

## REPORT FOR WEST AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	13 March 2024
<b>Application Number</b>	PL/2021/09739
<b>Application type</b>	OUTLINE
<b>Site Address</b>	Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB
<b>Proposal</b>	Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout and scale to be reserved
<b>Applicant</b>	The late Mr. Shane Marshall
<b>Town/Parish Council</b>	North Bradley PC
<b>Electoral Division</b>	SOUTHWICK – Cllr Horace Prickett
<b>Case Officer</b>	David Cox

### 1. Purpose of Report

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 the related revised Planning Practice Guidance published in February 2024) and to secure a fresh committee endorsement to grant permission for this neighbourhood plan allocation site following the completion of a Section 106 legal agreement.

### 2. Background

On 27 September 2023, the West Area Planning Committee resolved to grant planning permission for this application (subject to the applicant first entering into a S106 legal agreement) A copy of the respective committee report is attached as annex 1; and it should be noted that since the Autumn, substantive progress has been made in terms of advancing with the legal agreement to define the developer obligations and respective clauses in compliance with the endorsed September committee report and Member resolution.

In recognition that the s106 has not reached completion stage and no decision has been issued, the application is brought back to the elected members to be advised of the material changes contained within the 20 December 2023 issued NPPF.

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, if during this 'gap period' the authority becomes aware of new, or changed, material considerations, it is necessary for the authority to have due regard to these considerations before finally determining the pending application.

As members are fully aware, in December 2023 the Government issued its revised National Planning Policy Framework (NPPF), which is a material consideration for the determination of most applications, and it must be taken into account prior to any decision being made.

The effects of the changes in relation to this planning application are set out below.

### **3. Housing supply and delivery**

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, which are set out within para(s) 76 and 77 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 (which is referred to within paragraph 77) is also of material importance and 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' because the Wiltshire Core Strategy is more than 5 years old; 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 Wiltshire's housing needs – the Council is now only required to identify deliverable sites sufficient to providing 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 in May 2023 and with a base date of April 2022) sets out the number of years supply against Wiltshire’s local housing needs as being **4.60 years**.

For the avoidance of any doubt, the ‘local housing need’ for Wiltshire is the entire County (rather than any HMA) as directed by the Framework paragraph 226 and footnote 80.

It is also necessary to appreciate that following the publication of the 2023 issued HLS, subsequent appeals have been determined and concluded (following an examination of the housing land supply) that Wiltshire Council could demonstrate **4.59 years** of housing supply.

Clearly both of these figures exceed the 4-year ‘interim’ supply threshold that is now relevant to Wiltshire, and for the planning balance, this means that it is now starting from a ‘level’ position rather than being ‘tilted’ towards supporting unplanned housing development.

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 merit increased material relevance and weight.

In this particular case, the application that was brought before members in September 2023, relates to a neighbourhood plan site allocation. The application is not a plan departure, and the planning balance section of the NPPF is not of significant material weight. Nevertheless, it is still necessary to update members of the following update.

#### **5. Response from the applicant’s agent on this application being brought back to Committee.**

No comments have been submitted.

#### **6. Applying the planning balance to this case**

##### 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, North Bradley 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.

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 North Bradley – which has a made Neighbourhood Plan, to which this application refers since it is a Neighbourhood Plan allocation site.

Given the site’s Neighbourhood Plan allocation status, the proposal accords with the adopted Wiltshire Core Strategy and Core Policies 1 and 2, which identifies the benefits of the plan-led system and supporting new housing development that is brought forward in compliance with sites identified and allocated within made Neighbourhood Plans.

This application is considered a highly sustainable form of development and complies with the overarching context of the Wiltshire Core Strategy and the NPPF.

#### Principle of development

The principle is fully supported by policy given the site's Neighbourhood Plan allocation status. Officers are however mindful that when the application was brought before the elected members in September, consideration was given to the 5-year housing land supply deficit, which applied at that time, as the following snippet taken directly from the committee report refers to:

*“Whilst the principle of development is supported via the Neighbourhood Plan allocation, the Council’s 5-year supply of deliverable housing situation is also a significant material consideration.”*

The 5-year supply position was also raised by the applicant’s agent when he spoke in support of the application to the committee in September. Officers are also aware that it was specifically mentioned by elected members during the debate. Therefore, there is no doubt, the housing land supply was a material factor in the planning balance in September, however in recognition that the application proposal was not a plan departure or a speculative development, officers are fully satisfied that the recommendation to grant permission subject to a s106 remains appropriate, and in the absence of any material outweighing reasons to refuse permission, the application is referred back to committee and officers seek the elected members endorsement to again support the recommendation to grant permission (subject to the prior completion of a s106 legal agreement).

In addition to delivering housing at this Neighbourhood Plan allocation site, the scheme would provide 7 affordable homes to meet local needs which remains a significant material consideration in the planning balance.

#### Natural England confirmed position

Natural England have reaffirmed their position pursuant to this application and continue to raise no objection as per the following:

*No objection – Subject to mitigation, Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.*

*Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.*

#### Wiltshire Council Tree Officer

Confirmed having no objections.

#### Third Party Comments

There have been no additional third-party representations received.

#### S106 Legal Agreement preparation update

Following the Committee resolution to approve at the 23 September 2023 meeting, planning and legal officers of the Council have made progress with drafting a legal agreement to lock in the agreed heads of terms. The agreement is at an advanced stage but still has some work to do, and with a fresh Committee resolution to delegate the decision issuing authority to the head of service, it can be expedited.

### Conclusion

Following the changes to the NPPF, the Council now only has to demonstrate a 4-year supply of housing, and at the time of writing, the Council's published position is one of being able to demonstrate a 4.60 year's supply, although recent appeals have reduced this supply to 4.59 years. When assessed against the Framework and through the application of the 2-year transitional arrangements where the 4-year housing supply test applies, Wiltshire Council does not have a housing supply deficit, but given the Neighbourhood Plan site allocation status of the site that is the subject of this update report, full support should be given to this plan-led application and delivery of sustainable development.

**Recommendation – To grant planning permission subject to the representatives of the late applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development as set out at section 9.6 of the original committee report, and subject to the conditions listed in within annex 1.**