

# AGENDA

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**Meeting:** Eastern Area Planning Committee

**Place:** Wessex Room - The Corn Exchange, Market Place, Devizes, SN10 1HS

**Date:** Thursday 22 February 2024

**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Matt Hitch of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718059 or email [matthew.hitch@wiltshire.gov.uk](mailto:matthew.hitch@wiltshire.gov.uk)

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

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## Membership:

Cllr Philip Whitehead (Chairman)

Cllr Paul Oatway QPM (Vice-Chairman)

Cllr Adrian Foster

Cllr Dr Brian Mathew

Cllr Kelvin Nash

Cllr Tony Pickernell

Cllr Iain Wallis

Cllr Stuart Wheeler

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## Substitutes:

Cllr Mel Jacob

Cllr Sam Pearce-Kearney

Cllr Jerry Kunkler

Cllr Dominic Muns

Cllr James Sheppard

Cllr Caroline Thomas

Cllr Laura Mayes

Cllr Tamara Reay

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## **Public Participation**

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

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

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

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For assistance on these and other matters please contact the officer named above for details

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 20*)

To approve and sign as a correct record the minutes of the meeting held on 25 January 2024.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

### **Statements**

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

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

### **Questions**

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Thursday 15 February 2024** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Monday 19 February 2024**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

6 **Planning Appeals and Updates** (*Pages 21 - 22*)

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

### **Planning Applications**

To consider and determine the following planning applications.

7 **PL/2022/08744: Devizes Community Hospital, New Park Road, Devizes, SN10 1EF** (*Pages 23 - 104*)

Outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.

8 **PL/2021/04663: Poulton Mill, Poulton Hill, Marlborough, SN8 2LN** (*Pages 105 - 138*)

Change of Use from Agricultural to Equine Clinic with associated buildings, access and landscaping improvements.

9 **20/02272/FUL: Parnham Coaches, 31 Andover Road, Ludgershall, Andover, SP11 9LU** (*Pages 139 - 180*)

Demolition of former coach depot buildings and bungalow; redevelopment of site for 27no. dwellings including associated highways, parking and landscaping.

10 **PL/2021/11719: Marlborough Resource Centre, Cherry Orchard, Marlborough, SN8 4AR** (*Pages 181 - 228*)

Erection of 24 dwellings (10 affordable and 14 market dwellings) and associated works and widening of the public right of way along the eastern site boundary.

11 **PL/2023/07058: Clackersbrook Farm, Bromham** (*Pages 229 - 246*)

Erection of single dwelling and associated works to existing access and

landscaping.

- 12 **PL/2023/01684: Hedgerows, Bytham Road, Ogbourne St. George, Marlborough, SN8 1TD (Pages 247 - 268)**

Proposed Erection of 6 No Dwellings (Class C3) and associated works.

- 13 **Urgent items**

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

## **Part II**

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

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## Eastern Area Planning Committee

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### MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 25 JANUARY 2024 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.

#### **Present:**

Cllr Philip Whitehead (Chairman), Cllr Paul Oatway QPM (Vice-Chairman), Cllr Adrian Foster, Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Iain Wallis, Cllr Stuart Wheeler and Cllr Jerry Kunkler (Substitute)

#### **Also Present:**

Cllr Tamara Reay and Cllr Jane Davies

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#### 1. **Apologies**

Apologies for absence were received from:

- Cllr Tony Pickernell (Substituted by Cllr Jerry Kunkler)

#### 2. **Minutes of the Previous Meeting**

On the proposal of the Chairman, seconded by Cllr Kelvin Nash, it was:

##### **Resolved**

**To approve the minutes of the meeting held on 2 November 2023 as a true and correct record.**

#### 3. **Declarations of Interest**

Cllr Wallis made an additional declaration in relation to Item 7, that he worked for the Department for the Environment, Food and Rural Affairs, but would be speaking in a personal capacity. He did not work in the department dealing with Rights of Way applications.

In order to speak freely as the Unitary Division Member for Item 8, Cllr Wallis declared that he would leave the room in his capacity as a Committee member, so would not vote on, or participate in the formal debate about the application. Cllr Wallis sat with the public attendees for the duration of the item and only spoke in his capacity as local member.

#### 4. **Chairman's Announcements**

The Chairman reminded the Committee about the changes to the National Planning Policy Framework introduced in December 2023 and referred them to

the briefing note contained in Agenda Supplement 1. He highlighted that, as Wiltshire had an emerging Local Plan that had reached an advanced stage, it was now only required to identify a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing supply.

5. **Public Participation**

The Committee noted the rules on public participation.

6. **Planning Appeals and Updates**

On the proposal of the Chairman, seconded by Cllr Iain Wallis, it was:

**Resolved**

**To note the appeals report for the period between 17 November 2023 and 12 January 2024.**

7. **North Tidworth Path No.11**

The Definitive Map Officer Craig Harlow introduced a report about Wiltshire Council North Tidworth Path No 11 Definitive Map and Statement Modification Order 2023.

The Committee considered three objections to the to the Modification Order made under Section 3 of the Wildlife and Countryside Act 1981, as detailed in the report and were invited to forward the Order to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) with a recommendation that the Order was confirmed as made.

The Definitive Map Officer gave a comprehensive presentation which outlined the routes and widths of the application, as well as Wiltshire Council's statutory obligations and the Order plans. He explained that the Applicant had submitted historical evidence to try to demonstrate that part of the route (NTID11) should be upgraded to a restricted byway. However, it was concluded by officers that the documentary evidence was insufficient to demonstrate on the balance of probability that a restricted byway existed.

It was noted that the application had previously been considered by the Committee in December 2022 when it was resolved to forward the Order to the SoSEFRA for confirmation (with modification). However, the Planning Inspectorate on behalf of the SoSEFRA informed Wiltshire Council that the Order was considered to be invalid due to an error within Part 1 of the schedule.

Following the decision to declare the 2022 Order invalid, Wiltshire Council had made a new Order to the same effect. It was reported that no new evidence had been presented to affect the Definitive Map Officer's original recommendation.



Members of the Committee then had the opportunity to ask technical questions of the Officer. Details were sought on what would constitute a 'legal event' which could extinguish a right of way. It was confirmed that a change in ownership would not necessarily extinguish a right of way.

When asked about the vehicles that would be entitled to use a restricted byway, the Definitive Map Officer explained that it would not be possible to drive along using a motorised vehicle, but it would be open to a horse drawn carriage.

There was no public participation, or statement by the Unitary Division Member.

So that the Committee had something to debate, the Chairman, seconded by Cllr Dr Brian Mathew, proposed that the Definitive Map and Statement Modification Order be sent to the SoSEFRA with the recommendation that it was approved as made.

At the conclusion of the debate, it was:

### **Resolved**

**That The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023 is forwarded to the SoSEFRA with the recommendation that it is confirmed as made.**

8. **PL/2022/08744: Devizes Community Hospital, New Park Road, Devizes, SN10 1EF**

#### Public Participation

- Mr Richard Jackson spoke in opposition to the application.
- Miss Rowan Gilbert (NHS Property Services Ltd) spoke in support of the application.
- Cllr Richard Ormerod (Devizes Town Council) spoke in opposition to the application.

The Senior Planning Officer, Ruaridh O'Donoghue, introduced a report which recommended that the outline application for the part conversion and part development of the Devizes Community Hospital site, to provide up to 58 residential units and a circa 67.7 metre squared commercial space, be approved subject to a Section 106 agreement and the conditions outlined in the report. It was noted that the application would include associated landscaping and parking, as well as the conversion of two historically significant buildings (non-designated heritage assets) to the east of the site. All other matters, excluding the access arrangements, would be considered under a reserved matters application. Key details were stated to include the principle of development, highway safety, drainage, parking, heritage and landscape impacts.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought about whether there was a

requirement to provide electric vehicle charging and heat pumps. It was confirmed that Condition 12 of the attached report, if approved, would ensure that a strategy for electric vehicle charging must be in place prior to the commencement of development. However, it was noted that there was not currently a policy in the Local Plan dictating that renewable energy had to be used in new dwellings.

In response to a query about why no affordable housing was included in the development, the Senior Planning Officer explained that it would be commercially unviable if affordable units were included. A commercial viability report had been commissioned by the Developer and reviewed by Wiltshire Council.

When asked about the requirement under the Environment Act 2021 for developments to deliver a 10 percent biodiversity net gain, the Senior Planning Officer explained that it had yet to come into effect. The current requirement, in line with paragraph 180 of the National Planning Policy Framework (NPPF) was to provide a one percent increase in biodiversity. He noted that the plans submitted included tree planting, the creation of a bat house and the retention, or replacement, of hedgerows around the site.

It was clarified that the development would have to comply with building regulations set out at the time of approval, even if there was a lengthy delay before the construction work was complete.

Further information was sought about the indicative parking arrangements as it was noted that there were only 71 parking spaces proposed, which was below the minimum requirement of 112. The Senior Planning Officer noted that the Local Highway Authority had accepted that the reduced parking provision was permissible due to the location of the site close to local amenities, which would promote active travel. In addition, there was a need to protect the non-designated heritage assets and provide sufficient room for landscaping. There would be little green space on site if the number of spaces to meet the minimum requirements were to be delivered.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The representative of Devizes Town Council then spoke in opposition to the application.

The Unitary Division Member, Cllr Iain Wallis, stated that he was supportive of developing the site, but opposed the application before the Committee, on the grounds that there was no provision of affordable housing. Cllr Wallis did not otherwise participate in the debate or vote on the application.

In response to the points raised by the public and Unitary Division Member, the Senior Planning Officer highlighted that the Highways Officer had compared the the likely number of vehicle movements to when the site was in operation as a hospital and had not objected to the development as proposed.

He noted that there had been some differences between the assessments made in the financial viability report produced on behalf of the Applicant and Wiltshire Council's independent assessment, but both had concluded that the provision of affordable housing would mean that the scheme was not commercially viable. If built with affordable units provided, the scheme would not be able to achieve a 10 to 15 percent profit. It was noted that the NHS would not be developing the site itself but would be selling it on to a developer. The Senior Planning Officer also observed that it was possible for developers to apply to Homes England for grant funding for the provision of affordable units through the Affordable Homes Programme.

The Development Management Team Leader, Karen Guest, highlighted that it was standard practice for commercial viability assessments to be redacted in the first instance before discussions with the Applicant, when unredacted versions were sometimes made available.

It was confirmed that as only outline permission was being sought at this stage the layout of the site plan provided was indicative and could be subject to change within the parameters of the outline permission. If outline permission was approved a further reserved matters application would come forward with proposals for the final layout and building design.

So that the Committee had something to debate, Cllr Dr Brian Mathew, seconded by Cllr Adrian Foster, proposed that the application be deferred pending the release of documents assessing the commercial viability of delivering affordable housing as part of the project.

A debate followed where issues such as the provision of affordable housing and the significance of the site were discussed. In response to queries, the Senior Planning Officer confirmed that it would be possible to release the commercial viability assessment conducted by the Applicant as well as the independent assessment made by Wiltshire Council.

At the conclusion of the debate, it was:

### **Resolved**

**To DEFER the outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.**

### **Reason**

**To allow the Committee to consider the commercial viability report, about the provision of affordable housing, prepared on behalf of the Applicant, as well as the independent assessment made by Wiltshire Council.**

9. **PL/2023/07628: Park House, Clench Common, Marlborough, SN8 4DU**

Public Participation

- Mr Nick Herridge spoke in support of the application.
- Cllr Jayne Drew (Kennet Valley Parish Council) spoke in support of the application.

The Senior Planning Officer, Meredith Baker, introduced a report which recommended that the application for a single new sustainable development dwelling at the land behind Park House be refused for the reasons outlined in the report. It was noted that the proposed access was via approved planning application (PL/2022/08144) for proposed stables and access. The proposed dwelling would have three bedrooms and two designated parking bays. Key details were stated to include the principle of development, as well as sustainability, design, residential amenity and highway impacts.

Attention was drawn to the recent change to the National Planning Policy Framework, which now only required Wiltshire Council to demonstrate a four year housing land supply, as it had an emerging Local Plan. The Senior Planning Officer highlighted that the reference to the five year housing land supply, in the second paragraph on page 84 of the agenda pack, should therefore be disregarded.

The Senior Planning Officer noted that the proposed development was located in open countryside within the North Wessex Downs National Landscape, so was therefore in conflict with Core Policy 1 (Settlement Strategy) and Core Policy 2 (Delivery Strategy) of the Wiltshire Core Strategy. The isolated position of the proposed dwelling was expected to be harmful to landscape character and visual amenity. The isolated position of the property would lead to a dependence on private motor transport in conflict with the principles of sustainable development. Furthermore, the access to the property was close to a bend in the road, so would create unacceptable highway safety concerns contrary to Core Policies 57 (High Quality Design and Place Shaping) and 61 (Transport and Development) of the Wiltshire Core Strategy.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought on whether the application would be viewed differently if a separate title were to be created and it was confirmed that it would be in terms of Core Policies 1 and 2 of the Wiltshire Core Strategy.

The member of the public then had the opportunity to present his views to the Committee as detailed above.

The Parish Council representative then spoke in support of the application.

The Unitary Division Member, Cllr Jane Davies, also spoke in support of the application.

In response to the points raised by the public, Parish Council and Unitary Division Member, the Senior Planning Officer noted that full weight was being given to the settlement strategy now that Wiltshire Council was no longer required to demonstrate a five year housing land supply. She emphasised that the proposed development was not within a settlement boundary, so was not deemed to be a sustainable location for development. In response to concerns that the Wiltshire Core Strategy did not support the provision of housing in the countryside she highlighted that there were provisions under Core Policies 1, 2 and 48 (Supporting Rural Life) for the provision of rural housing. She also confirmed that the Agent had been contacted regarding highway safety issues during the application.

The Development Management Team Leader emphasised that the Core Policies in the Wiltshire Core Strategy had been applied and that the Committee would have to find material considerations that outweigh the reasons for refusal listed in the report if they wanted to grant permission for the application.

So that the Committee had something to debate, Cllr Dr Brian Mathew, seconded by Cllr Stuart Wheeler, proposed that the application be granted contrary to recommendation.

A debate followed where issues such as local support, the ecofriendly design, the sporadic location of the housing in Clench Common and transport options were discussed.

It was noted that Paragraph 84 of the National Planning Policy Framework could, in exceptional circumstances, permit development in isolated locations if the design was outstanding and reflected the highest standards in architecture, significantly enhancing its immediate setting. However, there was a very high bar for creating an exception to build in an isolated location on this basis.

In response to queries it was stated that provisions under Core Policy 48 would not provide material considerations to overturn the recommendation, but Core Policies 1 and 2 could provide material considerations to do so.

The Development Management Team Leader cautioned the Committee about the dangers of setting a precedent of approving an application outside of a defined settlement boundary contrary to Core Policy.

During the debate an amendment was proposed by Cllr Adrian Foster that the access arrangements be made subject to a reserved matters application, in order to address highway concerns. This amendment was accepted by the assent of the Committee and added to the substantive motion.

The Development Management Team Leader advised that the access arrangements could be subject to a pre-commencement condition. She also

observed that they would only be able to condition the land within the proposed development site, so would not be able to stipulate changes to the nearby road.

Following this advice, the amendment that the access arrangements be made subject to a reserved matters application was withdrawn from the substantive motion. The proposed conditions to be placed on the application were read out by the Senior Planning Officer and agreed to be added to the substantive motion by the assent of the Committee.

Following the conclusion of the debate, it was then:

### **Resolved**

**To GRANT permission for the creation of a new sustainable development dwelling, with three bedrooms and two parking bays, at the land behind Park House, with proposed access via (PL/2022/08144).**

**REASON: The benefits of the proposal, including: no harm to visual amenity; not a remote location, providing a much needed family home which would be of benefit to the settlement in terms of its survival; and local support outweighed the conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy.**

**Subject to the following conditions:**

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

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

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:**

#### **Application Form**

**Planning, Design and Access Statement  
Sustainable Development Supporting Planning Statement  
Location Plan Existing – Drawing No.2528.HER-01 Rev C  
Location Plan Proposed – Drawing No.2528.HER-02 Rev C  
Proposed Site Plan – Drawing No.2528.HER-03 Rev C  
Proposed Site Plan – Drawing No.2528.HER-04 Rev C  
Proposed Floor Plan – Drawing No.2528.HER-06 Rev C  
Proposed Floor Plan – Drawing No.2528.HER-05 Rev C  
Proposed Roof Plan – Drawing No.2528.HER-09 Rev C  
Proposed Elevations – Drawing No.2528.HER-08 Rev C  
Proposed Elevations – Drawing No.2528.HER-07 Rev C**

**Proposed Perspective – Drawing No.2528.HER-11 Rev C  
Arboricultural Survey & Report by ESLtd dated March 2023  
Preliminary Ecological Appraisal by ESLtd dated March 2023**

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

- 3. No development above slab level shall commence on site until details of the external materials to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

**REASON: In the interests of visual amenity and the character and appearance of the area.**

- 4. No development above slab level shall commence on site until details of boundary treatments (including gates) have been submitted to and approved in writing by the Local Planning Authority, the details of which shall include location, height, design and materials. Development shall be carried out in accordance with the approved details.**

**REASON: Further details are required because insufficient information has been submitted with the application in this regard, to ensure a satisfactory landscaped setting for the development and in the interest of visual amenity.**

- 5. No development above slab level shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-**

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
- details of replacement tree and vegetation planting on site;**
- all hard and soft surfacing materials**

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

- 6. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the**

next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

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

7. Prior to the commencement of works, including demolition, groundworks/excavation, site clearance, vegetation clearance and boundary treatment works, a CEMP shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.

- b) Working method statements for protected/priority species, such as nesting birds and reptiles.

- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.

- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

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

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

8. No works above slab level shall commence until details of the design and locations of bat roosts, nesting opportunities for birds, and bee bricks have been submitted to and approved in writing by the local planning authority. The locations of these biodiversity enhancements shall be included on updated elevation plan documents. The approved details shall be implemented prior to the occupation of the approved dwelling.

**REASON:** To provide mitigation/enhancement for biodiversity.



9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication “The Reduction of Obtrusive Light” Guidance Note 01/21 (referenceGN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

**REASON:** In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

10. The development shall be carried out in strict accordance with the following document:

- Arboricultural Survey & Report-by ESLtd dated March 2023
- Proposed Site Plan Drawing Number: 2528.HER.04 Rev C

The approved tree protection shall be erected prior to any site activity commencing and maintained until completion of the development.

**REASON:** For avoidance of doubt and for the protection, mitigation and enhancement of trees.

11. No part of the development hereby permitted shall be first occupied until the access and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

**REASON:** In the interests of highway safety.

**Informatives:**

1. The applicant should note that under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations 2017 (as amended), it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Additionally, under the Protection of Badgers Act 1992 it is an offence to harm badgers or damage or destroy their setts or disturb badgers within their setts. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected

species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

2. All British birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 while birds are nesting, building nests and sitting on eggs. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1 March and 31 August but some species are known to breed outside these limits.

10. **PL/2023/05917: 19 Manton Hollow, Marlborough, SN8 1RR**

Public Participation

- Mr Adrian Eales, spoke opposition to the application.

The Senior Planning Officer, Meredith Baker, introduced a report which recommended that the application for a first floor rear extension be approved, subject to the conditions outlined in the report. Key details were stated to include the principle of development, design, visual and highway impacts as well as the impact on residential amenity.

Attention was drawn that the application number on page 91 of the agenda pack should have been listed as PL/2023/05917. It was reported that the subject property was a single storey bungalow located at the end of a residential road on a street comprised of a mixture of single and double storey dwellings. It was considered that there would be no negative impact to neighbour or visual amenity as a result of the proposed development.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought on the orientation of the building. It was confirmed that the proposed extension would face towards the A4, Bath Road.

The members of the public then had the opportunity to present his views to the Committee as detailed above.

The Unitary Division Member, Cllr Jane Davies then spoke in opposition to the application.

In response to the points raised by the public and Unitary Division Member, the Senior Planning Officer clarified that there was a requirement to provide three parking spaces for dwellings with four or more bedrooms. Given that the proposed development was a single household extension, it was not felt that it would be proportionate to set a condition that a construction statement was produced.

In response to concerns that the height of the roof of the proposed extension was too high, the Senior Planning Officer explained that the design had been modified following consultation with Officers. There was sufficient distance between the subject dwelling and neighbouring properties so that it would not cause unacceptable blocking of light and the proposed development's height was not out of keeping with the street scene.

So that the Committee had something to debate, the Chairman, seconded by Cllr Stuart Wheeler, proposed that the application be granted for the reasons outlined in the report.

A debate followed where issues such as the building design and possible disruption during the construction process were discussed.

In response to queries it was stated that Core Policy 57 (High Quality Design and Place Shaping) of the Wiltshire Core Strategy did not set a limit on the number of extensions that a property could have. It was confirmed that no renewable energy sources were being proposed as part of the development, but it was not currently a stipulation of the Wiltshire Core Strategy.

During the debate, the Chairman proposed an amendment to his original motion to add an informative that the Applicant be advised to provide contact details to neighbouring properties prior to the commencement of construction works, so they could discuss concerns about the project. The Chairman's amendment was accepted as a friendly amendment by the seconder of the original motion, Cllr Wheeler, and added to the substantive motion.

At the conclusion of the debate, it was:

### **Resolved**

**That planning permission be GRANTED subject to the following conditions:**

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

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

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**

- Site Location & Block Plans - Drawing No. 22122 01 dated July 2023 and received 17/07/2023
- Proposed Plans and Elevations - Drawing No. 22122 108 dated June 2023 and received 05/10/2023
- Application Form - received 17/07/2023

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

#### **Informative**

**The Applicant is advised to provide a point of contact (including name, e-mail address and telephone number(s)), and distribute this to the occupiers of neighbouring properties prior to the commencement of construction works. This contact should be available to respond to/discuss any concerns regarding the build and its impact on neighbouring occupants, if the need arises.**

#### 11. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 5.42 pm)

The Officer who has produced these minutes is Matt Hitch of Democratic Services, direct line 01225 718059, e-mail [matthew.hitch@wiltshire.gov.uk](mailto:matthew.hitch@wiltshire.gov.uk)

Press enquiries to Communications, direct line 01225 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

**Wiltshire Council  
Eastern Area Planning Committee  
22<sup>nd</sup> February 2024**

**Planning Appeals Received between 12/01/2024 and 09/02/2024**

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/09471	Land at High Town, Cross Lane , Marlborough , SN8 1JZ	Marlborough	Erection of a detached dwelling with access, car parking and associated works (resubmission of PL/2021/10968)	DEL	Written Representations	Refuse	31/01/2024	No
PL/2023/03421	Land at Easton Royal, Burbage Road, Pewsey, SN9 5LS	Easton	Erection of 3no. detached dwellings, car parking and associated works (Outline application relating to access)	DEL	Written Representations	Refuse	01/02/2024	No
PL/2023/03811	Upcott Cottage, Bath Road, Marlborough, SN8 1NN	Marlborough	Retrospective permission to install an electric sliding fence across the drive, and to replace a wooden fence along the front of our property and also a post and wire fence around part of the garden overlooking the junction between the Bath Road and Golding Avenue.	DEL	Householder Appeal	Refuse	09/02/2024	No
PL/2023/03842	Etchilhampton House, Etchilhampton, Devizes, SN10 3JH	Etchilhampton	Installation of solar panels on the roof of the curtilage listed garage outbuilding.	DEL	Written Representations	Refuse	29/01/2024	No
PL/2023/04167	Etchilhampton House, Etchilhampton, Devizes, SN10 3JH	Etchilhampton	Installation of solar panels on the roof of the curtilage listed garage outbuilding.	DEL	Written Representations	Refuse	29/01/2024	No
PL/2023/06867	Beulah, Bath Road, Devizes, Wilts, SN10 1PW	Devizes	Proposed dropped kerb to facilitate driveway and parking	DEL	Householder Appeal	Refuse	07/02/2024	No

**Planning Appeals Decided between 12/01/2024 and 09/02/2024**

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded
PL/2022/07348	Land and buildings to the rear of Malthouse Farm, Oak Lane, Easterton, SN10 4PD	Easterton	Demolition of pole barn and erection of a replacement building for use as holiday let, along with associated communal space/bike store and general storage for the wider landholding.	DEL	Written Reps	Refuse	Allowed with Conditions	30/01/2024	None

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<b>Date of Meeting</b>	22 <sup>nd</sup> February 2024
<b>Application Number</b>	PL/2022/08744
<b>Site Address</b>	Devizes Community Hospital, New Park Road, Devizes, Wilts, SN10 1EF
<b>Proposal</b>	Outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.
<b>Applicant</b>	NHS Property Services
<b>Town/Parish Council</b>	Devizes
<b>Electoral Division</b>	Devizes North (Cllr Wallis)
<b>Type of Application</b>	Outline
<b>Case Officer</b>	Ruaridh O'Donoghue

## Reason for the application being considered by Committee

This application was 'called in' for Committee determination at the request of the local division councillor, Iain Wallis, for the following reason:

- The application is providing no affordable housing.

The committee deferred consideration of this planning application at its meeting held on 25 January 2024. The reason for deferral was because the committee wanted to have sight of the Council's review of the Financial Viability Assessment by Montague Evans that was undertaken by Dixon Searl Partnership (DSP).

In response to this, officers have published the DSP review and emailed a copy to the members of the committee, the division member, Devizes Town Council and the Trust for Devizes, all of whom expressed concerns over this issue.

The DSP review was commented upon in the previous report to the Committee. Given the views expressed at the previous committee meeting, and the focus on the issue of viability, some additional commentary has been provided in section 9.11 of this report.

## 1. Purpose of Report

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

## 2. Report Summary

The main planning issues are considered to be:

- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);

- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)
- Whether there will be any land contamination / air quality issues (CP 55)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms and are there any viability concerns preventing delivery of all the desired/required mitigation?

### 3. Site Description

The application site extends to approximately 0.84ha and is located to the north of Devizes Town Centre. The Kennet and Avon Canal runs to the north of the site, residential properties lie to the east, residential and commercial properties lie to the south with Devizes Wharf fronting the western side of the development. Figures 1 below shows the location of the development.



**Figure 1: Site Location**



new Devizes ICC on Green Lane. The site is currently accessible from New Park Road to the east and Couch Lane to the west.

The site is located in an accessible location on the northern side of Devizes, with the town centre shops, services and facilities all within walking distance (e.g. The Market Place is 250m walk from the site).

With regards to any planning constraints affecting or covering the site, the following is noted: For the purposes of CP 1 and 2, the site lies within the Limits of Development of Devizes. Part of the site lies within the Victoria Road Conservation Area and contains significant unlisted buildings and hedges that make up that conservation area (see figure 2 below).

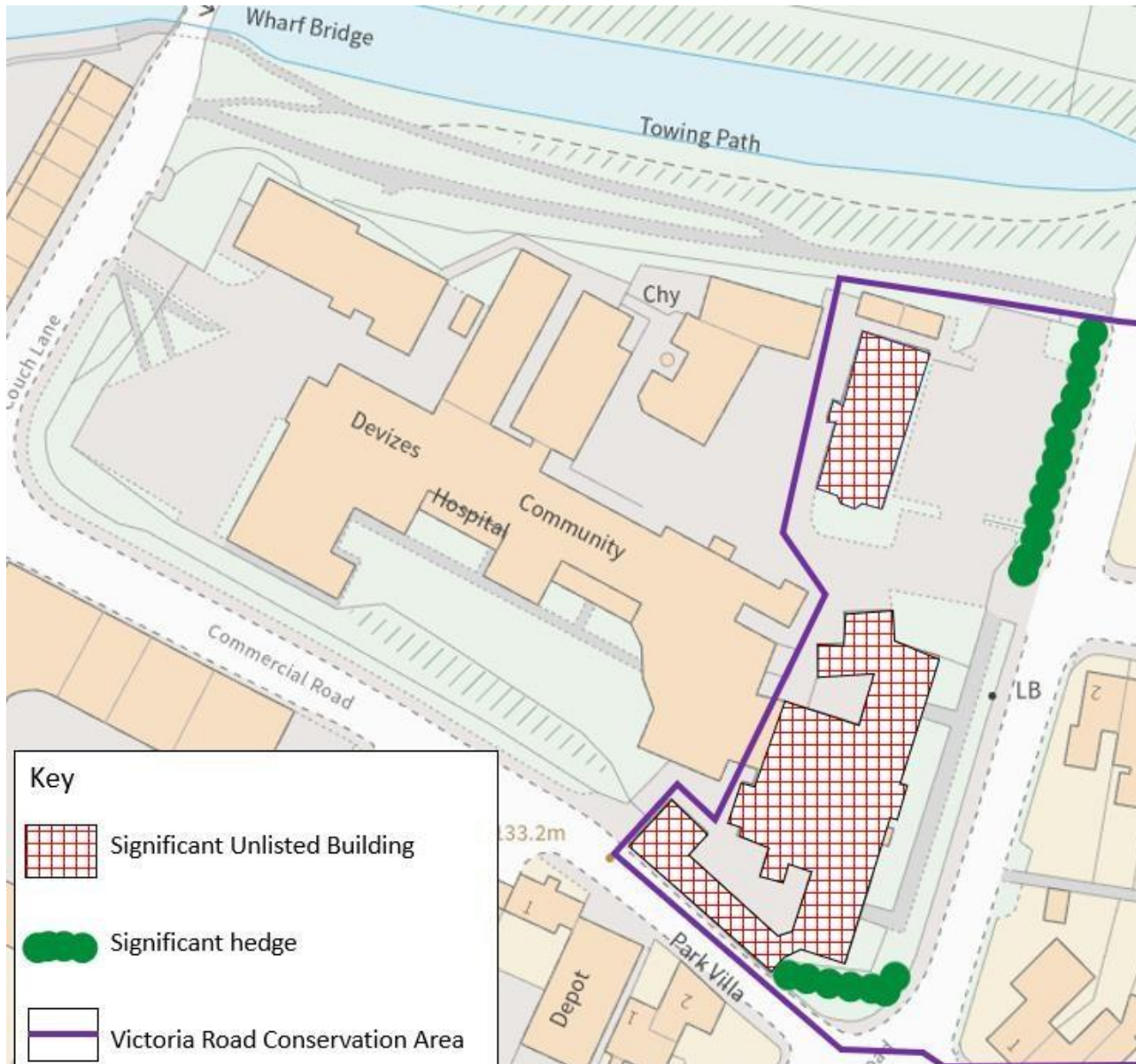
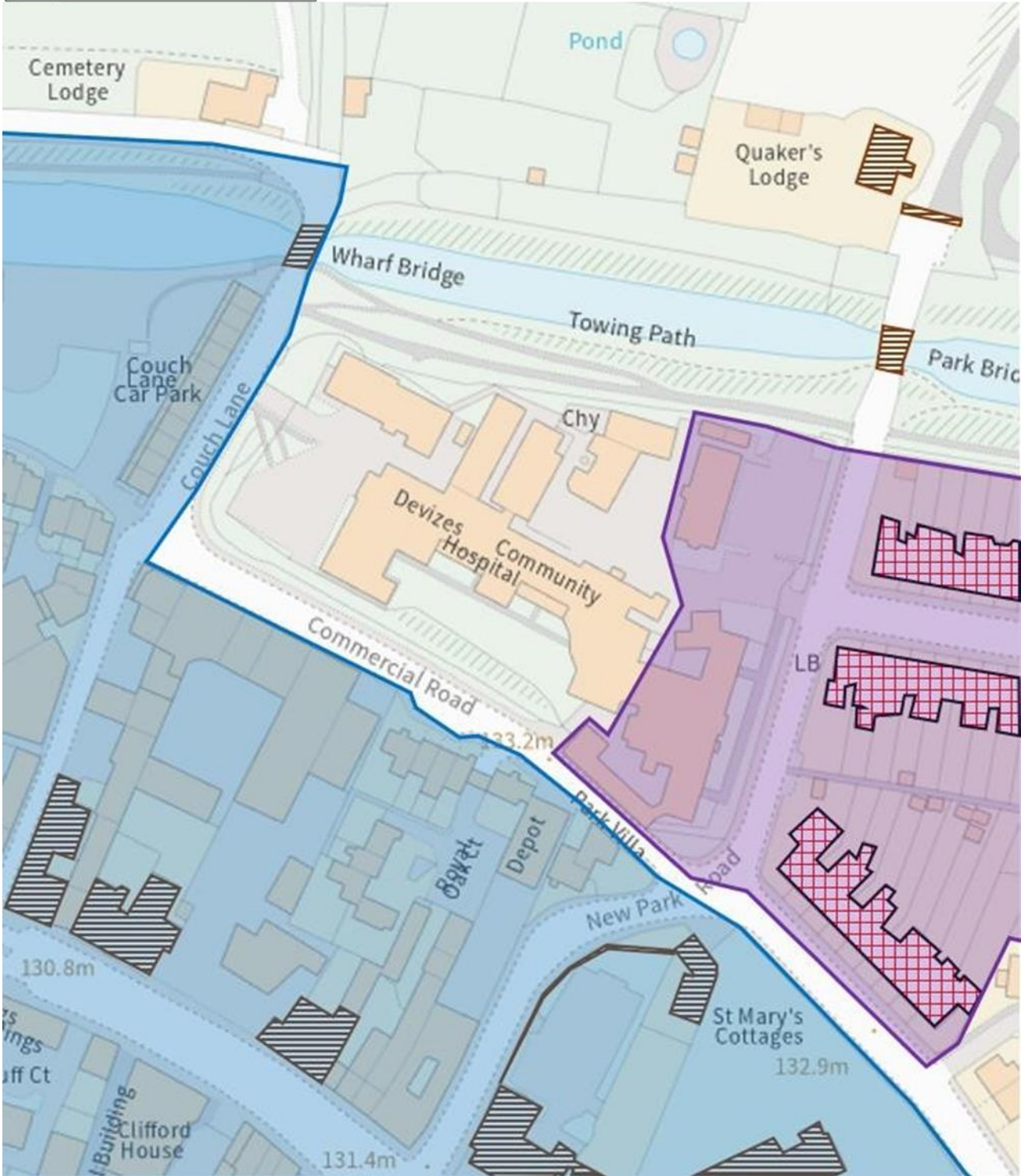


Figure 2: Site Heritage Assets

In terms of wider heritage assets, the southern and western boundaries of the site adjoin the Devizes Conservation Area and there are several grade II listed buildings and structures within close proximity, notably, Park Bridge, Wharf Bridge and St Mary's Cottages. Also, The Kennet and Avon Canal, which runs to the north of the site, is considered to be a non-designated heritage asset (see figure 3).



**Figure 3: Surrounding Heritage Assets**

DEV16, a Public Right of Way (PRoW) runs along the rear of the site as part of the Kennet and Avon Canal Towpath.

#### 4. Planning History of Application site

There is no relevant planning history relating to the application site. A previous application for security fencing around the site is not relevant to the current proposal for residential development.

#### 5. The Application

The application is for outline planning permission (with all matters reserved except for access) for the part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 dwellings (Use Class C3) and a circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.

A full description of the proposal is set out in the applicant's Planning Statement and Design and Access Statement. Figure 4 below shows an indicative site layout comprising the retained buildings (Block K and L) with a series of terraced housing (Blocks A1, A2, G and F) and some blocks of flats (Block H1, H2, H3 and J).



Figure 2 Site layout

#### Housing Mix

Whilst indicative at this stage, the layout suggests 34% of the mix would be houses, with the remainder being apartments/flats. The scheme is 100% market led as it has been concluded in a viability report (agreed upon by the Council's appointed reviewer (see section 9.11)) that the development would be unviable were it to deliver any affordable housing. The housing mix comprises 1-3 bed dwellings.

## Access and Car Parking

It is proposed to retain the two existing vehicular access points into the site i.e., the access from New Park Road and Couch Lane will remain as existing. Whilst indicative, a no through road is proposed through the site to avoid creating a rat run. This allows for increased green infrastructure on the site and is therefore welcomed.

In addition to the existing pedestrian access points, a connection is proposed to the north to link up with the Kennet and Avon Canal towpath and to the south onto Commercial Road.

Parking standards are below minimum policy requirements. The layout plan shows a total of 71 spaces whereas the indicative accommodation schedule would require a total of 112 spaces based on the housing types proposed (100 car parking spaces for residents and 12 visitor parking bays). However, prior to the submission of the application it was accepted by the local highway authority that a reduced parking standard could be applied as the site is within close proximity of the town centre.

## Urban Design and Heritage Parameters

Whilst this is an outline application, certain principles have been advanced to deal with urban design and heritage matters. Figure 5 below deals with these parameters. It shows that building heights will be predominately between 2 and 2.5 storey with one 3 storey element, what buildings are to be retained, where repair works are required to boundary walls, access points and other specific restrictions within the site such as preventing through access for vehicles. Although the plan shows proposed buildings as set out on figure 4, these are illustrative only and therefore, if this plan is conditioned it would not be expected that the building blocks would have to be as per this plan.

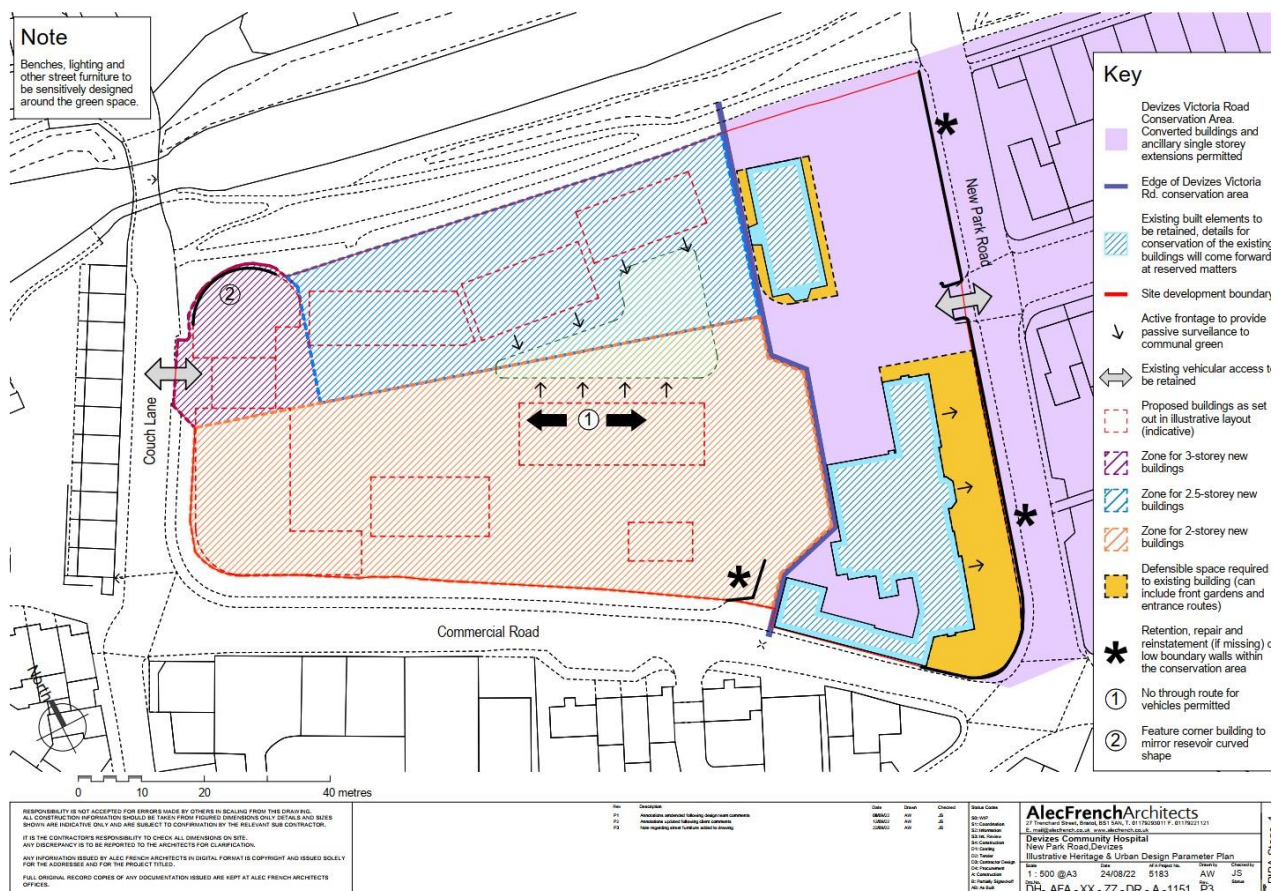


Figure 5 - Heritage and Urban Design Parameter Plan

## 6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015):

- CP1 – Settlement Strategy,
- CP2 – Delivery Strategy,
- CP3 – Infrastructure Requirements,
- CP12 – Spatial Strategy Devizes,
- CP43 – Providing affordable homes,
- CP45 – Meeting Wiltshire’s housing needs,
- CP46 – Meeting the needs of Wiltshire’s vulnerable and older people,
- CP50 – Biodiversity and Geodiversity,
- CP51 – Landscape,
- CP52 – Green Infrastructure,
- CP55 – Air Quality,
- CP56 – Contaminated Land,
- CP57 – Ensuring High Quality Design and Place Shaping,
- CP58 – Ensuring the Conservation of the Historic Environment,
- CP60 – Sustainable Transport,
- CP61 – Transport and New Development,
- CP62 – Development Impacts upon the transport network,
- CP63 – Transport Strategic
- CP64 – Demand Management, and
- CP67 – Flood Risk

Devizes Neighbourhood Plan

### Other

- The Wiltshire Waste Core Strategy (adopted 2009)
- Wiltshire Housing Site Allocations Plan (adopted Feb 2020)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)

## 7. Consultations

Devizes Town Council – Objection

An NHS consultant, Johnny Kidney, addressed the meeting to explain the illustrative layout provided, and present feedback offered by local residents.

