow up
Flag Status: Completed

Hi Aaron,

Please accept my apologies for not getting back to you before on this one, but I have been off sick for a while and am now trying to catch up.

Unfortunately for this application, it has been caught up in the events triggered by the changes to the NPPF in December, which as Officers we have been advised how to proceed on as of yesterday. Set out below is the advice we have been given in respect of currently un-determined applications, even where there is a resolution to grant at committee and a S106 is being prepared in advance of the issue of the decision.

“In December 2023 the government issued its revised National Planning Policy Framework (NPPF). For housing supply and delivery the revised NPPF contains two important amended/new paragraphs, as follows –

76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*

77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or oversupply can be addressed.

Paragraph 226 referred to in paragraph 77 states the following –

226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted

for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing.

Current housing land supply position and consequences for the 'planning balance'

The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. This figure exceeds the 4 year threshold now relevant to Wiltshire, and this means that the planning balance is now 'level' rather than 'tilted'. With a level balance full weight must be given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) – namely Core Policies 1 (Settlement Strategy) and 2 (Delivery Strategy).

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres', and 'Large and Small Villages'. Within the Settlement Strategy, Whiteparish is defined as a Large Village. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside. Because the application site lies beyond the limits of development, it is within the countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Whiteparish – and further states that housing should not be permitted outside the limits except in the few circumstances explained in the policy, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan. This application site is not allocated in either the Wiltshire Core Strategy or any site allocations DPD or Neighbourhood Plan. Therefore, as the site lies outside of the limits of development (and so is in the countryside), and as none of the exception policies apply, the proposal does not accord with Core Policies 1 and 2. Proposed development which does not accord with Core Policies 1 and 2 is considered to be unsustainable in the overarching context of the Wiltshire Core Strategy and the NPPF."

On that basis the application will be referred back to the next available Strategic Planning Committee with a likely recommendation of refusal, unless material circumstances that could outweigh the presumption in favour of sustainable development which would lead to this recommendation.

I appreciate that this information will come as a significant blow to you and your client, but the Council considers that it can now demonstrate the necessary housing land supply situation without needing to rely on development outside of its defined settlement boundaries, as would be the case here.

Perhaps we could have a discussion about this when I am back in the office on Monday.

Kind regards, and apologies for having to send this email.



Appendix D – Briefing Note 24-01 on 16th January 2024

Revised National Planning Policy Framework

Briefing Note 24-01

Service: Planning
Further Enquiries to: Nic Thomas, Director of Planning
Date Circulated: 16 January 2024
E-mail: nic.thomas@wiltshire.gov.uk

Introduction

On 19 December 2023 the government issued a revised National Planning Policy Framework (NPPF), as well as a number of other policy guidance documents. This new NPPF (subject to a further minor revision on 20 December 2023) proposes some key changes that immediately impact upon the council's statutory planning function.

While this note focuses on changes relating to Housing Land Supply, there have been lots of other changes introduced within the new NPPF. Planning Resource has summarised the changes into 30 key points (structured according to whether the changes originally proposed are being taken forward). These 30 changes are attached as an Appendix to this document.

Housing Land Supply

For housing supply and delivery, the revised NPPF contains two important new paragraphs which are relevant to planning decision making in Wiltshire (parts relevant to this note are highlighted in bold text):

77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, **or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.** The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.*
226. *From the date of publication of this revision of the Framework, for decision-making purposes only, **certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing** (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This*

policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has reached an advanced stage, it is now 'only' required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of **four years'** worth of housing, rather than five years.

The council's most recent Housing Land Supply Statement (published May 2023) sets out the number of years' supply against our local housing need - 4.60 years. It is likely that this figure is a little higher than 4.6 years because the NPPF has removed the need to apply a 'buffer' to authorities that 'deliver' housing sites. As these figures exceed the four-year threshold, the planning balance is now 'level' rather than 'tilted'. In other words, the changes to the NPPF mean that there is now a lower threshold in place for being able to justify the refusal of planning applications. Pragmatically, this means that fewer 'speculative' residential planning applications are likely to be granted, until such time as the council's housing land supply dips below four years.

Neighbourhood Plans

An additional change to the NPPF is paragraph 14. This relates to situations where planning applications for housing are being determined in areas that have neighbourhood plans in place (less than five years old) and where those neighbourhood plans contain policies and allocations to meet that area's housing requirement. Where this situation applies, the 'tilted' balance will not apply, meaning that speculative housing planning applications are less likely to be recommended for approval where there is conflict with the neighbourhood plan.

Impact on Current (Undetermined) Planning Applications

All undetermined planning applications must have regard to any new 'material planning considerations' before decisions are made. The changes to the NPPF, relating to housing land supply, is a material planning consideration that must be taken into account.

In some situations, this will mean that planning applications that have already been considered by committee, but where decisions have not yet been issued (such as where a S106 agreement is required) will need to be reported back to committee. In that situation, Members will be asked to consider the changes set out in the new NPPF and any implications that this might have to the original decision to grant planning permission.

Decisions about if and when specific planning applications will be reported back to committee will be made on a case-by-case basis.

Impact on Current (Undetermined) Planning Appeals

Some planning applications are subject to live planning appeals. Again, the changes to the NPPF will be a material consideration that an Inspector will need to take into account before a decision is made. The council will be submitting comments to the Planning Inspector on the impact of the new NPPF on each planning application that is subject to an undetermined appeal. The appellant is also likely to be invited to provide comments on their appeal.

Other Matters

While the changes to the NPPF in respect of housing land supply are broadly welcome, there are a number of issues that need to be borne in mind:

- Developers whose planning applications are at appeal are likely to want to challenge the council's four-year housing land supply figure. While the council will robustly defend its position, any successful challenge could impact on the council's published figure.
- The changes to rules relating to the four-year housing land supply are time-limited (maximum of two years). It is therefore very important that the council gains the support of local communities to secure the adoption of its new Local Plan as soon as possible as this will provide a much longer period of 'protection'.
- The council's housing land supply figure can only be retained during the two-year period if suitable planning applications for housing development continue to be granted. If the council refuses too many planning applications, housing supply will drop to below four years and the 'tilted' balance in favour of approval will once again apply.
- While the responsibility for maintaining a housing land supply rests with the council, the evidence that underpins whether sites can be relied upon for delivery rests with developers. The council's powers to encourage developers to bring forward sites are limited.
- The changes introduced by the new NPPF have not been tested through appeals or in the courts. Some of the wording is not as clear as it could be and may therefore be open to interpretation and challenge.

Appendix

Extract from 'Planning Resource' Published Article (21 December 2023) "30 things you need to know about the new NPPF"

Planning Resource' analysis of the 30 things to know about the new NPPF:

Points where the NPPF differs significantly from what was proposed in December 2022

1 In a change to the proposed text, the NPPF makes clear that local authorities are not required to review their green belt boundaries during plan-making, but does not explicitly link this issue to housing supply.

In December last year the government proposed that authorities would not need to review their green belts, even if meeting housing need would be impossible without such a review. However, while the new text in paragraph 145 continues to make clear there is "no requirement for Green Belt boundaries to be reviewed or changed", it does not explicitly state that this trumps meeting housing need. It also adds that councils can still choose to review boundaries "where exceptional circumstances" justify it.

2 In a change to the proposed text, the NPPF drops suggested changes to paragraph 11 which would have meant that the need to avoid development seen as "uncharacteristically dense" for an area would have outweighed the requirement for authorities to meet local housing need.

Instead, the government has inserted new paragraph 130, setting out the objective to protect the character of local areas. This states that significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be "wholly out of character with the existing area". The consultation response makes clear the proposal applies to plan-making only, and any resulting policies should be evidenced by local design codes.

3 In a change to the proposed text, the government has dropped plans to allow councils to be able to take past over-delivery of housing into account when assessing housing need as part of plan-making.

The consultation draft had suggested that in authorities where the number of granted permissions exceeded the provision made in the existing plan, that surplus may have been deducted from what needed to be provided in the new plan. However, the government's consultation response said it had received "little support for accounting for past 'over-delivery'".

4 In a change to the proposed text, the department has ditched proposals to water down the test of soundness required for local plans to be adopted.

The consultation draft had proposed that plans would no longer be required to be 'justified', and instead simply have to meet need 'so far as possible', taking into account other policies in the NPPF. The majority of consultees opposed the suggestion and the government said in its response that "as a result, we have decided not to proceed with the change". However, it said that it was still committed to streamlining evidential requirements for plan-making.

5 In an addition to the proposed text, the new NPPF includes a new clause in paragraph 70 instructing authorities to support small sites to come forward.

The new text says councils should use policies and decisions to support small sites for community-led housing and self-build and custom build housing, and makes a new reference to permissions in principle as a way to enable this.

6 In a change to the proposed text, the NPPF includes a change effectively dropping the previously existing “entry-level exception sites policy” and replacing it, in paragraph 73, with an exception site policy for community-led housing.

The NPPF says authorities should support the development of exception sites for “community-led development” on sites that would not otherwise be suitable as rural exception sites.

7 In a change to the proposed text, the NPPF includes a new definition of ‘community-led development’ in the glossary contained within Annex 2 of the Framework.

The definition states that community-led developments must be instigated and taken forward by a not for-profit organisation set up and run primarily for the purpose of meeting the housing needs of its members.

Points where the NPPF has been taken forward largely or entirely as proposed in 2022

8 Authorities with an up-to-date local plan will no longer need to continually show a deliverable five-year housing land supply.

In this case, ‘up-to-date’ means where the housing requirement as set out in strategic policies is less than five years old, the document says. The proposal takes effect from the date of publication of the revised National Planning Policy Framework.

9 Councils will no longer have to provide five-year housing land supply buffers of 5 per cent or 10 per cent.

Standard additional ‘buffers’ of five and ten per cent - in certain cases – which local authorities have to apply to their five-year housing land supply calculation, have been scrapped. However, in a change to what was consulted upon last year, the 20 per cent buffer which can be applied consequent of failure to hit targets under the Housing Delivery Test, will still apply.

10 Local planning authorities can include historic oversupply in their five-year housing land supply calculations.

The Framework has been amended to include a reference to the “circumstances in which past shortfalls or over-supply can be addressed”. The government’s consultation response said the department will produce additional planning practice guidance in due course to offer further clarification on how this can be done.

11 Some authorities with emerging local plans will benefit from a reduced housing land supply requirement.

For the purposes of decision-making, where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or 19 consultation which included both a policies map and proposed allocations towards meeting housing need, those authorities will only have to demonstrate a four-year housing land supply requirement.

12 Protection against development that conflicts with neighbourhood plans has been extended to older such plans.

The NPPF previously said that the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to outweigh the benefits, but not if that plan is more than two years old. The government has now extended that protection to plans that are up to five years old. It has also removed tests which had meant local planning authorities needed to demonstrate a minimum housing land supply and have delivered a minimum amount in the Housing Delivery Test in order that Neighbourhood Plans benefited from the protection.

13 The new NPPF confirms that the standard method for calculating housing need is an “advisory starting point” for local authorities in generating housing numbers.

The government’s consultation response makes clear this simply confirms explicitly in national policy the existing status as set out in guidance. The response also confirms the department plans to review the implications for the standard method of new household

projections data based on the 2021 Census, but said these are now not due to be published until 2025.

14 More explicit indications are given of the types of local characteristics which may justify the use of an alternative method of assessing housing need.

The new NPPF says “exceptional circumstances, including relating to the particular demographic characteristics of an area” may justify an alternative approach to assessing housing need other than the standard method. It adds a footnote with an example of “islands with no land bridge that have a significant proportion of elderly residents.”

15 The NPPF retains the uplift of 35 per cent to the assessed housing need for the 20 largest towns and cities in England.

The NPPF has been amended to state that the uplift should be accommodated within those cities and urban centres themselves, except where there are voluntary cross boundary redistribution agreements in place. Neither the NPPF nor the government’s consultation response gives any further detail on the alignment test which is due to replace the Duty to Co-operate between authorities.

16 Authorities will be expected to take particular care to ensure that they meet need for retirement housing, housing-with-care and care homes.

The government added a specific expectation to new paragraph 63 in the NPPF.

17 Authorities will be encouraged to use planning conditions to require clear details of a scheme’s design and materials.

The document now says in new paragraph 140 that relevant planning conditions should refer to “clear and accurate plans and drawings which provide visual clarity about the design of the development”, and which are “clear about the approved use of materials” to make enforcement easier. The new NPPF also includes a number of other smaller changes, as previously proposed, designed to embed the government’s “beauty” agenda.

18 The section promoting mansard roof extensions stays in the final version.

The government has stuck with proposals designed to promote mansard roof extensions, despite criticisms the plans were too locally specific to be put in a national policy document. The NPPF says authorities “should also allow mansard roof extensions on suitable properties” where they harmonise with the original building.

19 The availability of land for food production should be considered when allocating agricultural land for development.

A new footnote to paragraph 181 states that when agricultural land must be used, poorer quality land should be preferred over higher quality land. It states: “The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.”

20 The NPPF is amended with a new paragraph 164 to give “significant weight” to the importance of energy efficiency through adaptation of buildings.

The NPPF says that where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply relevant policies.

21 The starting point for creating National Development Management Policies (NDMPs) will be existing national policy on development management.

The government’s consultation response said it had heard concerns from consultees that the creation of an NDMP could prevent authorities including a given topic in their plan. However it said it will remain possible for locally-produced policies to address matters of particular local importance, provided that they are not inconsistent with or repeat NDMP policy.

Points where the government plans to bring forward consultation proposals at a later date

22 In a change to the proposed NPPF text, the new framework does not proceed with reforms which would have meant that evidence of sufficient deliverable permissions would have saved councils from Housing Delivery Test sanctions.

However, the government says it still backs the idea. The original consultation had suggested 'switching off' the application of 'the presumption in favour of sustainable development' as a consequence of under-delivery against the Housing Delivery Test, for those authorities which had delivered more than 115 per cent of required permissions. The consultation response this week said there was no consensus from respondents as to how the policy should work, and the complexity of the policy meant it was not being taken forward at this time. But it added that "the government will continue to consider ways in which this approach could be introduced in a future policy update."

23 Past "irresponsible planning behaviour" by applicants could in future be taken into account when applications are being determined.

The government consulted upon different options of sanctions for developers that persistently breach planning controls or fail to "deliver their legal commitments to the community". However, its consultation response showed consultees were split over the way forward, and it said it will now merely "consider these [responses] carefully in any future policy development" but didn't commit to anything further.

24 Government to push ahead with measures designed to speed up build out of sites, but only after further consultation.

Last year, the government had proposed three interventions, namely: that data will be published on developers of sites over a certain size who fail to build out according to their commitments; that developers will be required to explain how they propose to increase the diversity of housing tenures to maximise a scheme's absorption rate; and that delivery will become a material consideration in planning applications. This week in its consultation response, the government said it wanted to take all three proposals forward, but that they would be subject to "full consultation on them and related issues of build-out".

25 The government will continue to consider the proposal that planning for provision of social rent homes be given higher priority in the NPPF.

The consultation response said consultees views "will be used to inform policy development as we consider this proposal further as part of any future updates to the Framework."

26 Government to explore how small-scale interventions for nature can be promoted in any future updates to the National Planning Policy Framework.

The original consultation had said the government was looking to clamp down on the use of artificial grass by developers in new development and the 'gaming of biodiversity net gain rules'. However the response included no specific policies which are to be worked up.

27 The possibility of embedding a broad form of carbon assessment in planning policy will be explored in a future review of national planning policy.

The original consultation had said the department was interested in whether effective and proportionate ways of deploying a broad carbon assessment existed and, if so, what they should measure. However, this week's response said: "we intend to review national planning policy in due course to make sure it contributes to climate change mitigation as fully as possible."

28 Plans to review policy for climate change adaptation and flood-risk management are also delayed.

The consultation response said the government intended to review national planning policy "in due course" to make sure it contributes to climate change adaptation as fully as possible, and that responses will be used "to inform any future consultation on the National Planning Policy Framework."

Points from the 2022 consultation which have already been answered or responded to

29 Proposed changes to the NPPF text around onshore wind power schemes to enable sites that have not been designated in the local plan to be approved have already been confirmed.

The government in September published changes to the NPPF that responded to the specific proposals contained in the December 2022 consultation designed to unblock the planning system for onshore wind project applications.

30 The intended timeline for changes and transitional arrangements for the move to the new local plan system had already been confirmed this summer.

The department proposed transitional arrangements for the new local plan system set out under the Levelling Up and Regeneration Act in its consultation last year, and has already said how it intends to proceed. In July it said the latest date for plan-makers to submit local plans, minerals and waste plans, and spatial development strategies for examination under the current system will be 30 June 2025, with these plans needing to be adopted by 31 December 2026. This same document also said the department will have in place the regulations, policy and guidance to enable the submission of new plans by autumn 2024.



Appendix E – Whiteparish All Saints C o E Primary School response



Whiteparish, Salisbury, SP5 2SU. 01794 884420

admin@allsaints.wilts.sch.uk

Head Teacher: Mr Jon James

Submission to planning application:

PL/2022/09532 on behalf of Whiteparish All Saints C of E Primary School

The purpose of this submission is to highlight the impact of building 25 homes on the Romsey Road site within the school catchment area, of which 15 properties are 3 & 4 bedroom properties and therefore would be likely to be inhabited by families with school age children.

