

**REPORT FOR STRATEGIC PLANNING COMMITTEE**

<b>Date of Meeting</b>	1 November 2023
<b>Application Number</b>	PL/2021/03749
<b>Site Address</b>	Land at Glenmore Farm, The Ham/Hawkeridge Road, Westbury, BA13 4HQ
<b>Proposal</b>	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.
<b>Applicant</b>	Westbury LVA LLP
<b>Town/Parish Council</b>	HEYWOOD
<b>Electoral Division</b>	Ethandune (Cllr Wickham)
<b>Grid Ref</b>	386361 152870
<b>Type of application</b>	Outline Planning
<b>Case Officer</b>	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

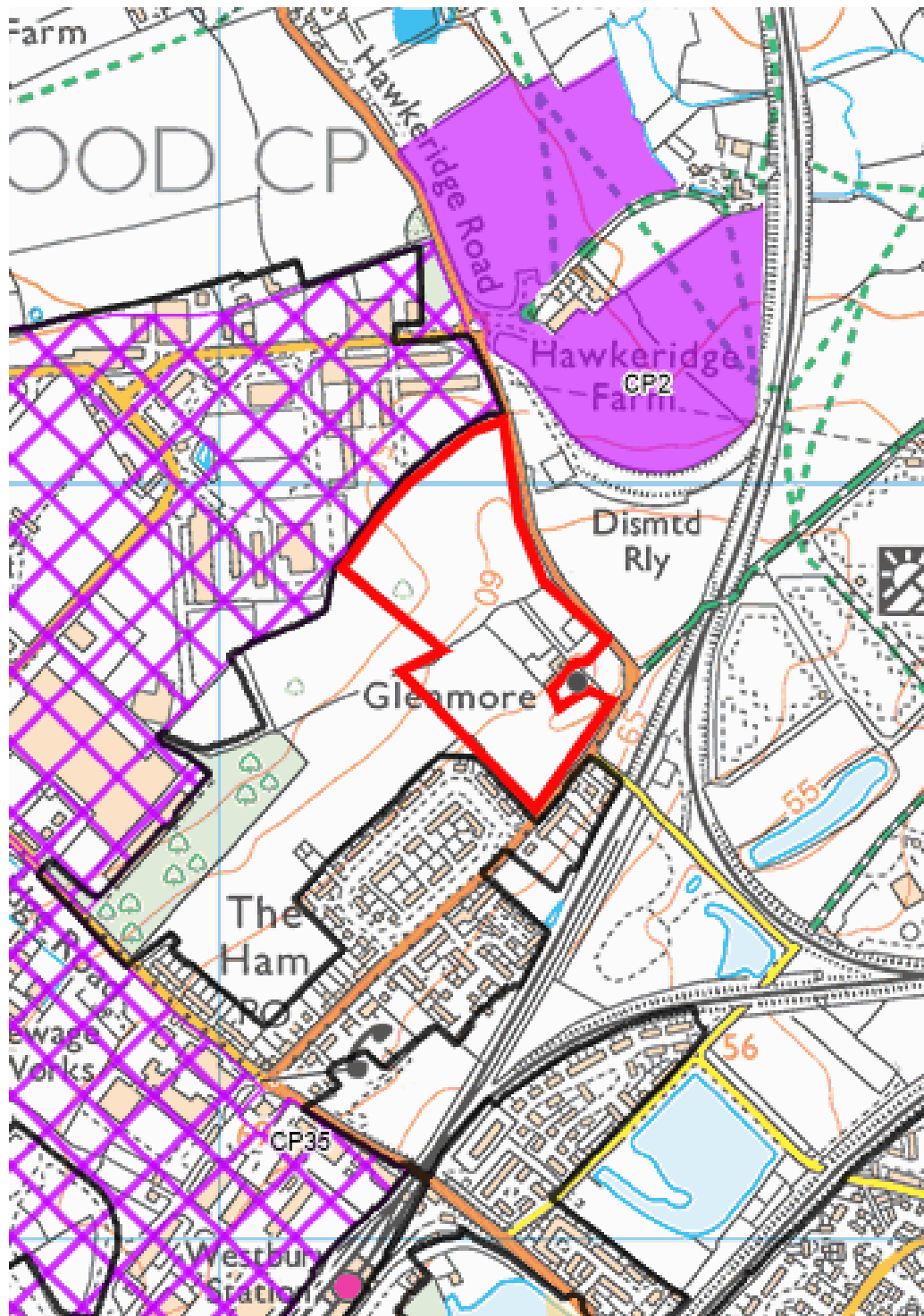
Villages have defined limits of development. Beyond these limits is countryside.