Committee members expressed their concerns for the planning application on the following basis:

- a) The risk to the hedgerow and trees to the South of the illustration.
- b) The lack of 'affordable housing' available.
- c) That the plans do not meet the 'mixed-use' principle due to the lack of leisure and recreational facilities.
- d) The potential for antisocial behaviour.
- e) The lack of sustainable infrastructure.
- f) Overflow of cars due to a lack of parking spaces.

Four members of the public addressed the meeting and objected to the following:

- g) Household labelled E which would be overlooked.
- h) The risk to the hedgerow.
- i) The lack of consideration for disabled access external and internal to the residential properties.
- j) Any future marginalisation of sustainable infrastructure.

Following a discussion of these points, it was ultimately proposed by Councillor Ormerod, seconded by Councillor Giraud-Saunders and agreed that the committee rejects the proposal on the grounds of the risk posed by the single detached house to the hedgerow and tree to the South, its form, and the lack of affordable housing.

#### Devizes Town Council (Second Response)

In a recent meeting of Devizes Town Council's Planning Committee, there was a debate on the Viability Assessment produced for the outline planning application for the former Devizes Hospital site.

As part of the Council objection submission it noted that there was a lack of affordable housing within the plan even though there is a strong inference that the inclusion of affordable housing would make the project nonviable. Given this assertion, the Town Council is concerned the submitted Viability Assessment, on which a justification for the lack of 'affordable housing' was based was so heavily redacted.

Whilst the applicants have submitted a viability assessment by reputable surveyors, all the numbers have been redacted and therefore Devizes Town Council believes this renders the document all but incomprehensible to the interested reader.

It is the Town Council's view that the National Planning Practice Guidance, and the guidance is clear that viability assessments should be prepared on the basis that they will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available. Information used in viability assessments is not usually specific to that developer and thereby need not contain commercially sensitive data. In circumstances where it is deemed that specific details of an assessment are commercially sensitive, the information should be aggregated in published viability assessments and executive summaries, and be included as part of total cost figures. Where an exemption from publication is sought, the planning authority must be satisfied that the information to be excluded is commercially sensitive. This might include information relating to negotiations, such as ongoing negotiations over land purchase, and information relating to compensation that may be due to individuals, such as right to light compensation. The aggregated information should be clearly set out to the satisfaction of the decision maker. Any sensitive personal information should not be made public.

The Practice Guidance also emphasises that viability should be assessed during plan-making however it is not clear to the Town Council that this has happened, because the Hospital site is not allocated in either the Core Strategy or the Neighbourhood Plan and therefore the Town Council is requesting that this document is made available publicly or to the town Council so that if the application is called in and determined by committee, the Town Council can be assured that it fully understands the justification of the lack of affordable housing on the site.

#### Wiltshire Council Highways

No objection subject to conditions and S106 contribution.

#### Wiltshire Council Archaeology

I note from the supporting documentation that some preparatory work has been carried out on the built heritage issues surrounding the proposed development. I also note that no mention has been made of the sub-surface archaeological potential of the site that could be impacted by development

within current open spaces. It is known that the line of the outer bailey of the former Devizes Castle follows the current route of Commercial Road along the southern edge of the site, while the site itself was located on the periphery of the medieval town. What needs to be established at this stage is the degree to which the elements associated with the outer bailey and the remains of any other contemporaneous structures, have been impacted by the development of the Community Hospital and buildings that preceded it. It is my opinion that the current standing buildings that make up the hospital are likely to have severely truncated, if not wholly removed any previous archaeological features and/or deposits, while those parts of the site currently taken up by yards and car parks may have surviving elements of the medieval town beneath the layers of tarmac, concrete and hardcore. I would therefore advise that the archaeological potential of the site needs to be investigated via a programme of investigations, such as the archaeological monitoring of geotechnical trial pits and archaeological trial trench evaluation, although I would be open to suggestions from the applicant's archaeological consultants as to other methods of investigation that may be employed.

I would suggest that the above programme of investigation be carried out prior to the determination of any future planning application. Carrying out such a programme at the earliest available opportunity would give the applicant time to take on board the ramifications for the proposals if assets of high or national value were uncovered, and in the case of medium or low value assets being found, would enable the applicant to commission works to mitigate the impact of construction upon them without interfering with any construction timetables.

#### Wiltshire Council Drainage

No objection subject to conditions to cover the submission of a detailed drainage strategy, SUDs details and to conduct infiltration testing with the findings presented to the Council.

#### Wiltshire Council Public Open Space

They have no objections to the proposal. They set out that formal and informal recreation space can either be provided on site or off-site as part of a S106 contributions. An offsite leisure contribution is also required towards formal sports facilities within the vicinity of the development.

Wiltshire Council Public Protection Officer – No objection subject to conditions to cover contaminated land investigations, the submission of a scheme for ULEV vehicles, no burning of waste on the site and the permitted working hours of construction/demolition.

#### Wiltshire Council Landscape Officer

No objections. Having reviewed the LVA, green Infrastructure parameter plan, and indicative layout they are pleased to note that the scheme is landscape led with a large number of street trees included in the scheme. They also set out what they would expect as part of a detailed reserved matters application regarding hard and soft landscaping.

#### Wiltshire Council Education Officer

S106 contribution required towards early years and secondary education places.

#### Wiltshire Council Climate Change Officer

Offers advice and guidance on the latest policies and practises surrounding addressing the climate issues within new developments.

#### Wiltshire Council Affordable Homes Officer

30% of the development should be affordable, comprising 10 homes for affordable rent, 3 homes for shared ownership and 4 as first homes. S106 required to secure this.

#### Wiltshire Council Urban Designer

They are supportive of the design process to date, and have no objection to the proposal now submitted; the DAS and parameter plans set clear and positive requirements (in line with CP57) for designers at Reserved Matters to take forward, and should be conditioned accordingly.

#### Wiltshire Council Conservation Officer

No objection. As the NPPF states, heritage assets are an irreplaceable resource and it is important to conserve them in a manner appropriate to their significance. In heritage terms, this proposal complies with s.16 and s.72 of the P(LB&CA)A 1990, policy CP57 and CP58 of the WCS and heritage advice in the NPPF.

Wiltshire Council Waste Collection – No objection subject to a S106 contribution.

Wiltshire Council Ecology – Upon receipt of a further Ecological Impact Assessment, Green Infrastructure and Ecology parameters plan the Ecologist removed their objection to the scheme subject to conditions and further information being supplied at the reserved matters stage.

#### Canal and Riverside Trust

They have no objections to the development subject to a number of conditions and subject to an appropriate design and level of detail coming forward at reserved matters stage to address the issues that the Trust are concerned with.

## **8. Publicity and Subsequent Representations**

The application was advertised by:

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

Fifteen letters of objection were received. The application has been the subject of consultation exercises, and the following is a summary of the position reached following these. This is a summary and does not purport to be a full recitation of all comments made. The comments made are summarised as follows:

#### Design

- Too many houses on the site.
- Some of the properties should, as a minimum, have doorways (interior and exterior) accessible to wheelchairs. Accessible bathrooms, and adaptable toilets and wash basins and kitchen workspaces/units are also desirable.
- This is an important development which forms part of the wider Wharf redevelopment scheme. The buildings must therefore reflect the principles set out in the 2011 Wharf Development Plan and 2022 Feasibility Update so they are in harmony with their surroundings.
- This site needs a strong connection to Central Wharf and should be amended to improve access on foot between the NHS site and the central wharf and connections to the tow path. This should include pavements and suitable lighting for existing connections to improve safety.
- The Upper Wharf area is identified for residential use in the master plan and therefore should not include any commercial development.
- Concerns regarding the height of the buildings at the Wharf side of the development, will it be 2 or 3 storeys?
- Design of the building next to the Wharf/cemetery bridge looks totally inappropriate and not in keeping with the area.
- The indicative layout fails to establish a clear built form, and instead seems to consist of a series of disjointed responses to individual features of the site.
- Hoped that proposals for the site would be incorporated into an overall redevelopment scheme for the whole Wharf area.



### Lack of affordable housing

- The assertion that they cannot provide affordable housing is ridiculous. It is also shameful for the NHS.

### Impact upon the area

- All they are trying to do is maximise profit by avoiding planning obligations to benefit the community.
- Not enough infrastructure in the town to cope with additional housing.
- Enormous expansion of the town has occurred in recent years but there has been little if any thought given to the infrastructure.

### Impact on Amenity

- In it's current position, any windows on the south side of the large detached house "E" will look directly into the bedrooms of houses on Royal Oak Court. The house is not in keeping with the rest of the plans.
- The indicative layout shows a detached house 'E' towards the E end of the frontage to Commercial Road. Semi-mature trees have become established in this space, which will conflict with the enjoyment of any house sited here.

### Access/Parking

- Not enough parking
- Will cause too much extra traffic travelling on New Park Street (A 361)
- Access into & out of Victoria Rd will be severely compromised
- Accessibility into and within some of the units - a development site linked to the NHS should have provision for special needs. It also seems pertinent to provide for the less abled at a site so accessibly close to the town centre.
- Accessibility along Commercial Road (New Park Road to Couch Lane) raises concerns of safety for pedestrians and the less abled.
- The proposed pathway from Commercial Road to the Canal is adds no value to the plans as there is no demand for this purpose. Access to the town and canal are more than adequately achieved from Couch Lane and New Park Road.
- Object to the creation of this new opening into Commercial Road and suggest that the main east and west access points into the site are more suitable and more than adequate for pedestrians, safer and connect into the existing and more suitable footways at these locations. The link as proposed in our view does not sit well with Core Policy 60 and T1 of the Neighbourhood Plan.
- More consideration should be given to pedestrian and vehicular access routes to and from the town centre. There needs to be free passage for emergency vehicles and safe movement for pedestrians on roads to the site as well as within the site.

### Ecology

- The reports attached to the planning application are not clear on the retention of the hedge to the South side (Commercial Road ) of the site. The environmental report downplayed the significance of this hedge. However, it is a green corridor and it does support wildlife including hedgehogs. The hedge also provides privacy for Royal Oak Court residents. The planning consent should be conditional on retaining a hedge along the south side of the site.
- The beech hedge at the corner of New Park Rd is a large roost for hedge sparrows and should be retained.
- Not enough swift boxes installed in new developments. Need to ensure swift boxes/bricks are incorporated into this development.

### Landscaping and Trees

The common yew sited by the planned building E appears in good health and should be retained.

## Other

- A development of this size should be expected to make a significant financial contribution to the wider wharf redevelopment scheme.
- The submitted viability assessment has been so heavily redacted that it is useless for interested parties and the community at large to understand the key factors underlying the asserted non-viability of affordable housing, or to judge the merits of the case for overriding the adopted Core Policy.

## **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

Devizes is identified as a Market Town in the WCS. Core Policy 1 identifies Market Towns as ones that will provide significant levels of jobs and homes. There is a presumption in favour of sustainable development within the Limits of Development (LoD) of Market Towns as identified by Core Policy 2.

As the site is within the LoD of Devizes, one can accept that it is a suitable location in principle for new housing. With regards the scale of housing proposed, 58 dwellings is not considered to exceed the growth levels invoiced at Market Towns i.e., significant levels of growth can be accommodated.

The Devizes Neighbourhood Plan, whilst not specifically allocating the site, states at Policy H2 that any sites within the LoD should:

- Be limited to clusters of no more than 65 dwellings.
- Demonstrate that access to health, education, retail and leisure facilities has been designed in such a way as to minimise dependence on the private car.
- Be designed so as to be related to the character of the surrounding area.
- Wherever practicable, contribute to the regeneration of the built environment in those areas of the settlement that would benefit.
- Enhance the public realm and connect to the green infrastructure of the settlement thus positively contributing to its development.

Whilst some of the criteria listed above will be addressed by other sections in this report, the site is for less than 65 dwellings and will ensure regeneration of a brownfield site. It is well connected to the town centre due to its close proximity, thus reducing car dependency and, it connects well to existing green infrastructure as it adjoins the Kennet and Avon Canal. Broadly, it can be concluded that in principle, it complies with Policy H2 of the Devizes NP.

The proposal can therefore be considered acceptable in principle.

However, it should be noted that what constitutes sustainable development in Wiltshire is the development plan when read as a whole. The development is considered acceptable in principle, but, whether it constitutes sustainable development depends very much on how it is measured against the other relevant policies of the development plan. These will be considered in the next sections of this report.

Furthermore, it is noted that the site is allocated in the emerging Local Plan which is at Regulation 19 stage as part of wider regeneration proposals for the Devizes Wharf. One can infer from this the direction of travel for the site is indeed to allocate it for housing in the Local Plan.

## 9.2 Need

It is noted that a number of locals have queried the need for further housing within Devizes. Comments have been made regarding the lack of infrastructure within the town and the significant need for facilities to support the large volumes of housing that have built in recent years within the town.

Although Wiltshire Council is only required to demonstrate 4 years' worth of housing land supply; it being a paragraph 77 (of the NPPF) authority, the site is within the Limits of Development of the town and thus a suitable and sustainable location for further housing. The NPPF is clear at paragraph 60 where it states the government aim to significantly boost the supply of housing and in that context housing figures within local plans are not maximums but minimums. This site can make an important contribution to this aim in a sustainable manner.

Furthermore, it should be noted that this is a regeneration scheme, on a brownfield site, and with such comes significant viability challenges, as can be seen by the applicant's own viability report. Whilst it may be the preference of some locals to see more infrastructure/facilities and affordable housing provided on the site, the Council must have regard to the commercial viability of the site if it is to ever see planning approvals get built out. In that regard, the developer has submitted a viability report which has been reviewed by the Council. It is clear that a market housing scheme is required to make the development stack up financially, and therefore, it is considered that the right balance has been struck here.

As set out previously the local plan review intends to allocate the site and, the Devizes Wharf Area Redevelopment & Feasibility Study (2022 update) includes this site in what it defines as the Upper Wharf Area and states that the potential exists to create a residential community here *“with a strong local character and identity, within easy walking distance of the shops and leisure facilities of the town centre.”* This study accompanies the Regulation 19 consultation documents for the Wiltshire Local Plan and is therefore part of the vision of emerging policy. It can therefore be concluded from this that this majority residential led proposal is in accordance with emerging policy/proposals.

Notwithstanding the above, the scheme does provide one E Class commercial unit which would support this area becoming a residential community and would compliment the wider town centre uses and the overall regeneration of Devizes Wharf.

## 9.3 Design and impact upon the character and appearance of the area

Core Policy 51 states that:

*“Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.”*

This advice is echoed in paragraph 174 of the NPPF.

Core Policy 57 states that:

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

The site occupies a location on the edge of the main built-up area of the town with the canal adjoining the northern boundary. As such, it is important that site addresses and interfaces well with the townscape but also the rural fringe beyond. In that context, existing vegetation is to be retained along the northern boundary with some additional planting to ensure a better interface with the canal and rural landscape beyond. The hedging and walling that makes an important contribution to the Conservation Area is also set to be retained and where necessary enhanced. This ensure that the site can continue to address its existing urban boundaries in a positive manner. These details can be seen on figure 5 below which is a Green Infrastructure and Ecological Parameters Plan that was submitted with the application.

The above mentioned plan sets out what landscaping is to be retained and what areas of new landscaping are proposed. This plan would be conditioned to ensure sufficient space is retained to achieve suitable landscape mitigation. This will ensure a satisfactory landscape setting for the development both when viewed externally (outside the site) and from within it.

This fully squares with CP51 which allows for mitigation to be taken into account when assessing landscape impact. As this is an outline application, detailed landscaping proposals have not been supplied. Such details are considered necessary to provide a satisfactory landscape setting for the development as well as suitable mitigation for the built form. Such proposals should ideally form part of the reserved matter entitled 'landscape'. But officers are satisfied based on figure 5 below that this can be achieved.



Figure 6 – Green Infrastructure & Ecology Parameter Plan

The strategic planting (the planting not within private gardens) would be subject to further controls via the Landscape and Ecological Management Plan (to be conditioned – see Wiltshire Council Ecology response).

The Council’s Landscape Officer is pleased with the amount of street trees proposed and that the scheme has been landscape led. They have made no objections to the proposal and thus one can infer that the scheme will meet the requirements of the above-mentioned policies i.e., that it will protect landscape character and not have any harmful visual effects upon the receiving landscape.

With the above conditions in place, it is the opinion of officers that a scheme of up to 58 units can be delivered on the site without giving rise to any adverse impacts to the surrounding landscape.

It is noted that the Canal & Riverside Trust have requested a canal side landscaping and boundary treatments scheme. However, this is an outline application where ‘landscaping’ is a reserved matter. As such, the condition is not necessary at this stage as these details can still be provided at REM stage. There would still be the opportunity to impose a condition at REM stage should the details not be sufficient. An informative to signpost the applicants to the comments from the Canal & Riverside Trust can instead be imposed.

Core Policy 57 requires a high standard of design in all new developments. It requires developments to demonstrate that their scheme will make a positive contribution to the character of Wiltshire by amongst other things:

- enhancing the natural and historic environment and existing built form;
- retaining important landscape and natural features;
- responding positively to the existing townscape and landscape in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines;
- making efficient use of land whilst taking account of site characteristics and context
- having regard to the compatibility of adjoining buildings and uses and the impact on the amenities;
- ensuring legibility throughout the development; and,
- using a high standard of materials.

Whilst the majority of the site is in outline form, and therefore the detailed considerations in respect of design cannot be considered under the outline application (i.e., the layout, scale, appearance and landscaping of the development are points to be determined as part of a Reserved Matters application) the application has been accompanied by a supporting information. This information has been provided to demonstrate how the scheme could work in urban design terms and to also demonstrate that the proposal will not have an adverse impact on the character and appearance of area.

The indicative masterplan shows a scheme of 58 dwellings and circa 67m<sup>2</sup> of commercial space. With the net developable area in mind, this equates to approximately 69 dwellings per hectare. Although this figure appears high, given the sites location adjacent to the town centre, this is an ideal place for pushing a higher density of development and is supported by NPPF para 128 where it states that *“planning policies and decisions should support development that makes efficient use of land...”* and paragraph 129 that infers an uplift in density within town centre locations that are well served by public transport. It is considered that this number achieves the best use of the land without comprising on quality, and so is acceptable. It is also not too dissimilar to other nearby residential areas.

The design achieves acceptable parking standards for a town centerish location, ensures sufficient private amenity spaces for houses, provides adequate bin and bike storage, appropriate levels of strategic landscaping, open space and ecology buffers as well as sufficient road widths and pavements within the site. As such, it would be difficult to argue that this would be an over-development.

Naturally the presence of flats within a development proposal will push up the density of development and more critically, usually require greater building heights. The indicative layout plans show these building heights as being predominantly 2-2.5 storey with one 3-storey landmark building on the northwest corner. Further, the submitted urban design parameters plan (see figure 5) marks on it the various building height zones throughout the development e.g., where the 3-storey element will be located and where 2 storey elements will be. This fixes the maximum heights of the various zones within the site to ensure compatibility with the surrounding development. Noting the presence of building within the vicinity of the site at greater or equal height to those proposed here (e.g., New Park Street), they heights set out on this parameter plan are not considered to impact upon the character and appearance of the area in a harmful manner i.e., it is compatible development.

In light of the above, the illustrative material accompanying the outline proposals is sufficient to demonstrate that the scale of development proposed can be delivered on the site without the appearance of overdevelopment and whilst ensuring a high-quality design can be achieved with key policies elements relevant to the delivery of this scheme adhered too.

Whilst the DAS provides largely indicative material in relation to the outline proposals, it contains positive and clear requirements in line with CP 57 that a designer at REM stage can use e.g., the use of street trees and the landscape led nature **Page 37**. It is therefore prudent to ensure that the development is carried out in general accordance with the DAS so that these principles can

form the foundations blocks for the detailed design presented at reserved matters stage.

The scheme has also been the subject of detailed design assessment by the WC Urban Design Officer (UDO). In his response dated 22<sup>nd</sup> December 2022 the UDO states that:

*“The comprehensive Design and Access Statement explains the evolution of the design, through pre-app, and how the applicant has responded to my and other officer's recommendations, and I shall not repeat that here. In summary it adequately demonstrates how the site's constraints and opportunities have, together, shaped a credible, landscaped design concept, which in turn has determined the site capacity and urban design parameters.*

*I am supportive of the design process to date, and have no objection to the proposal now submitted; the DAS and parameter plans set clear and positive requirements (in line with CP57) for designers at Reserved Matters to take forward, and should be conditioned accordingly.”*

It is clear from the above that the UDO accepts that a high-quality scheme is capable of being delivered at REM stage in line with the requirements of Core Policy 57 and Section 12 of the NPPF.

Other than the issue of neighbour amenity (for both existing and future occupants), which is covered in section 9.8 of this report, it is concluded that the principles enshrined in the illustrative material accompanying this outline application suitably demonstrate that design and landscape considerations are capable of being acceptable at reserved matters stage and would be in-line with local plan policies covering these matters.

Whilst noting comments from the locals about some of the contemporary proposals set out in the illustrative material and concerns regarding some of the building heights e.g., the 3-storey element, it must be pointed out that this is an outline application. The detailed design of the buildings including the architecture and materials employed would be considered as part of a future reserved matters application. Granting permission for this outline scheme is not granting permission for the scheme as set out on the indicative layout plan and illustrative material. This material is merely demonstrating one such way in which a scheme of up to 58 dwellings could be accommodated on the site. Clearly at REM stage scrutiny will be had over the detailed design of the buildings and public realm to ensure accordance with the design policy in place at the time and to ensure it fits in with the prevailing character of the area.

#### 9.4 Drainage and Flooding

Core Policy 67 seeks to ensure all new development includes measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground unless site or environmental factors make these measures unsuitable.

The NPPF at paragraph 173 requires all development not to increase flood risk elsewhere and to incorporate SUDS unless there is clear evidence this would be inappropriate. Paragraph 175 requires major developments to incorporate SUDS taking account of recommendations from the LLFA. They should have minimum operational standards and maintenance and where possible have multifunctional benefits.

The site-specific FRA has investigated all sources of flooding and concludes the following:

- There is a low risk of fluvial flooding due to the site being entirely within Flood Zone 1 (the lowest flood risk zone suitable for all types of development).
- There is a low risk of surface water flooding due to the raised nature of the site in comparison to the surrounds which are at a lower level.
- There is a low risk from sewer flooding due to the raised nature of the site's topography compared with its surrounds and the lack of any public sewers crossing the site.
- There is potential for groundwater flooding to be encountered on the site, but this is likely to be limited due to the raised nature of the site above the surrounding area.
- There is low risk of flooding from artificial sources, e.g., the Kennet and Avon Canal due to the significant level change between the site and the canal.



Furthermore, the applicants carried out a short appraisal of alternative sites within the LoD of Devizes that are of lower flood risk than the proposal, according to the SFRA – this document can be seen online having been completed in July 2023. The only sites available were industrial ones on key employment areas within the town e.g. Hopton park Industrial Estate. Clearly these are not suitable alternative sites given the incompatibility of residential with industrial uses and processes. Additionally, these sites are located further from the town centre and so less likely to achieve/promote the same levels of active travel that this proposal will.

Foul sewage will connect to existing Wessex Water infrastructure subject to their agreement and subject to any upgrades necessary to accommodate increase in flows. Surface water is proposed to be dealt with via SUDs using a combination of source control measures and infiltration (soakaways). Underlying geology would indicate this is feasible and indeed parts of the existing site are drained in this manner. Should this not be possible underground attenuation would occur with controls to ensure discharge is at an acceptable rate to ensure no increased flood risk.

The proposed drainage strategy is in line with Council's drainage hierarchy i.e., to consider infiltration first and is acceptable to the LLFA subject to conditions – namely the submission of a detailed drainage strategy that will need to take account of the advice and comments in the LLFA letter to the LPA dated 23<sup>rd</sup> December 2022.

To help reduce abstraction pressure on water resources and riverine ecosystems as well as contribute towards climate change resilience by minimising the impacts of drought, officers (including the Climate Change Officer) recommend a water efficiency condition be applied to the permission. The site is within Wessex Waters remit which is known to be a seriously water stressed area. In light of this and in the interests of sustainable development and climate change adaptation officers consider this condition to be necessary.

In addition to the above comments, the Canal and Riverside Trust also suggest a surface water drainage condition be applied to any consent given. They state that it may not be acceptable to discharge surface water into the canal in this location and that the operation of soakaways in this location has the potential to impact on the integrity of the waterway structure and water quality. Therefore, any approved development should prevent damage to the waterway structure, protect water quality and protect users of the waterway. Their reasoning can be incorporated into the LLFA conditions to ensure it captures their concerns.

In compliance with the requirements of National Planning Policy Framework and Core Policy 67 of the WCS, and subject to the conditions proposed by the LLFA, the development could proceed without being subject to significant flood risk. Moreover, the development will not increase flood risk to the wider catchment area through suitable management of surface water runoff discharging from the site. The submission of a detailed surface water drainage strategy is proposed via condition with a signpost to the details requested by the LLFA in their consultation response to the LPA.

## 9.5 Biodiversity

Wiltshire Core Strategy CP50 states that:

*“Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term. Where it has been demonstrated that such features cannot be retained, removal or damage shall only be acceptable in circumstances where the anticipated ecological impacts have been mitigated as far as possible and appropriate compensatory measures can be secured to ensure no net loss of the local biodiversity resource, and secure the integrity of local ecological networks and provision of ecosystem services.*

*All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.*



*Any development potentially affecting a Natura 2000 site must provide avoidance measures in accordance with the strategic plans or guidance set out in paragraphs 6.75-6.77 of Wiltshire Core Strategy where possible, otherwise bespoke measures must be provided to demonstrate that the proposals would have no adverse effect upon the Natura 2000 network. Any development that would have an adverse effect on the integrity of a European nature conservation site will not be in accordance with the Core Strategy.”*

The northern boundary of the site adjoins the Kennet and Avon Canal (a local Wildlife Site) which is an important foraging and commuting corridor for bats and other wildlife species. The remainder of the site borders urban development which has limited ecological value. The site itself comprises a complex of partially occupied buildings, the older of which contains some day roosts for bats with the limited soft landscaping on the site offering negligible to low quality habitat.

The application was submitted with an ‘Ecological Impact Assessment’. Upon receipt of comments from the Wiltshire Ecologist an updated ‘Ecological Impact Assessment’ was submitted along with an ‘Illustrative Green Infrastructure and Ecology Parameter Plan’ (see figure 6 above).

The Wiltshire Ecologist has reviewed all the relevant documentation submitted and is content that there is sufficient information to enable a view to be formed that in principle, a development of up to 58 dwellings can be delivered on the site without having an adverse impact upon protected species or priority habitats. This view is premised on further information being submitted at REM stage. This includes:

- A Construction and Environmental Management Plan (CEMP)
- A Landscape and Ecological Management Plan (LEMP)
- Updated Biodiversity Metric
- Updated hibernation studies
- Updated bat survey report

It is also subject to full compliance with the mitigation measures outlined in the Wildwood Ecology Ecological Impact Assessment. Proposed mitigation and improvement proposals include:

- Pollution prevention measures
- Retention of northern boundary hedgerow or replanting of this hedgerow with a diverse mix of native species. Enhancement of eastern boundary hedgerow and replacement of southern boundary hedgerow. Planting of trees of benefit to wildlife.
- Sensitive lighting plan to protect bats and species using the Kennet and Avon Canal
- Enhancement of the basement in B1 for roosting bats, including lesser horseshoe
- Retention/re-creation of roosting features in buildings B1, B2a, B3 and B6
- Creation of new dedicated bat house
- Integrated nest bricks at a ratio of 1:1 nest brick to dwelling.

Noting the above comments from the Ecologist, it is the opinion of officers that these details must be conditioned on this outline application as they are matters that relate to the principle of development, not issues that fall under one of the reserved matters that would be considered at REM stage e.g., scale, appearance, layout and landscaping. As the Ecologist was content with these matters being left to REM stage, there is no issue with them being dealt with via condition post decision. A discussion with the Ecologist on this matter led to their agreement.

In light of the above, conditions to secure the submission of a CEMP, LEMP, updated bat reports, hibernation studies and revised biodiversity metric calculation are recommended. This is in addition to conditions to cover lighting details as well as ensuring compliance with the mitigation in the submitted ecological assessment. It is noted that the Canal & Riverside Trust have also requested a lighting condition for similar reasons. These concerns would be covered by the condition suggested by the Ecologist.

In respect of the CEMP and LEMP, it is noted that these documents were submitted as part of the application. However, they were not considered satisfactory to the Ecologist and therefore, both of these documents require updating. Standard conditions to be imposed in respect of these but in reality, the applicant will be able to submit updated versions of the existing CEMP and LEMP taking account of the Ecologist's concerns. Furthermore, the Canal and Riverside Trust have requested

details of any necessary method of safeguarding the waterway from damage or contamination during the construction phase of the development. The CEMP condition can of course ensure these details are also included.

As previously noted, the Ecological Report confirmed the presence of Day Roosts within the buildings that are to be retained on site. Construction work etc. is likely to have a significant impact upon these roosts and therefore, a European Protected Species (EPS) bat Mitigation License will need to be obtained for the lawful construction of this development.

With such condition in place, and subject to obtaining the EPS License, it can be concluded that the proposal will not have an adverse impact upon protected species or priority habitats.

## 9.6 Archaeology

It is known that the line of the outer bailey of the former Devizes Castle follows the current route of Commercial Road along the southern edge of the site, while the site itself was located on the periphery of the medieval town. What needs to be established at this stage is the degree to which the elements associated with the outer bailey and the remains of any other contemporaneous structures, have been impacted by the development of the Community Hospital and buildings that preceded it.

It is the opinion of the County Archaeologist that the current standing buildings that make up the hospital are likely to have severely truncated, if not wholly removed any previous archaeological features and/or deposits, while those parts of the site currently taken up by yards and car parks may have surviving elements of the medieval town beneath the layers of tarmac, concrete and hardcore. They advise that the archaeological potential of the site needs to be investigated via a programme of investigations.

It is noted that the County Archaeologist suggests that the programme of investigation be carried out prior to the determination. The applicant, however, has not chosen to do this prior to determination which is unfortunate. That said, it should be noted that there is nothing set out in legislation that mandates at which stage in the process things such as trial trenching should be undertaken i.e., whether it should be undertaken before or after consent (via a planning condition).

The risks of doing it via condition are ones that the applicant must take on board and are risks that in most cases impact the applicant only. Use of a precommencement condition will still mean that any potential archaeological value of the site is investigated before work commences and any follow on from this undertaken. This may mean the applicant would need to amend their planning permission if significant finds are uncovered but as stated, the risks are on the applicant's side.

In light of the above, your officers would contend that there is no reason why this issue cannot be left to condition. As stated, there is nothing in policy which mandates when such matters must be carried out. Furthermore, the site has been extensively developed which may have impacted upon any below ground assets – there is no concrete evidence to say there are definitely remains on site. In addition, it is noted that this is a brownfield site with viability concerns. The comfort of a permission before expenses are incurred on archaeological investigation are likely to help in the delivery of this site.

## 9.7 Impact upon the Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay 'special attention' to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

Paragraph 205 of the NPPF states that:

*"... when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. ... This is irrespective of whether any potential harm amounts to substantial harm, total loss*

*or less than substantial harm to its significance.”*

Paragraph 206 of the NPPF states that:

*“Any harm to, or loss of, the significance of a designated heritage asset (... from development within its setting), should require clear and convincing justification.”*

Paragraph 207 of the NPPF states that:

*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal...”*

Paragraph 209 of the NPPF states that:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

Core Policy 57 of the Wiltshire Core Strategy states:

*“A high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through... being sympathetic to and conserving historic buildings”*

Core Policy 58 of the Wiltshire Core Strategy echoes the above national policy in seeking the protection, conservation and, where possible, enhancement of heritage assets.

Wiltshire Council’s Conservation Officer (CO) is satisfied that the Design and Access Statement and Heritage Statement provides sufficient information to understand the impact of the proposals and is proportionate to their scope. As such, the requirements of paragraph 200 of the NPPF have been met.

The Devizes community hospital site includes two buildings of local interest within the Devizes Victoria Road Quarter Conservation Area. The historic hospital buildings are non-designated assets and make a positive contribution to the conservation area, as well as to the setting of adjacent assets the Devizes conservation Area, the Park Canal Bridge, the listed buildings of St Mary’s Church and St Mary’s cottages. These buildings are being retained as part of the proposals and with the new areas of public realm, the scheme offers the potential for opportunities to experience these assets in the locality as well as new views towards St Mary’s Church and additional connectivity with the Canal. These are positive elements of the scheme.

The rest of the site comprises parking areas and more recent hospital buildings dating to between 1935 and the later 20th century. These buildings are outside the conservation area and of no architectural interest and do not contribute to the architectural interest of these assets. Their loss as part of the wider redevelopment of the site is therefore considered acceptable. What is put back as part of the redevelopment proposals is clearly key to the schemes overall acceptability in heritage terms. The general approach in the illustrative layout was agreed as part of pre-application discussions with the CO.

In light of the above, it is accepted that sufficient information and plans have been submitted at the outline stage to enable the CO to judge that a detailed design scheme can come forward at REM stage without having a harmful impact upon the historic environment. Ultimately, the CO concludes that:

*“In heritage terms, the proposals would help retain the significance of the Devizes Victoria Quarter Conservation Area and provide a valuable future use for these currently unused buildings thus offering an opportunity for enhancement of these non-designated assets.*

*The layout as proposed subject to detailed design, are also not considered to harm the setting of the adjacent designated assets.”*

#### 9.8 Impact upon existing and future occupants reasonable standards of amenity

Core Policy 57 point vii. requires development to have regard to

*“...the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution...”*

Although, the site plan is indicative, it has been submitted with a view to demonstrating an acceptable relationship can be achieved with existing properties to ensure no undue harm is caused to their reasonable living or occupancy conditions. It has also been submitted to show that 58 dwellings can be accommodated on the site whilst ensuring future occupants have appropriate standards of amenity.

With the above in mind, Block K and L on the illustrative layout plan are the two retained building and as such, their relationship with existing properties remains the same. They will not cause loss of privacy, light or have any overbearing impacts over and above the existing situation. Although they will now be in primarily residential use save for a small class E unit, this will not be incompatible with the adjoining properties which too are in residential use. Subject to suitable controls on the E class unit e.g., hours of operation and details of any extraction equipment etc. that may be required to operate it, this will not cause undue harm to the reasonable living conditions of the existing occupants. Such matters can be conditioned.

Blocks A1, A2 and J face into the development site itself with sufficient distances maintained between the other blocks to ensure appropriate levels of amenity are achievable for future occupants of the development site. They look out onto the Kennet and Avon Canal to the rear which raises no amenity concerns. Indeed, it will help to provide some natural surveillance of the towpath which can only be seen as a positive.

Block E is separated from the dwellings to the south by approximately 20m. Although at a higher level, with the proposed planting and boundary treatments, this is considered a sufficient distance to ensure amenity levels are preserved for existing occupants. With a clever arrangement of fenestration Block E should not cause any amenity issues for future occupants of the development site. The same assessment would apply to Block G.

Block F is within the development site itself and therefore, given distance would not overlook existing properties. Adequate separation distance has been maintained between it and other blocks to ensure appropriate levels of amenity are achievable for future occupants of the development site.

Blocks H1, H2 and H3 are a sufficient distance away from existing residential properties to ensure no undue harm to their reasonable living conditions. It is noted The Wharf properties are side on to the development site with a more or less blank gable facing the road. Other properties that adjoin these blocks are commercial or leisure uses.

From the above, it can be concluded that a realistic indicative layout plan has been submitted which demonstrates how 58 dwellings could be accommodated on the site whilst satisfactorily addressing the requirements of Core Policy 57 point vii. in respect of achieving appropriate levels of amenity for existing and future occupants. Officers are therefore satisfied allowing this outline application will not compromise the amenity levels of both future and existing occupants to a level that would be deemed unsatisfactory.

Furthermore, regarding the amenity impacts within the development site itself, no objections have been raised by the WC Urban Design Officer. The layout meets usual standards for new residential developments.

It is also noted that potential short-term disruption and disturbance from demolition and construction is not a ground to refuse an application and can be controlled care off a construction

management plan. Such a condition is recommended by the Public Protection Officer (PPO) to ensure no impact to the amenity of existing occupants during this phase of the development. A CEMP was submitted with the application but, in light of ecology concerns and updated one is necessary and will be conditioned. The applicant will be able to capture any issues regarding the impact on existing occupants that may have been overlooked in the updated CEMP.

In addition the PPO advises that a report is submitted detailing the history of the site in relation to potential contamination and if any is found, a strategy for remediation. This is to ensure the site is free from any harmful pollutants or contamination that may affect the health and wellbeing of future occupants. However, it is noted that a contaminated land study has been submitted with the application which contains recommendations for further ground investigation work to be undertaken. It is suggested that a condition be imposed to ensure compliance with the recommendations in the Phase 1 Desk Study Report by Jubb Consulting Engineers Ltd. with findings submitted to the LPA and, if necessary, a remediation strategy.

### 9.10 Highways

Core Policy 60 and 61 of the WCS states that the Council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

Paragraph 115 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.”*

The site lies within the Limits of Development of Devizes in an edge of town centre location, within an accessible walking distance of a wide range of day-to-day services and facilities and therefore in a suitable location. That said, New Park Street does act as a barrier to safe walking and cycling routes to and from the town centre to the site. As part of a wider strategy for Devizes improvements are to be made to New Park Street to make it more pedestrian and cycle friendly. Contributions are requested to fund some of these improvements, notably, the upgrading of the Zebra crossing at the junction with Couch Lane to a Toucan one (more detail on this Section 10). However, the improvements will incentivise access to and from the town centre by means other than the private car.

Public transport services including bus stops are available within a short walking distance. Buses operate fairly frequently from the marketplace to places such as Bath, Melksham, Westbury, Salisbury, Swindon Trowbridge and are timed such that the bus can be used for a range of employment, retail, leisure and educational purposes. Some operate on an hourly frequency. This demonstrates regular connections to a range of destinations and, as such, provide the opportunity for journeys to / from these destinations to be undertaken by bus (rather than car). As such, officers conclude that the site is within a sustainable location.

The proposed access points are the same as existing. The LHA are happy to accept residential use of these accesses and as such, they can be considered safe and suitable. However, other than a mention on a parameter plan to state existing accesses are to be retained, no details drawings have been provided of them. To ensure they remain safe and suitable once the detailed layout plans have been submitted, details of the any works to the accesses needs to be secured via condition. If no works are required, then no details will need to be submitted. The condition provides a flexible approach to save the applicants having to revise the outline consent were such works deemed to be necessary.

The site itself provides car and cycle parking provision to the satisfaction of the LHA. It is noted that parking provision is below minimum standards and that locals do have concerns regarding this point. That said, it is a town centreish location where opportunities for active travel exist which should place less demand on the need for a car. Furthermore, preapplication discussions were had with the applicant and the view was taken to assess the amount of proposed parking in the interests of the character and appearance of the development/area. The original proposals saw a sea of parking in the middle of the development which limited the amount of green space and

landscaping that could be provided with the site and did not create an attractive setting for the heritage assets or indeed the aesthetics of the public realm in general. Where there are obvious barriers to the delivery of full parking standards e.g., design or heritage issues, then policy PS6 of the Local Transport Plan allows for discounting. This would appear to be the case here.

In addition to the above the current use of the site as a hospital will in itself have generated overflow parking which is likely to have had an impact on the surrounding area. This is the fall-back position. Also, there is a certain element of buyers beware when looking at new developments like this within town centre locations where perhaps parking provision is not a guarantee. Prospective purchasers would have to factor this in and make alternative arrangements e.g., going car free or cycling. Providing more parking spaces within a location such as this does little to incentivise active travel and would only encourage more car usage at the site.

Whilst comments have been raised regarding traffic generation from the site and the impacts this will have on the network, this issue has been addressed in the Transport Assessment submitted by the applicants and no objections have been raised by the LHA on the matter. In summary, the traffic generated from the site has been calculated using TRICS data (data taken from a comparable development use) and has been netted against the current trip generation to and from the site. It was found that there would be less movements with the proposed development in the AM and PM peaks (surveyed 07:00 to 10:00 and 16:00 to 19:00) than the current use of the site as a hospital.

Furthermore, given the sites location within close proximity to the town centre, you can reasonably assume that a lot of trips that may otherwise be undertaken by private car can be done so on foot or by cycling i.e., the vast majority of Devises services and facilities are within walking or cycling distance from the site.

Although there may be some increases at other times of the day compared with the current use of the site this would be outside of peak travel times when the network has capacity to accommodate these additional traffic flows.

The impacts of construction traffic can be effectively monitored through a construction management plan which as already mentioned, is recommended as a condition.

To conclude on highways, the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development.

Conditions will of course be required to ensure access, parking (including cycle parking) and turning areas are laid out prior to occupation of the various units and maintained for the lifetime of the development in the interests of highway safety.

#### 9.11 Financial Viability / Developer Contributions

Core Policy 43 states that on sites of 5 or more dwellings, affordable housing (AH) provision of at least 30% will need to be delivered and transferred to a Registered Provider.

As the site is clearly over this threshold of 5 dwellings, AH should be provided at 30%. It is noted however that the applicants would be entitled to Vacant Building Credit (VBC). The application of VBC would lower the AH requirements on site. That said, Core Policy 43 states that:

*"The provision of affordable housing may vary on a site-by-site basis taking into account evidence of local need, mix of affordable housing proposed and, where appropriate, the **viability of the development** (my emphasis)."*

Regarding viability of a development, the RICS guidance entitled Financial Viability in Planning (2012) defines the terms as:

*'An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project.'*

The viability guidance within the Planning Practice Guidance (PPG) makes clear that the Residual Land Value generated must be above the estimated Benchmark Land Value (BLV) for comparable land in the local market for the site to be considered viable.