Context of the school:

Whiteparish All Saints C of E is a small village primary school which currently operates a 4 class structure: 1 x Year R class, 1 x split year 1/2 class, 1 x split Year 3/4 class & 1 x split Year 5/6 class. Operating this model leaves the school buildings with 2 empty classrooms. This class structure would allow for the school to cater for 105 pupils. There are currently 87 pupils on roll. The school currently has 18 available pupil places.

The schools' PAN (planned admission number) has been reduced from 21 to 15 to reflect falling pupil numbers and to allow for a planned sustainable curriculum model.

Work by school leadership on the strategic vulnerabilities of the school has highlighted falling pupil numbers as a key area of vulnerability. If pupil numbers were to fall below a new intake number of 10 pupils the school would no longer be able to financially sustain its current class structure. Examples from other small village schools within the Test Valley would show that if a school can no longer sustain a separate Year R provision, then a further drop in pupil numbers is likely to occur as a result of this change of structure. If a change in class structure was required then the school would also no longer be able to sustain its current level of staffing and the restructuring process would result in job losses.

The 4-year trend of pupil numbers reflects a falling in-take and forecasted pupil numbers for the catchment are predicted to remain below the school's PAN (Wiltshire LA Pupil Forecast document 2021-2022).

The table below sets out the falling number of pupils as well as the forecasted pupil numbers for the next 3 years. Predicted pupil numbers are shown in the shaded boxes.





Whiteparish, Salisbury, SP5 2SU. 01794 884420
admin@allsaints.wilts.sch.uk

| Academic Year | Pupil Intake | Total number of pupils on roll | Available spaces with current class structure |
|---------------|--------------|--------------------------------|---|
| 2019-2020 | 16 | 106 | -1 (1 over subscribed on current class model) |
| 2020-2021 | 14 | 105 | 0 |
| 2021-22 | 12 | 94 | 11 |
| 2022-2023 | 11 | 87 | 18 |
| 2023-2024 | 5 | 80 | 25 |
| 2024-2025 | 16 | 77 | 28 |
| 2025-2026 | 13 | 80 | 25 |

These trends and projected pupil numbers leave the school in a very vulnerable position financially and put the school at a very high risk of not being able to maintain its current 4 class structure. Therefore, additional family housing within the school's catchment area will have a positive impact on pupil numbers and allow the school to continue to flourish at the heart of the local community. It is certainly not the case that the building of these homes would put additional stress on the school, as claimed in some objections to the planning application. It would in fact greatly benefit the school in terms of pupil numbers and sustainability moving forward.

Yours Sincerely,

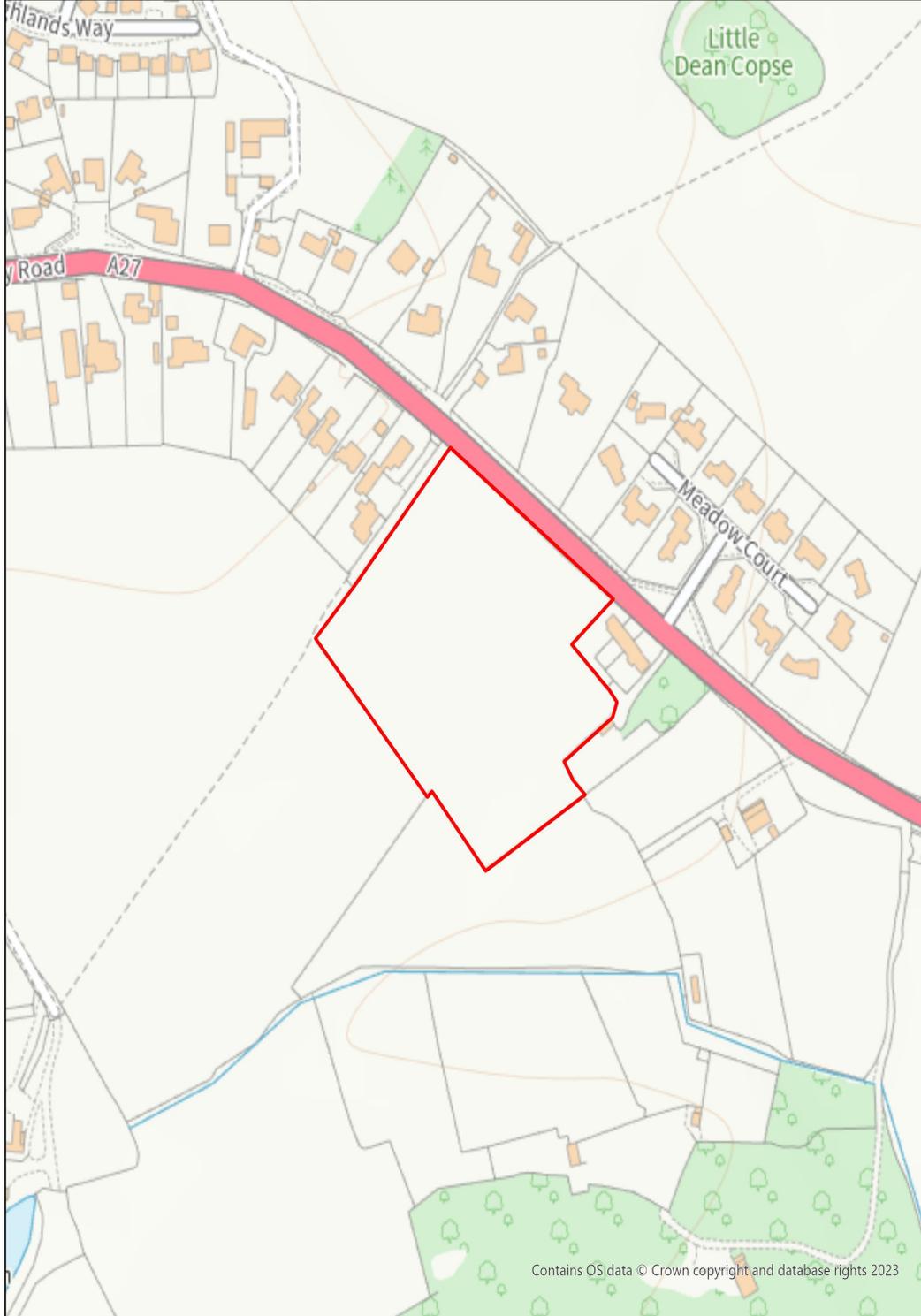
Jon James

Amanda Jones

Headteacher

Chair of Governors





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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 6 March 2024 |
| Application Number | 20/09659/FUL |
| Site Address | Land off Frome Road, Upper Studley, Trowbridge |
| Proposal | Erection of 50 dwellings and associated access and landscaping works |
| Applicant | Newland Homes Ltd |
| Town/Parish Council | SOUTHWICK; TROWBRIDGE |
| Electoral Division | TROWBRIDGE GROVE (Cllr David Vigar) SOUTHWICK (Cllr Horace Prickett) |
| Grid Reference | 384365 156185 |
| Type of Application | FULL |
| Case Officer | Ruaridh O'Donoghue |

1. Purpose of Report

The purpose of the report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 that may have a material impact on this planning application, and to consider the recommendation that the application still be granted planning permission subject to completion of the legal agreement.

2. Background

On 22 February 2023 the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (committee report attached as Annex 1). Work commenced on the legal agreement, although it has not yet been completed and so the planning permission has not been given. It is highly likely that the legal agreement will be ready for completion before the date of the committee meeting but not at the point this report was drafted. In making its decision to approve subject to the legal agreement the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this 'gap' the authority becomes aware of new, or changed, material considerations, then the relevant law requires the authority to have regard to these considerations before finally determining the application.

In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a changed material consideration that must be taken into account in determining this planning application.

It is the opinion of officers that the changes to the NPPF do not materially affect the Committee's original decision for this particular application. However, as the Committee (and not officers) was the original 'decision maker', it is necessary for the Committee to consider the changes and then make the decision. For completeness, and so that the Committee has the full picture, the relevant NPPF changes are set out below. A detailed explanation as to why these changes do not affect the original decision follows on from this.

3. Housing land supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

76. *Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:*
- a) *their adopted plan is less than five years old; and*
 - b) *that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*
77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.*

Paragraph 226 referred to in paragraph 77 states the following –

226. *From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.*

For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing. Previously, and at the time this application was being considered by the Committee a 5-year housing land supply was required to be demonstrated.

4. Consequences for the 'planning balance'

The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.60 years. In subsequent appeals this figure has been reassessed to be 4.59 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is not 'tilted' by virtue of a lack of housing land supply.

That said, the tilted balance can still apply even with a sufficient housing land supply in situations where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (paragraph 11(d) NPPF). A recent appeal decision at Land off Pound Lane, Semington (ref: PL/2022/09397) considered this issue and concluded that the most important policies for determining that application (CP 1, 2 and the area-based policy for Melksham (CP 14)) were not out of date and as such the tilted balance was not engaged by virtue of this point.

The same conclusions can be drawn for this site and therefore, in terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant i.e. it is a 'flat', or level, rather than titled, balance.

5. Consequences of the changes to the NPPF in relation to this application

As the site is allocated in the Wiltshire Housing Sites Allocation Plan under the reference H2.5, the changes within the NPPF should not affect or change the Committee's decision to approve this application for the following reasons.

- This remains an allocated site in the Council's adopted Wiltshire Housing Sites Allocation Plan, and the proposal is broadly compliant with the allocation in terms of the proposed quantum of development. In principle therefore, this proposal is supported by WCS Core Policies 1 and 2.
- There remain no technical objections to the scheme against any of the WCS policies when read as a whole and, therefore, the scheme is considered to be in compliance with the development plan.
- At the time the Committee considered its resolution to grant planning permission on this site, the committee report did not identify any 'other material considerations' (e.g. policies within the NPPF) that were relevant to the recommendation to approve the application that would now no longer be relevant in light of the changes.

As such, and for the above reasons, the issue of housing land supply was not a determinative factor for this case; or in other words, at the time of the Committee's decision in February 2023, the recommendation would have still been to approve regardless of whether the planning balance was flat or tilted. The Council's housing land supply position is therefore of lesser relevance to this application. Paragraph 11(c) of the NPPF applies; that is, to approve development proposals that accord with an up-to-date development plan without delay.

Although the planning balance is now flat, rather than titled, the conclusions contained within Chapter 10 of the original committee report (attached at Annex 1) remain valid. The scheme is considered to comply with the development plan when taken as a whole and would still be delivering the positive benefits that are identified in the original report – notably, in terms of delivering policy compliant market and affordable housing.

It should be noted that despite only needing to demonstrate 4-years' worth of housing land supply, this is still a matter that can be afforded significant positive weight (especially the delivery of affordable housing) – noting the Government's objective of significantly boosting the supply of homes. This is explained in paragraph 60 of the NPPF where it states:

“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.”

6. Conclusion

With due regard to the changes set out in the December 2023 NPPF, it is recommended that the application continues to be supported for the aforementioned reasons. Notably, the fact this is an WHSAP allocated site and so a case where the titled planning balance was not a determinative factor in the original recommendation to the Committee to grant planning permission.

RECOMMENDATION:

That the Head of Development Management continues to be authorised to grant planning permission, subject to completion of the planning obligation / Section 106 agreement currently in preparation covering the matters set out below, and subject also to planning conditions listed below.

S106 matters –

- Affordable housing – 30% provision of 15 No. affordable units on site split between 6 No. shared ownership units and 9 No. affordable rented units. Mix and tenure of Affordable Housing as agreed by exchange of email on 3rd May 2022.
- Education –
 - Early Years Contribution – 7 places totalling [£122,654] with timing of payment of contribution TBA [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - Primary Education Contribution – 14 places totalling [£262,612] with timing of payment of contribution TBA. [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - Secondary Education Contribution – 10 places totalling [£229,400] with timing of payment of contribution TBA. [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - All payment is required in full, upon or prior to commencement of development. Phasing of payments is not applicable here, and in view of that, no bond is required. All contributions are to be subject to indexation to the BCIS All In Tender Price Index from date of completion of agreement until payment.

- The Council require 10 years from the date of receipt of the contributions by the Council, in which to spend/commit in accordance with the S106, before they qualify to be returned.
 - Since the abolition of the CIL pooling limit for S106s the Council does not quote the names of individual schools.
 - A 30% discount is applied to the affordable housing element of an application. This is applied as a reduction to the number of AH units proposed/approved, as part of the process of calculating the number of places generated by the development from the qualifying properties. It is therefore reflected in the standard formulae.
- Open space – A leisure contribution of £11,800 towards an upgrade of Woodmarsh Recreation Ground.
- Biodiversity - Biodiversity Contribution towards Trowbridge Bat Mitigation Strategy – £777.62 x 50 = £38,881.

Off-site biodiversity to include planting on local receptor site to deliver off-site biodiversity net gain. Details of scheme planting and subsequent maintenance regime to be agreed by the Council prior to first occupation of the development.
£232,537 BNG contribution.

- Highways -
 - A contribution of £28,374 towards pedestrian and cycle enhancements/schemes identified in the Trowbridge Transport Strategy along the Frome Rd corridor.
 - Bus stop shelter – White Row Park - £11,429
- Waste Collection Services- £5,050
- Public Art Provision - £15,000 based on £300/dwelling.

CONDITIONS –

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

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Design and Planning:

- 721_B_Design and Access Statement_A3
- 721-01__Location Plan_A3
- 721-06_C_Planning Layout_A2
- 721-07_B_Building Height Key Plan_A2
- 721-08_B_Affordable Housing Key Plan_A2
- 721-09_A_Boundaries & Enclosures Key Plan_A2
- 721-10_B_External Material Finishes Key Plan_A2
- 721-11-01_B_Site Sections_A1
- 721-11-02_A_Site Sections_A1
- 721-12_B_Street Scene_A0

- 721-100_B_External Materials Schedule_A3

House Types/ Garages:

- 721-30-01__AT2 & CR3_A3
- 721-30-02__AT2 & CR3_A3
- 721-30-03__AT2 & CR3_A3
- 721-31-01__SP2_A3
- 721-31-02__SP2_A3
- 721-32-01__HN3_A3
- 721-32-02__HN3_A3
- 721-33-01__HO3_A3
- 721-33-02__HO3_A3
- 721-33-03__HO3 DA_A3
- 721-33-04__HO3 DA_A3
- 721-34-01__CR3_A3
- 721-34-02__CR3_A3
- 721-35-01__TH3_A3
- 721-35-02__TH3_A3
- 721-36-01__HA4_A3
- 721-36-02__HA4_A3
- 721-37-01__SH4_A3
- 721-37-02__SH4_A3
- 721-38-01__PB4_A3
- 721-38-02__PB4_A3
- 721-39-01_A_1B2P 50 & 2B3P 61 & 4B6P 108_A3
- 721-39-02_A_1B2P 50 & 2B3P 61 & 4B6P 108_A3
- 721-40-01_A_1B2P 50 & 2B3P 61_A3
- 721-40-02_A_1B2P 50 & 2B3P 61_A3
- 721-41-01_A_2B4P 68_A3
- 721-41-02_A_2B4P 68_A3
- 721-42-01__3B5P 83_A3
- 721-42-02__3B5P 83_A3
- 721-43-01_A_Garages_A3
- 721-43-02_A_Garages_A3

Engineering:

- 721-ER-01 Rev E Drainage Strategy Report (June 2022)
- 721-101 Rev D - S38 Layout
- 721-102 Rev E - S104 Layout
- 721-106 Rev D - Parking Allocation Plan
- 721-107-1 Rev F - Impermeable Areas
- 721-107-2 Rev E - Gully Catchment
- 721-107-3 Rev F - Flood Routing Plan
- 721-111-1 Rev B - S38 Long Sections (Sheet 1)
- 721-111-2 Rev B - S38 Long Sections (Sheet 2)
- 721-114 Rev - SuDS Sections
- 721-121 - 1 Rev - Adoptable Highway Construction Details - Sheet 1
- 721-121 - 2 Rev A Adoptable Highway Construction Details – Sheet 2
- 721-121 - 3 Rev - Adoptable Highway Construction Details - Sheet 3
- 721-122 - 1 Rev B - Drainage Details - Sheet 1
- 721-122 - 2 Rev A - Drainage Details - Sheet 2
- 721-122 - 3 Rev A - Drainage Details - Sheet 3
- 721-131-1 Rev D - Swept Path Analysis (Sheet 1)
- 721-131-2 Rev D - Swept Path Analysis (Sheet 2)