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.

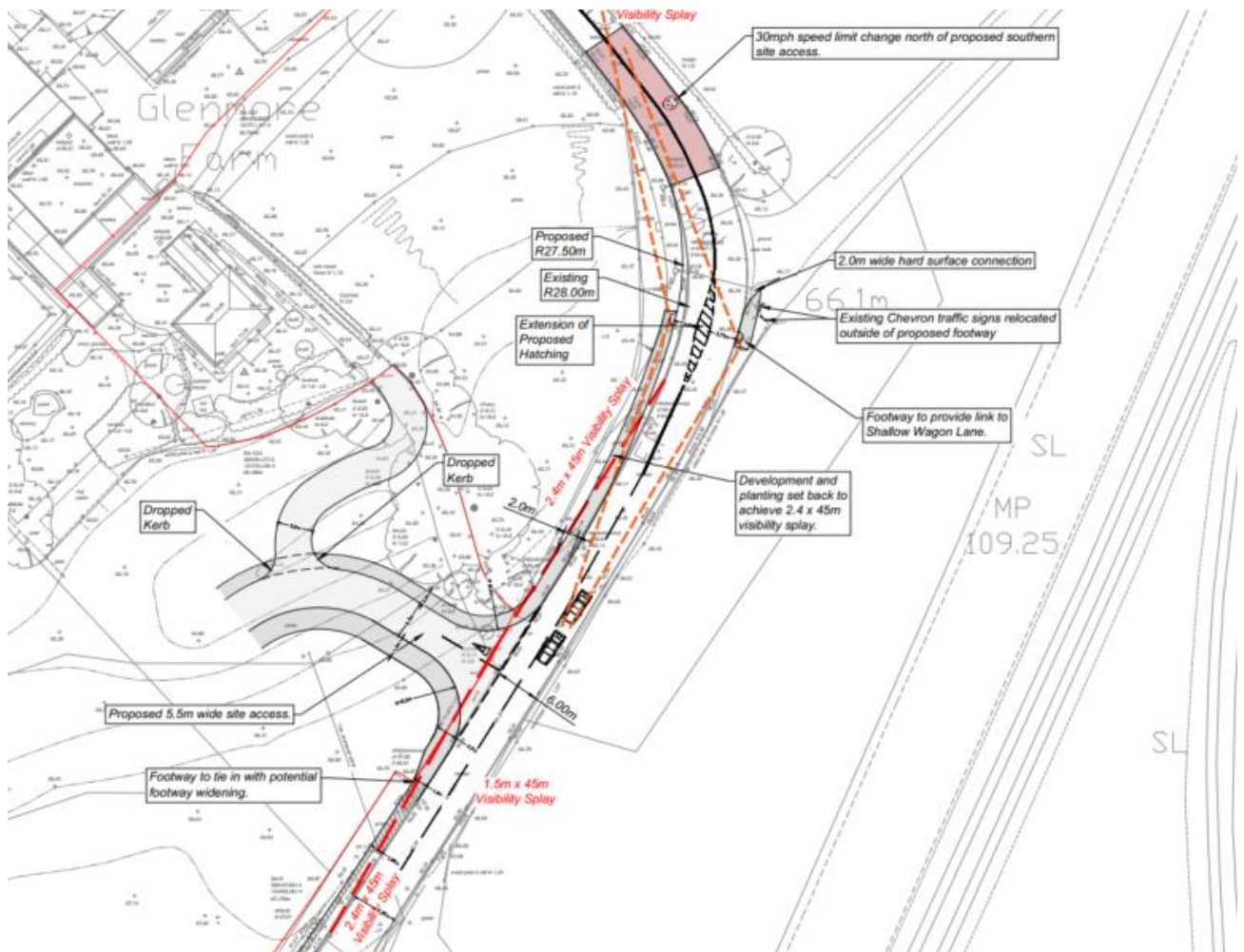
The amenities of the future occupants of the development is another matter for the REM stage. However, the indicative Masterplan, again, demonstrates that there is sufficient space to enable a scheme of up to 145 dwellings to come forward without giving rise to unacceptable amenity impacts for the future 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 1<sup>st</sup> 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 has 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.

#### Pickett and Clanger Wood SSSI –

The submitted ecology reports recognise that the development will result in increased recreational impacts on Pickett 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 0m<sup>3</sup> / 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<sub>Amax,F</sub> 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 LfMax
- 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 Hawkridge 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.