To clarify on the above terms, RSL is defined as total revenue income (Gross Development Value (GDV)) from the development less the cost of the development, including a reasonable profit for the developer. A reasonable profit margin is set out in the PPG as being 15-20% of the GDV. BLV is established on the basis of the existing use value of the land plus a premium for the landowner (the premium being the value below which a reasonable landowner is unlikely to release a site for development i.e., their incentive to bring forward a site for development).

To accompany this application, a Financial Viability Appraisal (FVA) has been submitted by Montagu Evans LLP to assess whether the scheme can viably support the provision of AH. The report has been prepared by suitably qualified practitioners and it has been presented in accordance with the guidance contained within the PPG. An executive summary has also been provided.

A summary of the appraisal results is in Table 1 below; it shows that, contrary to the PPG advice referred to above, the RSL is lower than the BLV. In other words, the proposal results in a negative land value and thus an unviable scheme. The issues with viability are largely due to the projected sales values at this location not being high enough when compared with the estimated costs of development (notably including the cost of preserving existing heritage buildings).

<b>Proposed Scheme - Appraisal Inputs &amp; Outputs</b>			
<b>Income</b>	<b>Quantum</b>	<b>Basis</b>	
Private Residential	58	£350 per sq. ft.	£15,400,700
Commercial Space	729 sq. ft.	£13 per sq. ft. @ 7.50%	£126,360
Commercial Purchaser's Costs			<b>-£8,592</b>
<b>Total Income</b>			<b>£15,518,468</b>
<b>Costs</b>			
Construction Costs (incl. contingency)		Cost Estimate	£12,014,000
Professional Fees		10.00%	£1,201,400
CIL		Estimate	£200,000
S.106		Estimate	£300,948
Marketing		1.50% of private residential GDV	£231,011
Sale Agent Fees		1.00% of GDV	£155,185
Sale Legal Fees		0.25% of GDV	£38,796
Letting Fees		15% of Market Rent	£1,422
Developer's Return		20% of GDV	£3,105,412
Finance		7.00%	£778,798
<b>Total Costs</b>			<b>£18,026,971</b>
<b>Residual Land Value</b>			<b>-£2,508,503</b>
<b>Benchmark Land Value</b>			<b>£1,750,000</b>
<b>Viability Deficit</b>			<b>-£4,258,503</b>

Table 1 – Summary of Results of the Viability Appraisal

The viability report concludes in section 9 that:

*"In accordance with the requirements of the RICS Professional Statement Financial viability in planning: conduct and reporting (May 2019), we have carried out a sensitivity analysis on the proposed scheme appraisal. A 10% increase in private residential sales values with a concurrent 10% decrease in total construction costs would increase the residual land value to £105,833 which represents a reduced viability deficit of -£1,644,167 when*

compared to a Benchmark Land Value of £1,750,000.

*This viability appraisal therefore demonstrates that the development is unable to viably support any affordable housing.*

The viability report was considering the provision of no AH on site. It was not considering the viability of the scheme with a reduced amount of AH e.g. 10 or 20 percent. However, considering the conclusions that the scheme is unable to viably support any AH, it is clear that there is no need to see what the scheme viability would look like were a reduced percentage of AH to be factored in (if it cannot provide any AH how would it be able to provide a reduced amount?)

In light of the above submissions, the Council commissioned Dixon Searle Partnership (DSP) to carry out an independent review of the 'Financial Viability Assessment' (FVA) and Gardiner and Theobald Cost Consultants (G&T) to undertake a review of the submitted build cost estimate – this is standard practice. The latter findings are included in the DSP report. The review undertaken has reached a broadly similar conclusion to the Montagu Evans FVA.

DSP have provided a table that summarises the areas of agreement and disagreement in the Executive Summary. This can be seen in Table 2 below.

Item	DSP comment	Applicant's submitted assumption	DSP assumption	Difference (£)
GDV (residential)	Agree that the submitted sales values are suitably placed with reference to local evidence	£350/ft <sup>2</sup>	£350/ft <sup>2</sup>	-
GDV (commercial)	Agree that rental and yield assumptions are suitable given the location, with reference to local evidence. However have also tested the effect of an increase of 50% in capital value in order to 'stress-test' viability and note that this does not affect viability outcomes.	£162/ft <sup>2</sup> capital value	£162/ft <sup>2</sup> capital value	-
Scheme timings	The stated construction and sales timings are considered to be suitable. Precise timing of costs has not been specified therefore DSP have applied standard assumptions within our appraisal.	6-month lead-in, 18 months construction. 50% off-plan sales and remainder sold at a rate of 6 per month.	6-month lead-in, 18 months construction. 50% off-plan sales and remainder sold at a rate of 6 per month.	-
Construction Costs	Gardiner and Theobald Cost Consultants (G&T) have reviewed the submitted cost plan on behalf of the Council and consider the costs to be overestimated. G&T estimate costs to be £10.816 million including demolition and contingency (and excluding professional fees). We have applied G&T's estimate in our appraisal.	£12.014 million	£10.816 million (based on estimate from G&T)	-£1,198,000
Fees and contingency	DSP agree that the submitted percentage rates (applied to relevant costs) for fees and contingency are suitable, however these have been applied to lower build costs as per G&T's estimate, therefore the allowances in £ within our appraisal are lower.	Fees of £1,201,400 and contingency of £571,000	Fees of £1,081,600 and contingency of £515,000	-£ 175,800
S106 and CIL costs	The Council has provided DSP details of the requirements for S106 contributions. These exceed the submitted amounts by £140,000 therefore we have increased the costs within our appraisal accordingly. We also note that a higher amount of CIL might be chargeable - by our calculation an additional payment of c. £48,000 would be required. This is for the Council to confirm and we have not adjusted this in our appraisal.	Total of £500,948.	Total of £640,948.	£ 140,000
Finance costs	DSP agree that the submitted assumption based on 100% debt finance at 7.0% interest is a suitable proxy for the finance arrangements on this project. We have not adjusted this assumption in our appraisal, however the costs in our appraisal are lower therefore over the course of the project the finance costs are lower.	7.0% interest rate, total finance cost of £795,512	7.0% interest rate, total finance cost of £722,481	-£ 73,031



Sales and marketing costs (residential)	Agree that the submitted assumptions are within expected parameters overall.	2.75% on GDV in total including legal fees	2.75% on GDV in total including legal fees	-
Agent's/legal fees for disposal of commercial unit	The amounts involved are negligible in the context of the scheme viability and do not affect the outcome.	1.5% of annual rent	1.5% of annual rent	-
Profit allowance (Developer margin)	Whilst we do not necessarily agree with the stated profit target/allowance, our appraisal based on a 100% market housing scheme, i.e. with nil affordable housing, indicates a profit of £1,781,973 therefore does not reach what would typically be considered a minimum level (being below the 15% to 20% GDV range suggested by the NPPF).	£3,105,412	£2,329,059 (minimum based on 15% GDV)	-£ 776,353
Benchmark Land Value	We disagree with the submitted Benchmark Land Value. We do not consider the submitted comparables to be suitable evidence since they are transactions based on purchase for redevelopment rather than for continuation of existing use and therefore do not follow the principles of the PPG. An Alternative Use Value based on conversion to a Care Home has been suggested however this has not been fully costed/assessed as required by the PPG. We have considered various methods of assessing the existing use value, concluding that the submitted value of £1.75 million in existing use is significantly overestimated. We have tested our appraisal results against a nil land value.	£1,750,000	Scheme residual value tested against a nil land value.	-£1,750,000

**Table 2 – Areas of Agreement and Disagreement between DSP and Montagu Evans**

They (DSP) claim that the submitted approach taken in the report appears to be appropriate overall in terms of the principles in use. They agree with most of the assumptions as fair however, there are a few aspects that are queried or where a difference of opinion exists (see Table 2 above). That said, it is their overall conclusion that their appraisal of the FVA undertaken “*indicates that the scheme is unlikely to be able to support a contribution to affordable housing based on current costs and values.*” They also state that:

*“Viewing the above results, whilst applying DSP and G&T’s assumptions results in a more positive view of the viability of the scheme than that of the applicant, the scheme remains a long way from what would typically be considered a reasonable level of market profit.”*

In other words, their (DSP) appraisal indicates that the scheme does not reach the lower end of the profit range suggested by the PPG - 15% GDV (DSP estimate is 11.48% before any land value is taken into account). It is noted this is on the basis of a nil BLV (benchmark land value) as DSP consider:

*“the submitted BLV of £1.75 million (£2.08 million per hectare) to be unrealistically high given that the site has been declared to be no longer fit for purpose, is disused; and with various buildings being in need of significant refurbishment work to make them fit for letting/occupation.”*

As the NHS will not be developing the site (the aim being to sell it on with outline planning permission), development profit becomes more critical. If 15-20% of the GDV is unable to be realized, it does affect the commercial viability of the site and the ability to market it successfully for a developer to take it on. DSP have assumed that the applicant is willing to accept a sub-optimal profit or that they hope to make this up by efficiencies in the build cost. In any event, the point made here is that if the Council were to insist upon AH the site the situation would be made worse and no developer would want to ‘throw their hat in the ring’ to build out the site.

Core Policy 3 of the WCS requires the submission of an ‘open book’ viability assessment by an independent third party (on terms agreed by the council but funded by the developer) in the event of concerns that infrastructure requirements may render the development unviable. As highlighted above, such an exercise has taken place and, in that regard, the requirement of the policy has been met.

Accordingly, it is the view of officers that the application should be determined on the basis of there being no affordable housing provision. Of course, it follows that without providing affordable housing the scheme will conflict with Core Strategy policy on AH (CP43). However, this conflict must be considered in the context of the overarching Core Policy 3 (Infrastructure Provision) which, as explained above, does allow for reduced, or even no, infrastructure provision where there is non-viability.

Whilst the concerns of the locals are noted in respect to the site not delivering any AH, the conclusions of the above are clear and are based on the circumstances of the present day. What price the originally NHS paid for the land etc. are not factors that are relevant today when assessing the viability of this scheme. To insist upon the provision of AH would make the scheme unviable.

That said, DSP have suggested that a review is undertaken of the FVA at a later date (post planning decision). Review mechanisms are something that can be built into a s106 where viability is a concern at planning stage. The requirement would be for an applicant to review the viability of a scheme further down the line e.g., before the occupation of a certain dwelling number, to see how it compares to the estimated figures at planning stage. In this case, if the costs were less than those estimated, then the owner would need to agree with the Council that the surplus funds should be used to provide an off-site affordable housing contribution.

In line with the suggestion in the Dixon Searl Partnership review of the FVA, this was put forward to the applicants. However, they considered that there was or is no policy basis for the inclusion of a review mechanism within the s106 agreement for this site as it is not a requirement in local plan policy. The applicants provided 2 appeal cases to support their argument and, on review of these, the points raised, and the Council's own conclusions, officers felt that the LPA did not have a basis upon which to insist upon a review mechanism.

Looking into this point further, the LPA noted that the Planning Practice Guidance points out that:

*“Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy compliant means development which fully complies with up to date plan policies.” (Paragraph: 009 Reference ID: 10-009-20190509)*

Unfortunately, Core Policy 3 of the WCS does not do this. Therefore, the lack of a review mechanism would not be a breach of this policy. Accordingly, it is concluded that a s106 agreement requiring the applicants to provide a review of the viability of the scheme would not be deemed necessary to make the development acceptable in planning terms. As such, officers decided that it is something we could not insist upon and therefore, did not pursue the matter any further.

Despite the conclusions of the viability report, it should be noted that the scheme is still delivering a package of benefits/contributions to the town and these will also need to be weighed in the planning balance alongside the policy conflict referred to in this section. These benefits include, but are not limited to the following:

- Certainty of regeneration of a brownfield site offering a mixed-use development with public open space and public realm improvements.
- The restoration of heritage assets on the site and their long-term safeguarding through allowing appropriate new uses.
- Active travel improvements within the vicinity of the site, notably, along New Park Street which will benefit more users than just the future occupants of the development site.
- Off-site leisure and recreation improvements within the vicinity of the site which will be of benefit to users in general as well as the future occupants of the development site.

The above benefits – and notably the regeneration of the site – must be weighed against the inability of the proposal to deliver infrastructure and related contributions. These benefits will not otherwise materialise if the AH contributions are insisted upon and/or the application is refused for this reason as the resulting non-viability and uncertainty would prevent the development from happening and so the status quo would remain. The site will become derelict and overtime, an unsightly site positioned in a key area with an uncertain prospect for its future.

Furthermore, it would not be the first brownfield site to be granted consent with no policy required AH contributions. There is still an option to deliver AH under grant funding e.g., from agencies such as Homes England. This has indeed happened elsewhere in Wiltshire.

### 9.12 Community Infrastructure Levy (CIL)

The new dwellings would be liable for CIL in any event. The site would fall under charging zone 2 where the sum equates to £85 per square metre of residential floor space created. Floor space calculations can only be provided at detailed design stage and thus CIL calculations would be based upon the approved scheme at reserved matters stage.

## **10. Section 106**

Core Policy 3 advises that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal.

Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework. These are:

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

The infrastructure items listed below are those that are requested by consultees. Each request has been measured against the above tests in order to establish whether or not it is a CIL compliant request. Those requests that are not CIL compliant cannot be asked for/included with the s106.

### Affordable Housing

CP43 states that on dwellings of 5 or more affordable housing provision of at least 30% will be provided and transferred to a Registered Provider. CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people will be required.

A scheme of this size would generate the need to provide 17 AH units at nil subsidy. In light of the conclusions of section 9.11, AH cannot be delivered on site at nil subsidy and therefore this is not being sought in the s106.

### Education

The NPPF (paragraph 99) 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.

The provision of 58 dwellings will result in extra demands being placed on the local education facilities. Wiltshire Council has the responsibility of accommodating residents of the proposed development in their schools.

In order to cope with the extra demand and alleviate capacity concerns, the following contributions are required:

- Early Years - A total contribution of £105,132 is required to go towards the funding of 6 pre-school places within the area at £17,522 per place. The Early Years Officer has advised that the existing Early Years provision will not be able to support the needs of additional families requiring Early Years and Childcare in the area as they are all operating at high capacity.

- Primary School – There is currently capacity across all the in-area schools to accommodate the needs of this development without the need for expansion of provision.
- Secondary School – There is currently no spare capacity at a secondary level in the Devizes at Devizes School. The proposal would generate a need for 9 places at a cost of £22,940. A total contribution of £206,460 would therefore be required which will be put towards expansion provision at Devizes School.

Failure to provide the contributions would result in the proposed development creating school capacity problems. Without the proposed contributions, the proposed development would have an unacceptable impact on the community and potentially lead to the need for pupils to travel further to access education facilities.

The levels of contribution are suggested by the Schools Place Commissioning Officer of Wiltshire Council. This figure would vary depending on housing mix and the size of the scheme delivered at REM stage.

The costs calculated is considered fair and reasonable in line with the standards applied to all new housing developments in Wiltshire and is directly related to the increase in population as a consequence of the proposed development. It is therefore a CIL compliant request.

### Waste and Recycling

The Wiltshire Core Strategy at para 4.41 (CP3) identifies sustainable waste management facilities as essential components of daily life and therefore critical to delivering our strategic goal of building more resilient communities. Waste management is listed as place shaping infrastructure under priority theme 1 of Core Policy 3 of the WCS.

The provision of bins, and the services required to support waste collection, is a burden on the Council that is directly related to new developments. The sum requested here directly relates to the size of development proposed i.e., 58 units. Table 2 below shows the total cost for this development.

Property type category	Contribution per house/per category	Quantity	Total
Individual house	£101	20	£2,020
Bin store for block of 6-10 flats	£815	1	£ 815
Bin store for block of 11-14 flats	£		£ 0
Bin store for block of 15-18 flats	£2,276	2	£ 4,552
		<b>Total</b>	<b>£ 7,387</b>

**Table 3 – Cost of Provision of Waste and Recycling Containers**

This contribution is directly related to the development and is specifically related to the scale of the development, as it is based on the number of residential units on site. It is therefore a CIL compliant request.

### Leisure and Play

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 102 of the NPPF. Core Policy 52 of the WCS supports this by stating that accessible open standards should be in accordance with the adopted Wiltshire Open Space Standards. Open space is listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS.

To comply with the above policy it is necessary to secure on-site public open space or off-site contributions to ensure the health and well-being of the future occupants of the development site. The increase in population caused by the development will have an impact on existing leisure facilities and, it is therefore also necessary to upgrade a local facility to cater for the likely increased

demand.

The provision of public open space (POS) is to serve the needs of the future occupants of the housing scheme and thus its provision on-site or off-site is directly related to the development. The improvements to off-site leisure facilities directly relates to the increase to the local population caused by this development.

As such, the requests made by the Public Open Space Team are CIL compliant ones.

A scheme of up to 58 Dwellings would generate a requirement for 570.72 m<sup>2</sup> Casual Open Space & 431.52m<sup>2</sup> Equipped Play Space. It is noted from the Design & Access Statement there is some provision for open space on-site but no equipped play space.

The POS Team would require either on-site play to be provided as a LEAP as per the Council's play specifications, or an off-site contribution of £62,138.88 to upgrade facilities in the vicinity of the development. All on-site POS & Play would need to be secured and managed in Perpetuity; Wiltshire Council will not adopt the on-site POS & Play.

In addition to this the development would generate a requirement for 2380.32m<sup>2</sup> of Sports space which would equate to an off-site contribution of £23,803.20. This contribution is targeted for the upgrade of the Devizes School Astro Carpet at Devizes Sports Club. Failing that, it would need to go to sports, pitch or ancillary provision within the vicinity of the land.

### Public Art

Core Policy 57 criterion xii refers to the integration of art and design in the public realm as a means of securing high quality design in new developments. It is an integral part of achieving design quality and does add value to a development. Its necessity stems from the requirement set out in local plan policy (Core Policy 57) to achieve a high standard of design in all new developments.

Public Art and streetscape features are listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS and that such infrastructure can be met through the use of planning obligations.

The Planning Obligations Supplementary Planning Document (October 2016) refers to the 2011 guidance note of art and design in the public realm [page 31, paragraph 10].

In addition, the NPPF recognises that cultural wellbeing is part of achieving sustainable development and includes cultural wellbeing within the twelve core planning principles that underpin both plan-making and decision-taking. The PPG complements the NPPF and states that *"Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using."*

The contribution would be spent within the development site itself on a scheme of public art to add value to this development and this development alone. It is thus directly relatable.

The contribution is directly related to the type and scale of the development, as it is requested on a per-residential-unit basis and is considered sufficient to enable a meaningful art project to be commissioned and delivered on site that will add value to the design of the development. It is therefore a CIL compliant request.

A public art contribution of £300 per dwelling is requested for the applicant to deliver the integration of public art for this site and no more than 10% of this should be spent upon the production of a public art plan. The total sum for 58 dwellings would therefore be £17,400.

### Highways & Public Right of Way

Core Strategy policies 60 and 61 objectives are to reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire and identify that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.

The vast majority of Devizes is within cycling distance of the site and a significant amount including the town centre is in walking distance. However, to realise this potential, new infrastructure will be required – especially to reduce the severance impact of New Park Street and link the site with other E/W active travel infrastructure. Significant regard will also be required to the existing footways as many are of substandard width or not present. New Park Street has also been identified in the emerging Local Cycling and Walking Infrastructure Plan (LCWIP) for improvement by improving crossings and the creation of a two way cycle track.

The proposed development is also within the Devizes Air Quality Management Area. The proposed development could exacerbate the existing areas of poor air quality in Devizes by adding car trips particularly on the A361. Known hotspots include Brewer Corner which is around 0.5km from the site. In line with Core Policy 55, the development will need to demonstrate how they can effectively mitigate emission levels in order to protect public health etc.

To realise the above Core Policies ambitions, improvements to encourage walking and cycling should be provided by this development.

Such requests are listed under Core Policy 3 as infrastructure priority theme 1. The following planning obligations are sought by the LHA:

- A contribution of up to £10k to the implementation of the Devizes wayfinding strategy should be sought to help encourage pedestrian and cycle trips to/from the site to destinations within Devizes.
- An off site contribution towards the delivery of walking and cycling schemes identified in the Devizes LCWIP.
- The full Travel Plan should include green travel vouchers being offered to households of £300 / £150 where the lower figure is for those households with an occupant entitled to concessionary travel.
- A Travel Plan monitoring fee of £7500 (£1500 pa over 5 years) should be sought.
- Contribution towards physical map amendment and printing. £500 for both walking and cycling maps.

The contributions above are directly related to the development as they secures pedestrian and cycle improvements along routes future occupants would use or provide incentives to occupants to encourage active travel. Officers considers this sum to be fair and reasonable in terms of scale and kind with the required financial contributions reflecting the costs of the improvements necessary to make the route from the development to the town centre etc. more pedestrians and cycle friendly. As such, the above requests are considered CIL compliant.

## **11. Conclusion (The Planning Balance)**

It should be noted that at the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

With regards to the above, the proposal does accord with the development plan when taken as a whole (save for the lack of AH provision). For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now

passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing which it can demonstrate. The tilted balance under paragraph 11d is therefore not engaged.

However, as the development is considered to accord with the development plan when taken as whole, whether or not the tilted balance is engaged or not does not in this instance have a material impact on the officer's conclusions as, engaged or otherwise, the development is still deemed to be acceptable. Furthermore, there are no policies within the Framework that protect areas or assets of particular importance that, when applied, would provide a clear reason for refusing this development.

In order to reach a recommendation on the application, it is clear from the above proposals and planning considerations that the following applies:

- The application site occupies an important position within the town and wider Devizes Wharf area and therefore, its redevelopment should be a priority (indeed its inclusion with the Local Plan Review would suggest this).
- There are a number of constraints identified in the FVA which limit the number of viable solutions which can be delivered on the site.
- The current application represents a viable and funded scheme which the applicant assures is capable of delivery.

With the above in mind and within this context, the following benefits and harms are noted.

### The benefits

#### *Regeneration of a derelict brownfield site adjacent to the town centre:*

This is a reasonable significant proposal to redevelop the Devizes Hospital site providing not just housing but a small amount of commercial floor space, new public open space and connectivity to the Kennet and Avon Canal. It will see the heritage assets on the site restored and their long-term vitality and viability safeguarded. The redevelopment of the site will prevent it from becoming completely derelict and without use a potential eyesore to the town. This point should be afforded substantial weight.

#### *Provision of market housing:*

Although the Council is a NPPF paragraph 77 Authority and therefore only required to demonstrate a 4YRHLS (which it can do), in the context of NPPF paragraph 60 which sets out the Government's objective of significantly boosting the supply of homes, this development would make an important contribution to this aim in a sustainable location. It would add to the Council's housing land supply and should still attract substantial positive weight.

#### *Economic growth and expenditure:*

The NPPF at paragraph 81 states that "*significant weight should be placed on the need to support economic growth and productivity...*" The scheme will see investment into this part of Devizes with a modest amount of new commercial floor space being provided which, once operational will provide jobs and economic expenditure in the town.

There will also be 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.

Positive weight can also be attributed to the economic expenditure from future occupants of the development site within the local economy.

These economic benefits should be afforded significant weight.

### The harms

Certain policies of the development have been breached purely on the basis that they require obligations that the developer is unable to meet due to viability concerns. The obligations/contributions are required to mitigate the full impacts of the development. As a result, the following policy is conflicted with:

- Core Policy 43 – Not providing 30% of the dwellings as affordable.

Ordinarily, this conflict should be afforded significant weight, notably the lack of AH provision which is regrettable. However, Core Policy 3 caters for this scenario and requires an ‘open book’ viability assessment which has been carried out and which concludes that the development would be unviable with AH provision.

In light of development plan policy allowing for contributions not to be met in full if there are viability concerns, the conflict with the policies identified above should be given reduced weighting. The scheme simply would not be deliverable if they were to be insisted upon. If this were the case then, the site would in all probability remain derelict as it is now vacated by the NHS and the benefits the scheme will deliver would not be realised. This is arguably a worse/more harmful outcome.

Furthermore, it should be noted that the site may deliver AH by grant funding (a realistic prospect that has been demonstrated on other sites e.g., Kingston Mill in Bradford upon Avon, whereby the grant from Homes England acts as a ‘Golden Brick’ to enable development to commence on site.

#### 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 within the balance.

#### Conclusion

It is the opinion of officers that the substantial benefits of revitalising a now vacant site that has the potential to become an eyesore through dereliction, outweighs its inability to delivery all the desired/required mitigation. Notably,

- the regeneration of the site;
- the safeguarding of heritage assets;
- economic growth and expenditure; and,
- the provision of market housing.

The harm identified above, does not outweigh the substantial benefits that this development would deliver and it is therefore the opinion of officers that this development should be approved.

#### **RECOMMENDATION:**

**That planning permission be GRANTED, subject to first 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, where relevant, before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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



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

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

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

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

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

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

4 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Drg Ref: DH- AFA - XX - RF - DR - A - 1000 Rev P2 Location Plan
- Drg Ref: DH- AFA - XX - ZZ - DR - A - 1151 Rev P3 - Heritage & Urban Design Parameter Plan
- Drg Ref: DH- XX - ZZ - DR – 1150 Rev P3 - Ecological Parameters Plan

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

5 The development shall be carried out in general accordance with the design principles set out in the Outline Planning Design and Access Statement Rev P1 (01/11/22).

REASON: The Design and Access Statement sets out clear and positive requirements (in line with Core Policy 57 of the Wiltshire Core Strategy) for designers at Reserved Matters to take forward.

6 No development shall commence within the area indicated within the red outline until:

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

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

- 7 No development shall commence on site until an intrusive phase II ground investigation has been carried out over the site. The investigation shall be in line with the recommendations set out in Section 7.3 of the Phase 1 Desk Study Report by Jubb Consulting Engineers Ltd. dated August 2022.

A report detailing the phase II investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

If the report submitted indicates that remedial works are required, full details shall be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 8 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 including telephone number;
  - 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 (notably upon the Kennet & Avon Canal);
  - 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 and vehicle log and means to submit log to the Highway Authority upon request
- Details of temporary/permanent Traffic Regulation Orders
- pre-condition photo survey - Highway dilapidation survey
- Number (daily/weekly) and size of delivery vehicles.
- Number of staff vehicle movements.

xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
- Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of TBMS zones A and B and predevelopment provision of hedgerow mitigation/ translocation along Firs Hill A361.
- Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
- Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, otter, water vole, badger and dormice.
- Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

xiv. Details of safeguarding measures for the Kennet & Avon Canal including excavation, earth movement and foundations, piling risk assessments and method statements.

There shall be no burning undertaken on site at any time.

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

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, detriment to the natural environment through the risks of pollution, dangers to highway safety and to prevent damage and pollution to the Kennet & Avon Canal, during the construction phase and in compliance with Core Strategy Policy 62.

**INFORMATIVE TO APPLICANT:**

The applicant is advised to take account of the comments from the Wiltshire Council Ecologist to the Local Planning Authority dated 30th November 2023 when updating the CEMP document.

- 9 Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long-term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring the success

of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

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

**REASON:**

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

**INFORMATIVE TO APPLICANT:**

The applicant is advised to take account of the comments from the Wiltshire Council Ecologist to the Local Planning Authority dated 30th November 2023 when updating the CEMP document.

- 10 No development shall commence on site until a final drainage strategy incorporating sustainable drainage details has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the drainage strategy has been constructed in accordance with the approved details.

**REASON:** To ensure that surface water runoff from the site can be adequately drained with no flooding on site for a 1 in 100 year plus climate change rainfall event, to ensure that the flood risk from all sources will be managed without increasing flood risk to the development itself or elsewhere and to ensure the development will have an acceptable impact on the integrity of the Kennet and Avon Canal waterway structure and its water quality.

**INFORMATIVE TO APPLICANT:**

The details within the strategy should address the comments contained within the Lead Local Flood Authority's consultation response letter to the Local Planning Authority dated 23rd December 2022 and those of the Canal & Riverside Trust in their letter to the LPA dated 16th December 2022.

- 11 Prior to commencement of development a walking and cycling movement framework plan shall be submitted to and approved by the Local Planning Authority. The walking and cycling movement framework plan shall include full details of route design, construction and material treatment, with all cycle and pedestrian routes complying with current national and local guidance as appropriate. All routes shall be designed to accommodate all abilities, with change of level, including steep ramps or steps avoided unless agreed by the Local Planning Authority. The walking and cycling movement routes, as identified in the approved plan, shall be completed in all respects in accordance with the approved plan and maintained as such thereafter prior to first occupation.

**REASON:** To ensure safe and convenient walking and cycling routes to the site are provided in the interests of highway safety and sustainability in compliance with Core Strategy Policy 60, 61 and 62.

- 12 No development shall commence on site until a strategy for Electric Vehicle charging points has been submitted to and approved by the Local Planning Authority. The strategy shall seek to avoid delivering dwellings that may not be directly served by a charging point. Prior to first occupation

of each individual dwelling unit allocated a charging point, the dwellings charging point shall be made operational and ready for use.

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

- 13 The dwellings shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.

REASON: The site is in an area of serious water stress requiring water efficiency opportunities to be maximised, to mitigate the impacts of climate change in the interests of sustainability, and to use natural resources prudently in accordance with the National Planning Policy Framework.

INFORMATIVE TO APPLICANT:

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.

- 14 No new signage or wayfinding shall be erected until details have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of the visual amenities of the area, preserving the character, appearance and setting of heritage assets subject to and/or affected by this proposal, and in the interests of promoting active travel.

- 15 Prior to occupation of the flexible commercial unit, a schedule of opening hours shall be submitted to and approved in writing by the Local Planning Authority. The unit shall be operated in accordance with the approved schedule of opening hours.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 16 Prior to use commencing in any non-residential building that requires mechanical air extraction or ventilation systems, a scheme of works for the control and dispersal of any atmospheric emissions from them, including odours, fumes, smoke & other particulates, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the operation of the use hereby permitted. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions for the lifetime of the development.

The scheme must include full technical details and a risk assessment in accordance with Appendix 2 and 3 respectively of the EMAQ "Control of odour and noise from commercial kitchen exhaust systems" Guidance (Gibson, 2018).

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

**INFORMATIVE:**

In discharging this condition we recommend the applicant ensures that the ventilation system discharges vertically at a height of at least 1m above the heights of any nearby sensitive buildings or uses and not less than 1m above the eaves.

- 17 No works shall be undertaken to the existing accesses unless full construction details have been submitted to and approved in writing by the local planning authority. Prior to first occupation, any proposed works to the accesses shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

REASON: To ensure a safe and sufficient vehicular access is provided in the interests of highway safety and in compliance with Core Strategy Policy 60, 61 and 62.

- 18 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area, the character, setting and appearance of the heritage assets, to minimise unnecessary light spillage above and outside the development site and to ensure lighting will not have an adverse impact on ecology and the Kennet & Avon Canal.

- 19 Deliveries and collections for the flexible commercial unit shall be restricted to 08:00 – 21:00 Monday to Sunday (including Bank Holidays). No deliveries or collections shall take place outside of these hours.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 20 The first reserved matters application will include a revised Biodiversity Metric Calculation in accordance with the Green Infrastructure and Ecology Parameters Plan (Drg Ref: DH- XX - ZZ - DR – 1150 Rev P3) using the latest calculation methodology and recalculated to reflect the details of the reserved matters application. The calculation will be supported by a revised plan for Habitat creation and enhancements demonstrating the extent and area of each habitat in ha / m2. Accurate development boundaries will be overlaid on the plan to allow accurate scaling and location of mitigation measures. The calculation will demonstrate for both habitats and hedgerows that the development will achieve 100% mitigation (i.e. no net loss) for land lost to development. Development shall be carried out in accordance with the approved details.

REASON: To comply with Core Policy 50 of the Wiltshire Core Strategy which requires no net loss of biodiversity and paragraph 180 d) of the National Planning Policy Framework which seeks to secure net gains for biodiversity to enhance the natural and local environment.

21 No reserved matters application will be determined until an updated Bat Survey (including hibernation studies) and Assessment Report has been submitted to and approved in writing by the local planning authority. The report shall contain details of updated survey work to establish the current status of the site for roosting bats, as well as an updated assessment of the development on bats and all necessary mitigation measures.

REASON: To ensure the development incorporates appropriate and up-to-date mitigation for protected species.

22 The development shall be carried out in strict accordance with Section 5 of the Wildwood Ecology Ecological Impact Statement (dated September 2023) and Table 6.1 and 6.2 of the JH Ecology Ecological Impact Assessment (Document ref: 21/1437).

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

23 The development hereby permitted shall not be first occupied until cycle parking and bin storage facilities have been provided in full and made available for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The cycle parking and bin storage facilities shall be retained for use at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles and storage of waste are provided and to encourage travel by means other than the private car.

24 No dwelling shall be occupied until the parking spaces together with the access thereto, have been provided in accordance with the approved plans.

REASON: In the interests of highway safety and the amenity of future occupants.

Informatives: (5)

25 REFERENCE TO SECTION 106 AGREEMENT:

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the \*\*/\*\*/\*\*\*\*.

26 COMMUNITY INFRASTRUCTURE LEVY (CIL):

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required

in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.

27 MATERIALS AND ARCHITECTURAL DETAILS:

Core Policy 57 point xii. requires the use of a high standard of building materials and finishes in all new developments. The site in question forms a key part of the Devizes Wharf regeneration project and contains as well as adjoins a number of heritage assets. As a result of this, the applicant is advised that the local planning authority would expect to see details of all external materials as well as large-scale details of architectural features including parapets, windows, (including elevations and sections of the windows, head, sill and window reveal details), external doors, vents and extracts, rainwater goods submitted as part of a reserved matter 'appearance'.

28 EUROPEAN PROTECTED SPECIES LICENSE REQUIRED:

Under the Conservation of Habitats and Species Regulations 2017, it is an offence to harm or disturb bats or damage or destroy their roosts.

Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a European Protected Species Licence will be required before any work is undertaken to implement this planning permission.

29 CANAL AND RIVERSIDE TRUST:

The applicant's attention is drawn to the comments from the Canal & Riverside Trust in its letter to the Local Planning Authority dated 16th December 2022. Notably that:

- A canalside landscaping and boundary treatments scheme shall be included in the reserved matters submissions. The scheme shall indicate the size, species and spacing of planting, the areas to be grassed, and the treatment of hard surfaced areas. No trees shall be planted within 5 metres of the waterway; and that,
- The applicant is advised to contact David Wilson, Works Engineer by email to [Enquiries.TPWSouth@canalrivertrust.org.uk](mailto:Enquiries.TPWSouth@canalrivertrust.org.uk) to discuss which elements of the proposal should comply with the Canal & River Trusts 'Code of Practice for works affecting the Canal & River Trust'.



**For: Wiltshire Council  
Review of Applicant Submitted  
Viability Position**

**Devizes Community Hospital  
New Park Road  
Devizes  
Wiltshire  
SN10 1EF**

May 2023

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## Executive Summary

- i. Dixon Searle Partnership (DSP) has been commissioned by Wiltshire Council (WC) to carry out an independent review of the 'Financial Viability Assessment' (FVA) submitted on behalf of the applicant by Montagu Evans LLP (ME) in relation to the proposed development at Devizes Community Hospital, New Park Road, Devizes, Wiltshire, SN10 1EF.
- ii. We have reviewed the submitted commentary and assumptions. The table below summarises the areas of agreement and disagreement. Here, the negative (red text) figures represent areas where our viability review process has found suggested savings (cost reductions) and positive (black text) figures represent increased cost assumptions compared with those submitted.

Item	DSP comment	Applicant's submitted assumption	DSP assumption	Difference (£)
GDV (residential)	Agree that the submitted sales values are suitably placed with reference to local evidence	£350/ft <sup>2</sup>	£350/ft <sup>2</sup>	-
GDV (commercial)	Agree that rental and yield assumptions are suitable given the location, with reference to local evidence. However have also tested the effect of an increase of 50% in capital value in order to 'stress-test' viability and note that this does not affect viability outcomes.	£162/ft <sup>2</sup> capital value	£162/ft <sup>2</sup> capital value	-
Scheme timings	The stated construction and sales timings are considered to be suitable. Precise timing of costs has not been specified therefore DSP have applied standard assumptions within our appraisal.	6-month lead-in, 18 months construction. 50% off-plan sales and remainder sold at a rate of 6 per month.	6-month lead-in, 18 months construction. 50% off-plan sales and remainder sold at a rate of 6 per month.	-
Construction Costs	Gardiner and Theobald Cost Consultants (G&T) have reviewed the submitted cost plan on behalf of the Council and consider the costs to be overestimated. G&T estimate costs to be £10.816 million including demolition and contingency (and excluding professional fees). We have applied G&T's estimate in our appraisal.	£12.014 million	£10.816 million (based on estimate from G&T)	-£1,198,000
Fees and contingency	DSP agree that the submitted percentage rates (applied to relevant costs) for fees and contingency are suitable, however these have been applied to lower build costs as per G&T's estimate, therefore the allowances in £ within our appraisal are lower.	Fees of £1,201,400 and contingency of £571,000	Fees of £1,081,600 and contingency of £515,000	-£ 175,800
S106 and CIL costs	The Council has provided DSP details of the requirements for S106 contributions. These exceed the submitted amounts by £140,000 therefore we have increased the costs within our appraisal accordingly. We also note that a higher amount of CIL might be chargeable - by our calculation an additional payment of c. £48,000 would be required. This is for the Council to confirm and we have not adjusted this in our appraisal.	Total of £500,948.	Total of £640,948.	£ 140,000
Finance costs	DSP agree that the submitted assumption based on 100% debt finance at 7.0% interest is a suitable proxy for the finance arrangements on this project. We have not adjusted this assumption in our appraisal, however the costs in our appraisal are lower therefore over the course of the project the finance costs are lower.	7.0% interest rate, total finance cost of £795,512	7.0% interest rate, total finance cost of £722,481	-£ 73,031

Table continued on following page...

Item	DSP comment	Applicant's submitted assumption	DSP assumption	Difference (£)
Sales and marketing costs (residential)	Agree that the submitted assumptions are within expected parameters overall.	2.75% on GDV in total including legal fees	2.75% on GDV in total including legal fees	-
Agent's/legal fees for disposal of commercial unit	The amounts involved are negligible in the context of the scheme viability and do not affect the outcome.	1.5% of annual rent	1.5% of annual rent	-
Profit allowance (Developer margin)	Whilst we do not necessarily agree with the stated profit target/allowance, our appraisal based on a 100% market housing scheme, i.e. with nil affordable housing, indicates a profit of £1,781,973 therefore does not reach what would typically be considered a minimum level (being below the 15% to 20% GDV range suggested by the NPPF).	£3,105,412	£2,329,059 (minimum based on 15% GDV)	-£ 776,353
Benchmark Land Value	We disagree with the submitted Benchmark Land Value. We do not consider the submitted comparables to be suitable evidence since they are transactions based on purchase for redevelopment rather than for continuation of existing use and therefore do not follow the principles of the PPG. An Alternative Use Value based on conversion to a Care Home has been suggested however this has not been fully costed/assessed as required by the PPG. We have considered various methods of assessing the existing use value, concluding that the submitted value of £1.75 million in existing use is significantly overestimated. We have tested our appraisal results against a nil land value.	£1,750,000	Scheme residual value tested against a nil land value.	-£1,750,000

- iii. Overall, we consider that the scheme costs are overestimated by c. £3.8 million based on the above areas of difference. However, our appraisal based on the DSP assumptions noted above which we have run on the basis of nil affordable housing, indicates a residual profit of £1,781,973, equating to a relatively low 11.48% of GDV (gross development value), before any land value is taken into account. Our appraisal indicates therefore that the scheme does not reach the lower end of the range suggested by the PPG (Planning Practice Guidance) - 15% GDV and this is on the basis of a nil BLV (benchmark land value).
- iv. Therefore, our appraisal indicates that the scheme is unlikely to be able to support a contribution to affordable housing based on current costs and values.
- v. We have carried out sensitivity testing which indicates that the market sale scheme would likely need to achieve an increase in values of at least 14% from the submitted and agreed sales values levels and/or a reduction from our (lower) assumed build costs before a level of profit is achieved that would generally make the scheme proceedable by accepted parameters.

- vi. However, given that the scheme is at outline stage and the details of the design, final layout, materials etc will be subject to a Reserved Matters planning application which could be several years hence, and where a significantly below policy-compliant affordable housing element is agreed, in our view it would also be appropriate (and fairly typical in our experience) for the Council to consider including a mechanism for further viability review at a later stage, once these details are known. This could further explore any improvement in the relationship between the development values and costs and if this supports a different view in time, ensure this is captured.
  
- vii. The full report that follows provides the detail, subject to the notes and limitations also set out (those apply to the entire report and this brief summary).

**Executive summary ends**

# 1. Notes and Limitations

- 1.1.1. The following does not provide formal valuation advice. This review and its findings are intended purely for the purpose of providing our client Wiltshire Council with an independent check of, and opinion on, the planning applicant's viability information and stated position in this case. In the preparation of this review Dixon Searle Partnership has acted with objectivity, impartiality, without interference and with reference to appropriate available sources of information.
- 1.1.2. This document has been prepared for this specific reason and should not be used for any other purpose without the prior written authority of Dixon Searle Partnership (DSP); we accept no responsibility or liability for the consequences of this document being used for a purpose other than for which it was commissioned. To the extent that the document is based on information supplied by others, Dixon Searle Partnership accepts no liability for any loss or damage suffered by the client.
- 1.1.3. We have undertaken this as a desk-top exercise as is appropriate for this stage and level of review. For general familiarisation we have considered the site context from the information supplied by the Council and using available web-based material.
- 1.1.4. So far as we have been able to see, the information supplied to DSP to inform and support this review process has not been supplied by the prospective / current planning applicant on a confidential basis. However, potentially some of the information provided may be regarded as commercially sensitive. Therefore, we suggest that the Council and prospective / current or subsequent planning applicant may wish to consider this aspect together. DSP confirms that we are content for our review information, as contained within this report, to be used as may be considered appropriate by the Council (we assume with the applicant's agreement if necessary). In looking at 'Accountability', since July 2018 (para. 021 revised in May 2019), the published national Planning Practice Guidance (PPG) on viability says on this; *'Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances.'*
- 1.1.5. Dixon Searle Partnership conducts its work only for Local Authorities and selected other public organisations. We do not act on behalf of any development interests. We have been and are involved in the review of other planning stage proposals within the Wiltshire



area, but to date DSP has not provided strategic level viability assessment work to the Council.