- 721-131-3 Rev D - Swept Path Analysis (Sheet 3)
- 721-131-4 Rev D - Swept Path Analysis (Sheet 4)
- 721-131-5 Rev D - Swept Path Analysis (Sheet 5)
- 721-131-6 Rev B - Swept Path Analysis (Sheet 6)
- 721-141-1 Rev E - External Works Layout (Sheet 1)
- 721-141-2 Rev E - External Works Layout (Sheet 2)
- 721-141-3 Rev E - External Works Layout (Sheet 3)
- 721-142-1 Rev E - Drainage and Levels (Sheet 1)
- 721-142-2 Rev E - Drainage and Levels (Sheet 2)
- 721-142-3 Rev D - Drainage and Levels (Sheet 3)
- 721-143-1 Rev D - Finished Levels (Sheet 1)
- 721-143-2 Rev D - Finished Levels (Sheet 2)
- 721-143-3 Rev D - Finished Levels (Sheet 3)
- 721-151 Rev A - External Works Details - Walls, Fences and Railings
- 721-152 - External Works Details - Property Threshold
- 721-152 - 1 Rev A External Works Details - Property Threshold - M4(1)
- 721-152 - 2 Rev - External Works Details - Property Threshold - M4(2)
- 721-153 Rev - External Works Details - Retaining Walls
- 721-154-3 Rev - External Works Details - Domestic Drainage
- 721-155 Rev - External Works Details - Drives, Kerbs & Pavers
- 721-181 Rev D Remediation Plan (LABC) (1_500)

Supporting Information:

Landscape -

- 721__Landscape Visual Appraisal_A4
- 161-801_E Illustrative Landscape Plan
- 161-ID-G101_F Landscape Strategy
- 161-001_M Landscape Plan
- 161-201_G Planting Plan 1 of 3
- 161-202_G Planting Plan 1 of 3
- 161-203_G Planting Plan 1 of 3
- 161-401 Trees in soft under 20cm girth
- 721_B_Landscape Planting Schedules_A1
- 721_A Landscape Management Plan_A1
- 721__Landscape Cumulative Impact Assessment_A4
- 161-TECH NOTE-001_Landscape Cumulative_v2
- 161-804_C Coordinated Strategy Masterplan
- 161-805_C Coordinated Strategy Supporting Diagrams

Arboriculture -

- 721__AIA+AMS+TPP_A4 (Arboricultural Implications Assessment/ Arboricultural Method Statement/ Tree Protection Plan) (July 2022)

Urban Design -

- 721__Building for a Healthy Life Assesment_A4

Ecology -

- 721__Extended Phase 1 Ecological Survey Report_A4
- EMP (Ecological Mitigation Plan) (May 2022)
- CEMP_Biodiversity_Upper Studley_v6.0 (Construction Ecological Management Plan)
- EcIA_Upper Studley_v6.0 (Ecological Impact Assessment)
- LEMP_Upper Studley_v6.0 (Landscape Ecological Management Plan)
- Upper Studley_Defra Metric v2.0 (February 2022)
- Upper Studley_Defra Metric v2.0_No Offsite (February 2022)
- HRA_Upper Studley_v1.0

- Masterplan_Ecology_H2.4-H2.5-H2.6_v4.0 (May 2022)
 - 721-16__The Grove Illustrative Landscape Enhancements_A3
- Lighting -
- 721__Lighting Impact Assessment_A4 (February 2022)
 - 721__Street Lighting Calculation MF0.87
 - 721__Street Lighting Calculation MF1
 - 721__Street Lighting Strategy Summary MF0.87
 - 721__Street Lighting Strategy Summary MF1
- Drainage -
- SRT-BWB-EWE-XX-RP-EN-0001_S2_P2.0_FRA (Flood Risk Assessment)
 - SRT-BWB-EWE-XX-RP-EN-0002_HMSN_S2_P1.00 (Hydraulic Modelling Summary Note)
 - SRT-BWB-HDG-XX-RP-CD-0001_S2_P1.0_SDS (Sustainable Drainage Statement)
 - CRM.1791.001.GE.R.001.B – final (Geo-Environmental Report)
- Archaeology -
- Historic Environment Desk Based Assessment_A4
 - Heritage Cumulative Impact Assessment_A4
 - Written Scheme of Investigation_A4 (June 2022)
 - Archaeological Evaluation Summary
- Acoustic -
- M2201 Frome Road R01b - Noise Assessment
- Highways -
- 721__Transport Statement_A4 (February 2022)
- Planning -
- 721__Planning Statement_A4
 - 721__Application Form_A4
 - 721__CIL Form 1 - Additional Information_A4
 - 721__Notice Served_A4

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall commence on site (including any works of demolition), until a Construction Management Statement, together with a site plan, which shall include the following:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- measures for the protection of the natural environment.
- hours of construction, including deliveries;
- pre-condition photo survey - Highway dilapidation survey
- Routing plan
- Traffic Management Plan (including signage drawing(s))
- Number (daily/weekly) and size of delivery vehicles.
- Number of staff vehicle movements.

- Details of temporary/permanent Traffic Regulation Orders
- Phases plan

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

- 4 Notwithstanding the submitted details, no development shall take place on-site until details of the estate roads, footways, footpaths (including surfacing of public footpaths), verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for the provision of such works, have been submitted to and approved by the Local Planning Authority. The development of a phase shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the site highway and transport infrastructure is constructed in a satisfactory manner.

- 5 No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme should demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

REASON: This condition contributes to sustainable development and meeting the demands of climate change. Increased water efficiency for all new developments enables more growth with the same water resources.

- 6 The development shall be implemented in accordance with the foul drainage detailed design in accordance with the Drainage Strategy Rev D received on 17th June 2022 and associated list of drawings (below) received 2nd December 2022. No dwelling shall be first occupied until the associated approved sewerage details have been fully implemented in accordance with the approved plans and related programme.

List of drawings;

- 721-102 Rev E S104 Layout
- 721-142-1 Rev E Drainage and Levels - Sheet 1
- 721-142-2 Rev E Drainage and Levels - Sheet 2

- 721-142-3 Rev D Drainage and Levels - Sheet 3

REASON: To ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

- 7 The development shall be carried out in accordance with the submitted flood risk assessment, dated December 2017 (ref: SRT-BWB-EWE-XX-RP-EN-0001_FRA, version P2) and the mitigation measures it details, including ground floor finished floor are set at 41.03m above Ordnance Datum (AOD). These mitigation measures shall be fully implemented prior to occupation and shall be retained and maintained thereafter throughout the lifetime of the development.

REASON: To reduce the risk of flooding to the proposed development and future occupants.

- 8 The soft and hard landscaping for the development shall be implemented in accordance with Landscape Plan 161-001-M and Planting Plans 161-201-G & 161-202-G & 161-203-G received on 27th May 2022.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 9 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 10 No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development until the tree protection measures outlined in Appendix 2 of the Arboricultural Implications Assessment and Tree Protection Method Statement by Tree Maintenance Limited and dated August 2020 have been erected in accordance with the approved details.

The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and

particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 “Tree Work – Recommendations” or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity and biodiversity.

- 11 Natural play areas for the development shall be implemented in accordance with Landscape Plan 161-001-M and 161-ID-G101_F Landscape Strategy received on 27th May 2022.

REASON: To ensure that the play area is provided in a timely manner in the interests of the amenity of future residents.

- 12 Following completion of the dwellings and prior to their first occupation, a report from an appropriately qualified ecologist confirming that all integral bat roosting and integral swift brick features have been installed as per previously agreed specifications and locations together with photographic evidence shall be submitted to and approved in writing by the Local Planning Authority.

REASON: to demonstrate compliance with Wiltshire CP50, NPPF and BS 42020:2013.

- 13 The development will be carried out in strict accordance with the following documents:

- Ecological Impact Assessment. Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022 Amended November 2022).
- Lighting Impact Assessment. (Illume Design, 22/02/2022).
- Construction Environmental Management Plan: Biodiversity Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, March 2022).
- Landscape and Ecological Management Plan: Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022).
- Ecological Mitigation Plan. (Clarkson and Woods, 16/05/2022).

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

- 14 The development shall be implemented in accordance with the site-specific CEMP_Biodiversity_Upper Studley_v6.0 (Construction Environmental Management Plan) received on 27th May 2022. All approved features noted on the plan at Pages 29 & 30 shall be installed prior to first occupation of the dwelling on which they are located and retained thereafter. An ECoW will be appointed.

REASON: to protect protected species and existing retained habitat for the duration of the construction process and to maintain and enhance biodiversity in accordance with Wiltshire CP50, NPPF, and BS 42020:2013.

- 15 The approved Landscape and Ecological Management Plan: Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022) shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 16 The development shall be implemented in accordance with the external lighting details contained within 721__Lighting Impact Assessment_A4 received 17th March 2022 and 721__Street Lighting Strategy MF0.87 & 721__Street Lighting Strategy MF1 received 30th October 2020. The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

- 17 On completion of the required remedial works specified in Chapter 7.6 of the Geo-Environmental Report submitted as part of the application, the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 18 Prior to first occupation all works shall be completed in accordance with approved drawing 18048-GA03. Illustrated visibility splays serving each access shall be maintained free of any obstruction exceeding 900mm above the adjacent nearside carriageway level. The access provision and associated visibility splays shall be maintained as such thereafter.

REASON: In the interests of highway safety and in compliance with Core Strategy Policy 60 and 61.

- 19 Notwithstanding the works detail illustrated on drawing 18048-GA03, revised details of footway/cycleway infrastructure between the site access and Old Brick Fields shall

be submitted to and approved by the Local Planning Authority. The details shall include footway/cycleway infrastructure that maximises the width of appropriate surfacing available within Highway extents, with an absolute minimum of 2m and wherever possible complying with LTN 1/20. Where an absolute minimum of 2m width cannot be achieved a scheme of mitigation shall be provided that may include pedestrian crossing facilities of Frome Road and or carriageway narrowing or realignment. Prior to first occupation of the development, the footway and associated works shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

REASON: To provide safe and convenient access to surrounding settlement in the interests of highway safety and Core Strategy Policy 61 and 62.

- 20 The footpath and cycle provisions shall be implemented in accordance with drawings 721-141-1 Rev E External Works Layout - Sheet 1, 721-141-2 Rev E External Works Layout - Sheet 2, and 721-141-3 Rev E External Works Layout - Sheet 3 all received on 2nd December 2022. The approved details shall be maintained as such in perpetuity.

REASON: In pursuit of sustainable transport objectives.

- 21 No dwelling shall be occupied until the parking space(s) together with the access thereto (including from the Frome Road), have been provided in accordance with the approved plans. They shall be maintained as such in perpetuity.

REASON: In the interests of highway safety and the amenity of future occupants.

- 22 Prior to occupation, each dwelling shall have their boundary details implemented in accordance with 721-141-1 Rev E External Works Layout - Sheet 1, 721-141-2 Rev E External Works Layout - Sheet 2 & 721-141-3 Rev E External Works Layout - Sheet 3 received on 2nd December 2022 and 721-151 Rev A - External Works Details - Walls, Fences and Railings received 27th May 2022. The approved boundary conditions shall be retained and maintained as such at all times thereafter.

REASON: To prevent loss of privacy to new properties and overlooking from existing properties on Spring Meadows, which are elevated above the site.

- 23 Prior to occupation, each dwelling shall have their waste collection details implemented in accordance with the list of drawings (below) received 2nd December 2022. The approved details shall be maintained as such in perpetuity.

List of drawings;

- 721-141-1 Rev E External Works Layout - Sheet 1
- 721-141-2 Rev E External Works Layout - Sheet 2
- 721-141-3 Rev E External Works Layout - Sheet 3
- 721-131-1 Rev D - Swept Path Analysis (Sheet 1)
- 721-131-2 Rev D - Swept Path Analysis (Sheet 2)

REASON: To ensure that waste collections will function in accordance with the requirements of policies CP3 and WCS6.

- 24 No burning of waste or other materials shall take place on the development site during the construction phase of the development.

REASON: In the interests of the amenities of surrounding occupiers during the construction of the development.

Annex A: 22/02/2023 Committee report

APPENDIX 1

REPORT TO COMMITTEE (22nd February 2023)

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REPORT FOR STRATEGIC PLANNING COMMITTEE

| | |
|----------------------------|---|
| Date of Meeting | 22 February 2023 |
| Application Number | 20/09659/FUL |
| Site Address | Land off Frome Road, Upper Studley, Trowbridge |
| Proposal | Erection of 50 dwellings and associated access and landscaping works |
| Applicant | Newland Homes Ltd |
| Town/Parish Council | SOUTHWICK; TROWBRIDGE |
| Electoral Division | TROWBRIDGE GROVE (Cllr David Vigar) SOUTHWICK (Cllr Horace Prickett) |
| Grid Reference | 384365 156185 |
| Type of Application | FULL |
| Case Officer | Andrew Guest/Martin Broderick |

Reason for the application being considered by Committee

This application has been ‘called in’ for Committee determination at the request of the former local Trowbridge Grove division councillor, David Halik on the 12 January 2021, for the following reasons:

- Scale and neighbouring amenity

1. Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved.

2. Report Summary

The main planning issues are considered to be:

- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)

- Whether there will be any land contamination / air quality issues (CP 55)?
- Whether the proposal results in the loss of best and most versatile agricultural land (NPPF 170)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms?

3. Site Description

The application site extends to approximately 2.30ha and is surrounded by existing residential development to the north and east, The Poplars and Spring Meadows, and Frome Road and Southwick Country Park to the west, and Lambrok Stream to the south Figures 1 and 2 and Appendix A).

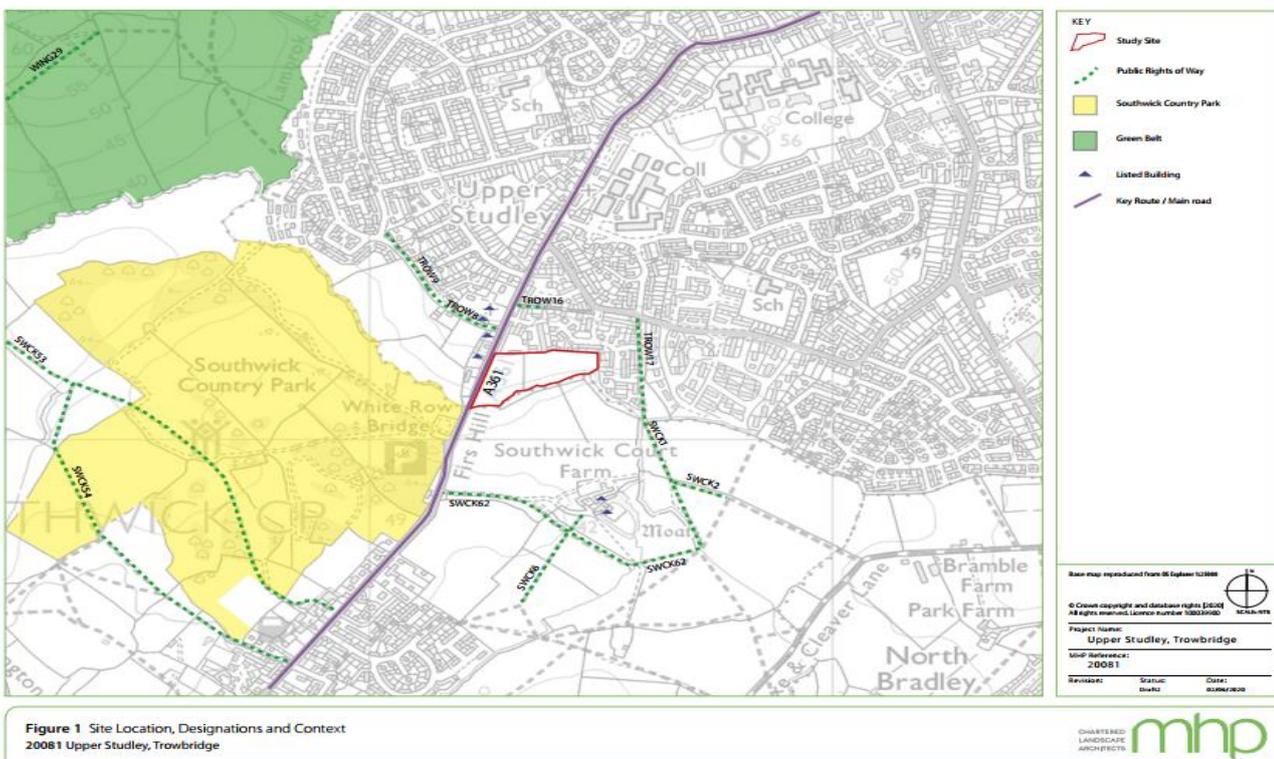


Figure 1 Site Location, Designations and Context
20081 Upper Studley, Trowbridge

Figure 1 Site Location and designations

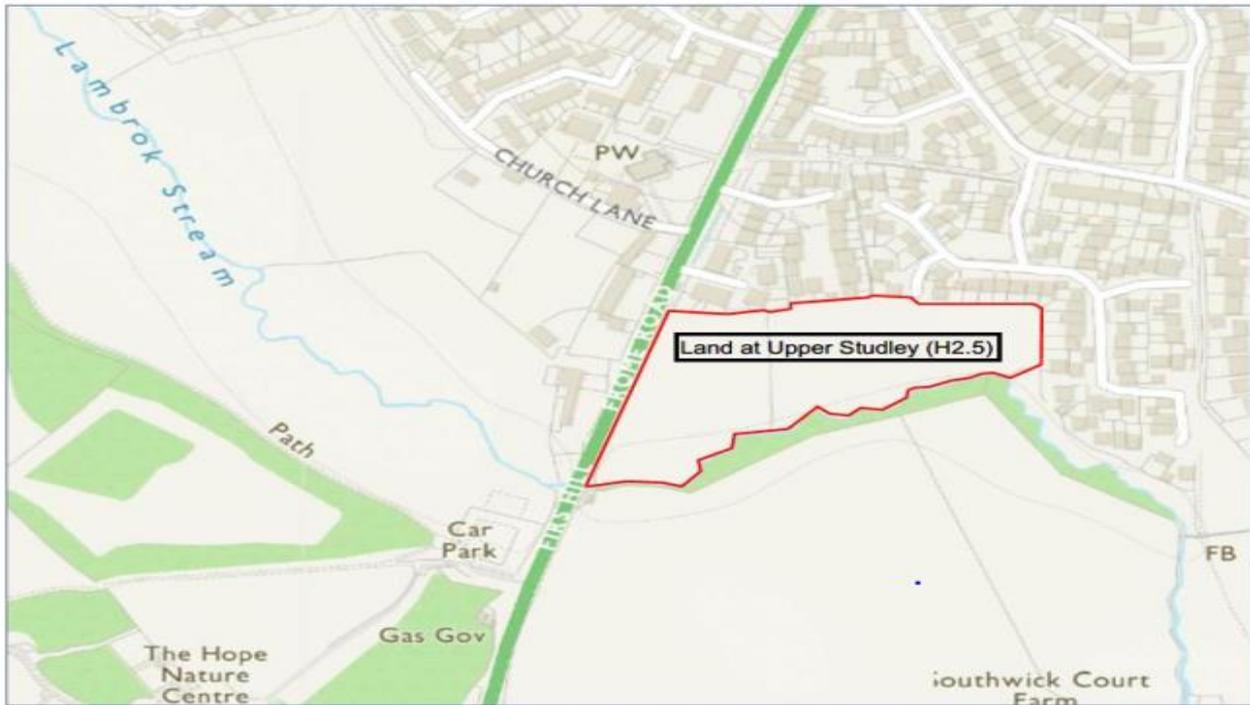


Figure 2 Site Location

The site comprises open agricultural land that has most recently been used as a smallholding. The site slopes from north to south, down to the Lambrok Stream that runs along the southern boundary. There is an existing field gate access onto White Row Hill (A361) to the east.