- 1.1.6. In any event we can confirm that no conflict of interests exists, nor is likely to arise given our approach and client base. This is kept under review. Our fees are all quoted in advance and agreed with clients on a fixed or capped basis, with no element whatsoever of incentive/performance related payment.
- 1.1.7. Image sources: All photographs used in this report were taken on site visit of 27 April 2023 unless otherwise indicated.

## 2. Introduction

- 2.1.1 Dixon Searle Partnership (DSP) has been commissioned by Wiltshire Council to carry out an independent review of the 'Financial Viability Assessment' (FVA) dated 7 November 2022 and supplied to the Council on behalf of the applicant by Montagu Evans LLP (ME). This is in relation to the proposed development at Devizes Community Hospital, New Park Road, Devizes, Wiltshire, SN10 1EF.
- 2.1.2 The FVA has been submitted in support of an outline planning application (ref. PL/2022/08744) which seeks permission for *'Outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking'*.
- 2.1.3 Wiltshire Council's Core Strategy Policy 43 (Affordable Housing) requires 30% of the proposed new homes to be provided as affordable housing, with a tenure split of 60% Affordable Rent, 15% shared ownership and 25% First Homes. Therefore to be policy compliant the scheme would have to provide 10 homes for Affordable Rent, 3 homes for shared ownership and 4 homes as First Homes. However we understand that the applicant is seeking to apply vacant building credit which according to their calculations would reduce the affordable housing requirement to 20% (see calculation below, provided to DSP on 17 February 2023).



<b>Calculating VBC (where NO net gain)</b>			
<b>Step 1: Select Affordable Housing Zone</b>			
Affordable Housing Zone	Total Proposed Housing Units	Full Policy Affordable Housing Units to be provided on-site	Full Policy off-site Commuted Sum
30%	58	17.4	
40%		0	
<b>Step 2: Insert Floorspace (sq.m)</b>			
Gross Total Proposed Floorspace (sq.m)	Gross Existing Vacant Floorspace (sq.m)	Net Increase in Gross Floorspace (sq.m)	Net Increase in Floorspace as a proportion of Gross Total Proposed Floorspace
4935	1491	3444	0.69787234
<b>Step 3: Affordable Housing Requirement after VBC is applied</b>			
Affordable Housing Zone	Affordable Housing on-site after VBC is applied	Commuted Sum payable in-lieu of on-site Affordable Housing after VBC is applied	
30%	<b>12.14297872</b>	<b>£0.00</b>	
40%	<b>0</b>	<b>£0.00</b>	
<i>Note: Number of Units required on-site should be rounded to the nearest whole unit</i>			

- 2.1.4 The FVA has been submitted with the intention of assessing ‘the maximum reasonable amount of affordable housing that the proposed development is able to provide’.
- 2.1.5 In presenting their viability position, the applicant has supplied to the Council the aforementioned ‘Financial Viability Assessment’ (FVA) together with appendices including existing floorplans, photographs of existing buildings, proposed scheme plans, a printed copy of the submitted viability appraisal, details of commercial transactions with reference to the proposed commercial unit, and a budget cost plan from Johnson Associates (UK) Limited (JAUk) dated 20 September 2022.
- 2.1.6 DSP has also separately been provided with a budget costing exercise comparing the JAUk cost estimate with BCIS mean and upper quartile rates. Wiltshire Council has also provided DSP with an asbestos survey for the site, details of S106 contribution requirements, and a Vacant Building Credit calculation. Wiltshire Council separately commissioned Gardiner and Theobald Cost Consultants (G&T) to undertake a review of

the submitted build cost estimate. G&T's report was completed on 10 May 2023 and its findings have been considered within this report.

- 2.1.7 For context, DSP has also had sight of the documents contained within the Council's online planning application files.
- 2.1.8 We have considered the assumptions individually listed within the FVA and provided our commentary based on those whilst also carrying out sensitivity testing where our opinion differs from that of the applicant's agent.
- 2.1.9 This report does not consider planning policy or the wider aspects in the background to or associated with the Council's consideration of this scenario. DSP's focus is on the submitted viability assumptions and therefore the outcomes (scope to support land value and profit) associated with that aspect of the overall proposals.
- 2.1.10 For general background, a viable development could be regarded as the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate site value (i.e. existing use value plus a reasonable premium) for the landowner and a market risk adjusted return to the developer in delivering that project. The Government's Planning Practice Guidance (PPG) on Viability sets out the main principles for carrying out a viability assessment. It states:

*'Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return...Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making...In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to*

*secure maximum benefits in the public interest through the granting of planning permission’.*<sup>1</sup>

- 2.1.11 The submitted development appraisal has been run in a way which takes account of the benchmark land value (BLV) (assumed here at £1,750,000) of the site and assesses the level of additional residual potentially available in excess of that after allowing for a fixed developer’s profit (assumed at 20.0% GDV, therefore £3,105,412).
- 2.1.12 The submitted viability appraisal has been run on the basis of nil affordable housing provision and this 100% market housing scenario, as presented, indicates a negative residual value of -£2,508,503 before the above-noted BLV is taken into account. Therefore after allowing for the assumed £1,750,000 BLV the scheme indicates a deficit of -£4,258,503. Overall, as presented, the appraisal indicates that the scheme will make a loss of -£1,153,091 and would therefore not be considered deliverable/proceedable under normal circumstances.
- 2.1.13 The FVA includes a sensitivity analysis, testing a 10% increase in residential sales values alongside a 10% decrease in total construction costs. Even this improved scenario indicates a residual value of only £105,833 and therefore a deficit of -£1,644,167 against the assumed BLV; therefore an ‘actual’ profit, taking into account this deficit, of £1,769,259 or 10.37%, which remains below what would typically be considered a reasonable developer margin. The FVA does not comment on whether this is considered an acceptable position by the applicant – it goes on to conclude that *‘this viability appraisal therefore demonstrates that the development is unable to viably support any affordable housing’*.
- 2.1.14 This review does not seek to pre-determine any Council positions, but merely sets out our opinion on the submitted viability assumptions and outcomes to inform the Council’s discussions with the applicant and its decision making; it deals only with viability matters, in accordance with our instructions.
- 2.1.15 DSP’s remit is to review the submitted information to assess whether the stated viability scope available to support planning obligations (for affordable housing and/or other matters) is the most that can reasonably be expected at the time of the assessment. Our

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<sup>1</sup> Paragraph: 010 Reference ID: 10-010-20180724

brief does not go as far as confirming what should be the outcome where schemes are stated or verified as being non-viable per se, based on a viability submission or any subsequent review. It is for the applicant to decide whether there is sufficient justification to pursue a scheme, financially. While an absence of (or insufficient level of) planning obligations will be a material consideration, we are not aware that proof of positive viability is in itself a criterion for acceptable development under current national policy. The Council may wish to consider these matters further, however.

- 2.1.16 In this context, Wiltshire Council requires our opinion as to whether the viability figures and position put forward by the applicant are reasonable. We have therefore considered the information submitted. Following our review of the key assumptions areas, this report provides our views.
- 2.1.17 We have based our review on the submitted FVA and the premise that the viability of the scheme should be considered based on the assumption of current costs and values. We then discuss any variation in terms of any deficit (or surplus) created from that base position by altering appraisal assumptions (where there is disagreement if any).
- 2.1.18 We have not been provided with a 'live' electronic copy of the applicant's appraisal, therefore we have created an appraisal in Argus Developer using the appraisal summary and FVA commentary provided. ME's summary does not include the full cash flow/finance details therefore we are unable to precisely recreate their appraisal, however by running an appraisal on a profit outturn basis (with a fixed land value of £1), using the same assumptions and construction costs distributed in a typical 'S-Curve' we have produced an appraisal which results in similar finance costs and a residual profit of £576,719. When the assumed 20% profit (£3,105,412) is deducted this results in a deficit of £2,528,693 which is within £20,000 of the deficit indicated by ME's appraisal. Therefore we have used this as the basis for our trial appraisal, making adjustments as per the discussion in section 3, below.
- 2.1.19 This assessment has been carried out by Dixon Searle Partnership, a consultancy which has a great many years combined experience in the development industry working for Local Authorities, developers, Housing Associations and in consultancy. As consultants, we have a considerable track record of assessing the viability of schemes and the scope for Local Authority planning obligation requirements. This expertise includes viability-



related work carried out for many Local Authorities nationwide over the last 20 years or so.

- 2.1.20 The purpose of this report is to provide our overview comments with regard to this individual scheme, on behalf of the Council - taking into account the details as presented. It will then be for the Council to consider this information in the context of the wider planning objectives in accordance with its policy positions and strategies.
- 2.1.21 In carrying out this type of review a key theme for us is to identify whether, in our opinion, any key revenue assumptions have been under-assessed (e.g. sales value estimates) or any key cost estimates (e.g. build costs, fees, etc.) over-assessed – since both of these effects can reduce the stated viability outcome.

## 3. Review of Submitted Viability Assumptions

### 3.1 Overview of Approach

- 3.1.1 The following commentary reviews the applicant's submitted viability assumptions as explained within the FVA and the accompanying development appraisals.
- 3.1.2 Primarily the review process takes into account the fact that the collective impact of the various elements of the cost and value assumptions is of greatest importance, rather than necessarily the individual detailed inputs in isolation. We have considered those figures provided, as below, and reviewed the impact of trial changes to particular submitted assumptions.
- 3.1.3 This type of audit / check is carried out so that we can give the Council a feel for whether or not the presented outcome is approximately as expected – i.e. informed by a reasonable set of assumptions and appraisal approach.
- 3.1.4 Should there be changes to the scheme proposals relative to the details now under review, this would obviously impact on the appraisal outputs.

### 3.2 Gross Development Value

- 3.2.1 The proposal is for 58 units (20 houses and 28 flats) plus 1 x commercial unit of 67.7 m<sup>2</sup>.

#### **Gross Development Value - residential**

- 3.2.2 ME have applied an average rate of £350/ft<sup>2</sup> across all units, following their analysis of sales comparables. Individual unit pricing has not been provided. The following table shows the proposed unit mix, and the unit values resulting from a £350/ft<sup>2</sup> assumption.

Schedule of accommodation (based on Illustrative Accommodation Schedule DH20 [5183 PA3 4 Nov 2020])							
Type	Beds/type/persons	Number of units	Ave unit size ft2 NIA	Total NSA sq ft	Assumed value (£/ft2)	Assumed value (£)	Total (£)
Terraced	2 bed townhouse	5	958	4790	£ 350	£ 335,204	£ 1,676,021
Terraced	3 bed townhouse	4	1077	4306	£ 350	£ 376,883	£ 1,507,531
Terraced	3 bed two storey	1	1066	1066	£ 350	£ 372,993	£ 372,993
Terraced	3 bed two storey	6	850	5102	£ 350	£ 297,532	£ 1,785,190
Terraced	3 bed two storey	4	777	3109	£ 350	£ 272,076	£ 1,088,305
New build flat	2 bed 3pp	3	694	2083	£ 350	£ 243,051	£ 729,154
New build flat	2 bed 4pp	1	807	807	£ 350	£ 282,490	£ 282,490
New build flat	3 bed 4pp	3	829	2486	£ 350	£ 290,033	£ 870,100
New build flat	1 bed 2pp	3	543	1628	£ 350	£ 189,939	£ 569,816
New build flat	2 bed 3pp	2	699	1397	£ 350	£ 244,475	£ 488,950
New build flat	1 bed 2pp	2	543	1085	£ 350	£ 189,875	£ 379,750
New build flat	2 bed 4pp	2	861	1722	£ 350	£ 301,350	£ 602,700
New build flat	1 bed pp	4	547	2187	£ 350	£ 191,363	£ 765,450
New build flat	2 bed 3pp	2	660	1320	£ 350	£ 231,000	£ 462,000
Converted flat	1 bed 1pp	2	458	915	£ 350	£ 160,125	£ 320,250
Converted flat	1 bed 2pp	2	603	1206	£ 350	£ 211,050	£ 422,100
Converted flat	2 bed 4pp	2	829	1658	£ 350	£ 290,150	£ 580,300
Converted flat	1 bed 2pp	3	581	1744	£ 350	£ 203,467	£ 610,400
Converted flat	2 bed 3pp	3	678	2034	£ 350	£ 237,300	£ 711,900
Converted flat	2 bed 4pp	4	840	3358	£ 350	£ 293,825	£ 1,175,300
				<b>44003</b>	<b>£ 350</b>	<b>£ 15,400,700</b>	<b>£ 15,400,701</b>

3.2.3 Based on the assumed £350/ft<sup>2</sup>, the average unit values would be c. £320,000 for houses, £235,000 for new build flats and £240,000 for converted flats.

3.2.4 ME have provided comparable evidence of three schemes in Devizes:

- St Peter's School – new build houses and converted flats 0.5 miles from the site. Flats sold in 2020 and 2021 for between £269 and £364/ft<sup>2</sup>. Houses advertised for between £313 and £319/ft<sup>2</sup>. ME note that the houses are semi-detached and larger than the proposed houses, therefore the proposed houses are likely to achieve higher values on a £/ft<sup>2</sup> basis; there is generally (but not always) an inverse relationship between property value (when measured on a £/ft<sup>2</sup> basis) and size.
- Erghum Lane, Devizes, 2.3 miles from the site – units sold between July 2020 and January 2022 for an average of £289/ft<sup>2</sup>. ME note that the houses are much larger

than those proposed and therefore the proposed houses are likely to achieve a higher value per ft<sup>2</sup>.

- Cedar House, London Road, 0.6 miles from the site – units sold in 2022 – asking prices were £395,000 to £435,000 for large 3-bed houses (average advertised price of £307/ft<sup>2</sup>).

3.2.5 Average house prices in Wiltshire have increased by c. 8% per annum in recent years (a total increase of 28% since February 2020). Therefore flats at St Peter's School could be expected to sell for between £235,000 and £365,000 at today's prices (£316 to £370/ft<sup>2</sup>). The St Peter's School development is located further from the town centre than the subject site and is on a busier road than the subject site. The subject site is also better situated, being close to the canal.

3.2.6 Applying house price inflation to the Erghum Lane values indicates a range of c. £295/ft<sup>2</sup> to £350/ft<sup>2</sup> at today's values for the larger properties at that site.

3.2.7 Cedar House is a more recently completed scheme and taking into account HPI, the data provided suggests asking prices of c. £340/ft<sup>2</sup>, again for larger properties than those proposed. Cedar House also benefits from proximity to the canal.

3.2.8 As well as reviewing the comparables provided, we have carried out our own review of sold and advertised prices locally, as follows:

## **FLATS**

### **New build sales**

3.2.9 We have reviewed sales of new build flats in Wiltshire recorded by Land Registry over the past two years, which had an average sales value of £370/ft<sup>2</sup>. Only one of these sales was in Devizes, and was at the St Peter's House development mentioned above, a 700 ft<sup>2</sup> converted flat which sold for £255,000 in February 2021. Applying HPI for flats to this price in order to update the value to the date of this review, indicates a value of £279,000 (£399/ft<sup>2</sup>).

3.2.10 Looking further afield, a development in Silver Street, Trowbridge (a similar value area in terms of average house prices) was completed in 2021 and consisted of a mix of new build and converted flats. Taking into account house price inflation, a value of c. £310/ft<sup>2</sup> is indicated for this scheme.



**Silver Street new build flats (source: Kavanaghs Estate Agents)**



**Silver Street converted flats (source: Kavanaghs Estate Agents)**



### St George's Works, Silver Street (Source: OntheMarket)



- 3.2.11 St George's Works is in a town centre location, behind shops and overlooking Trowbridge Park. With regard to this comparable, we consider the submitted values of £350/ft<sup>2</sup> average are within the expected range for the subject flats.

#### **Sales of flats on the second hand market**

- 3.2.12 We have also reviewed sales of second hand flats in Wiltshire over the past two years. Allowing for house price inflation this indicates an average value of £250/ft<sup>2</sup>.
- 3.2.13 Only four second hand flats have been sold in Devizes in 2023, achieving an average sales value of £206/ft<sup>2</sup>.
- 3.2.14 25 Combe Walk, Devizes, SN10 2HE is a 721 ft<sup>2</sup> flat sold in January 2023 for £165,000 (£229/ft<sup>2</sup>). It is a modern purpose-built flat, constructed in 2007, is in fairly good condition, and is located 1 mile from the town centre. The assumed values of c. £250,000 (£350/ft<sup>2</sup>) for similar sized flats therefore appear fairly positive even after allowing for the premium attached to new build and the superior location and setting of the proposed flats.

#### **Advertised prices of flats**

- 3.2.15 Finally, we have reviewed advertised prices for flats within 10 miles of the site. The only new build flats currently advertised for sale are at Clarks Mill, Stallard Street, Trowbridge,

and have an average advertised price of £320/ft<sup>2</sup>, with a typical 2-bed, 797 ft<sup>2</sup> apartment advertised for £279,000 (£350/ft<sup>2</sup>).

- 3.2.16 The average advertised price for second hand flats in Devizes is £275/ft<sup>2</sup>. Assuming a 5% discount from asking price indicates c. £260/ft<sup>2</sup>. The submitted prices for new build flats are over 30% above this level, again suggesting that the submitted prices are not underestimated and reflect a positive view of potential values, reflecting the location.

### **FLATS - Summary**

- 3.2.17 Reviewing the above examples and with reference to the submitted comparables, we consider an assumption of £350/ft<sup>2</sup> average sales values to be a not unreasonable assumption for the flats, appropriately reflecting a new build premium, the convenient location and the attractive setting of the site.

## **HOUSES**

### **New build sales of terraced houses**

- 3.2.18 We have reviewed sales of new build terraced houses in Wiltshire recorded by Land Registry over the past two years, which had an average (HPI adjusted) sales value of £337/ft<sup>2</sup>.
- 3.2.19 There have been 23 terraced houses sold in Devizes over the past two years. When the sale prices are adjusted for HPI this indicates an average of £338/ft<sup>2</sup>.
- 3.2.20 The proposed houses are fairly small and looking at properties of a similar size, on two developments at Winchcombe Avenue and Old School Mews (the St Peter's School redevelopment mentioned above) which are both within 1 mile of the site, although less favourably located for access to the town the average sales value indicated is £354/ft<sup>2</sup>.

### **Sales of terraced houses on the second hand market**

- 3.2.21 17 terraced houses have been sold on the secondhand market in Devizes over the past six months. The average sales value was £281/ft<sup>2</sup>. The highest value achieved for a property at The Cedars<sup>2</sup>, bought brand new for £382,000 in February 2022 and sold very soon after for £400,000 (£312/ft<sup>2</sup>) in December 2022.

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<sup>2</sup> One of the comparable sites noted by ME which had similar properties advertised for £395,000.

**Advertised prices of terraced houses**

- 3.2.22 There are seven new build terraced houses advertised for sale within 0.5 miles of the site, with an average advertised value of £330,714 (£331/ft<sup>2</sup>).
- 3.2.23 There are seven new build terraced houses advertised for sale within 1 mile of the site, with an average advertised value of £286,667 (£301/ft<sup>2</sup>). The submitted values of £350/ft<sup>2</sup> exceed this average by 16% which is within the expected range given the location and the premium attached to new build.

**TERRACED HOUSES - Summary**

- 3.2.24 Reviewing the above examples alongside the submitted comparables, we consider an assumption of £350/ft<sup>2</sup> average sales values to be a not unreasonable assumption for the terraced houses.

**Residential GDV - Conclusions**

- 3.2.25 Overall, we consider the submitted values at £350/ft<sup>2</sup> to be suitably placed, reflecting the premium attached to new build development, the design and the advantageous location of the site. Noting the competing properties on the market we agree that this appears to be a fairly positive view of values. We have applied the submitted values of £350/ft<sup>2</sup> average within our base appraisal.
- 3.2.26 It is worth noting that any improvement in the sales value assumptions (compared with a level set at the point of the appraisal) would most likely be reflected in an improvement in scheme viability (for example as will be seen through our above noted sensitivity test). Whilst the opposite could also occur (the sales values could fall relative to the assumptions made), that is the developer's (applicant's) risk and such factors need to be kept in mind in making an overall assessment of the applicant's position.

**Gross Development Value - Commercial**

- 3.2.27 The scheme includes 729 ft<sup>2</sup> of commercial space, to be on the ground floor of one of the converted buildings.

3.2.28 ME have included rental and sales evidence at Appendix 5 of the FVA, and have assumed the following:

- Rental value of £13.00/ft<sup>2</sup>
- Yield of 7.50%
- Capital Value of £117,768 (£162/ft<sup>2</sup>)

3.2.29 Having reviewed the submitted comparables, and the commercial property available to rent in Devizes, we consider that the submitted assumptions and resulting capital value are suitable in this case – being a lower value than would be achieved for a similar newly built unit in a High Street/main shopping area location. We note also that this is a relatively small part of the scheme and even if the capital value was assumed to be 50% higher this would add c. £60,000 to the overall GDV which is not sufficient to affect the viability outcome.

3.2.30 We have applied ME's assumptions within our appraisal.

3.2.31 It is worth noting that any improvement in the sales value assumptions (compared with a level set at the point of the appraisal) would most likely be reflected in an improvement in scheme viability (for example as will be seen through our above noted sensitivity test). Whilst the opposite could also occur (the sales values could fall relative to the assumptions made), that is the developer's (applicant's) risk and such factors need to be kept in mind in making an overall assessment of the applicant's position.

### **3.3 Development Timings/Project Timescales**

3.3.1 Development timings included within the FVA indicate a 6-month lead-in and an 18-month construction period. 50% of units are assumed to be sold off plan with income in month one following completion, with sale of the remaining market units assumed over the following 5 months (therefore just under 6 sales per month).

3.3.2 The commercial space is assumed to be sold to an investor with income as a lump sum on completion.

3.3.3 Overall the submitted timings are considered to be suitable for the purpose and therefore we have not adjusted these. As noted in the section on construction costs and finance costs, below, the precise timing of costs have not been specified in the FVA however we

have applied standard assumptions in our base appraisal alongside the stated timings which leads to a similar result to ME's appraisal.

### 3.4 Cost Assumptions - Construction Costs & Fees

- 3.4.1 The submitted build costs are based on an indicative cost estimate by Johnson Associates (UK) Limited (JAUk) dated April 2022. The total assumed construction cost is £12,014,000 which equates to £223/ft<sup>2</sup> (£2,401/m<sup>2</sup>) including all externals and abnormal. The FVA suggests that the scheme is expected to be completed to a high specification, stated in the FVA to be supportive of 'optimistic' values.
- 3.4.2 Our initial benchmarking exercise indicated that the submitted costs are significantly above the median level indicated by BCIS.
- 3.4.3 Wiltshire Council separately commissioned Gardiner and Theobald Cost Consultants (G&T) to undertake a review of the submitted cost plan. G&T attended the site visit on 27 April 2023 and have produced a report on costs, attached as Appendix 1 to this report. G&T's estimate of construction costs is £10.816 million, which as per JAUk's estimate includes demolitions, conversion, new residential and commercial construction and external works, and makes an allowance for contingency.
- 3.4.4 The principal difference in costs is derived from G&T's application of median BCIS rates for the base build costs, whereas JAUk have assumed upper quartile build costs. Whilst we consider that the location, setting and scheme design all support values towards the upper end of the market, if costs at an upper quartile level were to be applied this could be considered to represent a higher specification and therefore a further premium on values. We note that G&T have assumed '*a medium to high specification*' and have referred to '*similar small-scale schemes under BCIS ref. 816*'.
- 3.4.5 In addition, JAUk have applied additional preliminaries costs to the BCIS rates, whereas G&T correctly point out that preliminaries costs are already included within BCIS rates. This results in a difference in cost of £745,000.
- 3.4.6 G&T have measured and valued the external works and taken a view on Asbestos etc. within demolitions, concluding that the submitted assumptions are '*generally in line with our measured estimates and anticipated market costs*'.

3.4.7 We have applied G&T's estimate of costs within our trial appraisal.

### 3.5 Fees and contingency

3.5.1 The development appraisal also includes an allowance of £1,201,400 for professional fees based on 10% of works cost. This is a typical assumption and considered reasonable in this case.

3.5.2 The submitted cost plan includes a 5% allowance for contingencies. Again, this is a fairly standard assumption, and not excessive, particularly for a scheme which involves converting existing buildings. G&T have commented on the contingency allowance within their report and they consider it to be *'in line with industry norms'*.

### 3.6 CIL / Planning Obligations

3.6.1 £200,000 has been included within the appraisal for CIL.

3.6.2 The amount of CIL to be charged will depend on what the Council considers the relevant deduction in floor area to be for the existing buildings. The CIL regulations indicate that the floor area of parts of buildings that have been in continuous use, if the intended use matches a use that could have lawfully been carried out without requiring a new planning permission, can be offset against the proposed floor area. This is a matter for the Council to consider.

3.6.3 Assuming that the whole existing floor area of 2,999 m<sup>2</sup> can be offset against the proposed 5,003 m<sup>2</sup> GIA, we calculate the CIL charge to be as follows:

CIL rate of £85/m<sup>2</sup> x 2,004 m<sup>2</sup> net increase in floor area x BCIS TPI Jan 2023(379)  
 Divided by  
 BCIS TPI 2015 (260)  
 = £248,303

3.6.4 A total of £300,948 has been included for S106 contributions, based upon the following estimated amounts:

- Waste and Recycling - £5,278
- Early Years Contribution - £95,670
- Secondary School Contribution - £200,000

3.6.5 As at 13 January 2023, the following contributions were stated by the Council to be required:

- **Waste and Recycling: £7,387**
- **Education:**
  - Early Years contribution as not enough spare capacity: £105,132
  - Secondary contribution as not enough spare capacity: £206,460
- **Highways**
  - £10k to the implementation of the Devizes wayfinding strategy
  - £150k off site contribution towards the delivery of walking and cycling schemes identified in the Devizes LCWIP
  - Green travel vouchers being offered to households of £300 / £150 where the lower figure is for those households with an occupant entitled to concessionary travel.
  - A Travel Plan monitoring fee of £7500 (£1500 pa over 5 years).
  - £500 towards physical map amendment and printing for both walking and cycling maps

3.6.6 Therefore if these contributions are secured there would be an additional c. £140,000 cost to include in the appraisal. In order to test this we have increased the S106 costs assumption within our appraisal to £490,000 total. We have not adjusted the CIL assumption, however we note that it is likely to be higher than the £200,000 estimated by the applicant; although as will be seen from our conclusions, any difference in the CIL owed is unlikely to alter the viability outcome/scope for affordable housing.

3.6.7 Wiltshire Council will need to confirm the relevant amounts. It should be noted that any change in the chargeable sum(s) would have an impact on the overall viability of the scheme as viewed through the appraisal – a reduction in the CIL cost assumption would improve the viability outcome and an increase (or inclusion of S106 contributions) would pull it downwards (looking at the effect of this assumption only). In all such reviews, we assume that all requirements that are necessary to make a scheme acceptable in planning terms will have to be included.

### 3.7 Development Finance

3.7.1 Typically, in the recent period we would expect to see finance rates of 6.0-7.0%, with those assumptions representative of the costs inclusive of all fees. However, we have begun to see higher rates being offered in the market and discussion with lenders indicates that whilst finance rates do not directly follow changes in the bank base rate,



the recent increases (with the bank rate now at 4%) have put upward pressure on the cost of debt.

3.7.2 Finance costs have been included within the development appraisal using a 7.0% interest rate, which we consider to be a suitable assumption at the current time, being within parameters currently seen. As noted in 3.4, above, we do not have the precise details of the payment timings and cashflow. Finance costs (as submitted) amount to a total of £778,798 (a total of 6.7% of the stated construction cost).

3.7.3 Overall these costs are within the range seen currently. We have assumed construction costs to be spread using an 'S-curve' and have applied 7.0% finance costs across the project.

### **3.8 Sales and Marketing**

3.8.1 Sales and marketing costs of 2.5% in total have been included in the appraisal, as well as 0.25% for legal fees. These allowances are within typical parameters and we have applied the same in our trial appraisal.

3.8.2 Agents' and legal fees relating to the commercial unit have been assumed at a total of 1.5% of the annual rent. The amounts involved are negligible and do not affect the viability outcome.

### **3.9 Developer's Risk Reward – Profit**

3.9.1 The Planning Practice Guidance (PPG) on Viability states: *'Potential risk is accounted for in the assumed return for developers at the plan making stage. It is the role of developers, not plan makers or decision makers, to mitigate these risks. The cost of fully complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan'*. It goes on to state: *'For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.'*

- 3.9.2 The PPG, as above, although silent in terms of decision making, does set out a range of between 15% and 20% on GDV for market housing; lower for affordable housing in relation to plan making. Given that the NPPF and PPG expect planning applications to be consistent with the plan making stage, it is therefore also appropriate to assume that the range 15% - 20% on GDV (lower for affordable housing) may be considered application at the decision taking stage.
- 3.9.3 In this case, the submitted appraisal makes an allowance of 20% profit on GDV (residential and commercial). It is worth noting that the scheme as presented produces a profit of 3.9% GDV before any land value is taken into account (and a loss, once the assumed BLV is taken into account).
- 3.9.4 We do not agree that a 20% profit, at the upper end of the range suggested by the NPPF, should be applied across the board in this case. The scheme can be brought forward in separate phases if necessary, allowing an exit strategy or altering of timing/phasing in reaction to market conditions. The site is well located and the proposed scheme is not particularly high risk, being a mixture of houses and low-rise flats in a pleasant setting (close to the canal), therefore where properties are likely to sell well. We consider that an assumption closer to the middle of the 15% to 20% range would be more appropriate for the residential units. That said, the market at the time of writing is uncertain, with falls in house prices having been seen at the start of 2023, and with the consensus being that prices are likely to stagnate or fall over the coming year.
- 3.9.5 Typically a lower profit assumption is applied to commercial units (with 15% generally seen as a suitable maximum allowance).
- 3.9.6 In order to best assess the overall viability position, taking into account land value, we will run our trial appraisal on a residual profit basis, with the output indicating the amount (and % of GDV) available to cover both developer profit and a suitable Benchmark Land Value – discussed below.

### **3.10 Benchmark Land Value**

- 3.10.1 In all appraisals of this type, the base value (value of the site or premises – e.g. in existing use) is one of the key ingredients of scheme viability. A view needs to be taken on land

value so that it is sufficient to secure the release of the site for the scheme (sale by the landowner) but is not assumed at such a level that restricts the financial capacity of the scheme to deliver suitable profits (for risk reward), cover all development costs (including any abnormalities) and provide for planning obligations as a part of creating sustainable development. This can be a difficult balance to reach, both in terms of developers' dealings with landowners, and Councils' assessments of what a scheme has the capacity to bear.

- 3.10.2 The RICS (Royal Institution of Chartered Surveyors) guidance note: 'Assessing viability in planning under the national Planning Policy Framework 2019 for England' (1st Edition, March 2021) took effect from 1st July 2021 and replaces the previous (RICS 2012) guidance note. Its emphasis reflects the Planning Practice Guidance (PPG) on Viability as noted below, and the PPG will remain the primary source of guidance in this field – viability in planning.
- 3.10.3 The 2021 RICS guidance states that:  
*'The BLV should not be expected to equate to market value. [...] The BLV is not a price to be paid in the marketplace; it is a mechanism by which the viability of the site to provide developers' contributions can be assessed. It should be set at a level that provides the minimum return at which a reasonable landowner would be willing to sell'*
- 3.10.4 It goes on to state:  
*'The BLV is a benchmark value against which the developer contributions can be assessed. Once those contributions have been set, land markets should take the level of policy requirements into account, just as all markets should take all relevant factors that affect value into account. PPG paragraph 013 states that 'Landowners and site purchasers should consider policy requirements when agreeing land transactions. This means that the actual price paid for a site cannot be used to reduce developer contributions.'*
- 3.10.5 The revisions to the Viability PPG and the new NPPF (latter updated 19th February 2019, May 2019 and most recently in July 2021 in other respects) now very clearly advise that land value should be based on the value of the existing use plus an appropriate level of premium or uplift to incentivise release of the land for development from its existing use. With regard to how land value should be defined for the purpose of viability assessment it states: *'To define land value for any viability assessment, a benchmark land value should*

*be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner.'*

3.10.6 The guidance defines existing use value as: *'the first component of calculating benchmark land value. EUV is the value of the land in its existing use together with the right to implement any development for which there are policy compliant extant planning consents, including realistic deemed consents, but without regard to alternative uses. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield. Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence.'*

3.10.7 It states that a Benchmark Land Value (BLV) should:

- *'be based upon existing use value*
- *allow for a premium to landowners (including equity resulting from those building their own homes)*
- *reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees and*
- *be informed by market evidence including current uses, costs and values wherever possible. Where recent market evidence is used to inform assessment of benchmark land value this evidence should be based on developments which are compliant with policies, including for affordable housing. Where this evidence is not available plan makers and applicants should identify and evidence any adjustments to reflect the cost of policy compliance. This is so that historic benchmark land values of non-policy compliant developments are not used to inflate values over time.'*

3.10.8 The guidance further states that: *'Where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.'* It goes on to state: *'Policy compliance*

*means that the development complies fully with up to date plan policies including any policy requirements for contributions towards affordable housing requirements at the relevant levels set out in the plan. A decision maker can give appropriate weight to emerging policies. Local authorities can request data on the price paid for land (or the price expected to be paid through an option or promotion agreement.)'*

- 3.10.9 With regard to assuming an alternative use value to determine BLV the guidance states: *'For the purpose of viability assessment alternative use value (AUV) refers to the value of land for uses other than its current permitted use, and other than other potential development that requires planning consent, technical consent or unrealistic permitted development with different associated values. AUV of the land may be informative in establishing benchmark land value. If applying alternative uses when establishing benchmark land value these should be limited to those uses which have an existing implementable permission for that use. Where there is no existing implementable permission, plan makers can set out in which circumstances alternative uses can be used. This might include if there is evidence that the alternative use would fully comply with development plan policies, if it can be demonstrated that the alternative use could be implemented on the site in question, if it can be demonstrated there is market demand for that use, and if there is an explanation as to why the alternative use has not been pursued. Where AUV is used this should be supported by evidence of the costs and values of the alternative use to justify the land value. Valuation based on AUV includes the premium to the landowner. If evidence of AUV is being considered the premium to the landowner must not be double counted.'*
- 3.10.10 It is therefore clear that the only acceptable approach to defining a benchmark land value for the purposes of a viability assessment, is the EUV+; or, exceptionally, AUV.
- 3.10.11 In this case, the BLV is based on the existing use value of the property as C2 space of 32,279 ft<sup>2</sup>. The site is stated to extend to 2.08 acres (0.84 hectares).
- 3.10.12 ME have assumed an EUV of £1.6 million, and have applied a c. 10% premium leading to a BLV of £1.75 million (£55/ft<sup>2</sup>). The BLV equates to £841,346 per acre, or £2.08 million per hectare.

3.10.13 The Devizes Community Hospital has been ‘declared by the Clinical Commissioning Group as being surplus to the needs of the local NHS and no longer suitable to meet the modern healthcare requirement of Devizes and the surrounding area<sup>3</sup>’, hence the development of the new Integrated Care Centre. The site has now been completely vacated, with the last remaining occupants leaving in February 2023.

3.10.14 ME have considered three examples of ‘Medical and School C2 Sales Evidence’. However in our view these do not all make particularly suitable comparables:

- 11 Milway Road, Andover. This former nursing home/assisted living facility sold in July 2021 for £1.4 million and was purchased for conversion to 36 studio flats as a ‘Co-living’ build-to-rent scheme. As such the value of £85/ft<sup>2</sup> is likely to include some hope value for redevelopment and would not therefore be considered an existing use value.
- South Newton Hospital, Warminster, is the closest comparable, having been sold for hospital use and is currently a hospital/rehabilitation centre. The sale price was £37/ft<sup>2</sup> - however it is unclear whether there would be demand for a similar use at the Devizes Community Hospital site. Furthermore, we do not have details of the condition of the South Newton Hospital when sold therefore it is difficult to compare with the (dilapidated) condition of much of the Devizes site.
- St Peter’s Junior School in Marlborough, Wiltshire. Stated to be purchased by Sherbourne St Peter’s Limited. The company in question is a development company which purchased the site for redevelopment (stated at the time to be for conversion to a hotel, restaurant and gym), and has subsequently secured planning permission for residential and commercial (PL2021/005599). The achieved price of £149/ft<sup>2</sup> therefore includes some element of hope value which it is difficult to disaggregate from the overall price paid.

3.10.15 We note that another NHS property, Southgate House (former CCG Office Headquarters in Devizes), has also been declared surplus to requirements and has been marketed for

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<sup>3</sup> Source: <https://www.devizeshospitalredevelopment.com/>

commercial use, with *'no interest from potential commercial occupiers'*<sup>4</sup>. The site is now being put forward for residential development of 44 units.

- 3.10.16 The FVA also considers 'Care Home Class C2 Evidence' although does not rely on this in the submitted assessment of BLV; stating only that the assumed EUV is *'conservative given the site could be lawfully operated under a C2 care home use which would achieve a significant premium'*. A C2 care home use would in our view be an alternative use value. Even if planning permission were not required, having inspected the buildings it is clear that significant works would be required to bring the buildings up to the standard of a modern care home – of a similar order to the costs required to build out the proposed scheme. It is not suitable for use as a care home in its existing layout and condition. A suitable assessment of AUV would require the applicant to put forward an appraisal of the values/costs of such a scheme. This has not been done and therefore we have disregarded this in our view of BLV.
- 3.10.17 In our view, the existing use value of the site is very low, and the site is arguably a liability at present. NHS Property Services describe the site as *'disused'* and *'no longer fit for purpose'* and rather than refurbish the existing buildings for medical use has chosen to provide a new health centre elsewhere with a build cost of £10.9 million.
- 3.10.18 Having said that, the reality is that no landowner will part with a site for nil value; the value in this case derives mainly from the incentive required to release the land for development (i.e. is mainly within the landowner premium), in our view.
- 3.10.19 We have seen similar NHS disposals/developments, with BLV assumed at a rate of £10 to £30/ft<sup>2</sup> depending on the size and location of buildings being disposed of. Applying the upper end of this scale would lead to an BLV of £968,370. This would equate to a BLV of £1.15 million per hectare – still a relatively high value for a site that is not currently in use.
- 3.10.20 Applying the £37/ft<sup>2</sup> achieved for South Newton Hospital Ltd would lead to a BLV of £1.2 million (£1.4 million per hectare). This assumes that the whole site could be sold for use as a hospital (and that the cost to a potential purchaser of bringing the buildings up to a useable standard would not exceed the potential site value)

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<sup>4</sup> See comments on NHS website: <https://www.southgatehousedevizes.com/>

3.10.21 It is also possible that some of the more recently used parts of the site which are in useable condition could be let at low rents to a community organisation or similar. As can be seen from the site photographs at Appendix 2, this use would require substantial investment in redecorating/refurbishing that would have to be carried out by the lessor (making this an AUV) or lessee (with downward effect on rental value).

3.10.22 We note that the most recent VoA assessment of the current rateable value of the site is £39,350, as follows:

Property

**Devizes Community Hospital, New Park Road, Devizes, Wilts, SN10 1EF**

Valuation
[Help with current valuation](#)

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## Valuation

Current rateable value (1 April 2023 to present)

# £34,250

This is the rateable value for the property. It is not what you pay in business rates or rent. Your local council uses the rateable value to calculate the business rates bill.

[Estimate your business rates bill](#)

### Valuations for this property

Valuations <span>?</span>	Effective date <span>?</span>	Rateable value
<b>CURRENT</b> 1 April 2023 to present	1 April 2023	£34,250
<b>PREVIOUS</b> <a href="#">1 April 2017 to 31 March 2023</a>	1 April 2017	£27,500



Property

**Ruh At Devizes Community Hospital,  
New Park Road, Devizes, Wilts, SN10  
1EF**

Valuation
[Help with current valuation](#)

### Valuation

Current rateable value (1 April 2023 to present)

**£5,100**

This is the rateable value for the property. It is not what you pay in business rates or rent. Your local council uses the rateable value to calculate the business rates bill.

[Estimate your business rates bill](#)

#### Valuations for this property

Valuations ?	Effective date ?	Rateable value
<b>CURRENT</b> 1 April 2023 to present	1 April 2023	£5,100
<b>PREVIOUS</b> <a href="#">17 September 2021 to 31 March 2023</a>	1 April 2017	£3,800
<b>PREVIOUS</b> <a href="#">1 April 2017 to 16 September 2021</a>	1 April 2017	£4,000

3.10.23 Applying a yield of 10% to the VoA assumed rental income of £39,350 would lead to an EUV of £393,500. With a landowner premium this would indicate a BLV of c. £450,000.

3.10.24 Overall we consider that the BLV of £1.75 million is likely to be significantly overestimated. Having inspected the property, much of it does not appear to be in a lettable condition (see site photographs in Appendix 2) and it is clear from the NHS’s decision to vacate the site that the buildings are not suitable for use as a modern medical facility.

3.10.25 As noted in the discussion on profit at 3.9, above, we will run our trial appraisal on a residual profit basis, with the output indicating the amount (and % of GDV) available to cover both developer profit and land value, taking an overall view on whether the outcome meets or exceeds a suitable profit/land value.

## 4. Summary and Recommendations

4.1.1 The submitted approach to assessing the viability of the proposed development appears to be appropriate overall in terms of the principles in use, in our opinion.

4.1.2 Many of the assumptions also appear fair at this stage. However, there are aspects that we have queried or where a difference of opinion exists. These include:

- Appraisal outcome and overall land/profit position – as a general point, the presented position is that the proposed scheme makes a significant loss. On the basis of the submitted assumptions, the scheme is not deliverable/proceedable, even without the inclusion of affordable housing. This outcome also seems at odds with the stated intention of NHS property services to realise income from sale of the site, to contribute to the costs of health provision elsewhere. As presented, the proposed scheme generates neither any land value nor development profit.
- Build costs – the submitted build costs significantly exceed the median rates indicated by BCIS. Costs have been reviewed by Gardiner & Theobald, whose report is attached as Appendix 1. G&T’s estimate is c. £1.2 million lower in total than the applicant’s cost consultant’s estimate. We have applied G&T’s estimate in our trial appraisal.
- S106 contributions – based on information provided by the Council, we have included an additional c. £140,000 cost in our appraisal for S106 contributions, increasing the overall S106 allowances from £300,948 to £490,000 in total.
- Developer profit – the assumption within the submitted appraisal is a 20% GDV profit across all residential and commercial units. We consider this assumption to be excessive. It is worth noting that taking into account the negative residual value (as presented) the submitted appraisal produces a profit of 3.9% GDV before any land value is taken into account (and a loss, once the assumed BLV is taken into account).
- Benchmark Land Value – we consider the submitted BLV of £1.75 million (£2.08 million per hectare) to be unrealistically high given that the site has been declared to be no longer fit for purpose, is disused; and with various buildings being in need of significant refurbishment work to make them fit for letting/occupation.

- 4.1.3 We have run our trial appraisal on a residual profit basis, with the resulting outcome representing the amount available to cover developer profit and a suitable land value. We will consider the results in this context.
- 4.1.4 The submitted viability appraisal has been run on the basis of nil affordable housing provision and this 100% market housing scenario, as presented, indicates a negative residual value of -£2,508,503 before any land value is taken into account. The profit allowance within the submitted appraisal is 20% GDV (£3,105,412). Therefore taking into account the deficit, the profit indicated by the submitted appraisal is £596,909, or 3.9% of GDV.
- 4.1.5 Our trial appraisal (a summary of which is attached as Appendix 3), also run on the basis of nil affordable housing, indicates a residual profit of £1,781,973 which equates to 11.48% of GDV, again before any land value is taken into account. Our appraisal indicates therefore that the scheme does not reach the lower end of the range suggested by the NPPF/PPG (15% GDV).
- 4.1.6 Therefore, our appraisal indicates that the scheme is unlikely to be able to support a contribution to affordable housing based on current costs and values.
- 4.1.7 Viewing the above results, whilst applying DSP and G&T's assumptions results in a more positive view of the viability of the scheme than that of the applicant, the scheme remains a long way from what would typically be considered a reasonable level of market profit.
- 4.1.8 We have carried out sensitivity testing which indicates that the market sale scheme would have to achieve values in excess of £400/ft<sup>2</sup> average and/or a reduction in the assumed build costs before a level of profit is achieved that would make the scheme proceedable by accepted parameters. It can be assumed that the applicant is willing to accept a sub-optimal profit, or hopes to achieve efficiencies in the build cost via the usual methods of value engineering.
- 4.1.9 The issues with viability are principally thought to be inherent in the estimated sales values at this location not being high enough compared with the likely costs of development – which include the cost of preserving existing buildings.

- 4.1.10 However, given that the scheme is at outline stage and the details of the design, final layout, materials etc will be subject to a Reserved Matters planning application which could be several years hence, and where a significantly below policy-compliant affordable housing element is agreed, in our view it would also be appropriate (and fairly typical in our experience) for the Council to consider including a mechanism for further viability review once these details are known – ensuring also that any improvement in the relationship between costs and values over time is captured.
- 4.1.11 As additional information for the Council, it should also be noted that Paragraph 65 of the revised NPPF and recent Appeal precedent indicates that that major developments (i.e. of 10+ dwellings) are expected to provide at least 10% of the proposed homes as ‘affordable home ownership’ units. The Council may wish to consider the implications for this scheme / application.
- 4.1.12 We need to be clear that our review is based on current day costs and values assumptions as described above, based on the current scheme as submitted. A different scheme may of course be more or less viable – we are only able to review the information provided.
- 4.1.13 No viability appraisal or review can accurately reflect costs and values until a scheme is built and sold - this is the nature of the viability review process. In this sense, the applicant and their agents are in a similar position to us in estimating positions – it is not an exact science by any means, and we find that opinions will usually vary.
- 4.1.14 The RICS guidance notes that ‘*Development risk*’ reflects: ‘*The risk associated with carrying out, implementing and completing a development, including site assembly, planning, construction, post-construction letting and sales*’ and that ‘*The return for the risk is included in the developer return and the PPG makes it clear that it is the developer’s job to mitigate this risk, not plan makers and decision takers*’. This is all part of the usual development process. Furthermore, in reflecting the PPG the RICS guidance notes: ‘*PPG paragraphs 007 and 009 reflect on the impact of market cyclicity during the life of the plan. Paragraph 007 gives market downturns as one example of the justification for a site-specific FVA, but it is restricted to “a recession or similar significant economic change”. This implies the exclusion of normal market cyclicity, which is embedded in the level of developer return*’.

Review report ends  
May 2023

**Appendix I – Cost review report from Gardiner and Theobald**

**Appendix 2 – Site photographs**

**Appendix 3 – Summary of DSP scheme appraisal**

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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

Item 8

<b>Date of Meeting</b>	22 <sup>nd</sup> February 2024
<b>Application Number</b>	PL/2021/04663
<b>Site Address</b>	Poulton Mill, Poulton Hill, Marlborough, Wilts, SN8 2LN
<b>Proposal</b>	Change of Use from Agricultural to Equine Clinic with associated buildings, access and landscaping improvements.
<b>Applicant</b>	Drs Andre Buthe & Christiana Ober
<b>Town/Parish Council</b>	Marlborough Town Council and Mildenhall (Minal) Parish Council
<b>Ward</b>	Marlborough East ED (Cllr Caroline Thomas)
<b>Type of application</b>	Full Planning Permission
<b>Case Officer</b>	David Millinship

Reason for the application being considered by Committee:

This application was 'called-in' by Cllr Thomas for the following reasons:

- Impact on National Landscape (formally AONB);
- Change of use and scale of development;
- Access with poor visibility;
- Significant Parish Council opposition.

### **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 key issues for consideration are:

- Principle of development;
- Landscape and visual impact (including design);
- Highways impact;
- Environmental and ecological impacts;
- Impact on neighbour amenity.

### **3. Site Description**

The application site comprises approximately 3.25ha of mixed-use land directly to the north-east of the market town of Marlborough. The south-western intervening boundary of the site is shared with a row of domestic properties that form the urban edge of Marlborough (mostly those located at Tin Pit). Open countryside extends to the north and east.

The site area includes a Scheduled Ancient Monument - the Dam of King's Fishpond; Historic England (HE) list entry no. 1005644. The dam forms an earthwork at the northern tip of the site area. The official list states that the dam survives well and is particularly important because it has both early and royal documentary evidence. There is also a grade II\* listed dwelling (known as Poulton House) approximately 60 metres to the north-east of the site.

The site includes a number of existing buildings and installations set around domestic gardens and horse training areas. The main building at Poulton Mill is now a dwelling set within the eastern edge of the site. A former barn located adjacent to the house is used as an office. Prior to the applicant occupying the site, the barn had been converted into a chiropractor's office (likely used for a period of over ten years prior to the current site occupation). A stable building is located to the north-west (adjacent to the SAM) and an all-weather outdoor horse exercise area is located within the western area. The River Og bisects the site towards the southern half with the land to the south being unmanaged grassland.

The land to the north of the river has been within a mixed-use as domestic land and equine clinic for a period of 7 years (the equine clinic use being sought as a retrospective change of use as part of this application). Prior to 2017, the site had an established use mixed use (domestic land and equestrian use (the keeping of horses)). The LPA attempted to limit the equestrian use through an earlier planning permission for the existing stables (ref: K/58630/F), by imposing a condition to limit the use to be private/domestic only and not a commercial livery. However, the permission for the outdoor exercise area (including the land to the west of the main dwelling - ref: K/59425/F) included no such restriction.

The main existing vehicular access is from the public highway at Poulton Hill, via a single-track rural road that runs to the north of the site leading to a private access road serving a number of (mainly domestic) properties that comprise the rural hamlet of Poulton. There is a gated vehicular access (field access) to the land to the south of the river. However, it appears to have been out of use for some time and is overgrown.

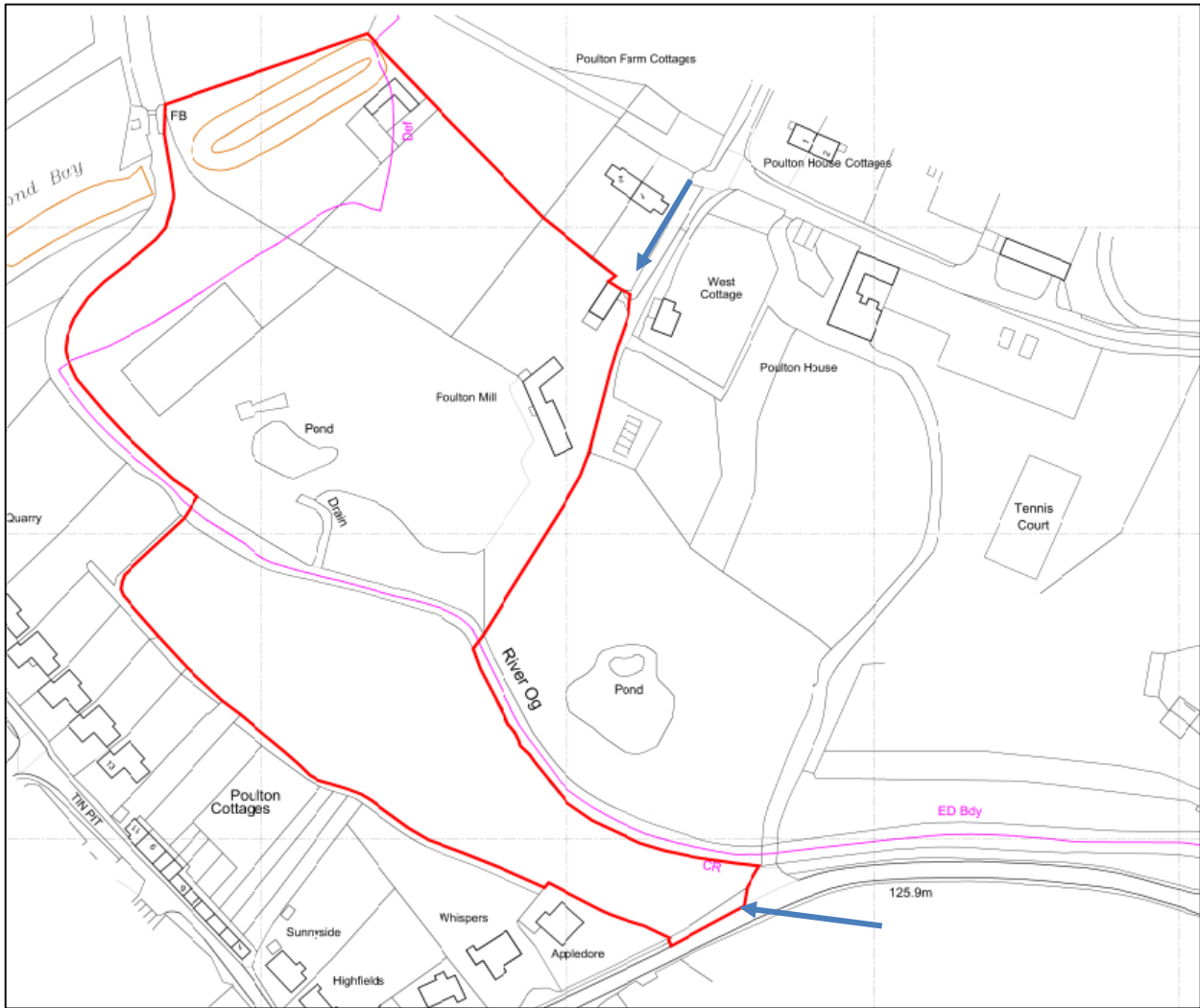


Figure 1: Site Location with marked [access points](#) Page 106

#### **4. Planning History**

The following planning history is specific to the application site:

K/58630/F	Retention of stable block and associated hardstanding	Approve with conditions (11/06/2008)
K/59425/F	Retention of manege and gazebo	Approve with conditions (03/11/2008)
K/51181/F	Erection of roof over decking area	Approve with Conditions (16/12/2004)
K/39547	Relocate conservatory, erection of single storey extension comprising of bathroom, dressing room and log store.	Approve with conditions (26/07/2000)

#### **5. The Proposal**

The proposed development involves both the change of use of the land and operational development (building work). The southern area of the land (that to the south of the River Og) is proposed to be changed into an equine orthopaedic clinic use, along with the erection of a multi-purpose barn to accommodate stables, feed, machinery, general storage and an indoor exercise area. The barn would measure approximately 50 metres by 20 metres with an eaves height of 3.9 metres and a ridge height of 6.9 metres. The base level of the barn would be excavated into the existing slope of the land to create a level base with external parking areas; the land being lowered by approximately 1.8 metres at the highest (northern) point.

The application seeks retrospective planning permission for the change of use of the land to the north of the river to a mixed-use of equine clinic and domestic land and the erection of a stable building to be occupied by 6no. horses, located within the north-eastern area of the site (adjacent to the existing stables). It is proposed to be a suitable distance from the larger barn building, such that there would be an essential isolation facility for those horses that must be kept a safe distance apart from other horses. The new stables would measure approximately 11 metres by 17 metres, with an eaves height of 2.7 metres and a ridge height of 5.9 metres.

Both buildings would feature cedar clad walls (the barn with a brick plinth), grey profiled metal sheeting roof coverings and timber doors, windows and other joinery. Rooflights for the barn would be translucent panels with low outward light transmittance. The stable roof would have a central raised section lined with high-level windows in lieu of rooflights.

The proposal also includes the creation of a new site access from the public highway at Poulton Hill leading into the land to the south of the river. An internal site access road would run to the north of the proposed barn, leading to a new bridge over the river, to provide access to the northern area of the site (the existing dwelling, stables and horse exercising areas). The new access would remove the requirement for users of the site to rely on the narrow private access lane that leads into the northern area of the site (to the dwelling at Poulton Mill).

A planting scheme is also proposed, including the removal of poor-quality self-seeded trees and their replacement with native riparian species within areas adjacent to the river and the creation of wildflower grassland and enhanced riparian habitat adjacent to the river and surrounding an existing pond.



Figure 2: Site layout and proposed landscape enhancement. The proposed **barn** in red and stables in **blue**.

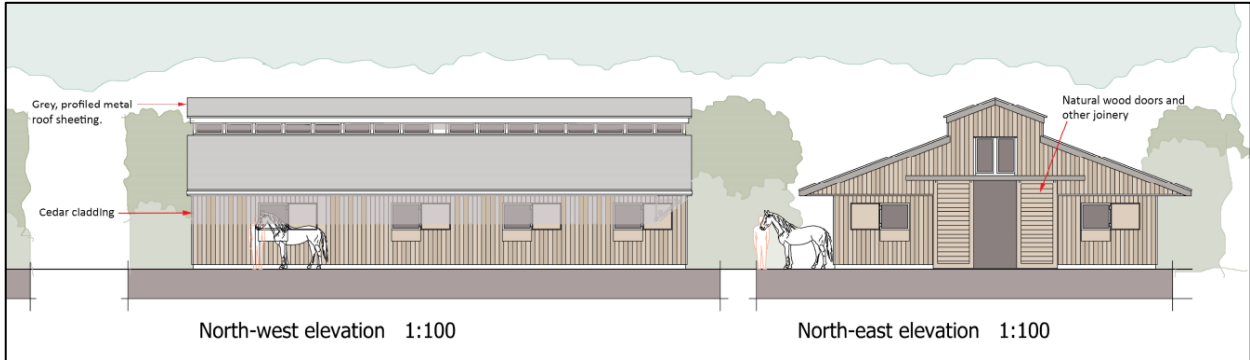


Figure 3: Stable elevations.

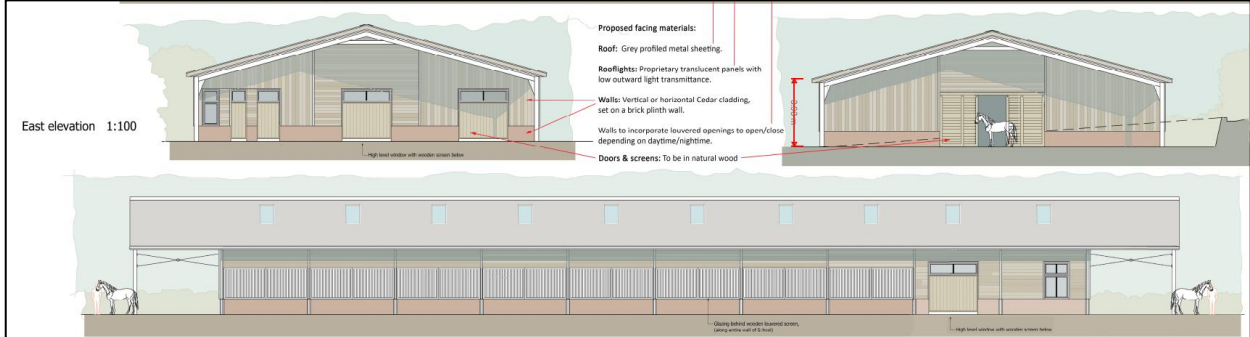


Figure 4: Barn elevations.

**6. Planning Policy**

National Context:

National Planning Policy Framework 2019 (NPPF).  
 Planning Practice Guidance (guidance on the policies contained within the NPPF).

Local Context:

Wiltshire Core Strategy (WCS) – Adopted January 2015.

- Core Policy 1 – Settlement Strategy;
- Core Policy 2 – Delivery Strategy;
- Core Policy 14 – Spatial Strategy for the Marlborough Community Area;
- Core Policy 34 – Additional employment land;
- Core Policy 50 – Biodiversity and Geodiversity;
- Core Policy 51 – Landscape;
- Core Policy 57 – Ensuring high quality design and place shaping;
- Core Policy 58 – Ensuring the Conservation of the Historic Environment;
- Core Policy 60 – Sustainable Transport;
- Core Policy 61 - Transport and Development;
- Core Policy 64 – Demand Management;
- Core Policy 67 – Flood Risk.

Marlborough Area Neighbourhood Plan (MANP) – made in March 2023.

- MARL14 – Protecting Local Heritage Assets;
- MARL15 – Protecting and Improving Green Infrastructure;
- MARL17 – Conserving the Scenic Beauty of the AONB;
- MARL18 – Achieving Dark Skies.

## **7. Consultations**

### **Action for River Kennet - Objection**

The site lies immediately upstream from the Kennet SSSI and the river is already under pressure from drinking water abstraction and pollution from agriculture, urbanisation, habitat loss and sewage discharges. This development will increase the risk of all those pressures.

### **Archaeology (Wiltshire Council) - Objection**

The footprints of both the new stables and the barn, along with the proposed new access roads, should be archaeologically evaluated prior to the determination of this application. This evaluation should take the form of trial trenching within the footprints of the proposed new buildings and along the routes of the new access roads. Once this evaluation has been completed and a report prepared on the results, advice can be given as to whether any archaeology encountered presents an overriding constraint to development, or whether the impact of the proposed development upon the archaeological resource can be mitigated via further investigative works.

### **Conservation (Wiltshire Council) – No objection**

There is no impact on the designated heritage asset(s).

### **CPRE**

The application would cause serious and substantial harm to the AONB in all aspects, including, but not exclusively:

- Environment;
- Pollution issues of the countryside and their disturbances on life in general as per:
  - Light pollution from the Barn, Stables, Ménage Flood lighting, vehicle lights etc,
  - Noise pollution from vehicle movements, and Air pollution from vehicles, dung and muck-out;
- Highways safety;
- Ecological; and
- Heritage assets.

Furthermore, the business aspects are not justified, and none of the applicants' supporting evidence demonstrates that the development would provide any environmental benefits whatsoever.

**Drainage Consultant – No objection**

Subject to a condition to ensure full surface water drainage details are agreed and implemented.

**Ecology (Wiltshire Council) – No objection**

Subject to conditions to secure full details of a construction management plan, landscape and environment management plan, details of manure disposal and external lighting restrictions.

**Environment Agency – No objection**

Subject to conditions to secure compliance with FRA and proposed mitigation measures.

**Historic England – No objection**

There was initial concern that harm to a Scheduled Monument of national significance known as Dam of King's Fishpond (National Heritage List Entry 1005644) could occur.

Following the submission of an updated desk-based assessment and the relocation of the stables near the Dam, HE has confirmed that the principal concerns regarding the proposal have been addressed. There will still be some degree of harm to the significance of the setting of the monument and this should be weighed against the improved management of the monument within the proposal as per Paragraph 202 of the NPPF.

HE has advised that the improved management of the monument, and the requirement to check with HE regarding its implementation, should be added as a condition to any consent.

**Landscape (Wiltshire Council) – No objection****Local Highway Authority (Wiltshire Council) – No objection**

Subject to a condition to ensure the site access is constructed and maintained in accordance with the most recently submitted plans.

**Marlborough Town Council – No Objection**

Initially offered support for the proposal. However, upon further review, an objection was submitted on grounds that it lacked information relating to environmental protection and potential adverse impact on nature conservation.

Following the submission of additional details, the objection was removed subject to the officer's satisfaction that heritage assets, the landscape and environment, and the historic setting will be protected as described in comments already raised by other consultees.

**Mildenhall (Minal) Parish Council – Objection**

Objections have been summarised by the case officer as follows:

- Overdevelopment of the site and irrecoverable damage to the character of the AONB;
- Harm to highway safety, lack of parking and access is in an unacceptable location, additional traffic (HGVs and Horseboxes) will cause harm to the safety of the highway;
- The land is at risk of flooding;
- Water pollution from manure and ground disturbance (land formerly used as a tip);
- Harm to residential amenities of neighbouring dwellings;
- Excess lighting leading to harm to ecology, AONB and neighbouring amenities;
- Lack of employment opportunities due to specialised nature of the business;
- The fact that the business has been established retrospectively is no grounds for Wiltshire Council to grant the proposal.

**Natural England – No objection**

No objection in principle but comments with regards to the scope of bat survey work were noted.

**Public Protection (Wiltshire Council) – No objection**

Conditions to secure details of external machinery/plant, bedding/manure storage/disposal and provision of EV charging points for visitors.

### **Thames Water – No objection**

There is capacity for the public sewer to accept wastewater from the development. Surface Water disposal must follow sequential approach in line with LLFA recommendations.

### **Wiltshire Wildlife Trust – Objection**

The intensification of use along an important part of this valuable green corridor is not appropriate and we ask this application is refused.

## **8. Publicity**

The application has been advertised by way of writing directly to adjoining landowners and relevant consultees, display of a site notice and publication of a press notice.

137 letters of representation have been received in response to the public consultations for the application; 115 in objection (from 61 households), 19 (plus an additional petition with 8 signatures) in support and 2 neutral. The full comments can be read on the council's website.

For ease of reference, the material considerations relating to the current proposal are summarised as follows:

### **Objections:**

#### *Principle:*

- There is no social or economic advantage to the local community or Marlborough;
- No viability information has been submitted and other less sensitive sites should be considered for the proposed use first;
- The proposal would cause harm to designated heritage assets and would not provide public benefits to outweigh the harm;
- the Application Site is currently being used in breach of planning control;
- previous permission for an equestrian building was restricted by a condition (no commercial use);
- Another vet's care clinic is a 'nice to have', but not essential at the Poulton Mill area. There are already two of the country's best horse medical facilities within 40 minutes of Marlborough, in Newbury and Lambourn.

#### *Landscape/visual and heritage:*

- The proposed barn is too large and will be widely visible causing harm to the National Landscape (AONB);
- The proposed building materials are not sympathetic to the location or nearby residential area, alternatives (such as green roofs) would be better;
- Submission of a third-party landscape report (commissioned by the owners of Poulton House) concludes that the Applicant's LVIA has down-played the effects of the development, failing to acknowledge the scale of the 50+ metre long, 20 metre wide, 6.8m high, "barn" structure to the south of the River Og as well as the impact of the new access on the National Landscape;
- The land should be kept open and undeveloped along the river corridor;
- The new buildings would cause harm to the settings of the Scheduled Ancient Monument (SAM) and the grade ii\* listed Poulton House;
- The applicant has failed to properly assess the visual impact of the development on the nearby designated heritage assets;
- A third-party commissioned heritage report has concluded the setting of Poulton House extends beyond its landscaped gardens into the application site which would be harmed by the proposed buildings;
- Light pollution from external and internal lighting and roof lights;
- Applicant's submitted landscape information is inaccurate;

#### *Environmental and ecological impacts:*

- Lack of manure/waste management plan, manure currently being heaped close to the SAM;
- The cumulative impact of development at the site, including the proposed barn is detrimental to wildlife in the area, particularly bats and birds that will forage along the river corridor;
- Detrimental impact on the nearby water courses including River Og (a County Wildlife Site) that feeds into the River Kennett Site of Specific Scientific Interest (SSSI);
- Light pollution from external lighting, roof lights and louvred walls affecting protected species that rely on the darkness of the river corridor;
- Proposed replacement planting is not sufficient to compensate for the impacts;
- There has been no contamination investigation or proposals to mitigate against contaminants that could be released during ground disturbing works, particularly the potential problem of nutrient rich surface run-off from the site entering the River Og, within a few metres of its junction with the River Kennet SSSI;
- Traffic to/from the proposed Equine Development will be adding to pollution in the Marlborough Air Quality Management Area (AQMA);
- The application is lacking sufficient detail to demonstrate how it will impact upon the various species of wildlife within the site.

#### *Highways impact:*

- The access is not suitable for the scale of the proposed facilities or the larger commercial vehicles associated with the intended use and the information submitted does not match the estimated movements to/from the proposed development;
- Commercial traffic through Marlborough has increased in association with the use of the site causing issues at St. Martins and Herd St;
- Visibility splays will cross third-party owned land and permission has not been given for them to be laid out/maintained;
- Vehicle speeds in the vicinity of the site are much higher than the speed limit so proposed visibility splays are insufficient;
- Larger vehicles turning in the highway at the point of the southern access will obstruct traffic and cause harm to highway safety;
- Increasing larger vehicle movements in the area will be harmful to pedestrians using the substandard footways that access into Marlborough from the location of the site;
- Vehicles could still use the private access road to the north (much more heavily than currently) and the application does not state that this access route will be abandoned given a new access will be created;
- A third-party commissioned highways report has been submitted (by the owner's of Poulton House), it concludes the proposed access would be unsafe given the location, vehicle speeds and likely increase in traffic movements to and from the site;
- HGV traffic using the road as it passes through Mildenhall will exacerbate the problems caused by the narrowness of the carriageway in the centre of the village.

#### *Residential amenities:*

- Concerns over noise (from operations and commercial traffic), odour, light pollution and overbearing impact of the proposed barn;
- Loss of privacy to properties backing into the southern area of the site (dwellings at Tin Pit);
- The proposal would change the character of a residential street into a 'business park setting'.



## **Support:**

- The equine industry continues to expand in the area, and the Marlborough area now has so many top-tier competitors training and living in the area, as well as many horse owners that ride for pleasure. All would benefit hugely from the modern equipment and practices provided by this clinic;
- Currently, owners of horses and other equestrian businesses (including Olympic teams) located in the Marlborough area have to travel out-of-county to access treatments other than basic procedures (that can be carried out during home visits). A local facility will reduce travel;
- This is a business of both national and international importance, it will bring people to the area, create income for local shops, hotels and restaurants and is a perfect fit for the area;
- The development and its landscaping will enhance the wildlife corridor along the River Og to the benefit of the AONB and local ecology;
- The buildings are of a good design and in keeping with the character of the open countryside;
- The development will provide opportunities for employment in the equestrian sector that is already established along the Kennett valley and Marlborough area;
- Due to the nature of the clinic use, it is not expected that noise or odour would be a problem (as may occur with other types of commercial use) nor would excessive traffic be generated.

## **9. Planning Considerations**

### **Principle of Development**

The proposal involves both operational development and a change of use of the site to a mixed-use including an equine sports medical clinic business. The LPA accepts that the land to the north of the River Og has been within a mixed-use as both domestic land and an equine clinic use for a period of 6-7 years.

In terms of the change of use the NPPF encourages LPAs to support:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*

The NPPF supports the broad principle of all types of business in rural areas. The equestrian clinic is considered to be an employment generating use that is appropriate to a rural area. However, the NPPF is concerned with the design of new buildings (this is considered in greater detail further into the report) and given the sensitive location of the site with nearby heritage assets and within a National Landscape (formally AONB) the LPA must be satisfied the buildings are well-designed and preserve the character of the site and its surroundings.

In local policy terms, Core Policy 34 of the WCS states that:

*Outside the Principal Settlements, Market Towns and Local Service Centres, developments will be supported that:*

- i. are adjacent to these settlements and seek to retain or expand businesses currently located within or adjacent to the settlements; or*
- ii. support sustainable farming and food production through allowing development required to adapt to modern agricultural practices and diversification; or*
- iii. are for new and existing rural based businesses within or adjacent to Large and Small Villages; or*

*iv. are considered essential to the wider strategic interest of the economic development of Wiltshire, as determined by the council.*

The site is located close to, but not within, the built-up area of the market town of Marlborough. The town boundary is considered to skirt the south-western intervening boundary of the site. As stated above, it is accepted that the existing equine clinic is already in use on the land to the north of the river. The proposal, therefore, essentially seeks to both retain the existing business use and to extend this use into the land to the south of the river, as well as providing enhancements to the business use within the established site. This is broadly considered to be supported by CP34(i).

As well as CP34, CP14 of the WCS sets out the spatial strategy for the Marlborough Area. CP14 does not comprehensively address development outside of settlements (or equestrian development specifically) but, it does set out a broad set of criteria that all development within the area should be considered against (para. 5.78 of the WCS). Of relevance to this application are the following considerations:

- *the town currently has a narrow but strong economic base, catering for predominately local business needs. However, it is overshadowed by its proximity to Swindon, but is too far away to benefit from spin-off activity. Due to its strong economic base and lack of current employment land supply, evidence identifies that there is likely to be some demand for new employment space. There is a need to ensure that a balance of employment and housing opportunities is achieved into the longer term;*
- *all development within the Community Area will need to conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting, and where possible enhance its locally distinctive characteristics;*
- *several sites of nature conservation importance lie in close proximity to the town, particularly Savernake Forest SSSI, River Kennet SSSI / CWS and Marlborough Railway Tunnel. Development will protect and, where possible, enhance the ecological value of these features;*
- *survey is required of the potential impacts of development on protected bats (including roosting, foraging grounds and commuting routes) associated with the Savernake Forest bat roosts and other species. The hibernation roost of Annex II bats in the disused railway tunnel will be protected. Development must avoid adverse impacts on protected species and designated local wildlife habitats and features.*

The Marlborough Area Neighbourhood Plan (MANP) is silent on the matter of equestrian development or other forms of development outside of the built-up areas (other than in relation to general design, landscape and heritage protection). The MANP seeks to protect and enhance the town centre as the main economic base in the town (retail and services). The proposal would not conflict with this aim and may provide some additional support to the businesses within the town centre due to the location and linked trips (although this would be marginal).

Policy MARL16 sets out a number of valued community open spaces that the MANP seeks to protect. Included in these spaces are the "Dam of King's Fishpond" (the SAM partly within the application site) and "Tin Pit, land to the River Og". In the final version of the 'made' MANP, the application site is excluded from the open space area boundary (that protected by the policy MARL16). It is of note that an earlier version of the MANP included the land adjacent to the river and the part of the SAM within the application site as an area of community open space. This was corrected with only the western bank of the SAM and publicly accessible land to the north defined as a protected space (inset map 2 of the MANP). As such, there is no conflict with the broad principle of the proposal or the policies of the MANP.

The site includes a Scheduled Ancient Monument (SAM) and is close to a grade II\* listed building so, for the development to be considered to be acceptable, the LPA must be satisfied that no harm to the designated heritage assets would occur (or that any 'less than substantial harm' identified is outweighed by the public benefits of the scheme – in line with NPPF para. 208). As the land is bisected by the River Og (that feeds into the Kennet SSSI) there is also a higher degree of ecological sensitivity.

It is of note that the prior planning permission for the existing stables sought to restrict the use (to private/domestic only) due to concerns over additional traffic generation and impact on neighbouring amenities that may arise should a commercial livery use commence. Third-party comments have noted this condition and suggest that planning permission should not be granted on principle, due to the prior attempt of the LPA to limit the use of the stables (not the wider land or the outdoor exercise area that do not feature restrictive conditions). However, the prior considerations of the LPA were for the use of a stables accessed via the existing private lane (with any traffic having to pass several neighbouring dwellings enroute from the public highway).

The current proposal seeks to address these previously perceived problems by enhancing the existing southern access to create a new, independent site access with bridge over the River Og (the technical assessment of which is included in the Transport and Highways section of the report below). As such, whilst there may have been some limitation to the use of the existing stables in the past, it is considered the broad principle of the current development must be assessed on its merits as a materially different development proposal.

Subject to compliance with ecology, heritage, landscape and transport policies, the development sought by this application is considered to be supported in broad principle by the NPPF and Core Policy 34(i) of the WCS.

### **Transport and Highways**

Paragraph 114 of the NPPF states that, when considering applications for development, LPAs should consider that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

Para. 115 goes on to state that planning applications should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Core Policies 60 and 61 of the WCS seek to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. Core Policy 64 seeks to ensure that new development provides sufficient parking, limited to a maximum standard (except for disabled parking spaces) to further encourage use of sustainable modes of transport.

As mentioned above, the use of the existing stables (although not the outdoor exercise area or wider land to the west of the dwelling) was restricted on grounds that any increase in traffic movements associated with commercial activity may give rise to material impacts on the local highway network that would need to be reassessed by the LPA. It is expected that the current proposal, to retain and expand on the equine clinic use, would give rise to increased traffic to and from the site (particularly at the improved southern access point – that has likely only been in infrequent use for maintenance of the land)

The applicant's submission confirms that larger vehicles visiting the site would likely be increased, but smaller vehicle movements would be reduced, as there would be less reliance on staff having to make multiple 'home' visits to meet clients since horses would be able to be resident at the site to receive multiple treatments. Reliance on the use of the rural roads (and private lane) to the north of the site could be problematic, particularly for the larger vehicles (3.5 tonne horse transporters – 'Sprinter' van sized vehicles). So, improving the southern access point to allow it to be used as a main access to the whole site is considered to be the favourable option.

In broad terms, the creation of a single independent site access (not reliant on the use of private roads) is a benefit of the proposal and would provide mitigation against any harm to highway safety (and residential amenities) that could arise along the existing access route. A suitably worded planning condition can ensure that all commercial traffic is directed to the site via the new access (it would be unreasonable to also require domestic access to the dwelling to have to use the new access but, in all probability, all traffic to the site would use the new access rather than the existing situation).

The Local Highway Authority (LHA) has assessed the applicant's submission and offered no 'in principle' objection to the increase to traffic movements within the local highway network or creation of an independent site access directly onto Poulton Hill. They initially raised some concerns over the ability for the new access to be provided with sufficient visibility splays. Following some discussion, a revised site access was subsequently submitted, demonstrating that 59 metre splays can be secured (within adopted highway land) in both directions along Poulton Hill. The LHA has considered these to be satisfactory (calculated at the upper end of the *Manual for Streets* – for vehicles travelling at 37mph). It is also considered the splays fall across what is dedicated highway and as such any cosmetic changes (e.g. the cutting back of vegetation) can be granted permission by the LHA. No further concerns have been raised provided that planning conditions secure implementation of the visibility splays.

The access is proposed to be gated, with the gates (if installed) shown to be set approximately 15 metres into the site. This would allow for even the larger type of horse transporter (lesser used 10 metre long vehicles) to be able to turn into the site and leave the public highway should the gates be closed. A condition can ensure that no other gates are permitted to be installed in any other location within 15 metres of Poulton Hill in order to prevent the need for vehicles to wait in the highway when turning right into the site, protecting the free flow of traffic in the vicinity.

A general benefit of providing a site access closer to the built-up area of Marlborough (as well as reducing traffic through narrow roads) is that a much safer route for those walking or cycling to the site would be provided. Currently, from the built-up area of Marlborough (approximately 50m to the east of Tin Pit) anyone walking/cycling to the site would need to navigate between 750-850 metres of rural roads with no dedicated footway. Whilst it would be the case that many users of the site would be likely to be travelling via motor vehicles (horse transporters), staff and visitors to the site (not required to be transporting horses) would have a better option to travel a much safer route by more sustainable modes of transport.

There have been some concerns raised about the increase in traffic through Marlborough but the numbers reasonably expected to be generated are low and no measurable material impact is expected to occur (over and above the existing situation).

Additional conditions can secure details and implementation of cycle storage and EV charging bays for staff/visitors to ensure the development further promotes sustainable modes of transport.

### Third-party comments

Third-party objections to the scheme have included the submission of a Transport Assessment (commissioned by a neighbour of the site). The third-party assessment concluded that the proposed access would be sub-standard with insufficient visibility splays relative to the traffic speeds of the road. Following review of the third-party report the LHA requested that the (originally proposed) 43m splays were increased to 59m in line with *Manual for Streets* guidance to reflect vehicle speeds being higher than the posted speed limit.

The applicant has subsequently been able to demonstrate visibility splays sufficient for vehicles travelling at 37mph (calculated at the upper limit of the *Manual for Streets* guidance). The proposed access would be approximately 70-80 metres within the 30mph zone, which is national speed limit beyond. It would also be situated on the outside radii of a curve meaning that it would be more visible to users of the public highway (than if the road were straight). The LHA has noted that the existing access to Poulton House (located to the east) has lower visibility than the proposed commercial access.

The LHA has considered the third-party submissions (and report) and concludes that the revised visibility splays (59m by 2.4m) are acceptable given the location, frequency and nature of the traffic that would be associated with the development. The LHA are also satisfied that, whilst a small area of the visibility splays may cross third-party owned land, the splays would all be within the adopted public highway so can be maintained to be free of any obstructions. As such, there is no objection to the proposal on highway grounds.

### **Landscape impacts**

The site is within the North Wessex Downs National Landscape (NWD) where the NPPF places great weight on conserving and enhancing the landscape and scenic beauty of these areas. WCS policy 51 notes that development within the NWD should take into account the aims of the management plan for the area as well as being informed by and sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment(s). The NDP takes a consistent approach to the WCS with emphasis on protecting the dark skies of the NWD as well as its overall landscape character.

However, the local and national policy framework is not a restriction to development and there are areas within the NWD where development can be supported if it is compatible with the landscape character and land-use of the area. The area of the NWD between Marlborough and Hungerford (Lambourn being of note) supports a range of rural businesses with a notable number being within equestrian uses (several third-party letters of support for the development have been submitted by owners/operators and customers of equestrian businesses in the wider area). The NWD Management Plan confirms that:

*Owners of horses have an important role to play in maintaining the natural beauty of the North Wessex Downs. How horses are cared for and the developments associated with keeping and training horses can have a significant impact on the character and quality of the AONB landscape...*

*...The Lambourn area and other racing yards in the AONB make a significant contribution to the local economy. Core horse racing businesses employ an equivalent of 1,370 full-time staff (just over 20% of employment in the agriculture and entertainment sectors in the AONB). A survey has identified 103 businesses within the area directly involved and a further 49 businesses associated with the racing industry in 2007. The horse racing industry contributes £16-38 million per annum of direct gross value added (GVA) to the local economy.*

In addition to the businesses centred around racing and other forms of competition (including national eventing teams that train the area throughout the year) the Management Plan confirms a high level of horse ownership and riding in the NWD, noting that it is evident that the network of bridleways and routes linked to The Ridgeway National Trail is popular and well-used. Given the encouragement of the Management Plan to support equestrian businesses (and the contribution they make to the rural economy) it is considered in broad terms that the change of use of the land in question is acceptable.

The Kennet Landscape Character Assessment confirms the site is within the Kennet Valley landscape area, predominantly within the sub-area referred to as "Open valley floor pasture with weak structure". Key sensitivities of this area are:

- *the whole area has an essentially tranquil, intimate and pastoral character within which only small-scale, sensitively-designed development, associated with existing built form, could be successfully accommodated without adverse landscape impacts...*
- *areas of woodland or enclosed farmland with an intact hedgerow structure along the valley sides are visually contained. In landscape and visual terms small-scale essential development which must be located in the countryside potentially could be accommodated in such areas, where they did not adversely affect the attractive, rural and unspoilt character of the river corridor.*

The LCA recommends the characteristics of this area are strengthened where possible. Opportunities for enhancement (relevant to this site) are set out as follows:

- *retain and manage areas of valley floor permanent pasture, wet grassland and meadows, including riparian vegetation, and discourage further ploughing and field enlargement;*
- *in more open floodplain areas, introduce new tree planting along watercourses and in lines and groups within the valley floor, using typical riparian species such as willow and alder;*
- *retain the tranquil, intimate and unspoilt qualities of the river corridor and improve landscape structure and land management on the fringes of settlements and along main roads, to mitigate adverse impacts on river corridor landscapes.*

Both the northern and southern areas of the site (either side of the river) are enclosed by hedgerows and small woodland areas populated by, mainly self-seeded, trees and plants of non-riparian species. The land also sits within the river valley with the land sloping upwards to both the north and south. Due to the dense screening and site topography, the site is not a prominent visual feature within the local landscape but has greater ecological and economic value to the NWD. The proposed land-use must be accommodated within the countryside and, due to the visually enclosed nature of the site, it is accepted that some form of development can be supported. The proposed replacement planting (with riparian species) would also be a general enhancement to the site in line with the aims of both the NWD Management Plan and the LCA.