The site is located in an accessible location on the south-west side of Trowbridge, approximately 2km from the town centre.

Heritage assets near to the application site include:

- The grade II* listed Southwick Court c.300m to the south and the separately listed associated Gatehouse and Bridge which are also grade II* listed;
- The grade II listed Rose Villa, 352 Frome Road, Trowbridge lying to the east of the site;
- The grade II listed 344 Frome Road, Trowbridge lying to the northeast of the site; and
- The grade II listed St John's Church School, Hall and School Master's dwelling to the north of the site (north of Church Lane).

4. Planning History of Application site

There is no recorded planning history relating to the application site. However, the following live undetermined applications on the following adjacent sites are (see Figure 3) relevant:

| Reference | Description | Decision |
|--------------|---|----------|
| 18/10035/OUT | Land at Church Lane (H2.4): Outline application for residential development (up to 55 dwellings) with the creation of new vehicular access off Frome Road and removal/demolition of all existing buildings (all matters aside from the formation of the new vehicular access are reserved) | Pending |
| 20/00379/OUT | Land adjacent to Southwick Court (H2.6): Outline planning permission with all matters reserved except access for the erection of up to 180 residential dwellings (Use Class C3); site servicing; laying out of open space and associated planting; creation of new roads, accesses and paths; installation of services; and drainage infrastructure. | Pending |

The site was initially promoted for development at the outset of the Wiltshire Housing Site Allocation Plan (WHSAP) making process, which commenced in 2015. Representations were submitted in response to all stages in the subsequent plan-making process which culminated in an Examination in Public that took place in April 2019. Trowbridge Town Council supported the scheme at the Examination. The Inspector's Report dated January 2020 endorsed the allocation of site H2.5. The WHSAP was formally adopted in February 2020.



Figure 3 Related WHSAP allocated sites

5. The Application

The application is for 'full' planning permission for a scheme of 50 residential units and associated access and landscaping works. A full description of the proposals is set out in the applicant's Design and Access Statement and Landscape Strategy. Appendix B and Figure 4 below shows the site layout.



Figure 4 Site layout

The extent of developable area has been dictated by the flood plain associated with Lambrok Stream to the south and the formation of a communally managed buffer around the north and eastern boundaries as the development abuts existing residential properties. This has enabled a set piece design to be created along the southern boundary, which will create a new ‘designed’ edge to this part of southwest Trowbridge.

Housing Mix

Following engagement with the Council’s Housing Team to determine the affordable housing mix, the proposed mix for the site is set out in the Table 1 and Figure 5 below (see also Appendix C). This makes provision for the full policy requirement provision of 30% of affordable homes, comprising social housing and an element of shared ownership. The open market mix has been determined through local agent advice, and the applicants own experience of the local market arising from the enquiries and transactions completed on their Bradley Road site in Trowbridge.

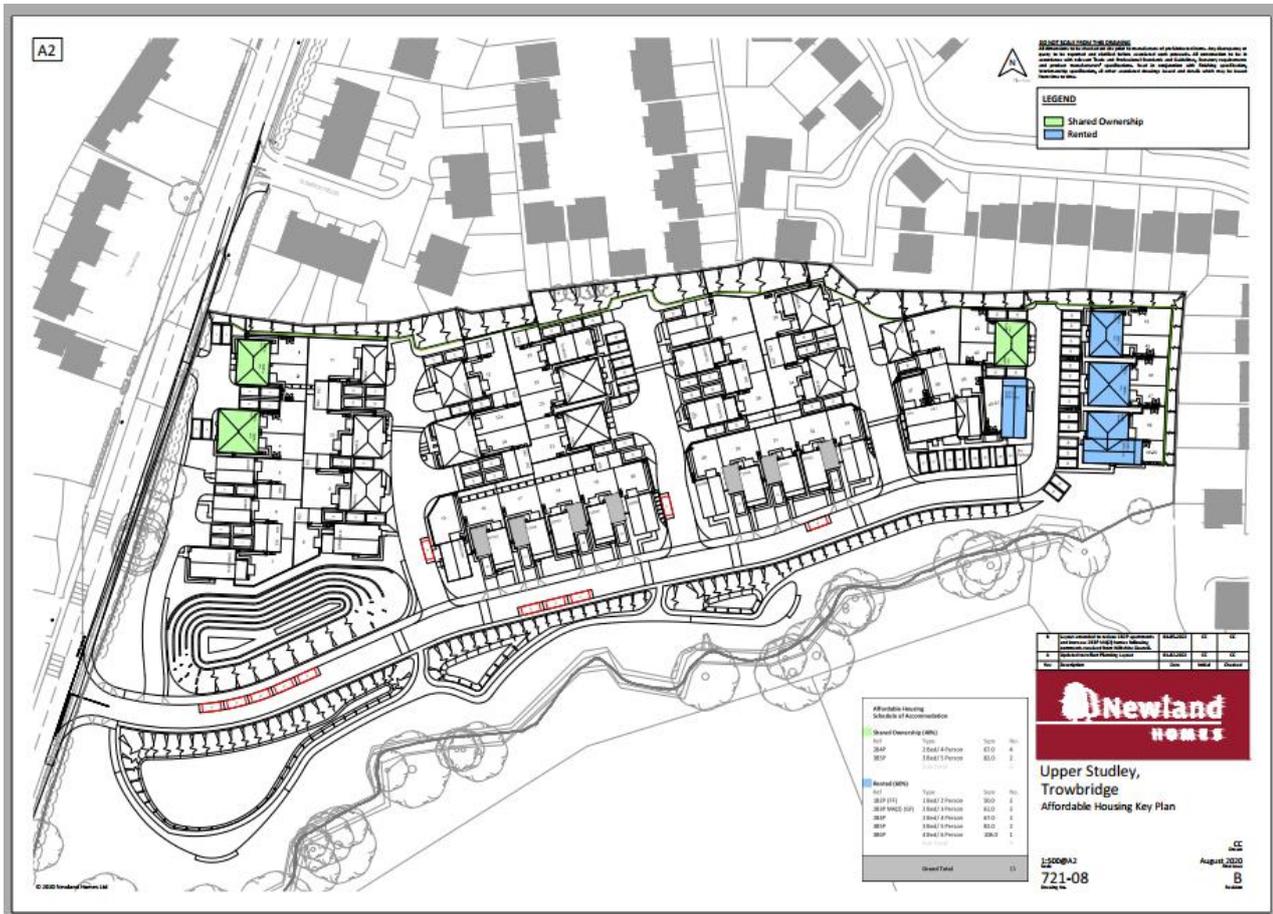


Figure 5 Affordable housing plan showing shared ownership (green) and affordable rent (blue) units

| Schedule of Accommodation | |
|---|--|
| <p>Open Market Housing</p> <p>Ref Type No.</p> <p>SP2 2 Bed/ 4 Person 4</p> <p>AT2 2 Bed/ 4 Person 2</p> <p>HO3 3 Bed/ 5 Person 2</p> <p>HO3 DA 3 Bed/ 5 Person 1</p> <p>HN3 3 Bed/ 5 Person 6</p> <p>CR3 3 Bed/ 5 Person 3</p> <p>TH3 3 Bed/ 6 Person 7</p> <p>HA4 (SUN) 4 Bed/ 7 Person 3</p> <p>SH4 (SUN) 4 Bed/ 7 Person 5</p> <p>PB4 DA (SUN) 4 Bed/ 7 Person 2</p> <p>Sub-Total 35</p> | <p>Affordable Housing</p> <p>Ref Type No.</p> <p>1B2P (FF) 1 Bed/ 2 Person 2</p> <p>2B3P M4(2) (GF) 2 Bed/ 3 Person 2</p> <p>2B4P 2 Bed/ 4 Person 6</p> <p>3B5P 3 Bed/ 5 Person 4</p> <p>4B6P 4 Bed/ 6 Person 1</p> <p>Sub-Total 15</p> |
| <p>Grand Total 50</p> | |

Table 1 Schedule of Accommodation

Vehicular Access and Car Parking

It is proposed to form a new priority junction from the Frome Road (A361). The siting of the new junction is in the optimum location in terms of highway safety and affords a full standard of exit visibility in both directions (Figure 6 and Appendix D). A secondary access from Frome Road, in the location of the current field gate access, is proposed to service 4 No. plots as a private drive.

The internal access road runs parallel to the watercourse, outside the 1:1000 floodplain, and will be built to adoptable standards terminating at a turning head sufficient to accommodate turning for a refuse vehicle. Private drives are connected to the end of each termination point of the adopted internal access road.

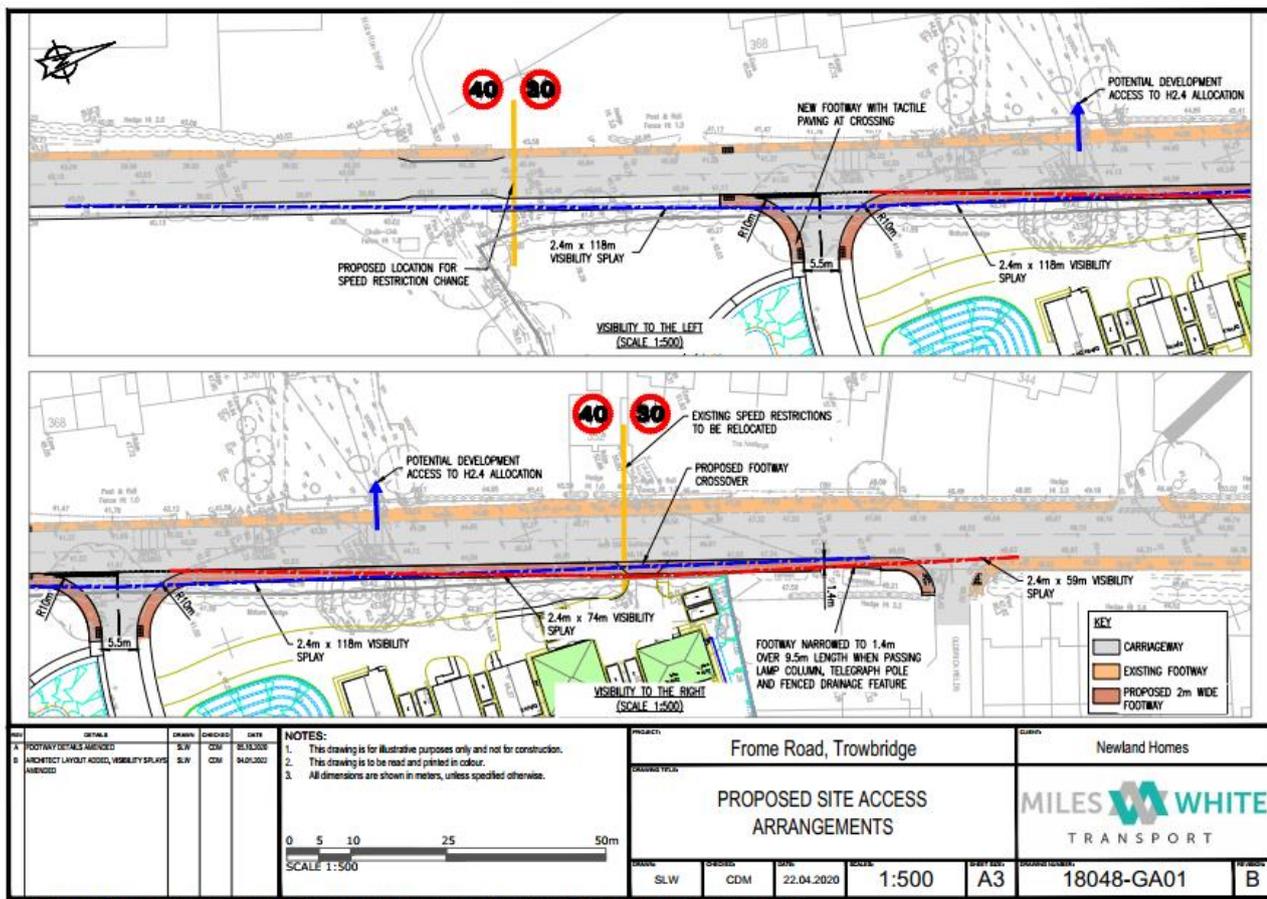


Figure 6 Proposed site access arrangements

Car parking is proposed in accordance with the Council's standards along with the required provision for visitor parking and secure cycle storage as follows:

- 118 No. allocated spaces (NB. 109 spaces required)
- 11 No. visitor spaces (NB. 10 spaces are required)

6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015):

- CP1 – Settlement Strategy,
- CP2 – Delivery Strategy,
- CP3 – Infrastructure Requirements,
- CP29 – Spatial Strategy Trowbridge,
- CP43 – Providing affordable homes,
- CP45 – Meeting Wiltshire’s housing needs,
- CP46 – Meeting the needs of Wiltshire’s vulnerable and older people,
- CP50 – Biodiversity and Geodiversity,
- CP51 – Landscape,
- CP52 – Green Infrastructure,
- CP55 – Air Quality,
- CP56 – Contaminated Land,
- CP57 – Ensuring High Quality Design and Place Shaping,
- CP58 – Ensuring the Conservation of the Historic Environment,
- CP60 – Sustainable Transport,
- CP61 – Transport and New Development,
- CP62 – Development Impacts upon the transport network,
- CP63 – Transport Strategic
- CP64 – Demand Management, and
- CP67 – Flood Risk

Saved Policies for the West Wiltshire District Local Plan (1st Alteration):

U1a Foul Water Disposal and U2 Surface Water Disposal

Trowbridge Neighbourhood Plan (Area Designation June 2018)

Other

- The Wiltshire Waste Core Strategy (adopted 2009)
- Wiltshire Housing Site Allocations Plan (adopted Feb 2020)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework July 2021 (NPPF)
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)
- Trowbridge Bat Mitigation Strategy (TBMS) SPD

7. Consultations

Trowbridge Town Council – Objection

The WHSAP Inspector required this site (WHSAP 2.5) to be considered together with two other sites (WHSAP 2.4 & 2.6) as linked sites with common issues and to that end requested a masterplan approach to address a number of aspects including landscape, ecology and heritage.

This joint approach is evidently lacking in this application.

There also is a failure by Wiltshire Council to provide the necessary guidance to the applicants for the three sites in respect of such Masterplanning matters as requested by the Inspector and until such guidance is provided and published none of the applications should be permitted.

Whilst it is recognised that the applicant for this site has done more than the other two to address such matters, including landscape and ecology, the lack of a joint plan which demonstrates that such matters have been considered jointly with the other two sites is unsatisfactory.

The lack of a flood risk assessment which clearly recognises the joint impact of the three sites on the Lambrok Stream and the potential to exacerbate flooding down-stream between Southwick Court and Cock Hill/Bradford Road, where the Lambrok joins the River Biss is also of concern and a reason for objection at this stage.

Environment Agency – No objection subject to conditions.

Historic England – No objection.

Wiltshire Council Highways – No objection subject to conditions and S106 contribution. Heads of Terms (HoTs) agreed.