The smaller of the two proposed buildings would be set adjacent to an existing building within the north-western area of the site. It would be relatively well-screened by existing mature hedgerow and areas of woodland within and surrounding the site. The scale, form and use of materials would result in a building that would fit well into the rural surroundings and it is not considered there would be any conflict with the aims of the NPPF, WCS or NDP in terms of landscape policies.

The larger of the two buildings would be set on a lower ground level than the proposed stables but, would be a much larger structure more akin to an large agricultural barn. Again, the scale, form and use of materials would result in a building that would be distinctively rural in character. The proposed barn also involves the regrading of the sloped site to lower the finished floor level of the building (rather than raise it) onto a flat foundation. The alteration to the site levels would further reduce the visual prominence of the new building. Combined with the additional tree planting proposed and the overall, rural character of the barn it is considered that any glimpsed views of the building would not cause harm to the NWD landscape.

The proximity of the site to the built-up area of Marlborough is also considered to be a positive in terms of offering some mitigation against wider landscape impacts. Whilst views of the site are somewhat limited (due to woodland and topography), the most available views (over middle distance) are likely to be from the land to the north or short distance from mostly private properties within Marlborough to the west. Views from the north would take in the new barn within the context of the larger built-up area so it would not be seen as an isolated new structure within the countryside. In any case, both of the new buildings are considered to be of distinctively rural character and would conserve the NWD National Landscape.

Planning conditions can be used to secure full details and implementation of the site landscaping, including maintenance to ensure the planting is established and sufficiently managed into the future. Additional conditions can ensure the buildings are constructed using the materials

proposed and that no external lighting is permitted to be installed, without details first being agreed by the LPA.

Overall, it is considered the site is capable of supporting the proposed use and adequate mitigation exists due to the location in proximity to a built-up area, existing and enhanced site screening and the topography of the wider area to support the new buildings without harm being caused to the landscape character of the NWD in the locality. Subject to the recommended conditions, the development would comply with the aims of WCS policy 50, NDP policies MARL15, 17 & 18 and the planning policy advice of the NPPF.

#### Protection of Agricultural Land

The NPPF states that LPAs should recognise the economic and other benefits of the best and most versatile agricultural land. Natural England maps suggest the land is a mixture of poor (ALC-4) to good-to-moderate quality agricultural land (ALC-3). However, due to the land being split by the River Og and including an area of floodplain (adjacent to it) the potential for the land to be farmed in any significant capacity is considered to be reasonably low. The use of the land as an equine clinic will also provide greater economic benefits than an agricultural use, taking into account the size of the site and potential for it to be farmed. As such, the loss of the site as agricultural land is considered to be acceptable in this case.

#### Heritage impacts

The site features a Scheduled Ancient Monument (SAM), the Dam of King's Fishpond, an earthwork structure that Historic England have stated survives well and is particularly important because it has both early and royal documentary evidence relating to it. There is also a grade II\* listed dwelling, Poulton House, located approximately 50 metres to the east of the development site boundary (around 100 metres from the proposed stables and 15-17 metres north of the proposed barn). Poulton House was constructed in 1706 for William Liddard and extended early-mid C19.

#### Scheduled Ancient Monument – Dam of King's Fishpond

The fishpond was constructed in 1204 and is recorded in the Pipe Roll of King John in 1206. The pond would have produced fish for the Royal Manor of Marlborough although it is unknown how long the fishpond would have served this purpose. The SAM was first designated in 1953 and consists of two lengths of flat topped linear bank with a central breach (made by the River Og). The western section is approximately 95 metres long, the eastern (within the application site) 67 metres long with the bank up to 20 metres wide and from 2.8 metres up to 4 metres high. Where the breach has been made by the river, a modern weir and small bridge have been inserted.

#### Significance of the Dam

The significance of any heritage asset can be derived from a number of overlapping factors. Understanding the nature of the significance is important to understanding the need for and best means of conservation. For example, a modern building of high architectural interest will have quite different sensitivities from an archaeological site where the interest arises from the possibility of gaining new understanding of the past.<sup>1</sup>

The NPPF states that:

*In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.*

Although approximately 2000 examples are recorded nationally, this is thought to be only a small proportion of those in existence in medieval times. Despite being relatively common, fishponds are important for their associations with other classes of medieval monument and in providing evidence of site economy. Due to the evidence linked to the SAM, its history (in terms of date of

origin, purpose for construction and function) is relatively well understood. It survives well as an earthwork but, any ancillary buildings or other such structures dating to the time of its origin, including the pond the Dam would have supported, have long since been removed from the SAM and adjacent land.

It is possible that artifacts associated with the use of the SAM and historic water management system could be encountered during ground disturbing works on nearby land (noted that in the wider area Roman archaeology has been discovered – see below). However, given the age of the SAM and what is already known about it, such artifacts would be unlikely to contribute to the significance (over and above the existing situation). As such, the LPA considers the designated heritage asset has a high level of historic interest, that contributes predominantly to its significance, with archaeological interest contributing to a lesser degree.

The proposal does not include any works within the SAM boundary with development encroaching to within approximately 25 metres of the SAM at the closest point. The land between the SAM and physical development is either open field (and would be maintained as such) or is occupied by the existing stables building. Overall, officers are satisfied that no direct harm to the remaining physical features of the SAM would occur and its historic and archaeological interest would be maintained.

Another common contributor to the significance of a heritage asset can be its setting. The setting of a heritage asset is defined within the glossary of the NPPF as:

*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

In this case, the SAM is experienced within a setting that is mainly rural in character, but due to the modern encroachment of Marlborough from the west has lost some of its association with other earthworks thought to be of similar origin dates (linked to the Royal Estate - The Mount with the Marlborough College site for example). However, the SAM has its link to the river intact but, with the absence of any pond is now set within a mainly rural landscape enclosed by mature hedgerows and trees. As stated within the landscape section above, the proposed development is not considered to cause harm to the character of the wider NWD National Landscape and, subject to certain conditions, would retain a broadly rural character of the site. The association of the SAM with the river would not be altered and it is broadly considered the contribution of the wider SAM setting to its significance would not be harmed.

Historic England raised initial concerns over the impact of the proposal on the setting of the SAM as well as potential impact upon archaeological deposits. A revision to the proposed location of the stables resulted in the removal of HE's objection with regard to the setting of the SAM (although some harm is still expected to occur). Currently, the SAM is unmanaged and the initial proposal did not suggest any active management of the SAM to mitigate against potential harm arising from the impact on the setting. Historic England have reviewed subsequent details proposing a management scheme for the SAM and adjacent land and have since removed any concerns over the development subject to a condition to secure full details and implementation of the SAM management.

#### Grade II\* Listed Poulton House

Poulton House is stated to have been constructed in 1706 for William Liddard. The list description extensively mentions both external and internal features of interest and states that Poulton House is a particular attractive example of an early C18th house, "which if it contained a more complete interior might have qualified for listing at grade I". Whilst there is no mention of the setting of building it is considered it also contributes to the historic and architectural interest of the building (although to a lesser degree).

The house is set within an extensive landscaped grounds that appears to have been maintained in a domestic use in association with the occupation of the house. There has been modern development within the grounds including the construction of both a swimming pool and



tennis court. Despite this, the wider plot has retained some historic features and has been maintained in a formal garden appearance. The surrounding gardens are considered to contribute to the historic interest of the house but, to a lesser degree than the building itself.

The development site at Poulton Mill is substantially screened from the formal gardens surrounding Poulton House. There has also been modern development of agricultural buildings on land to the east and north. As such, officers consider the land beyond the landscaped grounds directly associated with Poulton House contributes very little to its significance in terms of a wider setting other than being mainly retained within a rural character. As officers are satisfied that the proposed development at Poulton Mill will not substantially alter the distinctively rural character of the site it is considered the wider setting of the grade II\* listed building at Poulton House will be preserved.

A third-party Heritage Report has been submitted to attempt to demonstrate that the construction of the new buildings (with emphasis on the new barn on the southern part of the site) will be harmful to the setting of the listed dwelling and therefore damage its significance. Officers have reviewed the report and disagree with its findings. The wider rural land surrounding the listed dwelling is not considered to contribute to the significance of the heritage asset other than framing its landscaped grounds within an area of open countryside. This relationship would not be substantially changed as significant screening would be maintained between the landscaped gardens and wider landscape (and in any case the development would maintain a rural character surrounding the dwelling's formal gardens). The council's Conservation Officer has reviewed the proposal and third-party comments and offers no objection on heritage grounds. Historic England have also considered the impact of the proposal on the setting of Poulton House (as a grade ii\* listed building HE were consulted) and have raised no overall objection.

### Archaeology

As stated above, the historic use of the SAM as well understood and no works would take place directly within the SAM boundary that could impact upon its archaeology. Ground disturbing works within the wider land could encounter artifacts contemporary to the SAM or later land use, but these would be unlikely to add to the overall historic significance of the SAM or wider understanding of the historic use(s) of the site. However, within the wider Tin Pit area there has been past instances of Roman archaeology being encountered. Further discovery of additional Roman archaeology could add to the understanding of how the Romans may have used the site and surrounding area.

The County Archaeologist has highlighted the potential for archaeology of some importance to be encountered (particularly during ground works to construct the barn on the southern land). It has been recommended that further on-site investigations should take place prior to determination of the application in order to reveal whether Roman remains could be present. However, the applicant is resistant to such works prior to determination (predominantly for reasons of viability) and has suggested a pre-commencement condition could be used. A Desk Based Assessment (DBA) has been submitted that concludes that archaeology may be encountered, but is unlikely to be of any great significance. Also, the DBA notes that works associated with a late-C20th conifer plantation (likely including land clearance and ground disturbance) would have been likely to have impacted upon any stray finds that could have been encountered had the land been unused.

In this case, with regards to the applicant's DBA and its expected low level of risk associated with finding Archaeology of National Significance, it is considered acceptable to use a pre-commencement condition to secure further investigation of the site and details of an on-site watching brief prior commencement of the ground works associated with the barn building. Using a pre-commencement condition for the barn would also enable the construction of the new stables and, potentially, the new site road and bridge over the river (the road could be laid as a no-dig construction – details for this can be secured by additional conditions).

### Ecology

The River Og that runs through the site is a County Wildlife Site and is hydrologically linked to the River Kennet SSSI (approx. 300m south-east of the site). The grassland in the southern part of the site, has been highlighted within the application documents as semi-improved (SI) species

rich and this suggests the grassland has some botanical value. The Tree Survey, Arboricultural Impact Assessment and Tree Constraints Plan states that 25 trees/groups are due to be removed (replaced as part of the environmental enhancement plan). The council's Ecologist initially raised concerns over the loss of the SI grassland (without compensation) and potential for the existing trees to be able to support roosting bats. Information over manure management was also requested (with the Env. Agency also requesting some information relating to manure management).

The applicant subsequently submitted details to demonstrate that the trees proposed to be removed had negligible potential to support bats and a net gain in biodiversity will be delivered within the site (with no need for off-site enhancements). The enhancements proposed are as follows:

- *The south section of the site will have 0.6ha of tall ruderal removed alongside 0.6ha of semi-improved neutral grassland for the construction of the proposed barn and pathway leading from the river to the southeast corner of the site. An area of 0.2ha of woodland will also be removed to facilitate the construction of the new entrance. A 1.5ha area of a grassland will be enhanced from poor quality to moderate quality neutral grassland. The remaining area of the south section can also be enhanced to wildflower grassland.*
- *The area of amenity grassland on the northern section of the site will be split by the development by 0.3ha of pathway leading to the east and to the south. 2.5ha of amenity grassland will be retained and 1.4ha of the amenity grassland on the west section (west of the proposed pathway) will be enhanced from modified grassland to neutral grassland with a wildflower mix.*
- *The creation of the stables in the northwest section of the site will be constructed within the proposed pathway development and will not affect the biodiversity of the current habitats in that section.*
- *The ornamental pond on site will be enhanced to a priority habitat with the planting of native marginal species such as water mint (*Mentha aquatica*) and purple loosestrife (*Lythrum salicaria*).*
- *The sections of hedgerows on the northern and eastern boundary will be retained on the site and maintained. The proposed plans include the enhancement of the line of trees against the River Og with a native species rich hedgerow. The proposed plans also include the creation of a 0.6km native species rich hedgerow around the boundaries of the south section of the site.*

In order to ensure the ecological enhancement of the site is secured long term the Ecologist has requested details of a Landscape and Ecology Management Plan (LEMP) that can be secured by condition along with the implementation of the landscape enhancement planting. A Construction and Environmental Management Plan (CEMP) is also requested to ensure details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase are agreed prior to commencement. A condition to restrict any external lighting unless details are first agreed is also considered to be reasonable and necessary.

Natural England have also reviewed the proposal and initially questioned whether the development could impact upon the bat population at Savernake Bat Tunnel, particularly if the trees proposed to be removed provide habitat for roosting and foraging. However, following confirmation that the trees are of very low quality (for bats) and that significant enhancements would be made to the river corridor no further concerns were raised. The details to be agreed as part of the CEMP provide sufficient opportunity to ensure that protected species and the important wildlife corridor of the river are protected during construction.

Lastly, basic details of a manure management plan have been submitted. Manure would be cleared from the fields and stored away from the river on impermeable surfaces. Both the council's Ecologist and Env. Agency are satisfied that full details of a manure management plan can be secured and agreed by a suitably worded condition.

Overall, the proposal demonstrates an overall net gain in biodiversity can be delivered with mitigation able to be secured against pollution that may arise from the construction phase and operations. Subject to the recommended conditions, the development therefore complies with the aims of Core Policies 50 and 51 of the WCS and policy MARL14 of the MANP.

### **Flood Risk and Drainage**

The site includes areas of flood zone 2 and 3 but the majority of the land and the locations of the proposed new buildings would be within flood zone 1. The proposed bridge over the River Og and parts of the associated access roads would be within the highest risk flood zones. The development was submitted with a Flood Risk Assessment (FRA) confirming the above and the Environment Agency (EA) has raised no dispute with the works proposed within flood zone 1 (where the NPPF states the majority of development should occur). The FRA has also confirmed that the sequential test is passed as the developed areas would be within flood zone 1 (the EA has confirmed this).

However, the Environment Agency (EA) raised several concerns over the adequacy of the data used to inform the original FRA as well as the design of the originally submitted scheme. The initially proposed site layout included two new crossings over the River Og. The EA did not find there was justification for the two crossings along with associated access roads within the floodplain. The data used to inform the original FRA was also questioned.

A number of revisions to the FRA and proposed site layout have been submitted for review by the EA. An early revision of the site layout removed the second river crossing and reduced the amount of proposed access road within the floodplain. This was a welcome amendment. However, the flood modelling data used to assess the design flood level (the expected level of flood water) remained of concern as well as the potential for some of the floodplain storage to be lost. A later review of the flood modelling data demonstrated that it can be relied upon to calculate a design flood level for the site. Furthermore, the application has acceptably demonstrated that the bridge design would not lead to any material loss of the floodplain storage.

Subject to the revised design and additional assessment the EA has withdrawn their initial objection subject to a condition to ensure the bridge is constructed to the proposed specifications.

### **Groundwater flooding**

The River Og is predominantly fed by groundwater, the flooding from the river is essentially groundwater flooding. Wiltshire County Council SFRA (2019) Groundwater Flood Risk Map identifies the majority of the Poulton Mill property to be at medium risk of groundwater flooding, where levels are 0.5m to 5m below the ground surface, with the exception of the area through which the River Og directly flows, which is at high risk of groundwater flooding. The Wiltshire County Council SFRA (2019) does not identify Marlborough as an area with historic incidences of groundwater flooding. Although the applicants FRA confirms a borehole sunk on proposed stable site encountered groundwater at 0.4m, no water was recorded in the borehole at the land south-west of the river, which was monitored through December 2020 to February 2021. Therefore, although the groundwater flood risk at parts of the site is high, the risk at the development locations is accepted as being low.

### **Foul and surface water drainage**

Thames Water have confirmed the public sewer in the vicinity of the site is capable of accommodating the foul waste from the development so there is no concern with regards to a foul connection into the public sewer being agreed (subject to an adoption agreement between the applicant and TW to be agreed outside of planning controls).

The site is crossed by a high-risk surface water flooding area (unsurprisingly following the River Og corridor, mainly encompassing land to the north of the river). The adjacent land is predominantly greenfield and permeable and in all likelihood drains directly into the river (or via ground infiltration). The creation of impermeable areas within and adjacent to the river would increase the risk of flooding across the site and downstream, if no mitigation is secured. Core Policy 67 encourages all new developments to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground through use of sustainable urban

drainage systems (SuDS) unless site or environmental conditions make these measures unsuitable.

The FRA has included some assessment of ground conditions suggesting infiltration SuDS could be used in conjunction with surface-based SuDS features to restrict flows into the river and groundwater. Later revisions of the FRA have set out a broad drainage strategy using grass swales to manage infiltration rate along with permeable surfaces for roads. However, the council's Drainage advisor has some concerns over the testing methods used as they do not appear to comply with BRE 365 (soakaway design guidance). The LPA also seeks a betterment over greenfield run-off rates (which is currently not confirmed by the proposed details). Whilst there is some concern over the submitted details, no in principle objection has been made and the Drainage advisor has asked for a condition to ensure a suitable drainage strategy, designed to the correct standards demonstrating a 20% betterment to the greenfield run-off rate, is agreed by the LPA and implemented.

Overall, subject to a suitably worded condition to secure surface water drainage details the proposal is considered to be able to comply with the aims of Core Policy 67 and the planning policy advice of the NPPF.

### **Residential amenity**

The proposal involves development within close proximity to the boundaries of several domestic properties. Particularly, the proposed barn would be situated within approximately 8 metres of the rear boundaries of domestic plots serving a number of dwellings located at Tin Pit (at the closest point). The majority of the plots serving the dwellings at Tin Pit are long, with separation distances to the nearest dwellings ranging between 37 to over 50 metres. A scheme of tree planting is also proposed along the southern site boundary that would soften, but not entirely eradicate views of the new building from the neighbouring properties.

Whilst there is no dispute that the barn would be visible within the outlook of a number of neighbouring dwellings it is not considered it would be experienced as an overbearing addition. Nor would it cause any noticeable loss of light to neighbouring living spaces or the most private and usable areas of neighbouring gardens. Third-party comments have raised concerns over loss of privacy due to the design incorporating louvred openings facing towards neighbouring properties. It is not considered any material overlooking would be created due to the proposed planting along the site boundary, lower level of the building (in relation to the majority of the neighbouring dwellings) and significant separation distances. Outside areas adjacent to the barn would be similarly screened and located sufficient distances from neighbouring properties.

Taking into account the above, it is accepted that residential amenities of the majority of properties located at Tin Pit (those backing into the site) would be preserved with no unacceptable impact arising from the proposed barn building. Similarly, the proposed stables would be located a sufficient distance from the nearest neighbouring residential properties and would be broadly screened by existing trees/woodland surrounding the site.

The proposed southern access (upgraded to serve as the main access for the commercial traffic) would run adjacent to a neighbouring dwelling known as Appledore. The existing field access is not within regular use and it is expected there would be some additional noise and disturbance to the occupiers of Appledore due to the increased traffic at the access point and along the internal access road (that runs approx. 5m from Appledore's northern garden boundary. Additional planting is proposed to be implemented between the proposed access road and intervening boundary but, it is expected that vehicles will be audible and would be visible from upper floor windows. It is considered that some harm to the residential amenities of Appledore would occur. However, as vehicle movements would not be excessive and that Appledore is already located adjacent to a relatively busy public highway it is not considered the harm that would arise would be severe or unacceptable.

Third-party representations have raised concerns over 24hr use of the site and southern access point. The applicant has confirmed that the proposed paediatric clinic, they do not offer emergency medicine so do not work outside of daytime hours and 24hr callouts are not undertaken. The services offered generally involve the assessment and treatment of horses within a quiet

environment with client visits pre-arranged. The new building would enable modern diagnostics and treatments to be undertaken within a quiet, controlled environment (likely producing less noise and vehicle movements than other types of equestrian use).

A suitable worded condition can ensure that the site is only operated as an equine clinic, in order to prevent any potential intensification of the site use that could occur should a commercial livery or riding school be established.

#### Noise and odour control

Operations associated with the equestrian clinic use do have the potential to generate additional noise and odour. The council's Public Protection Team has raised some concern over potential noise from plant and machinery and have asked for full details to be secured by a condition. There is a particular concern the possibility of external plant being installed along the southern elevation of the proposed barn (that facing the rear boundaries of the properties at Tin Pit). It is considered this potential issue can be controlled by a suitably worded condition. Noise from general day-to-day operations is not expected to be excessive and (due to the nature of the intended use) should be kept to a minimum to ensure the treatments are effective and a very high standard of animal welfare is maintained.

As stated above, there are some concerns over pollution from animal waste/manure leaching into permeable areas of the site (and into the rivers Og and Kennett). In addition, there could be increased odour and presence of flies particularly around areas where manure would be stored/disposed of. The condition requiring details of pollution control (for animal waste/manure) can also agree details of odour and fly control measures.

Subject to the recommended conditions, the development is considered to be able to provide sufficient mitigation against adverse impacts that could be caused to neighbouring residential amenities and no unacceptable conflict with the aims of Core Policy 57 of the WCS or the planning policy advice of the NPPF would arise.

#### Economic development considerations

As stated above, the proposal is considered to support the retention and expansion of an employment generating use in proximity to Marlborough. The use is considered to be appropriate to the location outside of the settlement boundary and would not conflict with the viability of other employment land within the market town (being a specialist equestrian business). The economy of the wider area is supported by a number of equestrian businesses (as defined within the AONB Management plan quoted above) and the proposed use would provide a facility that would lend support to a number of equestrian businesses (both those linked to competitive and leisure-based enterprises). As such, the proposed use would be considered to provide benefits both in terms of providing job opportunities within the equestrian care sector and supporting other rural businesses in the wider area (liveries, feed suppliers, farriers etc.).

Third-party comments have also noted that linked benefits to the retail and local service industries would occur as the business supports a range of competitive teams that would be required to use local hotels and may also visit local restaurants and shops whilst their horses are being treated at the site on a residential basis. These linked trips may occur but are very difficult to measure and can only be reasonably given very limited positive weight.

Some limited employment benefits would also be generated during the construction phase, but these are given only very limited positive weight in the overall consideration.

The NPPF advises that significant weight should be placed on the need to support economic growth and productivity. In the context of this, it is considered that overall, moderate positive weight can be given to the proposal in terms of the economic and employment benefits that would arise.

#### 10. Conclusion

Paragraph 11D of the NPPF advises that **Page 125** decisions should apply a presumption in favour of sustainable development by approving development proposals that accord with an up-to-date development plan without delay. The development plan is considered to be up-to-date

and no significant conflicts with the policies (and relevant supporting guidance) have been identified.

In conclusion, the proposal is considered acceptable in the context of its surroundings and is in accordance with the general criteria set out in the aforementioned policies of the local development plan.

The scheme has raised no technical objections in terms of highway, ecological or landscape impacts. The proposed buildings are considered to be distinctively rural in character appropriate to the edge-of-settlement rural location and would not cause harm to the wider landscape character.

Any impacts on neighbour amenity would be acceptable and would be able to be managed by conditions.

The application is supported by national and local policy and should be approved subject to the following conditions set out below.

## **RECOMMENDATION:**

APPROVED WITH CONDITIONS.

Suggested conditions:

### **1. Time limit.**

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

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

### **2. Approved plans.**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Location plan – 17128.100;
- Proposed stables – 17128.104-B;
- Proposed barn – 17128.106-C;
- Site layout – 17128.107-B;
- Access plan – 17128.108-D;
- Bridge setting out - 17128-110-C;
- Landscape Mitigation Strategy – WHL-1160-05 Rev.A;

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

### **3. Archaeology (Site Investigation);**

No ground disturbing works, associated with the development hereby approved, shall take place within the application site until:

- i. full details of a proposed programme of archaeological evaluation have been submitted to and approved in writing by the Local Planning Authority;
- ii. the archaeological evaluation has been completed in accordance with the approved details and a report outlining the results of the archaeological evaluation has been submitted to and approved in writing by the Local Planning Authority.

REASON: To make provision for a programme of archaeological evaluation, so as to describe the significance of heritage assets of archaeological interest within the site. This is to allow the scheme to be designed in a manner that minimises the impact on archaeological remains in

accordance with the aims of Core Policy 58 of the Wiltshire Core Strategy and the planning policy advice of Chapter 16 of the National Planning Policy Framework.

#### **4. Archaeology Watching Brief;**

No ground disturbing works, associated with the development hereby approved, shall take place until full details of an Archaeological Watching Brief have been submitted to and approved in writing by the Local Planning Authority.

Thereafter, construction shall proceed strictly in accordance with the approved details and prior to the first use of the buildings (check whether only limited to the barn or stables or both) hereby approved a report outlining the results of the watching brief shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To make provision for an archaeological watching brief so as to describe the significance of heritage assets of archaeological interest within the site that may not have been uncovered through the archaeological evaluation. This is to ensure monitoring of the works by a suitable professional to ensure the scheme can be designed in a manner that minimises the impact on archaeological remains in accordance with the aims of Core Policy 58 of the Wiltshire Core Strategy and the planning policy advice of Chapter 16 of the National Planning Policy Framework.

#### **5. Drainage details (surface water);**

The development hereby approved shall not be occupied or brought into use until a Surface Water Drainage Strategy has been implemented in full in accordance with details that shall first be submitted to and approved in writing by the local planning authority. As a minimum, the written details shall confirm compliance with sustainable drainage systems (SuDS) principles and include the following:

- A detailed plan showing the existing drainage features on the site and how the proposed drainage strategy will be implemented;
- A detailed topographical survey that clearly identifies the existing drainage features on the site as well as level contours to show overland flow routes;
- If infiltration is proposed, soakage tests in accordance with BRE 365 to demonstrate that infiltration is feasible;
- Consent for any outfalls from the proposed drainage systems into a watercourse, public sewer or other drainage system not owned by the applicant;
- Evidence that the impact upon existing drainage systems is mitigated by discharging the flow throughout the management train rather than relying upon a single point of discharge;
- SuDS have been selected to provide a wide range of benefits including amenity, biodiversity and maintaining water quality.
- calculations demonstrating that the required 20% betterment against the existing/greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100 year return period storm events;
- calculations demonstrating that the proposed drainage design provides a sufficient level of water treatment throughout the management train to prevent pollution of the receiving watercourse;
- confirmation that the strategy has been designed in accordance with the Non-statutory Technical Standards for Sustainable Drainage Systems and the latest SuDS Manual (C753);
- Exceedance routes that minimise the risks to people and property;
- future maintenance details to ensure the surface water drainage system operates at its intended capacity/efficiency for the lifetime of the development.

Thereafter, the development shall be maintained in accordance with the approved details.

REASON: To ensure the development reduces flood risk across the site and to adjacent land through the timely implementation of a Surface Water Drainage Strategy informed by SuDS principles in accordance with the aims of Core Policy 67 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

## **6. Detailed site levels;**

Construction of the buildings, internal access roads, parking and turning areas hereby approved shall not commence until details of the proposed site levels have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed floor levels of the buildings, grading and mounding access roads, parking and turning areas and other land areas including the levels and contours to be formed, and the nature and source of the material to be used, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall not be occupied or brought into use until such time as the earthworks have been carried out in accordance with the approved details.

REASON: The application contained insufficiently detailed information to enable this matter to be fully considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and to protect neighbouring residential amenities in accordance with the aims of

## **7. Site planting and LEMP;**

All soft landscaping comprised in the approved details of the development (approved plan no. Landscape Mitigation Strategy – WHL-1160-05 Rev.A) shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development, whichever is the sooner.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Thereafter, the site shall be managed in accordance with a Landscape and Ecology Management Plan (LEMP) the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the buildings hereby approved. As a minimum, the LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development site, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

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

REASON: To ensure a satisfactory landscaped setting for the development and to ensure the enhancement of the river corridor and biodiversity net gains are delivered in a timely manner in accordance with the aims of Core Policies 50 and 51 of the Wiltshire Core Strategy, policies MARL14 and 17 of the Marlborough Neighbourhood Plan and the planning policy advice of the National Planning Policy Framework.

## **8. Manure management;**

No development shall commence on the development hereby approved until details of the arrangements for the storage and/or disposal of manure and other material derived from the keeping of horses has been submitted to and approved by the Local Planning Authority. As a minimum, the details are to include:

- a description of how animal waste/manure produced within the site will be managed/disposed of;
- a plan illustrating where the animal waste/manure and feed/bedding materials will be stored and details of the construction and design of the structure/enclosure within which the material will be stored;
- measures to control odour and the presence of flies.



The storage of manure and other material derived from the keeping of horses shall only be carried out in accordance with the approved details.

REASON: To ensure the development is appropriately managed to protect the amenities of nearby residential properties and to ensure no pollution of the River Og and nearby River Kennett SSSI occurs in accordance with the aims of Core policies 50 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

### **9. Construction and Environmental Management Plan**

Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas on a marked-up plan and details of physical means of protection, e.g. exclusion fencing protecting the trees/hedges and river edge.
- b) Locations of the construction compound, delivery areas and where any chemicals/toxic contamination will be stored and details/methodology for dealing with sumps.
- c) Working method statements for protected/priority species, including for dormouse, otter, water vole, nesting birds and reptiles.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- g) details of noise and dust suppression measures to protect the amenities of nearby residential properties;
- h) details of measures to be used to prevent mud and debris exiting the site onto the public highway (i.e. wheel washing);
- i) Details of the locations and types of temporary/construction lighting to confirm no light spill along the River Og, this must be clear on the marked-up plan provided with the CEMP.

Construction of the development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable in accordance with the aims of Core Policy 50 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

### **9. Env. Agency condition re bridge construction;**

The development shall be carried out in accordance with the details of the submitted flood risk assessment and associated technical notes (Report Version 4, Author: Water Resource Associates, Dated: March 2022), and the following mitigation measures detailed within:

- Minimum bridge soffit level of 126.07 metres above ordnance datum (mAOD) as outlined in the letter 'Re Mill House Poulton FRA Review of EA modelling of the River Og, Water resource Associates LLP, 21st December 2022' and the drawing 'Bridge setting-out, Mathewson Waters Architects, 17128.110-C, submitted 25/4/2023';
- Access ramp to the proposed bridge shall be an open grid structure to reduce the impact on floodplain storage, as outlined in the drawing 'Bridge setting-out Mathewson Waters Architects, 17128.110-C, submitted 25/4/2023';

- Finished floor level for the proposed barn shall be set at or above 126.5mAOD, and finished floor levels for the stable shall be set at 126.2mAOD as outlined in section 3.4 of the Flood Risk Assessment;
- No raising of ground levels within the 1% 70CC flood extent as outlined in section 3.4 of the flood risk assessment.

REASON: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that the bridge is designed appropriately and floodplain storage is not reduced in accordance with the aims of Core Policy 67 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

#### **10. Access implementation and vis-splays;**

No part of the development shall be first brought into use until the access is provided as per the approved Access drawing including the radii curves, street furniture re-located, a consolidated surface provided for the first 5m, the gates set back at a minimum of 10m (and open away from the road) and, until the visibility splays (both from the access and forward visibility) shown on the approved plan no. *Access plan – 17128.108-D* have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. (This includes the hedgerow sat within the highway boundary on the opposite side of the carriageway). The visibility splays shall be maintained free of obstruction thereafter.

REASON: To ensure that users of the development benefit from safe access and to prevent any harm to highway safety arising as a result of the operation of the permitted use in accordance with the aims of policies 60, 61 and 64 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

#### **11. Access use;**

All vehicular traffic associated with the Equestrian Clinic use hereby approved shall be directed to use the southern access point directly from the public highway at Poulton Hill and at no time shall commercial traffic be directed to the private access road that runs to the north of the site.

REASON: To prevent an increase in commercial traffic to the north of the site to prevent any harm to highway safety arising as a result of the operation of the permitted use in accordance with the aims of policies 60, 61 and 64 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

#### **12. External plant/machinery;**

Construction of the buildings hereby approved shall not proceed beyond finished floor/slab level until full details of all external plant/machinery (to include external flues, vents, extraction fans etc.) has been submitted to and approved in writing by the local planning authority. As a minimum, the details shall include:

- a site plan (and building elevations if relevant) showing the locations of all external plant/machinery;
- manufacturer's technical specifications, that must include noise ratings; and
- details of noise/odour suppression measures (if relevant).

Thereafter, the development shall be completed and maintained in accordance with the approved details.

REASON: To ensure the development is appropriately managed to protect the amenities of nearby residential properties and to ensure no noise pollution of the River Og occurs, to the detriment of the biodiversity value of the site in accordance with the aims of Core policies 50 and 57 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

#### **13. External materials (implementation);**

The buildings hereby approved shall be constructed using the external materials and finishes as detailed within approved plan numbers *17128.104-B* (Proposed stables) and *17128.106-C* (Proposed barn) and shall be maintained in accordance with the approved details thereafter.

REASON: To ensure the development is constructed to a good quality design and protects the rural character of the site and settings of nearby designated heritage assets in accordance with the aims of Core Policies 51, 57 and 58 of the Wiltshire Core Strategy and the planning policy advice of the National Planning Policy Framework.

**14. External lighting (details and implementation);**

No external lighting shall be installed anywhere within the application 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 GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note 08/23 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

This condition will be discharged when a post-development lighting survey 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 along the river corridor and to protect the dark skies of the North Wessex Downs National Landscape in accordance with the aims of Core Policies 50, 51 and 57 of the Wiltshire Core Strategy, policies MARL17 and 18 of the Marlborough Area Neighbourhood Plan and the planning policy advice of the National Planning Policy Framework.

**16. Scheduled Ancient Monument management details;**

The buildings hereby approved shall not be occupied or brought into use until full details of a management plan for the section of the Scheduled Ancient Monument located within the development site shall be submitted to and approved in writing by the local planning authority. As a minimum, the details shall confirm details of regular inspection of the SAM, all maintenance/enhancement works and procedures to report to Historic England. Thereafter, the development shall be operated in accordance with the agreed details.

REASON: To ensure the Scheduled Ancient Monument within the development site is adequately managed and sensitively enhanced in accordance with the aims of Core Policy 58 of the Wiltshire Core Strategy, policy MARL14 of the Marlborough Area Neighbourhood Plan and the planning policy advice of the National Planning Policy Framework.

**17. Parking/turning areas;**

The buildings hereby approved shall not be occupied or brought into use until the hard-surfaced areas for the parking and turning of vehicles within the site have been constructed/laid out in full with staff and visitor parking spaces provided with electric vehicle charging points (EVCP) in accordance with details of the surface materials and charging points that have first been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be maintained in accordance with the approved details.

REASON: To ensure that sufficient areas for the parking and turning of vehicles are secured and that EVCPs are provided to encourage the use of low-carbon vehicles in the interests of protecting air quality in the area and preserving the rural character of the site in accordance with the aims of Core Policies 51, 60, 61 and 64 of the Wiltshire Core Strategy, policy MARL17 of the Marlborough Area Neighbourhood Plan and the planning policy advice of the National Planning Policy Framework.

**18. Site use restriction.**

The commercial use hereby permitted shall be restricted to Equestrian Orthopaedic Clinic use (a *sui generis* use) and for no other commercial equestrian enterprise (i.e. riding school, commercial livery).

REASON: To ensure that the agreed mitigation measures are suitable for the intended use in the interests of preserving neighbouring residential amenities, the biodiversity value of the site and protecting the valued habitats of the River Og and River Kennett from pollution in accordance with the aims of Core Policies 50, 51 and 57 of the Wiltshire Core Strategy, policy MARL17 of the Marlborough Area Neighbourhood Plan and the planning policy advice of the National Planning Policy Framework.

### **Informatives**

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required, it will be necessary for the applicant to obtain the landowner's consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>

### **Environment Agency informatives**

#### **Environmental permit - advice to applicant**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)

- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk). The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### **Pollution Prevention During Construction**

Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- wheel washing and vehicle wash-down
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

### **Preventing Pollution from Manure Heaps**

Since my last letter (08 February 2023) I have been informed by my colleagues in our local Land & Water team that the site has been inspected on 02 February 2023 for pollution by one of our Senior Environment Officers (Agriculture). The site was found to be compliant with regulations at the time of the visit. Therefore, a pollution prevention plan will no longer be necessary as part of this application. Please include the following informative in any permission granted.

This site is within a Nitrate Vulnerable Zone (Berkshire Downs NVZ). There are rules about how to safely store manure in a NVZ - [Storing organic manures in nitrate vulnerable zones - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Temporary field heaps must:

- be made from manure solid enough to be stacked in a freestanding heap
- not give rise to free drainage from within the stacked material
- be covered with a waterproof material if they contain poultry manure without bedding or litter
- occupy as small a surface area as is needed to support the weight of the heap without it collapsing

Land managers must:

- make sure field heaps are at least 10 metres from any surface water (such as a river, pond or ditch) or land drain, or 30 metres if the land slopes at 12 degrees or more
- make sure the location of the field heap is not liable to being waterlogged or flooded
- locate field heaps at least 50 metres from a spring well or borehole
- move the field heap at least every 12 months
- leave a 2 year gap before returning to the same position
- keep a record of the sites used for field heaps and the dates of use

## Drainage informatives

• It is noted that the applicant plans to restrict discharge rates from the site to the greenfield Qbar rate for all events up to the 1 in 100year + climate change storm; it is acknowledged that for the higher return period rainfall events this will provide betterment, however this will not provide the required level of betterment for lower return period events (such as the 1 in 1 year rainfall event). Wiltshire Council's betterment policy for greenfield sites states:

*"With regards the control of surface water discharges from greenfield sites, Wiltshire Council requires post development discharges to provide 20% betterment over pre-development (greenfield) discharges for both peak flow and volume. To demonstrate compliance, the applicant must provide pre and post development runoff rates for a range of return periods (1, 30 and 100 year), and pre and post development runoff volumes for the 100 year, 6 hour rainfall event. This takes account of national policy, as outlined in the SuDS Technical Standards."*

• The applicant will be required to resubmit calculations which demonstrate that the required 20% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100year return period storm events.

• The applicant is required to submit calculations which demonstrate that the proposed drainage design provides a sufficient level of water treatment to prevent pollution of the receiving watercourse.

• Any proposals should be designed in accordance with the Non-statutory *Technical Standards for Sustainable Drainage Systems* and the latest SuDS Manual (C753).

The surface water drainage strategy should include/demonstrate the following:

• Existing greenfield runoff rates for the site.

• Post development runoff rates in accordance with Wiltshire Council's betterment policy update, which can be found [here](#).

• A detailed plan showing the existing drainage features on the site and how the proposed drainage strategy will be implemented.

• A detailed topographical survey that clearly identifies the existing drainage features on the site as well as level contours to show overland flow routes.

• If infiltration is proposed, soakage tests in accordance with BRE 365 to demonstrate that infiltration is feasible.

• Calculations to demonstrate the attenuation requirements for the 1 in 100 year plus climate change event to support the proposed strategy.

• Consent for any outfalls from the proposed drainage systems into a public sewer or other drainage system not owned by the applicant.

• Evidence that the impact upon existing drainage systems is mitigated by discharging the flow throughout the management train rather than relying upon a single point of discharge.

• SuDS source control measures to manage water quantity and maintain water quality have been implemented wherever possible and throughout the management train so the development is not reliant upon large attenuation features close to the points of discharge.

• SuDS have been selected to provide a wide range of benefits including amenity, biodiversity and maintaining water quality.

• Adequate measures during construction to control pollution to existing watercourses and groundwater.

• The strategy mimics the existing drainage characteristics of the site by retaining and utilising any existing drainage features.

• Existing flood flow routes through the site have been maintained or where they will be affected, adequate measures to intercept and safely control flows through the site have been provided to ensure flood risk is not increased elsewhere.

• If infiltration is proposed, it is implemented in manner that does not create an offsite impact, particularly if there are reports of groundwater flooding in the area.

• Surface water can be safely managed within the proposed development, up to and including a 1 in 100 year plus climate change event.

• All proposed drainage features are outside flood zones 2 and 3 and where they are adjacent to an

ordinary watercourse, they are not located within the EA surface water flood maps. Where drainage features are located adjacent to flood zones 2 and 3, they must be above the 1 in 100 year plus climate change flood level. This information can be provided by the EA.

- Exceedance routes that minimise the risks to people and property.
- Details of how the proposed and existing drainage features on the site will be maintained and managed after completion with confirmation from the relevant authority that they will adopt any systems that are being offered for adoption.