Wiltshire Council Archaeology - No objection. It was recommended that a programme of archaeological and geophysical investigation is carried out in order to excavate and record these remains considered to be of archaeological interest. This is in line with the National Planning Policy Framework. This was reported in August 2022 and Wiltshire Council's archaeology officer was satisfied with its findings.

Wiltshire Council Drainage – No objection subject to the proposed development being subject to the drainage suggested conditions (and their previous comments being addressed within the detail submitted to discharge these conditions).

Wiltshire Council Arboricultural Officer – No response.

Wiltshire Council Leisure Strategy and Play Officer – No objection subject to S106 leisure contributions. HoTs agreed.

Wiltshire Council Public Protection Officer – No objection.

Wiltshire Council Environmental Health Officer - No objection subject to conditions.

Wiltshire Council Public Rights of Way Officer – No response.

Wiltshire Council Landscape Officer – No objection. They agree with the conclusions of the landscape technical note on cumulative effects. The sites are well buffered by open spaces and ecological corridors, in combination with the topography and proposed/retained vegetation. They note that there is little opportunity to view the sites in combination from PROWs, therefore *'it is considered that cumulatively these developments will not have an adverse impact on the landscape setting'*.

Wiltshire Council Education Officer - S106 contribution required. HoTs agreed.

Wiltshire Council Affordable Homes Officer - S106 contribution required. HoTs agreed.

Wiltshire Council Urban Designer – No objection subject to conditions.

Wiltshire Council Conservation Officer – No objection.

Wiltshire Council Spatial Planning – No objection.

Wiltshire Council Waste Collection – No objection subject to a S106 contribution. HoTs agreed.

Wiltshire Council Public Arts Officer - S106 contribution is required. HoTs agreed.

Natural England - As submitted, the application could have potential significant effects on Bath and Bradford on Avon Bat SAC. Natural England required further information in order to determine the significance of these impacts and the scope for mitigation. The following information was required: *Habitats Regulation Appropriate Assessment (AA)*.

On the 20 December 2022 Natural England concurred with the conclusion of the AA to determine no Adverse Effect on Integrity (AEoI) on the Bath and Bradford on Avon Bat SAC.

Ecology – No objection subject to s106 contributions and conditions. S106 HoTs agreed.

Salisbury and Wilton Swifts – No objection subject to condition.

8. Publicity and Subsequent Representations

The application was advertised by:

- press notice,
- site notice,
- publication to the Council's website,
- neighbour notifications, and
- notification of interested local organisations and parties.

The deadline for any correspondence was 12th April 2022. 57 letters of objection were received on the amended plans. The application has been the subject of consultation exercises, and the following is a summary of the position reached following these. This is a summary and does not purport to be a full recitation of all comments made. The comments made are summarised as follows:

Principle

- Why is the proposal so densely populated with houses?
- Why not use brownfield sites?
- Lack of master-planning of cumulative effects with H2.4 and H2.6

Impact upon the area

- Flooding and drainage
- Reduction in biodiversity
- Impacts on bats
- Historical Aspects - The area has a number of Graded properties including Soutwick Court, St Johns Church and cottages around the church.
- Adequacy of infrastructure

Impact on Amenity

- Inadequate landscaping

Access

- Frome Road is very busy
- No indication for the charging of electric cars

Other

- Why is there no school being provided on this site
- An irreversible loss of open countryside;
- Loss of open space for wildlife, potentially destroying natural roosting and food habitat for numerous birds and other wildlife.
- Increased flooding along the Lambrok Stream and beyond,
- Create more traffic nuisance, air pollution and noise to the area and indeed the town centre,
- Encroach on the buffer between the village of Southwick and Trowbridge,
- Impact upon the provision of local public services.

Friends of Southwick Country Park – Objection on grounds of lack of master-planning, flooding/drainage, biodiversity.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

9.1 Principle

The principle of this site being used as housing has already been approved through the site allocation policy plan document (the WHSAP) that was adopted by Wiltshire Council in February 2020.

In the WHSAP the site is referred to as 'H2.5' and is subject to Policy H2.5, and this application is to, therefore, determine whether the proposal complies with this policy alongside the relevant policies in the Core Strategy and NPPF. Policy H2.5 states that the site has been allocated for a development comprising of the following elements:

- *approximately 45 dwellings;*
- *vehicular access via a new junction arrangement off the A361; and*
- *improvements to cycling and walking routes through the site to link into the existing network.*

The current application seeks up to 50 dwellings, improved open space improved junction and improvements to cycle and walking routes and as such, in principle, would comply with Policy H2.5.

The site allocation policy document also states that the development will be subject to the following which will be assessed later in the report:

Development will be subject to the following requirements:

- *Core bat habitat will be protected and enhanced. Design and layout will be informed by appropriate survey, impact assessments and the Trowbridge Bat Mitigation Strategy(TBMS);*
- *Appropriate mitigation to protect bats, including financial contributions towards management, monitoring and off-site measures as necessary, as informed by the TBMS;*
- *An attractive frontage to A361 and enhancement of this approach to the town;*

- *Retention and enhancement of existing hedgerows and trees as part of wider landscaping and green infrastructure requirements, and the creation of a publicly accessible Green Infrastructure corridor along the Lambrok Stream to protect and enhance the character, biodiversity and amenity provided by Southwick Country Park in conjunction with development at Southwick Court and Church Lane; and*
- *A Flood Risk Assessment (incorporating an assessment of the predicted effects of climate change) and comprehensive drainage strategy to inform site layout and design so that surface water is controlled and does not exacerbate flooding off-site.*

Objections have been received as to why there are so many houses being built on the land subject of this application. Policy H2.5 requires approximately 45 dwellings. The proposal requests up to 50 dwellings which is marginally greater but within the 'approximately' parameters of the policy. The application demonstrates how 55 dwellings can be accommodated without causing harm; this is discussed later in the report.

9.2 Master-planning

Nearby to the application site are two further sites allocated in the WHSAP – referred to as H2.4 ('Church Lane') and H2.6 ('Southwick Court') with respective policies Policy H2.4 and Policy H2.6. Common to, and within, Policy H2.4, Policy H2.5 and Policy H2.6 are the following final requirements –

Development will take place in accordance with a masterplan approved by the Council as part of the planning application process. The design and layout will take account of all policy requirements, including the timely and coordinated provision of necessary infrastructure to achieve a comprehensive development of the site. Any cumulative issues associated with heritage, landscape, biodiversity and highway access should be considered on a comprehensive and consistent basis for allocations H2.4, H2.5 and H2.6 to ensure that new development sensitively addresses the urban edge of the town.

The WHSAP has established the principle of development for the sites and highlighted areas that planning applications will be required to address, including flood risk and design.

The Town Council and a number of third parties have expressed the view that the above paragraph in the policies for each of the sites requires a comprehensive masterplan to be developed and approved by the LPA that covers all three sites and therein 'binds' each applicant/landowner/developer to an agreed set of 'parameters'. In actuality this is not the case, as is evidenced in the Inspector's report for the WHSAP.

The Inspector sets out in his report (at paragraphs 69 and 70) his expectation for the planning applications for each site to have regard to the other sites – this in view of their close physical relationships – and more specifically for any cumulative issues associated with heritage, landscape, biodiversity and highway access to be considered on a comprehensive and consistent basis. This does not mean that all three sites must be master-planned as one. The Inspector's report said/says –

"...While all these [sites] are likely to come forward independently of each other, their close physical relationship could have particular implications, particularly for heritage, landscape, biodiversity and highway access if they do not take account of each other in terms of layout and the provision of mitigation measures. To be effective, each policy should make it clear that regard must be had to development taking place in other sites. Furthermore, both individual and cumulative effects on the Country Park must be taken into account." [Emphasis applied].

It is clear from this statement that the Inspector recognised the close proximity of the three sites and the need to plan for potential cumulative effects associated with their development. At para. 70 he goes on to state:

“This approach should not prejudice the delivery of each site. The recommended modifications make it clear that mitigation measures must be considered on a comprehensive and consistent basis. All this is likely to mean in practice is that schemes coming forward must have regard to other proposals in the development pipeline and ensure they are not mutually exclusive or prejudicial to each other.” [Emphasis applied].

Again, the Inspector’s considerations are clear. He recognised/s that planning applications for each site would in all probability come forward through the planning system at different times, and schemes for developing each site should address impacts and mitigation measures on a consistent basis. But what is also clear is that development schemes on any, and all, of the three sites should not individually or collectively prejudice one another.

Whilst the policy must be read as a whole, there are three requirements to address in the final paragraph –

1. Development will take place in accordance with a masterplan approved by the Council as part of the planning application process.
2. The design and layout will take account of all policy requirements, [*i.e. the bulleted requirements in the policy see above*] including the timely and coordinated provision of necessary infrastructure to achieve a comprehensive development of the site.
3. Any cumulative issues associated with heritage, landscape, biodiversity and highway access should be considered on a comprehensive and consistent basis for allocations H2.4, H2.5 and H2.6 to ensure that new development sensitively enhances the urban edge of the town.

Provided the planning application for H2.5 addresses these points and the rest of the policy requirements in full then it can be determined without the need to wait for schemes on H2.4 and H2.6 to similarly demonstrate how they have considered cumulative effects within their submissions. The key here is consistency and ensuring each development scheme comprehensively addresses policy requirements whilst also not prejudicing delivery on one, or all, of the allocated sites. With specific regard to point 1 the reference here is for a masterplan for H2.5 only – not a multilateral masterplan for H2.4, H2.5 and H2.6.

Therefore, there is a clear and unambiguous policy route through this issue of addressing cumulative effects and that route does not anticipate, or need the submission of a multilateral masterplan.

9.3 Design and impact upon the character and appearance of the area

Core Policy 51 states that:

“Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.”

This advice is echoed in paragraph 174 of the NPPF.

Core Policy 57 states that:

“New development must relate positively to its landscape setting and the existing pattern of development by responding to local topography to ensure that important views into, within and out of the site are to be retained and enhanced. Development is required to effectively integrate into its setting and to justify and mitigate against any losses that may occur through the development.”

The Council's Landscape Officer has made no objections to the proposal. One can therefore conclude that the scheme will meet the requirements of the above-mentioned policies i.e., that it will protect landscape character and not have any harmful visual effects upon the receiving landscape. In any event, it can be argued that this proposal is seeking to provide a better developed edge to Trowbridge, through a more softly treated margin as opposed to the backs of houses with sheds and fences in sight.

Naturally, CP51 allows for mitigation to be taken into account when assessing landscape impact. The applicants have provided detailed landscaping plans covering each section of the site with an illustrative plan covering the whole site to give the full picture. Such details are considered as acceptable mitigation and would need to be conditioned as part of any approval. The strategic planting (the planting not within private gardens) would be subject to further controls via the Landscape and Ecological Management Plan.

Core Policy 57 requires a high standard of design in all new developments. It requires developments to demonstrate that their scheme will make a positive contribution to the character of Wiltshire by amongst other things:

- enhancing the natural and historic environment and existing built form;
- retaining important landscape and natural features;
- responding positively to the existing townscape and landscape in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines;
- making efficient use of land whilst taking account of site characteristics and context
- having regard to the compatibility of adjoining buildings and uses and the impact on the amenities;
- ensuring legibility throughout the development; and,
- using a high standard of materials.

The scheme is allocated in the plan for approximately 45 units. Whilst 50 have been advanced in the application, it is considered that this number achieves best use of the land without comprising on quality, and so is acceptable. The design meets minimum parking standards, ensuring sufficient private amenity spaces, provision of bin and bike storage, appropriate levels of strategic landscaping and open space as well as sufficient road widths and pavements within the site. As such, it would be difficult to argue that this would be an over-development.

Furthermore, the density of development would not be at odds with established residential developments in Upper Studley. It is also of note that much of the existing housing consists of cul-de-sac style developments, and in that regard the proposal would seemingly blend in. Given that the site would be surrounded by existing housing, there are no concerns regarding its compatibility.

The proposal retains the Lambrok Stream corridor by providing a comprehensive package of landscaping and public open space along the southern side of the development. This ensures that the existing important landscape features on the site are retained and enhanced in line with CP 57 requirements.

Whilst the sole connectivity the site has is with the Frome Road, it has been evidenced during the lifetime of the application what the barriers are to greater connectivity e.g., ransom strips to the north and ecological and flooding issues to the south. With these constraints in mind, it is considered the scheme is acceptable in terms of safety, accessibility, and legibility. Footpath connectivity would link into the existing network along the Frome Road allowing people a safe walking route into the town centre.

The scheme has been the subject of detailed design assessment by the WC Urban Design Officer (UDO). Extensive comments were provided for the application in December 2020 and June 2021. Concerns raised have been addressed by the applicant during the life of the application.

In his final response dated 1 April 2022 the UDO states that:

“I note the applicant's urban design response and explanations and confirmations as to what has been agreed with other officers and am content to consider most matters settled.”

The last remaining issues related to amenity/privacy in the north-eastern corner of the site and separate cycle parking provision for upstairs apartment homes. Through amendments to the plans and via conditions, these matters have been resolved to the satisfaction of the UDO.

In light of the comments from the UDO and subsequent amendments to the plans, it is now accepted that detailed design matters have been addressed (e.g., buildings layouts, materials, elevational design, building lines, streetscapes) to ensure that a high-quality scheme will be delivered in line with the requirements of Core Policy 57 and Section 12 of the NPPF.

Other than the issue of neighbour amenity (for both existing and future occupants), which is covered in section 9.8 of this report, it is concluded that the design of the scheme and its impact on the surrounding landscape is acceptable and in-line with local plan policies covering these matters.

9.4 Drainage and Flooding

Core Policy 67 seeks to ensure all new development includes measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground unless site or environmental factors make these measures unsuitable. The NPPF at paragraph 167 requires all major development to incorporate SUDS unless there is clear evidence this would be inappropriate. The advice also requires recommendations from the LLFA to be taken into account and should have minimum operational standards and maintenance and where possible have multifunctional benefits.

In summary, there is no conflict with Core Policy 67 or guidance contained within the NPPF.

Representations (photos and videos) have been submitted which show that the land to the immediate north of the watercourse is subject to regular flooding. This ties in with the Environment Agency flood map which shows that this land is within EA Flood Zone 3. The proposed layout plan shows that all the planned housing would be outside of this flood zone, including the proposed attenuation basin that would store the site's runoff. The flood zone area is located to the south of the proposed roadway, with all housing being to the north. This south area is already wetland in view of it being within the flood zone. Any planned features within this wetland are for enhancement purposes only and are not drainage features.

Given that no properties or infrastructure is proposed to be constructed within Flood Zone 3, the any existing flooding issues in this area are of little relevance.

The ponds provided in the wetland area form part of the landscaping and amenity features of the proposal. As such they are not drainage features and so cannot be incorporated to provide attenuation as they would likely be flooded in times of extreme rainfall. However, their position would naturally provide low level cut-off in times of blockage, but only when river levels are low.

Modelled flood information provided within the BWB Flood Risk Assessment (FRA), and Hydraulic Modelling Summary Note (HMSN) indicate most of the development site is within Flood Zone 1 (area at low risk of flooding from rivers and sea), with a strip along the bank of the Lambrok Stream being Flood Zone 3, principal flood plain. The FRA also identifies the site as being at low risk from Pluvial (Surface Water), groundwater, sewer, and canal /reservoir sources of flooding.

To mitigate against flooding of the proposed dwellings a condition has been agreed for Finished Floor Levels to be set at 600mm above the 1 in 100-yr (+35% climate change allowance) flood level 40.43m AOD.

In response to comments during the planning consultation period BWB provided a response letter to address concerns that had arisen, dated 18 January 2022. The response letter spells out how the FRA they produced dated September 2020 conforms to current policy context set out within the Wiltshire Core Strategy, Policy 67: Flood Risk, as well as Wiltshire Housing Site Allocations Plan (WHSAP) Policy H2.5 "Upper Studley".

BWB further reviewed how the development site does not negatively affect the surrounding catchment, referring to the mapping information and guidance set out in the May 2019 Wiltshire Level 1 Strategic Flood Risk Assessment (SFRA).

Surface water runoff from the development's impermeable areas will be positively drained via a piped sewer network that will outfall the runoff to Lambrok Stream. Discharge rates will be limited from the development to Qbar 4.1 l/s.

Surface water runoff from the site's impermeable areas will be attenuated within a pond located to the lower south-western part of the development and will be sized to accommodate the 1 in 100-yr (+40% CCA) storm event.

Specifically chosen planting within the attenuation basin will help to provide biodiversity and amenity benefits through encouraging wildlife and helping to cleanse the runoff.

The Environment Agency commented:

"Following review of additional information provided by Rachel Meredith (BWB Consulting) confirming there had been no new structures since approval of the previous flood model, we are in a position to withdraw our objection provided the following conditions are included in any planning permission."

The EAs conditions were accepted by the applicant.

In compliance with the requirements of National Planning Policy Framework, and subject to the mitigation measures proposed, the development could proceed without being subject to significant flood risk. Moreover, the development will not increase flood risk to the wider catchment area through suitable management of surface water runoff discharging from the site.