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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Item 9

<b>Date of Meeting</b>	22 <sup>nd</sup> February 2024
<b>Application Number</b>	20/02272/FUL
<b>Site Address</b>	Parnham Coaches, 31 Andover Road, Ludgershall, SP11 9LU
<b>Proposal</b>	Demolition of former coach depot buildings and bungalow; redevelopment of site for 27no. dwellings including associated highways, parking and landscaping
<b>Applicant</b>	Stonewater Housing
<b>Town/Parish Council</b>	LUDGERSHALL
<b>Electoral Division</b>	Ludgershall North & Rural – Cllr Christopher Williams
<b>Grid Ref</b>	
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Georgina Wright

### Reason for the application being considered by Committee

This application is brought to committee at the request of Cllr Williams, for the following reasons:

- Environmental or highway impact;
- Other –
  - It is my opinion that the proposed access arrangement plan shows sufficient changes from the original plan to warrant an explanation to the Planning Committee, Ludgershall Town Council and myself as to the rationale behind the proposed changes and how the proposed scheme will work
  - In particular rising bollards – what is their purpose? What affect will this have on vehicles wishing to use Tesco car park?
  - Pedestrian deterrent surfaces and low level fences/landscaping to deter pedestrians – how will this work and what would be the outcome if ignored?
  - Would be useful to see comments from Wiltshire Highways and/or a road traffic plan to see the affect this development will have on traffic usage on the Andover Road and also deliveries to the shopping parage and Tesco, plus the interaction with pedestrians using the shopping facilities and highway in general

### 1. Purpose of Report

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

### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle
- Character & Design
- Neighbouring Amenities
- Highway Safety
- Ecology

- Flooding & Drainage
- CIL/S106

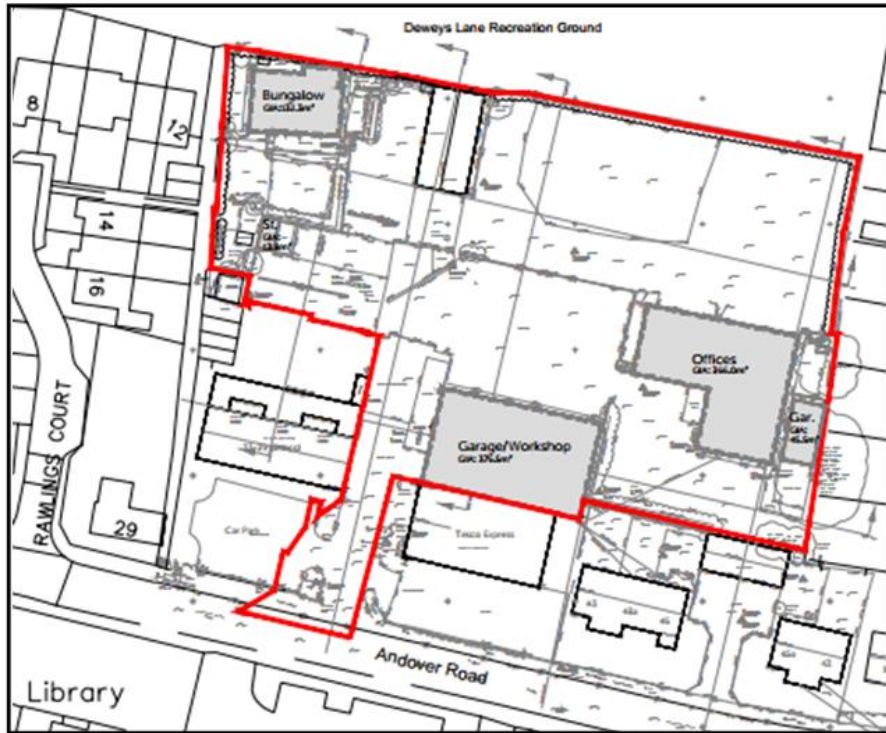
The application has generated an objection from Ludgershall Town Council; and 8 letters of objection from third parties as well as an objection from the adjacent Tesco's Operator.

### **3. Site Description**

The site is situated within the designated settlement boundary of Ludgershall, which is defined as a Market Town by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP26 (Tidworth Community Area). It is situated behind an existing parade of shops and commercial properties, which are designated as a Local Service Centre by saved Kennet Local Plan (KLP) policy ED24. These commercial units are served by a parking area to the front which separates them from the main road of Andover Road. The parade of units is currently split into 2 blocks which are separated by the access track that serves this rear plot and provides the main vehicular access serving this service centre as well as the site from Andover Road to the south. On the eastern side of the track, a single storey unit exists which is currently used as a Tesco Express. The western block consists of three storey development with 4 retail units at ground floor and residential flats above.

To the east and west, the site is surrounded by other residential properties and their associated amenity and parking provision. The site is separated from the properties in Rawlings Court (to the west) by a public footpath (Ref: LUDG6). Perry's Cottage (29 Andover Road) adjacent the south-western corner of the service centre is a Grade II listed building. To the rear, the northern boundary of the site is defined by a Leylandii hedge separating it from an Outdoor Recreation Site (Dewey's Lane Recreation Ground), as designated by saved KLP policy T17. The designation appears to extend into the site in the north-eastern corner, but on the ground this part of the site is hardstanding associated with the former use and is clearly separated from the adjacent sports pitches by the boundary hedge. Whilst the site is in Flood Zone 1 and is not in the immediate vicinity of any rivers, it is within an area that is susceptible to Ground Water flooding. It is also within the catchment of the River Test and thus feeds into the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, Portsmouth Harbour SPA and Ramsar site, and the Solent and Southampton Water SPA and Ramsar site. The site is also within 6.4 kilometres of the Salisbury Plain SPA.

As can be seen by PLAN A below, the site currently consists of a former coach depot (Parnham Coaches) which is a sui generis use. A car repair garage exists to the front of the site behind the existing Tesco's; some offices exist to the rear of this; and a residential bungalow also exists in the north-western corner of the site. Otherwise, the land is laid to hardstanding and was used for the parking of coaches. It is currently fenced off after the garage/workshop building and is all vacant. According to the supporting documentation, the previous user/s ceased trading from the site in 2018.



**PLAN A – Existing Site Plan**

Outline planning permission was granted in December 2017 for the redevelopment of the site with 24 three storey town houses (under ref: 15/04689/OUT). Whilst the application was agreed in outline, with all matters reserved for the second stage, it was accompanied by an indicative Site Plan (PLAN B below), which showed the intended tenure; how 24 units could be accommodated; and the intended site access. Despite the description, 4 of the 24 units were indicated as flats, which were to be positioned centrally within the site. The previous scheme also retained the existing bungalow (so would result in 25 units on the site in total).



**Plan B – Outline Permission Indicative Site Plan (15/04689/OUT)**

Whilst the Outline permission is now of some age, a Reserved Matters application was submitted within the timeframes of the decision which remains undetermined (under ref: 20/10588/REM). Until this is determined, the Outline permission therefore remains extant and is thus a legitimate fall back for the site and a material consideration for this application. The extant permission was subject to a Section 106 (S106) legal agreement which secured 30% affordable housing on the site; as well as contributions towards offsite Public Open Space provision; and onsite waste management facilities.

#### 4. Planning History

K/76/0436	Use site for demolished cottages for car sales and storage area	Permission – 11.11.1976
K/77/0177	Coach parking area	Permission – 26.05.1977
K/82/0908	Coach garage	Permission – 27.01.1983
K/82/0909	Garages to storage and parking, hardstanding to turning/parking all for coach hire business	Permission – 27.01.1983
K/11731	Erection of Coach Garage	Permission – 15.03.1988
14/04747/OUT	Redevelopment of Coach Depot and adjacent land for 24 x. three storey town houses and associated parking.	Withdrawn
15/04689/OUT	Redevelopment of Coach Depot and adjacent land for 24 x. three storey town houses and associated parking.	Permission – 18.12.2017
16/05561/OUT	Outline Application for 10 No. 4 bedroom houses (all matters reserved)	Finally Disposed of
20/08676/REM	Redevelopment of Coach Depot and adjacent land for 24 x. three storey town houses and associated parking. (Reserved Matters Application pursuant to 15/04689/OUT relating to Access)	Withdrawn
20/10588/REM	Redevelopment of Coach Depot and adjacent land for 24 x. three storey town houses and associated parking. (Reserved Matters Application pursuant to 15/04689/OUT relating to Access, scale, layout, landscaping and appearance )	Pending

#### 5. The Proposal

This application proposes the demolition of all of the existing buildings, including the existing bungalow, and the redevelopment of the whole site with 27 residential properties (an increase of 2 units compared with the extant Outline permission). The application has been made in full with all details to be agreed at this stage.

In detail, as can be seen from PLANS C & D below, the proposals now involve 13 x 2 bed houses; 10 x 3 bed houses; and 4 x 2 bed flats laid across an H shaped internal road layout which is to be fed from the existing access through the existing local centre from Andover Road to the south. The flats are to be positioned centrally, adjacent to the shared, southern boundary with Tesco Express. Plot 1 is to side onto the southern boundary behind the 3 storey retail units/flats and off-site substation. All other properties are to back onto their respective wider peripheral site boundaries and are to benefit from rear gardens of between 8 and 11 metres in length. A total of 50 on plot or allocated parking spaces and 9 visitor spaces are identified across the site to serve the development. Each property is also to be served by a shed or bike store providing cycle parking.



**PLAN C – Proposed Site Plan**



**PLAN D – Proposed Street Scenes**

As a result of vacant building credit, a total of 6 of the 27 units are identified as affordable housing (22%), but the applicant is a housing association and they have suggested an intention that any approved scheme will be built out as a 100% affordable housing site. Both options will be secured by any Section 106 Legal Agreement (S106) completed as part of the decision. All the south facing roof slopes are to be fitted with photovoltaic panels (consisting of 9 houses and the flats), but otherwise the properties are to be finished in a mix of red and buff brick with vertical brick courses adding interest to the elevations. The roofs are to be finished with grey concrete tiles.

The application has gone through many iterations of amended plans. This has reduced the number of units proposed from 28 to 27; altered the design and layout of the proposals; increased the level of parking spaces; altered the design of the flats to improve their relationship with the adjacent supermarket site; provided noise mitigation

details; provided ecological mitigation and enhancements; and have altered the proposed vehicle and pedestrian access arrangements from Andover Road, through the frontage local centre. Additional statements and detail have also been submitted during the course of the application, which mean that it is now supported by a Planning Statement; a Design & Access Statement; a Transport Technical Note; a Heritage Desk Based Assessment; an Archaeology Evaluation; a Preliminary Ecological Appraisal & Preliminary Roost Assessment; Phase I & II Bat Survey; a Phase II Bat Survey; A Nitrogen Budget; an Aborigicultural Impact Assessment & Method Statement; a Flood Risk Assessment & Drainage Strategy; a Sequential Site Assessment; a Noise Statement; a Noise Impact Assessment; a Further Acoustic Assessment; an Odour Statement; a Contaminated Land Report; and a Vacant Building Statement. During the course of the application, the viability of the scheme was questioned and a Financial Viability Assessment was submitted and updated, but this argument has since been withdrawn.

The Town Council has objected to the handling of the application and are concerned that a new planning reference has not been given to the scheme as a result of the many amended plan consultations that have taken place since 2020, as the retention of one application reference has caused much confusion as it is difficult to know what plans are still being considered. However, whilst there is much sympathy for the Town Council and other third parties who have been following the evolution of this scheme and have been subjected to numerous consultations, a new planning reference would only be assigned if the scheme were determined or withdrawn. However, the National Planning Policy Framework (NPPF) requires the Council to work proactively with developers to find solutions and given the history on this site and that the principle of its redevelopment for housing has already been established, it was not considered appropriate to refuse the application and/or insist that the application be withdrawn instead of liaising and allowing revisions to be made to resolve the outstanding matters, during the course of the application.

## **6. Local Planning Policy**

*National Planning Policy Framework (NPPF)*

*Planning Practice Guidance (PPG)*

*National Design Guide (January 2021) (NDG)*

*Kennet Local Plan policies (Saved by Wiltshire Core Strategy) (KLP):*

HC34 – Recreation Provision on Large Housing Sites (20+)

HC37 – Demand For Education (25/1+Ha)

ED24 – New Development in Service Centres

TR17 – Existing Outdoor Sport & Recreation Facilities

*Wiltshire Core Strategy (January 2015) (WCS):*

CP1 (Settlement Strategy)

CP2 (Delivery Strategy)

CP3 (Infrastructure Requirements)

CP26 (Tidworth Community Area)

CP35 (Existing Employment Sites)

CP41 (Sustainable Construction and Low Carbon Energy)

CP43 (Providing Affordable Housing)

CP45 (Meeting Wiltshire's Housing Needs)

CP50 (Biodiversity and Geodiversity)

CP51 (Landscape)

CP52 (Green Infrastructure)

CP56 (Contaminated Land)

CP57 (Ensuring High Quality Design & Space Shaping)



CP58 (Ensuring the Conservation of the Historic Environment)  
CP60 (Sustainable Transport)  
CP61 (Transport & Development)  
CP62 (Development Impacts on the Transport Network)  
CP64 (Demand Management)  
CP67 (Flood Risk)  
CP68 (Water Resources)  
Wiltshire Housing Site Allocations Plan (February 2020) (WHSAP)

*Supplementary Planning Documents:*

Achieving Sustainable Development SPG (April 2005)  
Wiltshire Local Transport Plan – Car Parking Strategy

## **7. Summary of consultation responses**

### **7.1 Ludgershall Town Council – Objection**

- LTC have repeatedly asked for a site meeting with Highways and Wiltshire planning, Wiltshire Council obviously engage with the developer why won't you engage with the town council?
- We have grave concerns over this development and have asked this application to be 'called in' to a planning meeting.
- LTC does not consider the plans have addressed the access/egress to the site for the safety of both the pedestrians and delivery vehicles both to Tesco and the parade of shops.
- LTC have looked at the comments from Tesco regarding how delivery would be made and agree with their comments.
- The proposal to move the pedestrian footpath firstly to the side of parade of shops then crossing over to behind the visitors parking bays will cause a safety issue/hazard with pedestrians stepping out from behind parked vehicles.
- Looking at drawing 728Q/214 with the proposed 1.5m footway, there will be insufficient space for any vehicle (inc. emergency vehicles) to enter the site if a delivery lorry is parked adjacent to the footway.
- Drawing ENC/120315-357 swept path analysis viewpoint 1 & 2 if any customers are parked in front of Tesco the delivery lorry will not be able to follow these plans they are completely impractical and cannot be achieved.
- Plan 7280/215 uses the other carpark in front of the parade of shops, again this is completely impractical with customer vehicles parked in that area.
- Another problem would be that the delivery driver will be 'blindsided' as they reverse into the area where they unload, resulting in danger to pedestrians and parked vehicles.
- There is an area of 100 metres stretch of the busy A.342, where there are 10 vehicle entrances or exits (to roads or carparks), 2 bus stops and a pedestrian crossing. The entrance to this development is in the middle of this section.
- LTC note that although requested previously a traffic survey has still not been completed for the entrance to the site and the main road this absolutely must happen before any decisions are made.
- Due to layout of the site, refuse lorries, emergency vehicles and large delivery vehicles will be required to reverse onto the site from the main road A.342, if any vehicles are left parked on the roads outside the dwellings of the development this will cause congestion.
- Do Stonewater own all the land within the red lines or do they lease any part of it? Old plans show lease of the access area.
- Car parking– the loss of 3 spaces at the front of the shops, will cause people to try and park down the side of those shops thus preventing emergency vehicle access.

- Looking ahead, it is likely that residents or their visitors will try and park in the spaces in front of the shops, as there is a general lack of visitors parking provided for the new development.
- This could possibly cause parking in the Memorial Hall Car Park, which is reserved specifically for Hall users only or elsewhere and could also impact local trade if people are not able to park outside the front of the store/s.
- The site is overdeveloped contrary to policy PD1 and LTC does not think of this as an urban development
- The Highways and Access plan does not meet our approval – Highways have decided not to adopt the road due to the build work not being to Highways standard.
- As the road is not being adopted can the refuse contractor refuse entry to site like they have in another road in Ludgershall (Bell St)?
- There is a lack of green space in general (used to provide more parking), which means that water will run straight down the road onto Andover Road.
- The report included states drainage has no bearing on the houses, when clearly it does.
- LTC have also noted that Stonewater have included a photovoltaic panel layout, in keeping with environmental provision we would ask that a sustainable solution like rainwater harvesting systems be included.
- The Boundary wall which runs beside the carpark at the front of the other shops and then the back, needs to extend entire length of site parallel with the footpath to the Rec and to include protection for rear of Parade shops.
- Drawing BML.01 – does this mean that the boundary hedge to the recreation ground is to be removed and replaced with close board fencing /brick wall at 1.8m high?
- Please ensure that any property information state that there is no access to be granted to any dwellings to the recreation ground.
- LTC also have concerns re any future homeowners/tenants, should the development go ahead, regarding noise from refrigeration units running 24hours from Tesco's and the parade of shops/restaurants also with mechanical ventilation units producing noise and smell.
- Please can Stonewater confirm any actions they will be taking after receiving the noise impact assessment?
- In the report from Nash, money for education should come from S106 and not as Nash say it is taken care of under CIL as this is community money.
- There is also a restrictive covenant on this land that restricts any building work to be done on approx. a third of the site, without LTC's specific agreement. This is still under negotiation with Stonewater.
- Please condition that no access is allowed from the proposed dwellings onto the Recreation Ground in perpetuity.
- Please conditions that no deliveries of building materials between 8am -9.15am and 2.45pm – 4pm.
- LTC has now 3 times previously asked for a new application number to be allocated due to the number of changes that have been made to the original application. This has caused much confusion as it is difficult to know what has changed or been altered.
- Again, if there is to be any further amendments LTC request that a new application number be issued
- objection to the request to avoid S106 or CIL monies.

- Also mentioned was the extreme bad state of the access road and that Stonewater after being contacted have stated they will not be doing any repairs until planning has been given, TC to mention this in the objection (post meeting potholes filled in).
- LTC have reviewed the recent amendment regarding noise/smells from industrial units and that the measures to be included in the plan having non-opening windows and high barriers to mitigate this problem are totally inadequate to address the noise/smell problems.
- This Planning Application and the development of this site is of very poor design, overdeveloped and is not sustainable for decent living conditions & tenants wellbeing.

## **7.2 Cllr Williams – Objection**

- Having reviewed the latest amendments to the plans, could you please inform me if Tesco is in agreement to the proposal of having the delivery HGV drive onto the car park in front of the store to unload, if this is the case, how are vehicles already parked meant to get out once the delivery vehicle is in place, or will the delivery vehicle wait out in the road until the Tesco parking area is empty and the shop closed while delivery takes place.
- The Swept Path Analysis document showing Tesco Delivery movements (Proposed Access) has a photo with “current exit arrangement”, dated 2015 with section of wall removed. This section has been rebuilt after damage caused by a vehicle and is not the current exit arrangement.
- Again has Tesco agreement been requested to shorten this wall to allow for a right turn onto the Andover Road on exiting the car park.
- The same document shows a vehicle turning left into site. This vehicle would have to wait at or just after the pedestrian controlled crossing if the car park is to be cleared of parked cars before access. This is not acceptable and I cannot agree to the latest access arrangements and still wish to reserve the right to call in this application should it be recommended for approval.

## **7.3 Urban Design – No Objection**

- The revised 'Site Layout ' drawing number DREW 181106 SL01 Revision Q has satisfactorily addressed my previous comments by extending the pavement at the entrance road through to plot 1 from the main road
- although appearing just under 1.8 metres wide it is not now broken/obstructed by what appeared to be a planter previously shown and now deleted and also shows an appropriate pavement and set back lay by opposite alongside the apartment building for amenity.
- I have no objection to other small revisions which are essentially consistent with the previous proposal.

## **7.4 Crime Prevention Design Advisor – Comment**

- I am pleased to note there are gates at the building line at the top of the alleyways between 16 & 17 and 25 & 26. However, there is no gate at the building line at the top of the alleyway between plots 9 and 10 and I would ask that there be one added to this location to remove the hiding place otherwise created.
- There are two plots where there is no defensible place leaving the homes vulnerable to ASB or nuisance due to the adjacent parking. Plot 19 has the wall of the home as the public/private boundary and parking for plot 17 alongside which could lead to noise disturbance and neighbour disputes. I would ask that the parking alongside plot 19 be allocated to plot 19 to avoid this possibility.

- Plot 28 also has the wall of the home as the public/private boundary and has visitor parking alongside. I would ask that there be a physical boundary between the public footpath and the wall of the home, or that the visitor parking be located elsewhere, in order to avoid the possibility of noise or other nuisance from the users of the parking spaces to the residents of plot 28.
- I am unhappy about the area created between plot 5 and the apartments.
- Note that there is an access point here, and have concerns that the use of this, together with the hidden area created by the walls and fencing, will cause problems for the residents of plot 5. I would ask that this be reviewed and that this area be brought into the curtilage of plot 5.
- The National Planning Policy Framework (NPPF) defines three fundamental objectives to achieving a sustainable development: economic, social and environmental (NPPF, page 5, para 8). Crime has a direct impact on all three objectives. This has been reinforced throughout the NPPF where the government makes clear its view of what sustainable development, in England, means in practice for the planning system.
- With the publication of the accompanying National Planning Practice Guidance (NPPG) the government has reiterated that designing out crime and designing in community safety should be central to the planning delivery of new development.
- In addition Core Strategy; Core Policy 57 Ensuring high quality design and place shaping states '*A high standard of design is required in all new developments.... (viii) - Incorporate measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area*'.
- I would ask that the matters I have raised be addressed to ensure all opportunities are taken to design out crime in this development.

#### **7.5 Strategic Projects – Comment**

- The submitted Financial Viability Assessment is insufficient and does not comply with the RICS mandatory standards

#### **7.6 Highways – No Objection subject to Conditions**

- It is noted that earlier layouts included a raised paved table on the road leading to the residential development, however this was not included in the most recent 'Proposed Access Arrangement' drawing ref: 7280/214 Rev F.
- Whilst the raised table is not essential, a rumble strip or similar should be added to the drawing, I suggest in a suitable location either side of the informal pedestrian crossing point.
- I note the comments regarding the Tesco delivery vehicles and I am satisfied that the applicant is willing to work with Tesco and to fund retractable bollards if required.
- The Tesco store and car park is outside of the redlined application site; however, it is important that the store is able to continue to function and the deliveries are a critical factor in that regard.
- The swept path drawing ref: 7280/216 Rev A, shows how the delivery vehicle will be able to access the site via the main point of access from Andover Road, travel across the front of the store and exit.
- Given that the access is existing and will be improved, there is no reason why this manoeuvre is not achievable.
- There is another swept path drawing ref: 7280/215 showing "access as existing" where the delivery vehicle pulls into the car park for the parade of shops and reverses into the Tesco delivery bay. I am assuming that this is not proposed and it is not the intention that delivery vehicles will continue to perform this manoeuvre following development

- I am aware that during the occupation of the site by Parnham Coaches and more recently since the site has been vacant, the Tesco delivery vehicles have been able to use land not within the ownership of Tesco to park, unload and turn.
- There are alternative solutions for the delivery vehicle to service Tesco but the Highway Authority is not in a position to insist upon any alterations to land outside of the redlining to which the applicant has no control over (unless on the public highway).
- It would not be possible to support or sustain a recommendation for refusal on Highway grounds related to the provision for the Tesco delivery vehicle.
- It is also noted that there is an extant planning consent for a development of 24 dwellings.
- The access arrangement has been amended as requested to provide / maintain a priority junction for pedestrians across the access instead of a bell mouth junction which was initially requested.
- The layout includes a dedicated pedestrian link from the footway on Andover Road into the site to serve customers to the shops and continues to the rear of the site to serve the residential development. Previously the design was for a “shared-surface” where pedestrians and vehicles shared the space, the introduction of a footway is considered to be beneficial.
- A traffic calming measure should be added on the approach to the residential area, just before the visitor space.
- The access road adjacent to the footway is approximately 5.5m in width which is sufficient for two vehicles to pass.
- Delivery vehicles should not be parked on the access road but if this does happen on occasion, Manual for Streets demonstrates that vehicles can still pass.
- The proposed access arrangement is considered to be suitable to serve the development and provide an improvement for customers; however more detail is requested by condition
- I am satisfied that the refuse collection vehicle will be able to turn within the residential roads, parked vehicles may cause an issue but this is true of any residential development and will need to be managed internally.

#### **7.7 Public Right of Way Officer – No Objection subject to S106**

- I have had a look at the Public Footpath LUDG6 which runs along the boundary part of this site,
- The Public Footpath is well used with several different people using the path in the 15 minutes I was looking at the path.
- The surfaced part of the path is around 1 meter wide but slightly wider where it meets the road at its southern end but has the opportunity to be widened along its length.
- The Northern end of this path is currently a little overgrown and the width is restricted.
- The path would benefit if the vegetation from the site boundary was reduced or thinned out a little.
- The path and also the public's enjoyment of it may be improved if the proposed development boundary was moved back from the Public Right of Way or if the boundary vegetation was replaced with fencing.
- Please could I request a section 106 contribution of £8,500 to be spent on widening the surface of LUDG6 should the application be approved.
- Although , I appreciate this one might be too far down the planning route to request at this late stage

### **7.8 Housing – No Objection subject to S106**

- CP43 sets out a requirement for 30% on-site affordable housing provision on all sites of 10 or more dwellings within the 30% Affordable Housing Zone.
- It is noted that there is currently a bungalow on this site which will be demolished, so there is a net increase of 26 units on the proposed development.
- The full policy requirement for this scheme is therefore 8 Affordable Housing units. However, once Vacant Building Credit (VBC) is calculated the Affordable Housing requirement is 6 affordable housing units on a nil subsidy basis.
- It is noted that the intention is for the scheme to be provided as 100% affordable housing in which case the input of grant funding will be acceptable for all the units.
- Discussions have been held with the applicant regarding the tenure of the proposed units
- In accordance CP43 and CP45 the tenure mix of the policy requirement (6) should reflect local need for affordable housing and should therefore be provided with a tenure mix of 60% of the units (4 units) being for Affordable Rented Housing, and 40% of the units (2 units) being provided for shared ownership.
- The above mix, which should also give details of the unit sizes, and an alternative mix for an 100% Affordable Housing scheme with grant funding should be included in the s.106, the applicant should agree these mixes with the Council as soon as possible.
- Affordable housing in Wiltshire is expected to meet high standards of design and quality, and to be visually indistinguishable from open market housing.
- In order to ensure that the affordable housing units are eligible for inclusion in Homes England's Affordable Housing programme, we would advise that all affordable homes are built to meet at least 85% of the Nationally Described Space Standard (NDSS) relevant to the dwelling type and minimum person criteria.
- The current scheme meets these requirements.
- If the scheme is not developed by the applicant, the affordable dwellings will be required to be transferred to a Registered Provider, approved by the Council, or to the Council, on a nil subsidy basis.
- The s.106 agreement will secure either the policy level of affordable housing units at nil subsidy or 100% of the units if subsidy is used.
- The Local Authority will have nomination rights to the affordable dwellings, secured through a s.106 Agreement

### **7.9 Archaeology – No Objection**

- Please note that my comments relate solely to the buried archaeological heritage and not to the historic built environment which is a matter for your Conservation Officer.
- The amended plans do not alter the Archaeology Service's original response submitted in April 2020, namely that I have no archaeological concerns and no further action is required as regards the buried archaeological heritage in relation to this proposal.

### **7.10 Public Open Space – No Objection subject to S106**

- The 27 dwellings would generate a requirement for 264.68 sq.m<sup>2</sup> Casual Open Space and 200.88 sq.m<sup>2</sup> Equipped Play Space.
- I note that there is no on-site provision proposed so this requirement would equate to an off-site contribution of £9,264.26 towards public open space, and an off-site contribution of £28,926.72 towards children's play space.
- There would also be a requirement for 1108.08m<sup>2</sup> sports and leisure provision which would equate to an off-site contribution of £11,080.80.

- The target site for all these contributions is Dewey's Lane Recreation Ground.
- So just to clarify there is a requirement for £49,271.78 in S106 contributions

#### **7.11 Public Protection – No Objection subject to Conditions**

- It remains our approach that we will not accept any strategy that recommends the use of non-openable windows for residential properties as a means of securing the internal acoustic environment.
- Where openable windows are provided, we will not accept a strategy that relies on the occupier of the noise sensitive premises having to close the window during noisy activities other than, in exceptional circumstances, for noise from transport sources.
- The BS4142 assessment in the report dated 15.03.2023 demonstrated a significant adverse impact was likely at night for plot 1, the property most impacted by commercial/industrial noise.
- In the following submissions the acoustic consultant has worked to demonstrate that given the context of this site, the commercial internal noise level target discussed for this specific application of 20dB(A)eq, is achievable for habitable rooms with windows open.
- We will therefore not recommend refusal of this application at this time.
- Noise mitigation measures will be required and, in addition to the measures listed in the consultants reports, the direction of opening of windows for the most sensitive plots will be important.
- Any scheme of sound insulation should include details of how windows will only be openable with the openings facing directly away from the noise sources.
- Conditions are therefore recommended in regards to noise.
- I have read the 'Soils Limited' site investigation report supplied and I am happy with the findings.
- Section 7.8 recommends compliance with relevant legislation in respect of re-use of site material and the report also presents a robust discovery strategy in Sec 7.10 in case unexpected materials are discovered during the development.
- It is strongly advised that both of these recommendations are followed during development but I do not think a condition is necessary.
- With respect to the impact of the development upon Air Quality. I note the transport assessment provided and consider it unlikely that the increase in AADT as a consequence of the proposals will exceed 500, (the threshold above which we would expect a full Air Quality Impact Assessment to be supplied and approved).
- Nevertheless, It should also be noted that we require contributions towards reducing vehicle emissions across Wiltshire in keeping with our current Air Quality Strategy and Core Policy 55 and I would suggest a condition to cover this

#### **7.12 Ecology – No Objection subject to Conditions and S106**

- Mitigation and enhancement as recommended in the Bat Emergence/ Re-entry Surveys and Mitigation Report does not appear to have been included on this most recent layout,
- In accordance with recommendations in the ecology report the following measures must be shown on a plan of the current layout: Wildlife friendly landscaping, Hedgehog gaps in fence lines, 5 bat tubes on buildings, 2 integrated bat boxes on buildings, 6 swift nest boxes on buildings.
- The proposal would result in loss of a bat roosts.
- Bats and their roosts are afforded stringent protection under the Conservation of Habitats and Species Regulations 2019 (as amended) and as such are a material consideration within the planning consultation process.

- The proposals must therefore demonstrate compliance with the bat mitigation recommended in the report and summarised above.
- Adherence to the plan demonstrating adherence to the mitigation and enhancement must then be secured by condition.
- A Protected Species Mitigation License will be required in order for the development works to be lawful. Adherence to measures to avoid harm to bats during construction and demolition will be a requirement of this license.
- This application lies within the 6.4km buffer zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan it is screened into Appropriate Assessment due to the potential impact of recreational pressure on stone curlew in combination with other plans and projects.
- In February 2022 NE confirmed that the 2018 Appropriate Assessment for Salisbury Plain continues to be supported by NE. That Appropriate Assessment reached a conclusion of no likely significant effect on the conservation objectives of the SPA, for development within 6.4km of the SPA boundary provided that the mitigation scheme continues to be implemented.
- Annual stone curlew monitoring and protection measures continue to be secured by the Council.
- As agreed in previous correspondence the applicant has agreed to use the Council's strategic mitigation to counterbalance the nitrogen burdens on the River Test Catchments and Middle Test.
- A legal agreement to secure the Nitrogen contribution and a water efficiency condition for this application is required.
- The nitrogen budget was 86.34 kg/N/yr. 2.7 ha of mitigation land is required. The contribution sum is £215,850.
- An Appropriate Assessment has been undertaken and has been signed off by Natural England

#### **7.13 Education – No Objection**

- I've have looked at the amended plans documentation for this application and note that the number of units has reduced by one.
- This does not make any material changes to our previous assessment/s.
- I note that we were not making any S106 cases on the application, and that remains the case.

#### **7.14 Drainage – No Objection subject to Conditions**

- No further drainage information had been provided since the Sequential Site Assessment was submitted
- As per our previous correspondence, the LLFA still require the applicant to submit a scheme for the discharge of surface water from the site before we can fully support the application.
- This should incorporate sustainable drainage details throughout the site
- The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

#### **7.15 Waste & Refuse – Support subject to S106**

- The on-site infrastructure required by the proposal is the provision of waste and recycling containers for each residential unit.
- The estimated s106 contribution required for the provision of this essential infrastructure to make the application acceptable is £2548
- This contribution is directly related to the development and is specifically related to the scale of the development, as it is based upon the number of residential units on site.



- CP3 provides overarching policy support for securing developer contributions towards 'waste management services such as recycling and collection facilities', which is classed as 'essential infrastructure'.
- The Wiltshire Planning Obligations Supplementary Planning Document (SPD) (Adopted May 2015) supports CP3 and provides further detail on the council's approach to developer contributions.
- The Planning Obligations SPD lists 'waste and recycling containers' as a type of site-specific infrastructure that would be sought through S106 contributions rather than through the CIL.
- The provision of bins, and the services required to support waste collection, is a burden on the council that can often be directly related to new developments and hence firmly within scope for financial contributions to be made through s106 agreements.
- Vehicle tracking is required to demonstrate that refuse collection vehicles (RCVs) can move through the development and turn at the ends of roads, especially taking account of cars parked in allocated spaces and at the roadside.
- Adequate turning room should be provided to take account of the restrictions on carry distances for residents set out in Part H of Building Regulations (25m), the limitations on carry distances for waste collection crews, where the vehicle should be able to stop within 10m of a collection point and due to the requirement to minimise reversing to meet the requirements of BS 5906:2005.
- Tracking on plans should demonstrate the sufficiency of vehicle access.
- The council requires an indemnity in order to operate on any roads that are not adopted, including during any period where the council needs to deliver waste collection services prior to adoption.
- Each dwelling should have a collection point that is on level hardstanding off any roadway or footway at the curtilage of the property.
- residents should not have to carry their waste containers more than 25m from the storage point to the collection point.
- If final designs include communal bin stores for flats, particular attention should be paid to the location and accessibility of bin stores, as the RCV should be able to park within 10 metres of the store without obstructions and with dropped kerbs in place to enable the bins to be safely manoeuvred to the rear of the RCV.

#### **7.16 Environment Agency – No Objection subject to Conditions**

- The Phase 1 desk study does not identify any highly significant sources that are not covered in the main site investigation. In particular no underground tanks or pipe work were identified.
- We withdraw our requirement for the Remediation Strategy & Verification Report planning conditions, but maintain our requirement for the Unidentified Contamination and Water Efficiency conditions.
- The Phase 1 describes an above ground waste oil tank, it is not clear that this was fully targeted in the site investigation. We would also highlight that no detailed maps or plans of the tank locations, together with the targeted investigation locations, appears to have been provided in either investigation.
- This is not good practice. Without this it is hard to be definitive on how comprehensively any source has been investigated.
- We would though concede that though this site is in a principal aquifer, it is not in any source protection zone, there are no other immediate highly sensitive groundwater receptors in the area.
- Groundwater levels are also not likely to occur close to the surfaces (>10m). As such do not regard this site as being very highly sensitive with regards to controlled waters.

- While we have a few reservations, given that no major additional source of contamination were identified in the Phase 1 and that groundwater is not especially sensitive, and some targeted investigation of sources has been carried out, we are satisfied that it is unlikely that there is major gross contamination present at this site which may pose a significant risk to controlled waters.
- As such we would agree to removing the site investigation and verification conditions.
- The unexpected contamination condition should remain.
- Given the issues identified above a careful watch brief should be maintained during any development for any previously unidentified contamination. Particular attention should be observed when working in location of sources of positional contamination, which may not have been fully targeted in any previous work (such as the waste oil tank).
- The submitted *FRA* appears to be a draft document. We are basing our response on this being the final proposal. We request to be consulted on any amendments to the drainage scheme as submitted.
- The incorporation of water efficiency measures into this scheme will: contribute to climate change resilience; reduce abstraction pressure on water resources and riverine ecosystems; benefit future residents by reducing water bills. This can be secured by condition
- Increased water efficiency for all new developments potentially enables more growth with the same water resources.
- Developers can highlight positive corporate social responsibility messages and the use of technology to help sell their homes. For the homeowner lower water usage also reduces water and energy bills.

#### **7.17 Wessex Water – No Objections subject to Informatives**

- There are no known Wessex Water Assets within the proposed site boundary.
- Maps can be obtained from our website
- Wessex Water is not the incumbent for foul drainage at this location.
- Wessex Water will provide a point of connection for new water mains to be laid into the development site, either through a Section 41 agreement or a self-lay arrangement.
- Developers may connect to our water network on a size for size basis at their cost and Wessex Water will undertake any network reinforcement that may be required to accommodate granted development, this is funded through our infrastructure charging arrangements.
- Upon grant of planning Wessex Water will undertake a modelling exercise to determine the impact on our network and manage any necessary improvements.
- Point of connection would be to the 6” distribution main location on Andover Road.
- We would request that we are kept informed of the progress with this application to ensure we able to meet the demand for the new dwellings without jeopardising the supply to existing customers.

#### **7.18 Natural England – Comment**

- Proposals that comprise new development with overnight accommodation will have waste water implications.
- It is Natural England’s view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

- This only applies to developments where the treated effluent discharges into any Solent European site (Solent Maritime SAC, Solent and Southampton Water SPA and Ramsar site, Portsmouth Harbour SPA and Ramsar site, Chichester and Langstone Harbours SPA and Ramsar site, Solent and Dorset Coast SPA or Solent and Isle of Wight Lagoon SAC), or any water body that subsequently discharges into such a site. It is for your authority to determine if this development meets these criteria.
- If so, Natural England's advice is that the nutrient content of the discharge needs to be considered, in combination with other nutrient inputs, for impacts on the receiving sites
- There is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.
- There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites.
- The Partnership for Urban South Hampshire (PUSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment.
- A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures.
- However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.
- Where proposals comprise new overnight development, this will have inevitable waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.
- It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC) due to the increase in waste water from the new housing.
- As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an "appropriate assessment") the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.
- Complete information is required to ensure that the proposal will not affect the integrity of the international sites.
- Natural England advises that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account.
- LPAs will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens.
- Natural England has prepared a methodology setting out how this can be achieved and this is attached for your information. It is appreciated that this may be difficult for smaller developments or developments on brownfield land.

- Natural England has advised that local planning authorities set up an interim approach that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England is working closely with affected local planning authorities to help address this issue.
- Natural England can also provide further advice to the applicant on mitigation options under our [Discretionary Advice Service](#).
- Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.
- Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.
- Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).
- Notwithstanding this, Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).
- This is because Natural England notes that the recent *People Over Wind* Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site.
- The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site.
- Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.
- Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling.
- In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.
- We advise that the site lies within the stone curlew impact zone. A contribution to the mitigation scheme for Stone curlew is thus required, if not being gathered through CIL
- The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI.
- The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website.
- The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

**7.19 Letters** – 8 letters of Objection received. The following comments made:

- This is a ludicrous plan
- No one seems to listen to the people who live and use as pedestrians (able bodied/less able bodied/mums/parents with pushchairs/mobility scooters and elderly) in the area.
- This will still go ahead with or without residents' concerns.
- This is less beneficial than necessary and there are better places to site a development like this than in the middle of a congested area
- This site is being overdeveloped
- A site meeting is needed with Town Council and residents of Rawlings Court
- Have seen suggestions of how HGV are to enter and turn around on site, this entrance is already congested and dangerous without these new proposals.
- This entrance plus bus stops, co-op and Tesco is already highly dangerous for pedestrians adding these houses will result in someone getting seriously hurt or killed.
- Pedestrians crossing the access route already have to look 3 ways and increased traffic will make it more difficult
- This is a totally inappropriate area for new development unless an alternative entrance and exit can be found I really don't think this is a viable plan.
- On completion of the building work and occupation of 27 houses that is another 27 minimum vehicles to approximately 60 vehicles gaining access.
- how will emergency vehicles and rubbish collection vehicles access the houses
- The entrance from the A342 is ridiculously tight
- There will be 3 less parking spaces less for customers
- Concerned about dust/debris from the demolition
- What are the plans to ensure on demolition that the surrounding properties are not left under a cloud of dust and bits of masonry etc from demolition of the adj bungalow
- What impact will the build have on the footpath during demolition and build phases?
- The construction traffic will be further Highway problems
- We need more facilities and amenities like another Doctor's surgery, a Dentist which takes NHS, a swimming pool,
- The land at the Business Park has been unoccupied since Designation.
- Reduction in sunlight for properties in Rawlings Court
- The Rights of Light Act 1959 states that if a property has received daylight for the last 20 years (the minimum prescribed period), they may be entitled to continue to receive that light, and it would appear that the building of a block of flats so close to the aforementioned addresses may reduce the available sunlight into existing properties.
- A wall or solid fencing need to retain the privacy of properties on Central Street

**7.20 2 Letters received on Behalf of Tesco's** – Objection

- Tesco Stores Ltd has been liaising with the applicant and was under the impression that the initial concerns and objections relating to serious road safety with the proposed access design to serve the residential development at Parnham Coaches, Ludgershall had been taken into account as a reasonable compromise which would have required Tesco to adjust servicing arrangements.
- Tesco has committed to engaging with the applicant to find a solution which would remove the road safety issues and, therefore, their objection to the proposed residential development.
- Unfortunately for unexplained reasons Tesco's road safety concerns have not been addressed.

- No road safety audit has been undertaken.
- Despite initial encouraging discussions with the applicants Highways Consultant regarding an alternative delivery solution, we received a recent email indicating that the applicant is reverting to the submitted access strategy which maintains the inherent road safety issues.
- For clarity, Tesco proposed a simple delivery solution which required the delivery vehicle to enter the Tesco car park in a forward gear, unload at the store entrance and then exit in a forward gear via the car park entrance.
- This proposal would remove the need for HGV's to undertake reversing manoeuvres in the area where access to the residential development is proposed and pedestrians demand will increase.
- The delivery strategy would require the car park spaces to be inoperable for around 25 minutes during the delivery process.
- This is common practice at many Express stores and can readily be accommodated by Tesco.
- To assist with the delivery procedure, Tesco requested that a simple retractable bollard be introduced to control access to the car park during the delivery period and a dropped kerb on the corner of the entrance be provided to ensure that any overrun by the delivery vehicle avoids future maintenance issues.
- The accommodation works are minimal by any standard and easy to implement removing any road safety issues and conflict with the residential environment.
- Despite the discussions, the applicant's highway consultant is advising that closing the Tesco car park for a 25 minute period, once a day on average, is not acceptable and they therefore have to revert to the original delivery proposals.
- We do not accept or understand these concerns as the arrangements are common practice. It is of significant concern to Tesco that access to a car park appears to be more important than significant pedestrian road safety issues into the proposed residential development.
- Operational issues at the store should be a matter for Tesco, not the residential applicant
- It should also be recognised that there is a car park available directly to the west of the Tesco site should any customers require to park and access the store during a delivery.
- Deliveries to the store will generally be undertaken as early in the morning as possible, before the morning commuter peak period, when customer demand is low and parking in the adjacent car park will be limited.
- As such, access for customers and parking is not considered to be a material concern.
- Tesco are left with no option but to revert to their original position which objects to the proposed development on road safety and access grounds.
- Given the obvious road safety issues with the proposed access as a result of introducing vulnerable road users to an area which has to accommodate HGV's reversing it is considered that an independent road safety audit should be requested by the Local Authority as an absolute minimum. It is also of concern to Tesco that "Wiltshire's Highways Officer has acknowledged that there is not an ideal solution which would address all the issues and it is a case of achieving a workable scheme within the site limitations, taking into account that the site has an existing planning permission." As far as we understand, access to the proposed site was a reserved matter within the outline planning permission. Suitable access therefore has to be achieved in order for the development to be viable and deliverable.