9.5 Biodiversity

Wiltshire Core Strategy CP50 states that:

"Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term. Where it has been demonstrated that such features cannot be retained, removal or damage shall only be acceptable in circumstances where the anticipated ecological impacts have been mitigated as far as possible and appropriate compensatory measures can be secured to ensure no net loss of the local biodiversity resource, and secure the integrity of local ecological networks and provision of ecosystem services."

All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development."

Any development potentially affecting a Natura 2000 site must provide avoidance measures in accordance with the strategic plans or guidance set out in paragraphs 6.75-6.77 of Wilshire Core Strategy where possible, otherwise bespoke measures must be provided to demonstrate that the proposals would have no adverse effect upon the Natura 2000 network. Any development that would have an adverse effect on the integrity of a European nature conservation site will not be in accordance with the Core Strategy.”

There are ecological constraints on this site and any development must accord with the Trowbridge Bat Mitigation Strategy (TBMS).

The application is accompanied by an ‘Extended Phase One Ecology Survey’, an ‘Ecology Masterplan’, and the ‘Ecology Cumulative Impact Assessment’. The Survey demonstrates that the site supports semi-improved poor grassland, hedges, a low population of slow-worm, common toads and potential for nesting birds and hedgehog. Otter and water vole are also present in Lambrok Stream at the southern boundary, which in accordance with the TBMS is also recognised as ‘core habitat’ for foraging and commuting bats.

Proposed mitigation and improvement proposals include:

- Species-rich neutral grassland (0.50ha);
- Hedgerow (0.33km);
- Shrub, tree, and broadleaved woodland (0.05ha) planting; and
- Wetland features.

With the exception of hedge planting (refer to BNG section below) these proposals are acceptable to the WC Ecologists.

A masterplan ‘Coordinated Strategy Masterplan – H2.4/ H2.5/ H2.6 allocation’ prepared by Greenhalgh (21/04/2021) has also been submitted (Figure 7). The Masterplan details a strategy that seeks to ensure compliance with the TBMS, specifically the location of ecology corridors, required to accommodate zones A and B. The site layout is compliant with the Coordinated Strategy Masterplan, and incorporates habitat buffers along ‘core area’ as required in the TBMS.

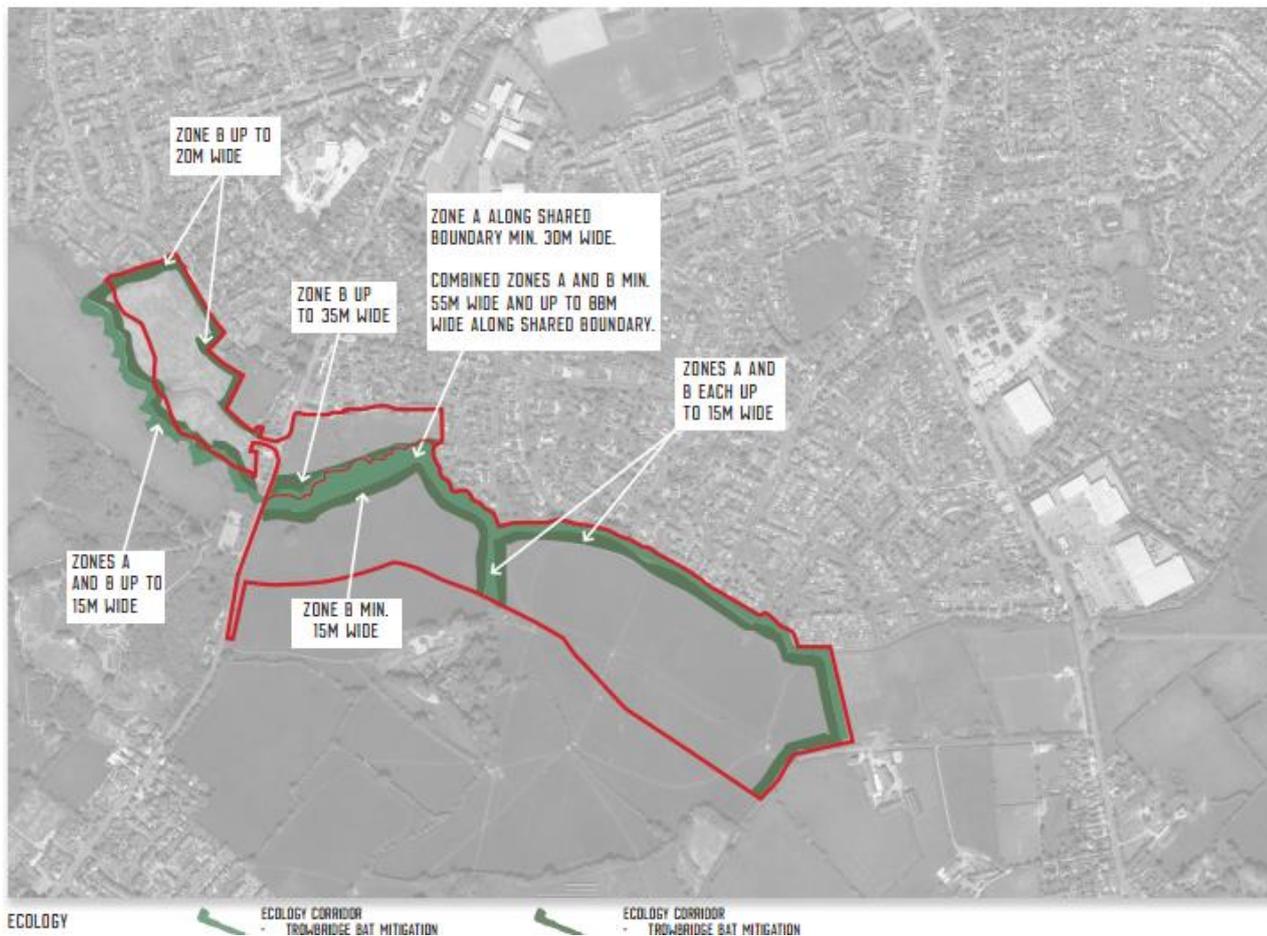


Figure 6 Coordinated Strategy Plan

New hedge planting is to be provided along the whole northern boundary, eastern boundary and along the western half of the access road (refer to detailed planting plans and Ecological Mitigation Plan). Once established this would provide connectivity along the northern and eastern boundaries. However, the proposal is unable to achieve no net loss in biodiversity with the submitted DEFRA metric calculation (Upper Studey Defra Metric 2.0) predicting a short fall of 3.37 habitat units. Off-site mitigation is, therefore, proposed to address this through financial contributions to a Council led scheme. They would be secured via the S106 agreement.

Construction-stage impacts on ecology would be avoided through the implementation of a Construction and Ecological Management Plan (CEMP). Long term impacts on wildlife would be avoided through the provision of new habitat and the retention and enhancement of existing habitats.

Habitat Regulations – Appropriate Assessment –

The proposal could have had significant effects on the Bath and Bradford on Avon Bat SAC. However, in view of all the additional supporting information provided which sets out how effects can be satisfactorily mitigated, both the WC Ecologist and Natural England have concluded that the proposal will not result in adverse effects on the integrity of the SAC. Accordingly, a positive Appropriate Assessment decision has been made.

9.6 Archaeology

Trial Trenching in accordance with the Written Scheme of Investigation, as approved by the WC Archaeologist, has been completed. An Evaluation Summary was provided in August

2022. This confirmed the Desk Based Assessment findings that the site has no archaeological interest.

The WC Archaeologist has confirmed that there is no reason for any further archaeological work to be carried out.

9.7 Impact on the setting of Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting.

Paragraph 199 of the NPPF states that:

"... when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. ... This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

Paragraph 200 of the NPPF states that:

"Any harm to, or loss of, the significance of a designated heritage asset (... from development within its setting), should require clear and convincing justification."

Paragraph 201 of the NPPF states that:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."

Core Policy 57 of the Wiltshire Core Strategy states:

"A high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through... being sympathetic to and conserving historic buildings"

Core Policy 58 of the Wiltshire Core Strategy echoes the above national policy in seeking the protection, conservation and, where possible, enhancement of heritage assets.

Wiltshire Council's Conservation Officer is in agreement that there has been co-ordination between the promoters of the three allocated sites in this location (H2.4, H2.5 and H2.6) in respect of heritage considerations.

The closest heritage assets to the application site are the Listed buildings in Frome Road, notably Rose Villa. The proposal would have a neutral impact on these assets. Proposed works within their vicinity include the creation of a new footway on the east side of the road and the formation of the vehicular access into the site. The main access would be constructed to normal adoptable highways standards including lighting, with more low-key treatments within the site. The supporting information commits to the retention and reinforcement of the perimeter vegetation around the site, and this would maintain the character of Frome Road.

According to the WC Conservation Officer, the works within and adjacent to Frome Road are limited to that essential to allow the development of the site, and would not have a significant impact on the Listed buildings. The Conservation Officer, therefore, raises no objections to the proposal, finding the impact of the proposal to be neutral. The proposal is therefore in accordance with CP58 of the WCS.

9.8 Impact upon neighbouring amenity

Core Policy 57 point vii. requires development to have regard to

“...the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution...”

With the above in mind, sufficient separation distances have been provided between the proposed dwellings and existing houses in the adjacent established residential area to ensure no loss of privacy, loss of light or overbearing impacts. In some areas there are level changes between the site and existing properties (the existing properties being higher), and this would further safeguard the amenities of the existing residents.

As for the new residents (at the lower level), the separations between the buildings would also safeguard their privacy. Some landscaping (tree planting) is also proposed on the common boundaries to soften and, to some extent, provide a screen.

With regards to the amenity impacts within the development site itself, no objections have been raised by the WC Urban Design Officer. The layout meets usual standards for new residential developments.

Regarding noise, a noise assessment has been submitted. It concludes no issues with the proposal that would impact negatively on the amenity of future or existing occupants. Noting that potential short-term disruption and disturbance from construction is not a ground to refuse an application, and can be controlled c/o a construction management plan.

9.10 Highways

Core Policy 60 of the WCS states that the Council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

Paragraph 111 of the July 2021 NPPF states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Summary –

The site is allocated for residential development within the Wiltshire Housing Site Allocations Plan. The site is located in an edge of town location but within an accessible walking distance of a wide range of day-to-day services and facilities.

Development of the site would bring with it a new length of footway (approximately 110m) running north to connect with the existing footways that continue north towards Trowbridge town centre. Landscape and ecological constraints prevent delivery of a wider shared use path along this length.

The whole of the Trowbridge built up area is within a 5km distance of the site meaning that all services, facilities and employment opportunities available within the town are accessible by cycling.

Public transport services pass the site with bus stops available within a short walking distance. Buses operate to a 30-minute frequency on the route that links Frome, Trowbridge, Melksham and

Chippenham and are timed such that the bus can be used for a range of employment, retail, leisure and educational purposes.

A new site access junction would be introduced on Frome Road in the form of a simple priority T-junction. This would be located such that it is compatible with the proposed access arrangements associated with other allocated development sites in the local area. Visibility splays on egress from the proposed access would comply with the existing 85th percentile traffic speeds recorded through previous surveys.

The proposed site layout provides car and cycle parking in full accordance with Wiltshire Council's standards. It also allows appropriate access for service vehicles.

Trip generation analysis suggests that peak hour traffic flows to and from the proposed development site would likely be a maximum of 29 two-way vehicle movements in the highway peak hours with 63.3% travelling to and from the north and 36.7% travelling to and from the south. Based on previous traffic surveys, the additional traffic generated by the site would be likely to represent an increase of up to 2.1% in the highway peak hours and 1.6% across a typical weekday. This level of flow increase is considered small and would not have adverse implications on the existing operation or safety of Frome Road or the local area.

Cumulative issues associated with planned delivery of the adjacent Church Lane and Southwick Court developments have been considered and appropriate access arrangements for all three identified in accordance with the WHSAP. These can be delivered separately but also provide suitable overall arrangements for the A361 Frome Road corridor as it passes the sites.

Transport Statement –

A revised Transport Statement (TS) was submitted and published online on 17 March 2022. The Highways Officer broadly agrees with the majority of the TS, excluding consideration of accessibility to local services which may be enhanced through connectivity with adjacent sites; this is considered in the TS and dismissed, and also considered further below. With regards to cumulative impacts, the TS considers the impact of sites H2.4, H2.5 and H2.6 together which is the correct approach and in accordance with the WHSAP.

The TA does not consider the wider growth agenda for Trowbridge. But in any event the application proposes financial contributions towards proposals set out in the Trowbridge Transport Plan, notably relating to improving pedestrian accessibility to the town centre.

Detailed matters –

The WC Highways Officers final response to the application is set out below –

In light of Policy H2.5 and the consideration of adjacent sites H2.4 and H2.6, Miles White Transport drawing 18048-GA03 provides a summary of the 3 sites access junction arrangements onto Frome Road. Whilst a number of access points in a short distance would be typically objected to on the basis of multiplicity of access points, which may present safety issues, in this instance, it is intended to have the opposite effect through identifying to drivers that they are entering an urban fringe with greater activity thereby eliciting greater caution.

The site-specific access details are illustrated on drawing 18048-GA1 Rev B, and this displays the principal vehicle access serving the site which is presented as a typical minor/major priority junction with 5.5m minor arm carriageway width and 2.0m footways on either side of the access road. The access is served by sight stopping distance visibility of 2.4m by 118m, which has been illustrated to be sufficient with the recorded road speed. The 5.5m width is also typical of a residential road and allows for the passage of a large vehicle, such as a refuse vehicle, and a typical car at 30MPH.

An additional vehicle crossing is also provided and located just within the existing 30MPH limit. Because drivers exiting the vehicle crossing will observe cars approaching the 30MPH limit at a decreasing speed, but likely to be faster than 30MPH, the designer has been mindful to ensure that a 40MPH vehicle on the major road can be accommodated coming from the south (74m visibility splay) and a 37MPH car accelerating within the 30MPH limit from the north (59m visibility splay). Both access points are considered sufficient for the intended use and further allow the accommodation of existing road speeds.

Miles White Transport drawing 18048-GA03 further illustrates the delivery of a footway connection along the A361 to Old Brick Fields, with dropped ped crossings (tactiles) on both sides of the junction. On the approach to Old Brick Fields, it is noted that a fenced drainage structure prevents the delivery of a 2m width path, which is reduced to 1.4m width. Rather than commit to the reduced width route at outset, it is suggested that a study is carried out with Wiltshire Council Drainage Team to establish what alterations may be made to the drainage feature to allow a full 2m width footway to be delivered. In this regard, a condition is proposed by highways.

The applicants assert that The Disability Discrimination Act 1995 (2015 addendums) requires that a minimum 1200mm wide footway should be applied to new developments. They state that there is currently no Wiltshire Council Highways Design Guide that would contradict this and therefore a 1400mm wide footway should be acceptable. This is noted in both of their drawings and Transport Statement. It is also asserted by the applicants that they have done studies into the possibility of widening this section of pavement and have provided information on its feasibility. However, given this will be the sole access into the site for pedestrians, this footway does become of elevation importance. Accordingly, officers consider the condition necessary and would therefore recommend it is imposed. It is noted that the LHA consider that it would be feasible to deliver said footway width.

The delivery of the footpath along Frome Road provides access to a number of amenities and facilities but does not provide cycle access and is not considered as attractive as routes through the adjacent existing housing estate and through the adjacent development site to the southeast (H2.4). The attractiveness of the alternative routes is generated through the reduced levels of traffic presenting a quiet road network that facilitates cyclists sharing the carriageway safely and removes many of the environmental factors that make walking along a busy thoroughfare unappealing; Frome Road does not present similar opportunities. With consideration for this, the Local Highway Authority (LHA) have been consistent in their requests for alternative footway/cycleway connections through to the northeast of the site.

Two further points of connectivity were initially requested; access to Spring Meadows and access through site H2.6 to Westmead Crescent and alternative Public Rights of Way connections to the east. Access to Spring Meadows has been dismissed by the applicant due to the potential for a marginal ransom between the application site and the highway boundary. Whilst the potential for ransom exists, this has not been clearly evidenced by a Land Registry Search and thorough assessment of the highway boundary. However, rather than pursue this matter, the LHA concede this point due to high gradients, but advise the applicant to avoid the application of site boundary treatment around Spring Meadows to allow future connections to be made; the LHA choose not to condition this matter, to avoid any assertion that the LHA are advocating or advising the use of a route to Spring Meadows in its current condition.

With regards to access to Westmead Crescent via H2.6, this would require a footpath/cycle path connection in the location of the break in vegetative screen between the sites crossing the Lambrok Stream. The applicants has made the following comments against the delivery of such a footway, namely:

- that the area for the footway lies within Flood Zones 2 and 3;*
- that the suggested link is not a planning policy requirement and would not deliver any meaningful functional benefit in terms of desire lines from the application site to existing facilities and services in Trowbridge;*

- *that it is not necessary to make the development acceptable in planning terms;*
- *that there are ecological constraints to its delivery as well as impacts from engineering works required; and,*
- *that there would be significant costs associated with its delivery.*

It is for these practical reasons, combined with the limited benefit of provision, that the applicant is not willing to provide the footway connection. Your officers have considered these reasons, including whether they themselves feel that the connection would be necessary to make the development acceptable, and have reached the conclusion that it should not be insisted upon. Although this issue of connectivity was initially raised by the LHA, they are no longer actively pursuing this connection.

With regards to materials, the planning layout (721-06 Rev C) illustrates the proposed delivery of pedestrian priority across side junctions as a function of material continuity with footways and side road shared surfaces; this approach is fully advocated. Whilst the LHA will broadly defer to their colleagues in Urban Design to determine the aesthetic of material choice, the engineering will need to be defined against agreed specification between Wiltshire Council and the developer. The LHA are also mindful that elements of engineering detail for road adoption have also been submitted and like material choice, this will require wider consultation beyond planning legislation and will need to ensure that the submission broadly comply with both the subsequent planning approval and provisions within the Highway Act 1980 and relevant engineer approval. In this regard, a condition has been proposed and accepted by the applicants to cover the submission of these details.

With further regard to site layout, it is acknowledged that the site does not afford full circulation by a refuse vehicle and that bin collection points are necessary. In order to avoid unnecessary large vehicle turning manoeuvres a condition has been agreed with Wiltshire Waste Services.

The LHA support the scheme coming forward, subject to the conditions identified above and to s106 contributions towards the Trowbridge Transport Strategy and bus shelter upgrades.

To conclude on highways, the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development.

9.11 Other Matters

Section 106

Core Policy 3 advises that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework. These are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The infrastructure items listed below are those that are relevant to the Application site and are required in order to mitigate the impact of the proposed scheme. The Applicant has agreed (see appendix C) to provide the following (The calculation is based on the net addition of dwellings as 50):

Affordable Housing

CP43 states that on dwellings of 5 or more affordable housing provision of at least 30% will be provided and transferred to a Registered Provider. CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people will be required.

The proposal would therefore be required to provide 30% provision of 15 No. affordable units on site split between 6 No. shared ownership units and 9 No. affordable rented units. Mix and tenure of Affordable Housing as agreed by exchange of email on 3rd May 2022.

The proposed units have been considered acceptable by the Councils Housing Officer.

Education

The NPPF (paragraph 95) encourages Local Authorities to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. In order to ensure this, Core Policy 3 lists the provision of education as a priority 1 theme where it is required due to the impacts of a development proposal.

In order to achieve this requirement, the proposed development is required to fund:

- Early Years Contribution – 7 places totalling **[£122,654]** with timing of payment of contribution TBA
- Primary Education Contribution – 14 places totalling **[£262,612]** with timing of payment of contribution TBA.
- Secondary Education Contribution – 10 places totalling **[£229,400]** with timing of payment of contribution TBA.

Waste

A contribution of £91 per dwelling would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development and is listed in Core Policy 3 as an infrastructure priority theme 1. The total sum for the 50 dwellings would therefore result in £4,550.00.

Leisure and Play

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 98 of the NPPF. Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport recreation provision an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhanced open spaces which will be included within the S106.

A public open space leisure contribution of £11,800 towards an upgrade of Woodmarsh Recreation Ground has been agreed.

Public Art

A public art contribution of £300 per dwelling is requested for the applicant to deliver the integration of public art for this site and no more than 10% of this should be spent upon the production of a public art plan. The total sum for 50 dwellings would therefore be £15,000.00.

Art and design in the public realm will help to mitigate the impact of development by contributing to good design, place-shaping, infrastructure and engage communities with the development.

The above contribution is considered reasonable and necessary in line with the following policies of the development plan:

- Core Policy 3 promotes and defines public art as a type of place-shaping infrastructure and states that the cost of providing infrastructure can be met through the use of planning obligations.
- Core Policy 57 promotes “the use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm.”
- Saved West Wiltshire District Plan 1st Alteration Policy I2 also makes reference to The Arts.
- The Planning Obligations Supplementary Planning Document (October 2016) refers to the 2011 guidance note of art and design in the public realm [page 31, paragraph 10]. This guidance note is attached for reference.

In addition, the NPPF recognises that cultural wellbeing is part of achieving sustainable development and includes cultural wellbeing within the twelve core planning principles that underpin both plan-making and decision-taking. The PPG complements the NPPF and states that *“Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using.”*

The sum has been agreed with the applicants. However, they wish to retain the option of delivering a scheme themselves as Newland Homes have done on their recently built out Bradley Road site (application refs: 17/05669/FUL & 18/11915/VAR). Officers have no concerns with an either or clause within the s106 provided any art scheme delivered by Newland Homes has the prior approval of the Council’s Public Arts Officer.

Highways & Public Right of Way

CP 61 states that where appropriate contributions will be sought towards sustainable transport improvements and travel plans will be required to encourage the use of sustainable transport alternatives. CP 63 identified transport strategies for Wiltshire’s principal settlements (Trowbridge being one of them) which seek to achieve a major shift to sustainable transport by helping to reduce reliance on the private car and by improving sustainable transport alternatives. Part of the funding for these strategies is to be derived from developer contributions. Such requests are also listed under Core Policy 3 as infrastructure priority theme 1. The following planning obligations are sought by the LHA:

- A contribution of £28,374 towards pedestrian and cycle enhancements/schemes identified in the Trowbridge Transport Strategy along the Frome Rd corridor.
- Bus stop shelter – White Row Park - £11,429

More detailed breakdowns of the contributions are detailed in the LHA consultation response. The transport strategy contribution is based upon infrastructure that is directly related to the impacts of housing growth caused by sites H2.4, H2.5 and H2.6, with the sum identified above being a percentage of the total figure covering all three sites.

Such contributions are necessary to mitigate the impacts of the development on the surrounding highways network and to encourage more sustainable travel movements to and from the development.

Ecology

At Appendix 2 of The Trowbridge Bat Mitigation Strategy (Habitat Mitigation Plan) a sum of £777.62 is required to be collected by S106 for each dwelling to address in-combination and residual effects of additional housing on bat habitats through new woodland and hedgerow planting. The total sum for this development would be $55 \times £777.62 = £38,881$.

The contribution towards the TBMS, are to be paid before commencement, with no option for return after ten years. Setting up and remit of management company is also required for maintaining the bat habitat (marked on a plan) in a suitable condition for bats in terms of the ability of habitat to support invertebrate prey for bats and maintaining it in a dark condition.

As the site cannot deliver no biodiversity net loss (a requirement set out in TBMS policy), the applicants are required to pay an off-site contribution of £232,537 to account for the loss of 3.37 habitat units. The money will be used by the Council to fund the purchase of land to deliver the 3.37 habitat units. The land in question must be within the yellow zone of the TBMS. The planning permission is unable to deliver this on site and in the absence of the contribution would not be supported due to non-compliance with the TBMS (i.e., a breach of the habitat regulations).

The S106 must also:

- Secure appointment of ECoW prior to construction commencing.
- Where a Management Company is being required through the S106 agreement to manage open space across an application site and a LEMP has either been submitted or will be submitted by condition, the S106 should make clear that the Management Company is obliged to manage open space in accordance with the LEMP as approved by the LPA.
- Secure provision of off-site mitigation area Zone A in accordance the Ecological Mitigation Plan embedded in the Ecological Impact Assessment. Land at Upper Studley, Trowbridge, Wilts prepared by Clarkson and Woods, (May 2022).

These requests are considered under Core Policy 3 of the WCS as an infrastructure priority theme 1: specific projects needed to ensure compliance with the Habitats Regulations. As there is a direct link between the residual effects of additional housing on bat habitats the money is necessary to make the development acceptable and it also shows how it directly relates to this development. It is reasonable in scale and kind as it directly relates to the number of dwellings proposed for the site.

10. Conclusion (The Planning Balance)

The site the subject of this planning application is an allocated housing site known as 'H2.5' in the Wiltshire Housing Site Allocations Plan (WHSAP), and accordingly its development for residential purposes is already established as acceptable as a matter of principle. In essence this planning application is to, therefore, 'just' consider the finer detail, and specifically the compatibility of the proposal with Policy H2.5 of the WHSAP and the wider Wiltshire Core Strategy. This report demonstrates that there is compatibility.

Regarding the 'benefits' and 'harms' resulting from the proposal – firstly, the benefits are:

- the boost to the supply of land for housing; and
- the provision of affordable housing

both of which can be afforded substantial weight given the site is allocated in the Wiltshire site allocation plan via H2.5.

In addition, the proposals result in some economic benefits through construction and the additional spending of the new population supporting services and facilities in the locality, and these can be afforded a little weight.

It is considered that the proposal in principle would not cause a detrimental impact upon the amenity of existing or future occupiers subject to relevant conditions. The fully detailed proposal (this is a 'full' application) shows a well-designed layout which would introduce a softer edge to the countryside than presently exists; this is a positive benefit of the proposal.

Other matters to be considered on the planning balance are summarised as follows:

- **Drainage and Flooding -**
The Council's Drainage Team and Wessex Water in their responses have confirmed that the level of detail provided as part of this application proves that there is a deliverable scheme to enable the development to be viable without detrimentally impacting on flood risk, and therefore support the application in principle. This is therefore a neutral consideration on the planning balance.
- **Biodiversity -**
There are ecological constraints on this site and any development must accord with the Trowbridge Bat Mitigation Strategy. The application demonstrates mainly positive outcomes for ecology, with the slight negative consequences for hedgerows addressed by an off-site financial contribution.

As submitted, the application could have had potential likely significant effects on Bath and Bradford on Avon Bat SAC. But Natural England required further information in order to determine the significance of these impacts and the scope for mitigation. In conclusion Natural England concurred with the conclusion of the AA to determine no adverse effect on Integrity (AEoI) of the Bath and Bradford on Avon Bat SAC.

This is therefore a neutral consideration on the planning balance.

- **Archaeology -**
Wiltshire Council Archaeologist confirmed that there was no reason for any further archaeological work to be carried out in regard to this proposal and do not see a need for an archaeological condition to be attached to any planning permission that may be issued. This is therefore a neutral consideration on the planning balance.
- **Listed building setting -**
Wiltshire Council Conservation Officer has no objection to a recommendation for approval subject to the usual controls to secure good design. This is therefore a neutral consideration on the planning balance.
- **Neighbour Amenity -**
The well-designed layout which complies with relevant privacy and amenity standards means that this consideration can be given only very limited weight on the planning balance.
- **Highways -**
It is considered that the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development. This is therefore a neutral consideration on the planning balance.

Final Balance –

On balance, it is considered that the proposal would result in no measurable 'harm' to the matters of acknowledged importance, but would have positive benefits in terms of delivering housing. Accordingly, permission is recommended.

RECOMMENDATION:

That the Head of Development Management be authorised to grant planning permission, subject to first completion of a planning obligation / Section 106 agreement covering the matters set out below, and subject also to the planning conditions listed below.

S106 matters –

- Affordable housing – 30% provision of 15 No. affordable units on site split between 6 No. shared ownership units and 9 No. affordable rented units. Mix and tenure of Affordable Housing as agreed by exchange of email on 3rd May 2022.
- Education –
 - Early Years Contribution – 7 places totalling [£122,654] with timing of payment of contribution TBA [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - Primary Education Contribution – 14 places totalling [£262,612] with timing of payment of contribution TBA. [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - Secondary Education Contribution – 10 places totalling [£229,400] with timing of payment of contribution TBA. [NB. the applicant also requires a full breakdown of the contribution requests before the sum can be agreed]
 - All payment is required in full, upon or prior to commencement of development. Phasing of payments is not applicable here, and in view of that, no bond is required. All contributions are to be subject to indexation to the BCIS All In Tender Price Index from date of completion of agreement until payment.
 - The Council require 10 years from the date of receipt of the contributions by the Council, in which to spend/commit in accordance with the S106, before they qualify to be returned.
 - Since the abolition of the CIL pooling limit for S106s the Council does not quote the names of individual schools.
 - A 30% discount is applied to the affordable housing element of an application. This is applied as a reduction to the number of AH units proposed/approved, as part of the process of calculating the number of places generated by the development from the qualifying properties. It is therefore reflected in the standard formulae.
- Open space – A leisure contribution of £11,800 towards an upgrade of Woodmarsh Recreation Ground.
- Biodiversity - Biodiversity Contribution towards Trowbridge Bat Mitigation Strategy – £777.62 x 50 = £38,881.

Off-site biodiversity to include planting on local receptor site to deliver off-site biodiversity net gain. Details of scheme planting and subsequent maintenance regime to be agreed by the Council prior to first occupation of the development.
£232,537 BNG contribution.
- Highways -
 - A contribution of £28,374 towards pedestrian and cycle enhancements/schemes identified in the Trowbridge Transport Strategy along the Frome Rd corridor.
 - Bus stop shelter – White Row Park - £11,429
- Waste Collection Services- £5,050
- Public Art Provision - £15,000 based on £300/dwelling.

CONDITIONS

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

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Design and Planning:

- 721_B_Design and Access Statement_A3
- 721-01__Location Plan_A3
- 721-06_C_Planning Layout_A2
- 721-07_B_Building Height Key Plan_A2
- 721-08_B_Affordable Housing Key Plan_A2
- 721-09_A_Boundaries & Enclosures Key Plan_A2
- 721-10_B_External Material Finishes Key Plan_A2
- 721-11-01_B_Site Sections_A1
- 721-11-02_A_Site Sections_A1
- 721-12_B_Street Scene_A0
- 721-100_B_External Materials Schedule_A3

House Types/ Garages:

- 721-30-01__AT2 & CR3_A3
- 721-30-02__AT2 & CR3_A3
- 721-30-03__AT2 & CR3_A3
- 721-31-01__SP2_A3
- 721-31-02__SP2_A3
- 721-32-01__HN3_A3
- 721-32-02__HN3_A3
- 721-33-01__HO3_A3
- 721-33-02__HO3_A3
- 721-33-03__HO3 DA_A3
- 721-33-04__HO3 DA_A3
- 721-34-01__CR3_A3
- 721-34-02__CR3_A3
- 721-35-01__TH3_A3
- 721-35-02__TH3_A3
- 721-36-01__HA4_A3
- 721-36-02__HA4_A3
- 721-37-01__SH4_A3
- 721-37-02__SH4_A3
- 721-38-01__PB4_A3
- 721-38-02__PB4_A3
- 721-39-01_A_1B2P 50 & 2B3P 61 & 4B6P 108_A3
- 721-39-02_A_1B2P 50 & 2B3P 61 & 4B6P 108_A3
- 721-40-01_A_1B2P 50 & 2B3P 61_A3
- 721-40-02_A_1B2P 50 & 2B3P 61_A3
- 721-41-01_A_2B4P 68_A3
- 721-41-02_A_2B4P 68_A3
- 721-42-01__3B5P 83_A3

- 721-42-02__3B5P 83_A3
- 721-43-01_A_Garages_A3
- 721-43-02_A_Garages_A3

Engineering:

- 721-ER-01 Rev E Drainage Strategy Report (June 2022)
- 721-101 Rev D - S38 Layout
- 721-102 Rev E - S104 Layout
- 721-106 Rev D - Parking Allocation Plan
- 721-107-1 Rev F - Impermeable Areas
- 721-107-2 Rev E - Gully Catchment
- 721-107-3 Rev F - Flood Routing Plan
- 721-111-1 Rev B - S38 Long Sections (Sheet 1)
- 721-111-2 Rev B - S38 Long.Sections (Sheet 2)
- 721-114 Rev - SuDS Sections
- 721-121 - 1 Rev - Adoptable Highway Construction Details - Sheet 1
- 721-121 - 2 Rev A Adoptable Highway Construction Details – Sheet 2
- 721-121 - 3 Rev - Adoptable Highway Construction Details - Sheet 3
- 721-122 - 1 Rev B - Drainage Details - Sheet 1
- 721-122 - 2 Rev A - Drainage Details - Sheet 2
- 721-122 - 3 Rev A - Drainage Details - Sheet 3
- 721-131-1 Rev D - Swept Path Analysis (Sheet 1)
- 721-131-2 Rev D - Swept Path Analysis (Sheet 2)
- 721-131-3 Rev D - Swept Path Analysis (Sheet 3)
- 721-131-4 Rev D - Swept Path Analysis (Sheet 4)
- 721-131-5 Rev D - Swept Path Analysis (Sheet 5)
- 721-131-6 Rev B - Swept Path Analysis (Sheet 6)
- 721-141-1 Rev E - External Works Layout (Sheet 1)
- 721-141-2 Rev E - External Works Layout (Sheet 2)
- 721-141-3 Rev E - External Works Layout (Sheet 3)
- 721-142-1 Rev E - Drainage and Levels (Sheet 1)
- 721-142-2 Rev E - Drainage and Levels (Sheet 2)
- 721-142-3 Rev D - Drainage and Levels (Sheet 3)
- 721-143-1 Rev D - Finished Levels (Sheet 1)
- 721-143-2 Rev D - Finished Levels (Sheet 2)
- 721-143-3 Rev D - Finished Levels (Sheet 3)
- 721-151 Rev A - External Works Details - Walls, Fences and Railings
- 721-152 - External Works Details - Property Threshold
- 721-152 - 1 Rev A External Works Details - Property Threshold - M4(1)
- 721-152 - 2 Rev - External Works Details - Property Threshold - M4(2)
- 721-153 Rev - External Works Details - Retaining Walls
- 721-154-3 Rev - External Works Details - Domestic Drainage
- 721-155 Rev - External Works Details - Drives, Kerbs & Pavers
- 721-181 Rev D Remediation Plan (LABC) (1_500)

Supporting Information:

Landscape -

- 721__Landscape Visual Appraisal_A4
- 161-801_E Illustrative Landscape Plan
- 161-ID-G101_F Landscape Strategy
- 161-001_M Landscape Plan
- 161-201_G Planting Plan 1 of 3
- 161-202_G Planting Plan 1 of 3
- 161-203_G Planting Plan 1 of 3
- 161-401 Trees in soft under 20cm girth
- 721_B_Landscape Planting Schedules_A1

- 721_A Landscape Management Plan_A1
- 721__Landscape Cumulative Impact Assessment_A4
- 161-TECH NOTE-001_Landscape Cumulative_v2
- 161-804_C Coordinated Strategy Masterplan
- 161-805_C Coordinated Strategy Supporting Diagrams

Arboriculture -

- 721__AIA+AMS+TPP_A4 (Arboricultural Implications Assessment/ Arboricultural Method Statement/ Tree Protection Plan) (July 2022)

Urban Design -

- 721__Building for a Healthy Life Assesment_A4

Ecology -

- 721__Extended Phase 1 Ecological Survey Report_A4
- EMP (Ecological Mitigation Plan) (May 2022)
- CEMP_Biodiversity_Upper Studley_v6.0 (Construction Ecological Management Plan)
- EclA_Upper Studley_v6.0 (Ecological Impact Assessment)
- LEMP_Upper Studley_v6.0 (Landscape Ecological Management Plan)
- Upper Studley_Defra Metric v2.0 (February 2022)
- Upper Studley_Defra Metric v2.0_No Offsite (February 2022)
- HRA_Upper Studley_v1.0
- Masterplan_Ecology_H2.4-H2.5-H2.6_v4.0 (May 2022)
- 721-16__The Grove Illustrative Landscape Enhancements_A3

Lighting -

- 721__Lighting Impact Assessment_A4 (February 2022)
- 721__Street Lighting Calculation MF0.87
- 721__Street Lighting Calculation MF1
- 721__Street Lighting Strategy Summary MF0.87
- 721__Street Lighting Strategy Summary MF1

Drainage -

- SRT-BWB-EWE-XX-RP-EN-0001_S2_P2.0_FRA (Flood Risk Assessment)
- SRT-BWB-EWE-XX-RP-EN-0002_HMSN_S2_P1.00 (Hydraulic Modelling Summary Note)
- SRT-BWB-HDG-XX-RP-CD-0001_S2_P1.0_SDS (Sustainable Drainage Statement)
- CRM.1791.001.GE.R.001.B – final (Geo-Environmental Report)

Archaeology -

- Historic Environment Desk Based Assessment_A4
- Heritage Cumulative Impact Assessment_A4
- Written Scheme of Investigation_A4 (June 2022)
- Archaeological Evaluation Summary

Acoustic -

- M2201 Frome Road R01b - Noise Assessment

Highways -

- 721__Transport Statement_A4 (February 2022)

Planning -

- 721__Planning Statement_A4
- 721__Application Form_A4
- 721__CIL Form 1 - Additional Information_A4
- 721__Notice Served_A4

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person for residents to contact;
- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
- x. Details of how surface water quantity and quality will be managed throughout construction;
- xi. Details of the safeguarding measures to deal with the following pollution risks:
 - the use of plant and machinery
 - wheel washing and vehicle wash-down and disposal of resultant dirty water
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes
- xii. Details of safeguarding measures to highway safety to include:
 - A Traffic Management Plan (including signage drawing(s))
 - Routing Plan
 - Details of temporary/permanent Traffic Regulation Orders
 - pre-condition photo survey - Highway dilapidation survey
 - Number (daily/weekly) and size of delivery vehicles.
 - Number of staff vehicle movements.
- xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
 - Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
 - Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, otter, water vole, badger and dormice.
 - Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

- 4 Notwithstanding the submitted details, no development shall take place on-site until details of the estate roads, footways, footpaths (including surfacing of public footpaths), verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for the provision of such works, have been submitted to and approved by the Local Planning Authority. The development of a phase shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the site highway and transport infrastructure is constructed in a satisfactory manner.

- 5 No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme should demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

REASON: This condition contributes to sustainable development and meeting the demands of climate change. Increased water efficiency for all new developments enables more growth with the same water resources.

- 6 The development shall be implemented in accordance with the foul drainage detailed design in accordance with the Drainage Strategy Rev D received on 17th June 2022 and associated list of drawings (below) received 2nd December 2022. No dwelling shall be first occupied until the associated approved sewerage details have been fully implemented in accordance with the approved plans and related programme.

List of drawings;

- 721-102 Rev E S104 Layout
- 721-142-1 Rev E Drainage and Levels - Sheet 1
- 721-142-2 Rev E Drainage and Levels - Sheet 2
- 721-142-3 Rev D Drainage and Levels - Sheet 3

REASON: To ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

- 7 The development shall be carried out in accordance with the submitted flood risk assessment, dated December 2017 (ref: SRT-BWB-EWE-XX-RP-EN-0001_FRA, version P2) and the mitigation measures it details, including ground floor finished floor are set at 41.03m above Ordnance Datum (AOD). These mitigation measures shall be fully implemented prior to occupation and shall be retained and maintained thereafter throughout the lifetime of the development.

REASON: To reduce the risk of flooding to the proposed development and future occupants.

- 8 The soft and hard landscaping for the development shall be implemented in accordance with Landscape Plan 161-001-M and Planting Plans 161-201-G & 161-202-G & 161-203-G received on 27th May 2022.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 9 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 10 No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development until the tree protection measures outlined in Appendix 2 of the Arboricultural Implications Assessment and Tree Protection Method Statement by Tree Maintenance Limited and dated August 2020 have been erected in accordance with the approved details.

The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work – Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity and biodiversity.

- 11 Natural play areas for the development shall be implemented in accordance with Landscape Plan 161-001-M and 161-ID-G101_F Landscape Strategy received on 27th May 2022.

REASON: To ensure that the play area is provided in a timely manner in the interests of the amenity of future residents.

- 12 Following completion of the dwellings and prior to their first occupation, a report from an appropriately qualified ecologist confirming that all integral bat roosting and integral swift brick features have been installed as per previously agreed specifications and locations together with photographic evidence shall be submitted to and approved in writing by the Local Planning Authority.

REASON: to demonstrate compliance with Wiltshire CP50, NPPF and BS 42020:2013.

- 13 The development will be carried out in strict accordance with the following documents:
- Ecological Impact Assessment. Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022 Amended November 2022).
 - Lighting Impact Assessment. (Illume Design, 22/02/2022).
 - Construction Environmental Management Plan: Biodiversity Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, March 2022).
 - Landscape and Ecological Management Plan: Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022).
 - Ecological Mitigation Plan. (Clarkson and Woods, 16/05/2022).

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

- 14 The development shall be implemented in accordance with the site-specific CEMP_Biodiversity_Upper Studley_v6.0 (Construction Environmental Management Plan) received on 27th May 2022. All approved features noted on the plan at Pages 29 & 30 shall be installed prior to first occupation of the dwelling on which they are located and retained thereafter. An ECoW will be appointed.

REASON: to protect protected species and existing retained habitat for the duration of the construction process and to maintain and enhance biodiversity in accordance with Wiltshire CP50, NPPF, and BS 42020:2013.

- 15 The approved Landscape and Ecological Management Plan: Land at Upper Studley, Trowbridge, Wilts. (Clarkson and Woods, May 2022) shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 16 The development shall be implemented in accordance with the external lighting details contained within 721__Lighting Impact Assessment_A4 received 17th March 2022 and 721__Street Lighting Strategy MF0.87 & 721__Street Lighting Strategy MF1 received 30th October 2020. The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

- 17 On completion of the required remedial works specified in Chapter 7.6 of the Geo-Environmental Report submitted as part of the application, the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 18 Prior to first occupation all works shall be completed in accordance with approved drawing 18048-GA03. Illustrated visibility splays serving each access shall be maintained free of any obstruction exceeding 900mm above the adjacent nearside carriageway level. The access provision and associated visibility splays shall be maintained as such thereafter.

REASON: In the interests of highway safety and in compliance with Core Strategy Policy 60 and 61.

- 19 Notwithstanding the works detail illustrated on drawing 18048-GA03, revised details of footway/cycleway infrastructure between the site access and Old Brick Fields shall be submitted to and approved by the Local Planning Authority. The details shall include footway/cycleway infrastructure that maximises the width of appropriate surfacing available within Highway extents, with an absolute minimum of 2m and wherever possible complying with LTN 1/20. Where an absolute minimum of 2m width cannot be achieved a scheme of mitigation shall be provided that may include pedestrian crossing facilities of Frome Road and or carriageway narrowing or realignment. Prior to first occupation of the development, the footway and associated works shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

REASON: To provide safe and convenient access to surrounding settlement in the interests of highway safety and Core Strategy Policy 61 and 62.

- 20 The footpath and cycle provisions shall be implemented in accordance with drawings 721-141-1 Rev E External Works Layout - Sheet 1, 721-141-2 Rev E External Works Layout - Sheet 2, and 721-141-3 Rev E External Works Layout - Sheet 3 all received on 2nd December 2022. The approved details shall be maintained as such in perpetuity.

REASON: In pursuit of sustainable transport objectives.

- 21 No dwelling shall be occupied until the parking space(s) together with the access thereto (including from the Frome Road), have been provided in accordance with the approved plans. They shall be maintained as such in perpetuity.

REASON: In the interests of highway safety and the amenity of future occupants.

- 22 Prior to occupation, each dwelling shall have their boundary details implemented in accordance with 721-141-1 Rev E External Works Layout - Sheet 1, 721-141-2 Rev E External Works Layout - Sheet 2 & 721-141-3 Rev E External Works Layout - Sheet 3 received on 2nd December 2022 and 721-151 Rev A - External Works Details - Walls, Fences and Railings received 27th May

2022. The approved boundary conditions shall be retained and maintained as such at all times thereafter.

REASON: To prevent loss of privacy to new properties and overlooking from existing properties on Spring Meadows, which are elevated above the site.

- 23 Prior to occupation, each dwelling shall have their waste collection details implemented in accordance with the list of drawings (below) received 2nd December 2022. The approved details shall be maintained as such in perpetuity.

List of drawings;

- 721-141-1 Rev E External Works Layout - Sheet 1
- 721-141-2 Rev E External Works Layout - Sheet 2
- 721-141-3 Rev E External Works Layout - Sheet 3
- 721-131-1 Rev D - Swept Path Analysis (Sheet 1)
- 721-131-2 Rev D - Swept Path Analysis (Sheet 2)

REASON: To ensure that waste collections will function in accordance with the requirements of policies CP3 and WCS6.

- 24 No burning of waste or other materials shall take place on the development site during the construction phase of the development.

REASON: In the interests of the amenities of surrounding occupiers during the construction of the development.

Appendices

| | |
|-------------------------------|------------|
| Location Plan | Appendix A |
| Site layout | Appendix B |
| Affordable Housing Plan | Appendix C |
| Site Access Plan | Appendix D |
| Appropriate Assessment | Appendix E |
| Natural England Agreement | Appendix F |
| S106 Heads of Terms Agreement | Appendix G |

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AGENDA SUPPLEMENT (1)

Meeting: Strategic Planning Committee

Place: Council Chamber - County Hall, Trowbridge BA14 8JN

Date: Wednesday 22 February 2023

Time: 10.30 am

The Agenda for the above meeting was published on 14 February 2023. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Tara Hunt of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718352 or email tara.hunt@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

7b **20/09659/FUL - Land off Frome Road, Upper Studley, Trowbridge (H2.5) (Pages 3 - 4)**

Addendum to committee report / conditions

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| DATE OF PUBLICATION: 17 February 2023 |
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Wiltshire Council

Strategic Planning Committee

22 February 2023

Addendum to report for Strategic Planning Committee agenda item 7b - 20/09659/FUL, Land off Frome Road, Upper Studley, Trowbridge (H2.5)

Please note that following publication of the agenda, some minor errors within the conditions were identified.

Therefore, please note that condition number 3 and condition number 18 should read as follows:

Condition 3

The development hereby approved shall not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of the following relevant measures:

- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person for residents to contact;
- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
- x. Details of how surface water quantity and quality will be managed throughout construction;
- xi. Details of the safeguarding measures to deal with the following pollution risks:
 - the use of plant and machinery
 - wheel washing and vehicle wash-down and disposal of resultant dirty water
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes
- xii. Details of safeguarding measures to highway safety to include:
 - A Traffic Management Plan (including signage drawing(s))
 - Routing Plan
 - Details of temporary/permanent Traffic Regulation Orders

- pre-condition photo survey - Highway dilapidation survey
- Number (daily/weekly) and size of delivery vehicles.
- Number of staff vehicle movements.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

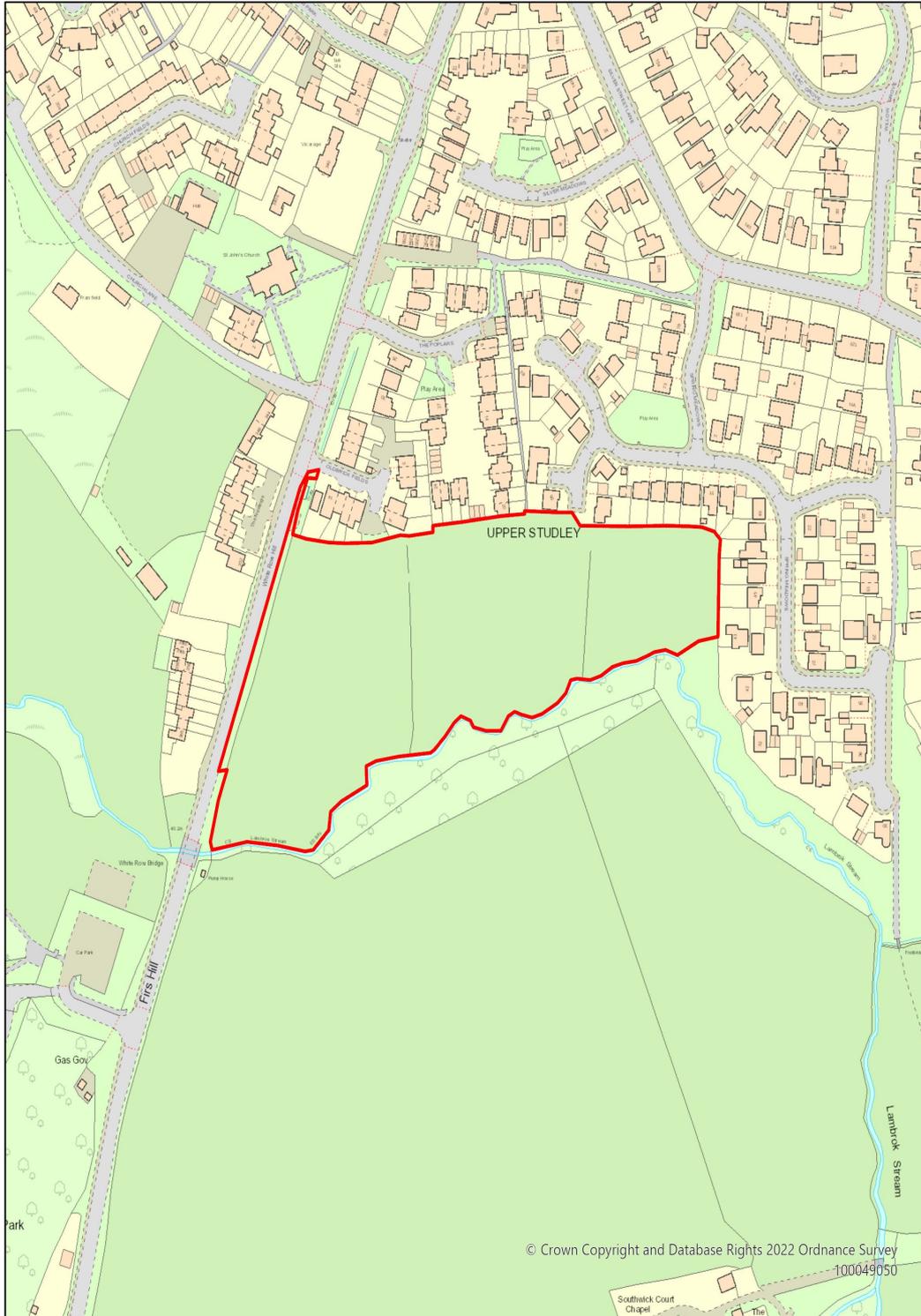
The development shall subsequently be implemented in accordance with the approved details of the CMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

Condition 18

Prior to first occupation all works shall be completed in accordance with approved drawing 18048-GA01. Illustrated visibility splays serving each access shall be maintained free of any obstruction exceeding 900mm above the adjacent nearside carriageway level. The access provision and associated visibility splays shall be maintained as such thereafter

REASON: In the interests of highway safety and in compliance with Core Strategy Policy 60 and 61.



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