- At present a safe and appropriate access has not been put forward and Tesco would be very concerned if the Highways Officer was suggesting that an unsafe access should be accepted simply because an outline planning permission has been granted.
- Full details of access have to be acceptable for the development to proceed.
- The proposed access is a relevant material planning consideration and should conform to the relevant highway design and safety standards regardless of whether outline planning permission has been granted.
- There is a straightforward solution to the access issue which Tesco has put forward and the council should require the applicant to adopt the revised proposal and include this in their reserved matters application submission.
- Furthermore, Tesco can confirm that the current layout does not provide for their current legal access rights and should a suitable access solution not be reached this would be pursued through legal recourse.
- The council should be aware of Tesco's current right of access over the application site for servicing the Tesco store

#### **7.21 Ramblers Association - Objection**

- The plans do not appear to provide any access for residents to the adjacent public footpath LUDG6 or to the recreation ground. This is unsatisfactory.
- The layout should be revised to provide a direct pedestrian access from the site.

#### **7.22 Salisbury & Wilton Swifts – Comment**

- We believe all new developments should provide habitat opportunities for those species, such as swifts, who prefer, or can adapt to the built environment.
- We would like to raise awareness of how easy it is to make provision for swifts, particularly in new builds and renovations.
- This is particularly important with the net gain for biodiversity expectations emerging within local governments. We have experienced volunteers who are willing to offering swift advice and practical help wherever they can.
- We would not support the statement at para 6.29 of the Planning Statement that because the site is mostly hardstanding it is not a suitable ecological habitat as this is missing the very important point that some species prefer, or can adapt to, built-up environments.
- The recently revised natural environment planning guidance (National Planning Practice Guidance (PPG)), by central government, places a greater emphasis on the way development can enhance biodiversity and the environment – that ‘net gain’ should encompass both biodiversity net gain and wider environmental net gain.
- Species provisions are highlighted in paragraph: 023 Reference ID:8023-20190721 of the PPG: *"Relatively small features can often achieve important benefits for wildlife, such as incorporating ‘swift bricks’ and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat."*
- Provision of integral swift bricks in this application would comply with CP50 to protect and enhance biodiversity and meet the requirements of the National Planning Policy Framework para. 170 (d), that *‘Planning policies and decisions should contribute to and enhance the natural and local environment by: ...minimising impacts on biodiversity and providing net gains in biodiversity....’* By conditioning swift bricks in this new development the actual buildings themselves will provide a habitat that previously didn't exist thereby contributing towards a net gain in biodiversity.
- Integral bricks have several advantages over nesting boxes as once installed the bricks are discrete, maintenance free and last the lifetime of the building.

- There is evidence that house sparrows (red-listed) prefer to use swift bricks as opposed to sparrow bricks or terraces, which swifts cannot use, and they are also used by blue tits and great tits.
- Therefore specifying swift bricks is a cost-effective way of helping more than one species.
- Swifts will readily use swift bricks and they are very easy to include into routine building practices resulting in an inexpensive biodiversity enhancer with the nesting site confined within the brick with no access to the roof space.
- Swift nests do not suffer from accumulation of bird lime, as happens with martins and swallows, because the birds catch their food and defecate on the wing away from their nests.
- Should Wiltshire Council approve this application we recommend the Council follows the 1 nest brick per dwelling guidance and conditions the installation of 27 integral swift nest bricks in this development in clusters of 2 or 3 preferably in the north, east and west gable ends or close under the eaves of those buildings with clear flight access. The gable ends of the flats provide an ideal site for several small clusters.

## 7. 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.

### 8.1 Principle:

As is identified above, the site is situated within the main built-up parameters of Ludgershall, which is defined as a Market Town by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP26 (Tidworth Community Area). WCS policy CP2 (Delivery Strategy) confirms that in such a location there is a presumption in favour of sustainable development. WCS policy CP26 (Tidworth Community Area) further confirms that in this community area there is a need for approximately 1,920 new homes by 2026 and the strategy for delivery is that approximately 1,750 of those will be provided in Tidworth and Ludgershall. The principle of new dwellings on this plot within the defined built-up area of Ludgershall is therefore accepted.

The extant Outline permission (considered under ref: 15/04689/OUT) also established the principle of the site's development with 25 houses (including the retention of the existing bungalow). Whilst all matters were previously reserved for the Reserved Matters Stage, in considering and approving the previous application the Council had to be satisfied that the site could accommodate 25 units; that the access was suitable for such a type and quantum of development; and that the scheme could be designed to adequately mitigate any concerns in terms of any impacts for surrounding amenity, ecological/landscape impact and flooding. This previous permission is therefore a material consideration for the current scheme which is now proposing 27 units (an additional 2 units) on the same site utilising the same access point as the previously agreed scheme.

#### Loss of Employment Land:

Whilst the site was formerly in employment use, the extant Outline permission also effectively established the principle of its loss and redevelopment for housing. It was previously confirmed that the site was not strategically allocated employment land; and that Ludgershall has such a specific employment site to the west of the town, intended to meet the settlement's current and future needs. In addition, it was considered that



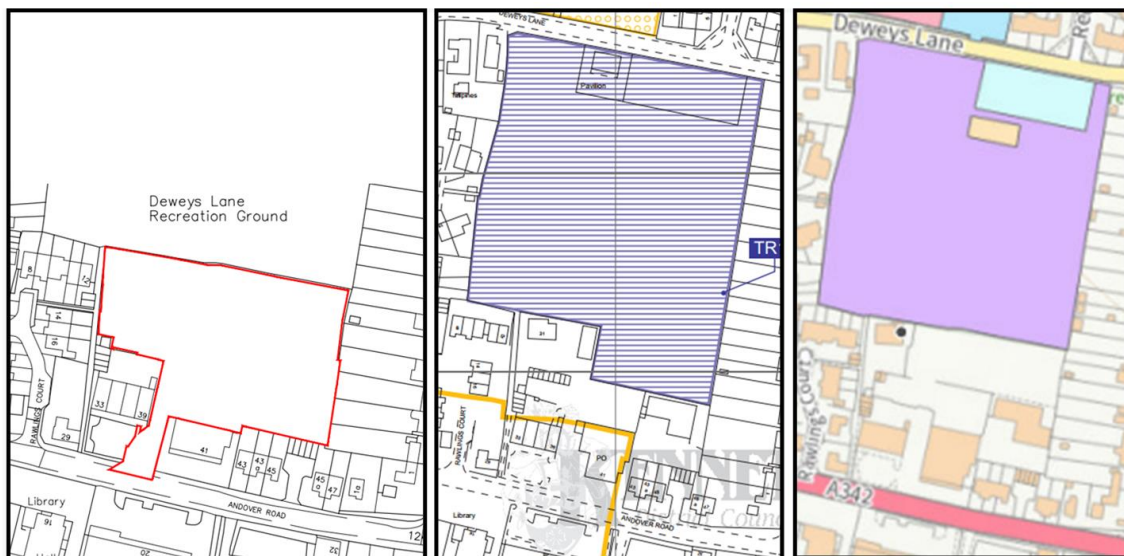
the land is not ideally sited given its relationship to adjoining residential properties and that the site access is shared with a number of other commercial properties where there is already a large number of vehicular and pedestrian movements. Given these conclusions and the extant permission, it is not considered that this matter needs to be reassessed for the current scheme against WCS policy CP35 (Existing Employment Sites). The loss of employment land also therefore continues to be accepted.

Loss of Public Open Space:

As has been identified above, the saved KLP policy TR17 allocates Dewey's Lane Recreation Ground as an Outdoor Recreation Site and the loss of existing sports field is resisted by both national and local policy. This policy designation is shown on the adopted Proposals Map supporting the KLP, to extend into the northeastern corner of the site (as shown in PLAN F below) and therefore the redevelopment of this site would appear to represent a loss of playing fields, contrary to this saved policy.

However, it is clear from a site visit that the northeastern corner of the site is currently hard surfaced and has formed part of the former coaching business for some time. A mature Leylandii hedge physically separates that part of the site from the adjacent recreation ground to the north and there is no evidence that the site has ever actually formed part of the adjacent recreation ground or its sports pitches.

The Council's Public Open Space Team has also confirmed that the emerging draft Wiltshire Open Space Assessment will be replacing the saved district council policies and allocations as part of the Local Plan Review. As part of that assessment, the open space maps have been updated in consultation with the town and parish councils in order to ensure accuracy. It is confirmed that there were some mapping inaccuracies in the previous district maps, and it is believed that the extent of the Dewey's Lane Recreation Ground TR17 allocation was one such inaccuracy as, as can be seen in PLAN G below, this north-eastern part of the site is no longer shown to be part of the recreation ground in the emerging strategy.



**PLAN E – Current Site**

**PLAN F – TR17 Designation**

**PLAN G – Emerging Open Space Review Designation**

It is therefore considered that the proposals will not therefore result in the loss of any actual playing fields and are thus also acceptable in terms of the provisions of saved KLP policy TR17.

This 'principle' acceptability is, however, subject to the detail in terms of the current scheme's differences to the extant scheme; and its potential implications for the character of the area; neighbouring amenities; highway safety; ecological value; and flooding and drainage. These matters will therefore be considered in more detail below.

## **8.2 Character & Design:**

The current site was formerly in a mixed commercial and residential use. It is situated adjacent to a recreation ground as well as a small parade of shops/local service centre. Otherwise, it is surrounded by other residential properties and their associated amenities. The area therefore has a fairly urban, mixed-use character as befitting its central location in the middle of the market town of Ludgershall. The site has also remained vacant since 2018 and is deteriorating, becoming scruffier and attracting anti-social behaviour, thus currently contributing little to the area.

This proposal involves the redevelopment of the site with 27 residential units, which have been reduced from 28 during the course of the application. The units are all to be provided in 2 storey massing in a mix of detached, semi detached and terraced properties. The design of the units is not particularly innovative or groundbreaking, but the new dwellings are of functional design and a variety of building materials and brick work detail has been incorporated to add interest to the various street scenes.

A total of 6 affordable housing units are identified on the site which are pepper potted throughout the site and are indistinguishable from the market houses in terms of their design and amenity. As will be discussed in more detail below, it is however envisaged that this scheme will come forward as a 100% affordable housing scheme which will meet a current housing need in the area.

The majority of the scheme is to be provided as housing with 4 flats proposed adjacent to the frontage retail units. Gardens are to range from 8-11 metres in length and are to predominantly back onto the peripheral site boundaries thus resulting in a relatively inward facing development and soft buffer between the proposed housing and surrounding uses. Whilst some of the gardens are fairly small, the overall plot sizes are considered to be commensurate with the size of other plots/gardens in the immediate vicinity – such as the properties in Rawlings Court – and the density/grain shown is appropriate for such a town centre location. The site is also situated to the rear of the existing service centre and is thus, effectively a backland site with little relationship or prominence in the public street scene.

Local concern has been raised about the development turning its back on the recreation ground and adjacent public footpath. However, these boundaries are already well defined, and the Town Council has insisted that no direct access be encouraged onto the recreation ground from the site. The public footpath is easily accessible from the site however as it starts in front of the adjacent parade of shops and thus access to the recreation ground is easily achievable from the site despite there not being a direct access point. The site is also very sustainable given its location adjacent to a well-used local service centre and bus stops. This matter is not therefore considered to justify a reason for refusal.

A number of amended plans and layout iterations have been negotiated throughout the assessment of the scheme, which have addressed both concerns of the Council's Urban Designer and the Crime Prevention Design Advisor. The proposals are now considered to create a safe and well-designed form of development for this site, which will make effective use of land and bring it back into a useable state. Whilst this scheme involves slightly more units than the extant permission (which involved 24

units and retention of the existing bungalow), it is considered that the proposals can be adequately accommodated on the site and will be in keeping with the general form, types and density of development that is found elsewhere in the vicinity of the site. The scheme is therefore considered to represent an acceptable redevelopment of the site that, like the previously approved scheme, will continue to fit more harmoniously into the area than the previous coach depot and car repair uses.

#### **8.5 Neighbouring Amenities:**

As has been identified above, the proposal generally involves a layout that uses back gardens to buffer between the proposed housing and the surrounding uses. The houses generally look inwards and given the level of separation created by gardens and defined boundary treatment it is not considered that the proposals will result in any significant implications for existing residential amenities in terms of overlooking or loss of light. Internally the site layout has also been carefully managed to ensure that there will be no unacceptable inter overlooking or loss of light between the new the properties either.

##### Construction:

Much local concern has been raised about noise, disturbance, dust and traffic that will be generated during the construction phase of this backland site. However, the Planning System accepts that there is a certain amount of disturbance caused by any construction work and thus this matter cannot therefore be used to justify a refusal of the scheme. Given the backland nature of the proposals, it is however considered necessary to restrict hours of construction to more sociable hours. A condition will be imposed accordingly. The Highway Authority and Public Protection Teams have also requested conditions be imposed on any permission regarding management of the construction phase. Together it is considered that these restrictions will minimise the inconvenience and disturbance caused during construction for existing residents, as much as possible.

##### Noise:

As has been identified above, the site is situated behind a parade of shops and a Tesco Express. Both sides of the local centre have rear plant, flues and air conditioning units positioned on rear walls serving the retail units and takeaways. There is also an offsite substation positioned adjacent to the south-western corner of the site. The Council's Public Protection Team originally objected to the proposals on this basis as it is considered that the residents in Plots 1, 2, 3, 8, 9 and the flats will be particularly susceptible to the noise generated from these adjacent commercial uses. However, the applicants have submitted a noise assessment and additional acoustic information has been submitted during the course of the application. This has confirmed that the potential harm for the new residents in terms of noise can be adequately mitigated by the use of mechanical ventilation and acoustic wall features along some of the boundaries. The internal layout and design of the flats has also been amended so that only non habitable room windows now face onto the Tesco site.

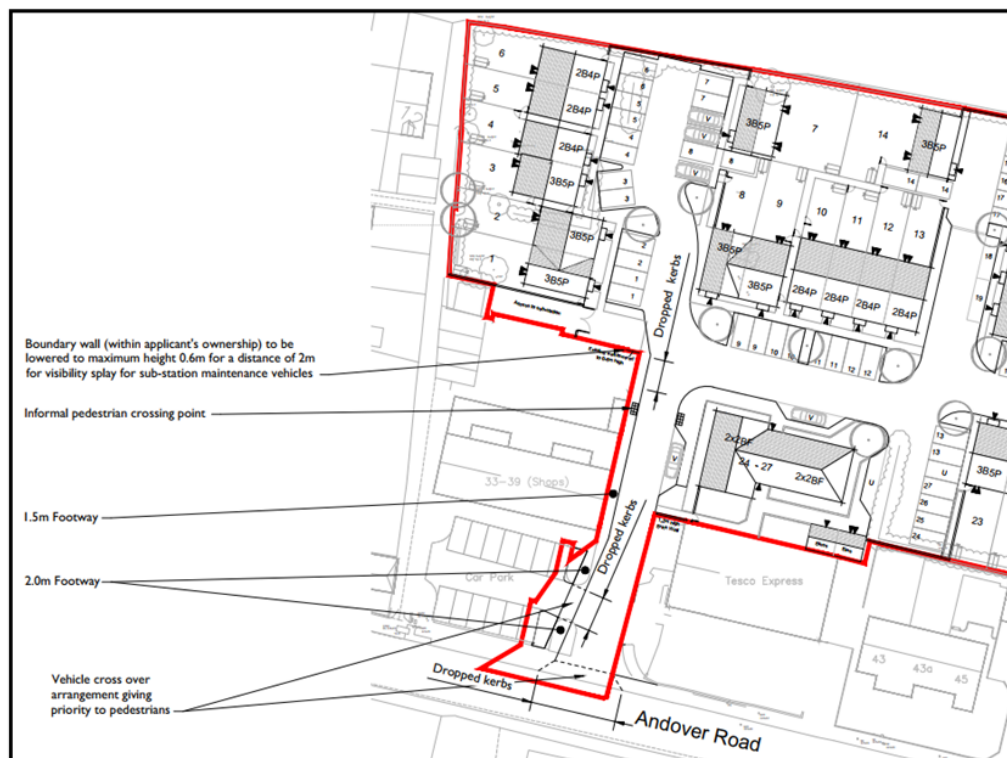
It must also be remembered that an extant permission for a total of 25 houses already exists on this site and whilst only granted in Outline, the previous indicative layout showed a similar layout and thus relationship with the southern retail uses. It is also noted that the applicant is a housing association who will likely be building out the scheme and will have long term management responsibilities over the site, units and the amenities of their future tenants. On that basis, and subject to conditions limiting how windows open on the most affected units, the Council's Public Protection Officer has now withdrawn their objection in this regard.

## 8.6 Highway Safety:

As has been identified above, the site is to be served by the existing access from Andover Road to the south, which is shared with the parade of shops and Tesco's; and is fed from a track between the two existing blocks of retail units. This matter has created the most concern for local residents and the Town Council and has resulted in many changes to the access arrangements proposed during the course of the application.

However, again it must be remembered that there is an extant permission on this site for the provision of 25 units. It has been suggested that as this was in Outline it is not an important consideration but in granting Outline permission, the Local Planning Authority and Highway Authority must have been satisfied that the 25 units could be safely accessed by car, deliveries/refuse trucks and pedestrians and that the other users of this access track and local service centre could be adequately accommodated, otherwise the Outline application would have been refused. The fact that Outline permission was therefore granted therefore means that it was considered that 25 units could be adequately accessed. In addition, whilst issues were raised about the submitted indicative layout/site plan by consultees, no conditions were imposed on the decision to confirm that the layout plan was not agreed or should be changed to address any particular concerns or that the access was not appropriate. There is therefore no indication on the Outline decision that the indicative layout was not accepted or had to be altered by any subsequent reserved scheme and that layout could therefore come forward at the reserved matter stage.

It should also be remembered that the last and lawful use of the site was as a Coach business with coach park, car repair business and residential bungalow. All of which previously used this access onto Andover Road and shared the access track between the frontage retail units. These uses could be reinstated without any further planning permission being required and this rear site could be used to park coaches at any point. It is with these two potential fall-back positions in mind that the current scheme must therefore be assessed.



**PLAN H – Proposed Access Arrangements**

As can be seen in PLAN H above, changes have been identified to the existing site access. New pedestrian priority crossings are identified on the access with Andover Road and the western side of the local centre parking area; a new footpath is proposed along the western side of the access feeding the site from Andover Road; and informal pedestrian crossing points have been identified within the site. The area adjacent Tesco Express is off site and is still available for deliveries. A swept path analysis plan has also been submitted demonstrating how delivery vehicles can continue to access the Tesco site and how refuse vehicles can access and turn within the application site.

The Highway Authority is satisfied that the access arrangements identified are now acceptable and will safely serve the 27 units. Tesco's have raised doubt about how this will work and consider that there will be a potential conflict with their current delivery arrangements and the increased pedestrian use of this area. However, the creation of a dedicated footpath is an improvement in this regard. In addition, the Tesco side of the retail centre already benefits from a second access onto Andover Road and alternative delivery arrangements could therefore be made to reduce any potential conflict with other users. Indeed, the Tesco's letter of objection has highlighted a possible alternative solution and tracking details have been submitted to demonstrate that alternative access arrangements across the front of the store are possible. It is also possible that Tesco could change their processes so that smaller delivery vehicles are used to service this site, as they do with many other Tesco Express sites across the County on much tighter sites than this. However, as this all involves the operational needs of a business that is not the applicant or under the control of the applicant/this application; and involves land that is outside of the 'site' or control of the applicant, it is not possible or appropriate for the delivery arrangements for Tesco to be controlled by conditions on *this* permission.

The fact remains that an extant permission already exists for this access to serve 25 residential units; and/or a coach business and parking area. It is not considered that the provision of an additional 2 dwellings on this site will create any significantly different or unacceptable implications for all users of this access. The Highway Authority is satisfied that there are workable solutions available to the adjacent retailer/s and that is sufficient to be sure that the access arrangements to this site are acceptable.

The level of on-site parking identified in the layout (50 dedicated spaces plus 9 visitor spaces to serve the 27 units) is also considered to be appropriate and meets the Council's adopted parking standards. The Highway Authority is also satisfied that the site can be well serviced by refuse and emergency vehicles despite the road not being adopted. The Highway Authority has therefore raised no objection to the scheme and the third party objections to the scheme in this regard cannot therefore be upheld.

#### **8.7 Ecology:**

Ecological surveys have been undertaken at the site which have identified that the existing bungalow has a bat roost and thus a European Protected Species Licence will be required before demolition can occur. Further survey work and an ecological mitigation plan has also been submitted during the course of the application, which proposes the installation of 7 integrated bat boxes across the layout; 6 integrated swift boxes; 5 hedgehog gaps in fences; and additional hedgerow planting around the site. This will ensure that any impact for protected species will be adequately mitigated, but in line with WCS policy CP50 (Biodiversity and Geodiversity), additional biodiversity enhancement will also be secured as part of this scheme. The local Swift Group has requested that every house be fitted with a swift box, however the Government's intention for a minimum 10% biodiversity net gain requirement is not as yet in force

and the adopted WCS policy does not currently specify a minimum requirement. The level of mitigation and enhancement identified, including 6 swift boxes instead of the 27 requested by the local group, is therefore considered to be acceptable in line with current policy. The Council's Ecologist has raised no objection to the proposals on this basis accordingly.

Salisbury Plain SPA:

As is identified above, this application site lies within the 6.4km recreational zone of the Salisbury Plain SPA and in light of the HRA for the Wiltshire Core Strategy and the HRA for the Wiltshire Housing Site Allocations Plan, the application is screened into appropriate assessment due to the potential impact of recreational pressure on stone curlew in-combination with other plans and projects.

The qualifying features for Salisbury Plain SPA are non-breeding hen harrier and breeding populations Eurasian hobby, common quail and stone-curlew. Conservation objectives for the SPA and supplementary advice for implementing them have been published by Natural England (NE). Development coming forward under the Wiltshire Core Strategy is only anticipated to impact one of these species, the stone-curlew. This is a ground nesting bird species which research shows is particularly sensitive to disturbance by people and people with dogs. The unique character of the Plain attracts many visitors and a recent study has demonstrated 75% of these live within 6.4 km. Within this zone housing allocations from the Core Strategy, Housing Site Allocations Plan, Army Basing Programme and Neighbourhood Plans have the potential to lead to significant effects through their combined recreational pressure.

The Council's housing plans are mitigated through a project funded by the Community Infrastructure Levy (CIL) which records where stone-curlews breed and works with farm managers to maximise breeding success. The project was agreed with Natural England in 2012 and reviewed in 2018. In July 2021 Natural England confirmed that they continue to support the project as it continues to provide an effective, timely and reliable means of mitigating any additional effects arising from new residential development.

The Council can therefore conclude that this development will have no adverse effect on the integrity on the conservation objectives of the SPA.

Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA), Portsmouth Harbour SPA, Solent and Southampton Water SPA

In addition, whilst the application site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Test catchment which drains into the Solent. This region is protected by a number of international designations including the Solent Maritime SAC, Chichester and Langstone Harbours SPA, Portsmouth Harbour SPA, Solent and Southampton Water SPA; as well as the nationally designated Sites of Special Scientific Interest (SSSIs) that underpin these international designations. The Solent water environment is one of the most important for wildlife in the United Kingdom and is protected under the Water Environment Regulations and the Conservation of Habitats and Species Regulations 2017 (as amended) as well as through national legislation for many parts of the coastline and adjacent maritime areas.

Natural England has confirmed high levels of nitrogen and phosphorus are entering this water environment and that there is sound evidence that this eutrophication is causing excessive growth of plants and algae which reduces oxygen and light levels and is leading to negative effects on the special features for which the European sites

are designated. These nutrient inputs mostly come either from agricultural sources or from wastewater from existing housing and other development. Natural England currently advises that every permission for new dwellings in the River Test Catchment Area could result in increased nutrients entering the Solent area. Nutrients are generated by the new people in the housing (nutrients enter the water environment via wastewater discharges), and from their activities and pets. Nutrients can move to designated sites by streams, rivers or through the groundwater. Accordingly, the Local Planning Authority considers this proposal is likely to lead to significant effects on the European Sites and this land use change is considered within the Appropriate Assessment (AA).

In line with Natural England's Advice on Nutrient Neutrality, a calculation of the nitrogen burdens has been completed by the applicant for the proposal and approved by Wiltshire Council. This has confirmed that a nitrogen burden of 86.34 kg/N/yr will result from this proposal; and that 2.5 hectares of mitigation land is required to ensure there are no adverse effects on the integrity of the Solent protected sites.

Natural England has advised that permanent land use change by converting agricultural land with higher nitrogen loading to alternative uses with lower nitrogen loading, such as for local communities/wildlife etc, is one way of neutralising nutrient burdens from development. A Council led strategic mitigation scheme is available to help development in Wiltshire achieve nitrogen neutrality. The Council has permanently removed a dairy farm (a high nitrogen input use) on Council land located at Roundbarrow Farm near Pitton, east of Salisbury and will convert the land to a (low nitrogen input) nature reserve. The proposal for the long-term management of the land is to restore the land to chalk grassland, lowland meadow with some areas of natural regeneration and woodland planting for ecological connectivity. The farm is within the River Test catchment, near a tributary of the River Dunn which drains into the River Test. A hydrogeological assessment has been undertaken of the farmland to assess its suitability as mitigation for development in Wiltshire. Based on groundwater contribution, a reduction in nutrient contributions could be realised in the River Test in less than a year following the cessation of the site as a dairy farm. Natural England's Nitrogen Neutrality advice includes evidence of nitrogen leaching rate for dairy farms within the Solent catchment at 36.2 kg/TN/ha. Nature Reserves have a nitrogen leaching rate of 5 kg/N/yr. The applicant has agreed to use the Council led scheme to achieve nitrogen neutrality. The mitigation site has capacity for both existing planned developments and anticipated local plan growth in the River Test catchment.

Financial contributions to the mitigation scheme will be secured to cover the level of mitigation needed to achieve neutrality for this development, which equates to a total contribution of £215,850. As will be discussed below, this will be secured by the S106 that is to be completed for this development before the decision is issued with the contributions being secured prior to occupation. Securing contributions in this way enables the Council as Local Planning Authority to comply with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") (as amended) and WCS policy CP50 (Biodiversity and Geodiversity). It is considered that this approach delivers the required level of certainty to secure effective mitigation for the nitrogen burdens of this planning application. The Council is therefore able to conclude that there would be no adverse effect on the integrity of the above European sites as a result of this development. NE has agreed this approach and the Council's AA for this site and the recommendation is made on this basis.

## **8.8 Flooding & Drainage:**

As is identified above, the site is situated in Flood Zone 1 and is under 1 hectare in size. It is however in an area that is at relatively high risk of Ground Water Flooding. The application is therefore accompanied by a site specific Flood Risk Assessment (FRA) and a Sequential Test has been undertaken. A Drainage Strategy has also been submitted during the course of the application.

These conclude that there are no other suitable sites that would be appropriate for the intended use and given the fact that this is previously developed land; the site also benefits from an extant permission to redevelop it with a total of 25 units; and given it is in a sustainable town centre location that is surrounded by other residential units, it is considered that the proposals are acceptable in this regard. The Environment Agency, Wessex Water and the Lead Local Flood Authority (Council's Drainage Team) has raised no objections to the proposals accordingly.

## **8.9 CIL & S106:**

As of May 2015, the Council adopted its Community Infrastructure Levy (CIL). Any scheme involving a net gain in the number of dwellings in the area, could therefore be subject to CIL. An informative is attached to the recommendation to highlight this to the applicant accordingly.

In addition, any successful scheme involving a net gain of 10 houses or more houses on this site is also subject to S106 contributions and onsite provisions in line with various policies in the adopted Wiltshire Core Strategy, including CP3 (Infrastructure Requirements); CP43 (Providing Affordable Housing); and saved KLP policies HC34 and HC37, in order to mitigate the direct impact of the specific development on surrounding facilities/services. Those that are relevant in this instance are discussed below but confirm that as well as providing at least 6 units of affordable housing and the £215,850 to ensure nutrient neutrality, the scheme will also secure contributions totalling £51,819.78 towards off site community infrastructure and benefits. This recommendation is therefore made subject to the S106 being completed before the decision is issued.

### *Affordable Housing:*

The proposals identify a total of 6 (22%) affordable housing units at the site which is lower than the 30% required by WCS policy CP43 (Providing Affordable Housing). However as the site already benefits from a number of vacant buildings, the floor area of these buildings are taken into account in the calculation and are off set against this policy requirement, a process called Vacant Building Credit. This therefore amounts to a requirement for 6 units on this site in order to meet policy.

As however has also been identified above, the applicant is a Housing Association who has identified an intention to build out this site as a 100% affordable housing scheme. There are no adopted policies that suggest that the provision of Affordable Houses should be restricted or that the 30% requirement is a maximum provision. It is also entirely up to the applicant should they wish to provide a greater provision of affordable units than is required by the policy.

The Council's Housing Team welcomes the provision of 100% of the units as affordable units and it has confirmed that the proposals, whether as a 100% or policy compliant scheme, would assist in addressing an identified need for affordable housing in Ludgershall where there is a high level of demand for Affordable Housing. The tenure mix should reflect this local need and should therefore be secured in a mix of 60% of the units (4 or 16 units) being for Affordable Rented Housing, and 40% of the units (2 or 11 units) being provided for shared ownership. The S106 will therefore be



written to secure this tenure requirement and will allow for both scenarios – i.e.. Both a policy compliant level of affordable housing and a 100% scheme. Subject to this, the Council's Housing Team have raised no objection to the proposals accordingly.

Education Provision:

Saved KLP policy HC37 requires onsite provision or contributions from schemes of 25 houses or more towards additional educational provision for early years, primary and secondary levels. However, in this instance the Education Authority has confirmed that there is no need for any education contributions from this site as the existing schools/early year provision in Ludgershall and the local area already have adequate provision. No contributions will therefore be secured from this development in this regard.

Public Open Space:

Saved KLP policy HC34 requires provision to be made for public open space from any scheme of 20 or more units. In this instance the Council's Public Open Space Team has confirmed that this scheme will generate a need for offsite contributions totalling £49,271.78 as follows:

- £9,264.26 towards public open space improvements
- £28,926.72 towards children's play space; and
- £11,080.80 towards ports and leisure provision

It is confirmed that all three contributions will be used to improve the facilities at the adjacent Dewey's Lane Recreation Ground and will thus directly benefit the future occupants of this site. These contributions will be secured by the S106.

Waste Management:

The on-site waste infrastructure required by this proposal is the provision of waste and recycling containers for each residential unit proposed. This equates to a contribution of £2,548. This will also be secured by the S106.

**9. CONCLUSION:**

The site is situated within the defined settlement boundary of the sustainable market town of Ludgershall. It also benefits from an extant permission for its redevelopment with an additional 24 units (25 in total) and has a lawful use as a commercial coach business and car repair garage. It is considered that the current scheme will represent an effective use of a brown field site; will bring a redundant, currently deteriorating site back into use; will provide much needed affordable housing to the area; and the design, layout and benefits that will be secured from this scheme will all represent a significantly better and improved scheme to the extant permission. It is also considered that any issues in relation to highway safety; neighbouring amenities; ecology; and flooding can all be adequately addressed by condition or S106 contributions and thus the scheme is recommended for permission accordingly.

**10. RECOMMENDATION:**

Permission subject to Conditions and S106 to secure affordable housing and contributions towards off site infrastructure.

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Application Form & Certificate

Ref: LP.01 Rev B – Location Plan. Received – 25.03.2022  
Ref: DP.01 Rev B – Demolitions Plan. Received – 25.03.2022  
Ref: SL.01 Rev R – Site Layout. Received – 01.08.2023  
Ref: CSL.01 Rev R – Coloured Site Layout. Received – 01.08.2023  
Ref: SE.01 Rev N – Street Elevations. Received – 01.08.2023  
Ref: CSE.01 Rev N – Coloured Street Elevations. Received – 01.08.2023  
Ref: RP.01 Rev N – Roof Plan. Received – 01.08.2023  
Ref: 7280.214 Ref F – Proposed Access Arrangements Shared Space. Received – 04.05.2023  
Ref: P.1-2\_8-9.e Rev C – Plots 1-2 and 8-9 (HT.3B5P) Elevations. Received – 04.05.2023  
Ref: P.1-2\_8-9.p Rev C – Plots 1-2 and 8-9 (HT.3B5P) Floor Plans. Received 0-04.05.2023  
Ref: P.3-4.e Rev B – Plots 3-4 Elevations. Received – 25.03.2022  
Ref: P.3-4.p Rev B – Plot 3-4 Plans. Received – 25.03.2022  
Ref: HT.2B4P(2blk).e Rev C – Plots 5-6 House Type 2B4P (2 block) Elevations. Received – 25.03.2023  
Ref: HT.2B4P(2blk).p Rev C – Plots 5-6 House Type 2B4P (2 block) Plans. Received – 25.03.2023  
Ref: HT.3B5P.e Rev A – Plots 7 & 14 House Type 3B5P Elevations. Received – 25.03.2023  
Ref: HT.3B5P.p Rev A – Plots 7 & 14 House Type 3B5P Floor Plans. Received – 25.03.2022  
Ref: HT.2B4P(4blk).e Rev D – Plots 10-13 House Type 2B4P (4 block) Elevations. Received – 04.05.2023  
Ref: HT.2B4P(4blk).p Rev C – Plots 10-13 House Type 2B4P (4 block) Plans. Received – 04.05.2023  
Ref: HT.2B4P(3blk).e Rev D – Plots 15-17, 18-20 House Type 2B4P (3 block) Elevations. Received – 14.12.2022  
Ref: HT.2B4P(3blk).p Rev D – Plots 15-17, 18-20 House Type 2B4P (3 block) Plans. Received – 15.12.2022  
Ref: HT.3B5P(3blk).e Rev B – Plots 21-23 House Type 3B5P (3 Block) Elevations. Received – 14.12.2022  
Ref: HT.3B5P(3blk).p Rev B – Plots 21-23 House Type 3B5P (3 block) Floor Plans. Received – 14.12.2022  
Ref: P.24-27.e Rev B – Plots 24-27 (2B Flats) Elevations. Received – 01.08.2023  
Ref: P.24-27.p1 Rev B – Plots 24-27 (2B flats) Floor Plans Sheet 1 of 2. Received -0 01.08.2023  
Ref: P.24-27.p2 Rev B – Plots 24-27 (2B Flats) Floor Plans Sheet 2 of 2. Received – 01.08.2023  
Ref: BCS.01.pe Rev E – Bin & Cycle Storage Plan and Elevations. Received – 04.05.2023  
Ref: SH.01.pe Rev B – Timber Shed Plans & Elevations. Received – 25.03.2022  
Ref: DML.01 Rev N – Dwelling Materials Layout. Received – 01.08.2023  
Ref: BML.01 Rev N – Boundary Materials Layout. Received – 01.08.2023.  
Ref: AHL.01 Rev R – Affordable Housing Layout. Received – 01.08.2023  
Ref: DREW1811106 Rev Q – Accommodation Schedule. Received – 04.05.2023  
Ref: EML.01 Rev B – Ecological Mitigation Layout. Received – 01.08.2023  
Ref: PVL.01 Rev N – Photovoltaic Panel Layout. Received – 01.08.2023  
Ref: RSL.01 Rev N – Refuse Strategy Layout. Received – 01.08.2023

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

3. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

4. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
  - location and current canopy spread of all existing trees and hedgerows on the land;
  - full details of any to be retained, together with measures for their protection in the course of development;
  - a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
  - finished levels and contours;
  - means of enclosure;
  - car park layouts;
  - other vehicle and pedestrian access and circulation areas;
  - all hard and soft surfacing materials;

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

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

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

6. No development shall commence on site (including any works of demolition), until a Demolition and Construction Management Statement (DCMS), together with a site plan, has been submitted to and approved in writing by the Local Planning Authority. The DCMS shall include the following details:

1. An introduction consisting of demolition phase environmental management plan and Construction phase environmental management plan, definitions and abbreviations and project description and location;
2. A description of the intended demolition programme;
3. A named person and telephone number for residents and the Local Planning Authority to contact during the construction phase;
4. The intended dust and noise mitigation during demolition and construction phases;
5. the intended parking of vehicles of site operatives, visitors and deliveries;
6. loading, unloading and storage of plant, equipment and materials;
7. storage of plant and materials used in constructing the development;
8. The location and use of generators and temporary site accommodation
9. The cutting or other processing of building materials on site;
10. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
11. wheel washing and vehicle wash down facilities;
12. measures to control the emission of dust and dirt during construction;
13. a scheme for recycling/disposing of waste resulting from demolition and construction works; and
14. measures for the protection of the natural environment.
15. hours of construction, including deliveries;
16. Measures to protect pedestrians visiting the shops and food store to the front of the site
17. a photographic pre-condition highway survey of the highway. Within 6 months of the completion of the development hereby approved, any damage that has occurred to the highway shall be restored to its former condition in accordance with the pre condition survey

The development shall be carried out in strict accordance with the approved DCMS at all times throughout the construction period .

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

7. No development shall commence on site (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include the following details:
  1. Routing plan
  2. Traffic Management Plan (including signage drawing(s))
  3. Number (daily/weekly) and size of delivery vehicles.
  4. Number of staff vehicle movements.
  5. Details of temporary/permanent Traffic Regulation Orders
  6. Phases plan

The development shall be carried out in strict accordance with the approved Construction Method Statement throughout the construction period.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required

to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

8. Notwithstanding the approved plans, no development shall commence on site until a new access arrangement plan has been submitted to and approved in writing by the Local Planning Authority, to show rumble strips on the internal access track into the site. None of the dwellings or development hereby approved shall be first occupied, until access into the development has been laid out and constructed in accordance with the agreed details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of highways safety.

9. None of the dwellings or development hereby approved shall be first occupied until the 1.5 metre wide footway on the western side of the access road, as shown on Plan Ref: 7280.214 Ref F – Proposed Access Arrangements Shared Space, has been laid out and provided in accordance with the approved details. The pathway shall be maintained and kept available for this use for the lifetime of the development.

REASON: In the interests of providing a safe access to the development

10. None of the dwellings or development hereby approved shall be first occupied until the access, turning areas and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

REASON: In the interests of highway safety.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the southern elevation of Plots 1, 3, 7, 14 and 17 of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

12. Notwithstanding the submitted Drainage Strategy, no development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details throughout the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

13. The dwellings hereby approved shall not be occupied until the Building Regulations Optional requirement of maximum water use of 110 litres per person per day has been complied with.

REASON: To ensure compliance with the prevailing mitigation strategy for nutrient neutrality in the water catchment within which this development is located; and to meet the demands of climate change.

14. None of the dwellings or development hereby permitted shall be first occupied until the bat mitigation and ecological enhancement measures set out in the submitted Phase 1 and 2 Bat Surveys; the Bat Emergence/Re-entry Surveys and Mitigation Report; and as identified on Plan Ref: EML.01 Rev B – Ecological Mitigation Layout have been installed in accordance with the agreed details. The approved mitigation measures shall be maintained and retained on site for the lifetime of the development.

REASON: To ensure the protection of Protected Species and to enhance the biodiversity of the site

15. The dwelling hereby approved on Plot 1 shall not be first occupied until the 1.8 metre high wall has been erected along the full southern boundary of this plot in accordance with the details identified on Plan Ref: BLM.01 Rev N – Boundary Material Layout; and to a specification as identified in section 9.2 of Acoustic Consultants Ltd Noise Impact Assessment Reference 10121/SF dated 15.03.2023. The wall shall be maintained and retained thereafter for the lifetime of the development.

REASON: In the interests of the residential amenities of the occupants of Plot 1 to reduce the impact of noise

16. Before the dwelling hereby approved on Plot 1 is first occupied, the 1st floor landing window on the southern elevation shall be permanently fixed shut and shall be retained as such for the life time of the development.

REASON: In the interests of the residential amenities of the occupants of Plot 1 to reduce the impact of noise.

17. No construction shall commence on the dwellings on plots 1, 2, 3, 8 and/or 9 until details of a scheme for protecting the future residents from external commercial/industrial noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed in accordance with the mitigation measures identified in section 9 of Acoustic Consultants Ltd Noise Impact Assessment Reference 10121/SF dated 15.03.2023. The approved scheme shall also demonstrate, that to minimise funnelling of noise into the room but to enable ventilation, the first floor dual pane bedroom windows to plots 1 and 2 shall have one fixed pane and the other pane nearest the noise source shall be operable. The scheme shall also include full details of the intended mechanical ventilation system that will be provided to plots 1 and 2, including attenuators, required to meet the internal noise level target for noise from the

system itself and external noise of 20dB LAeq as detailed in Acoustic Consultants Ltd letter dated 03.01.2024. the development shall be constructed in accordance with the agreed scheme prior to the first occupation of the dwellings hereby approved. A post installation noise assessment shall be carried out within 3 months of completion of the development to confirm compliance with the noise criteria and additional steps required to achieve compliance shall be taken, as necessary. The approved measures shall thereafter be permanently retained for the lifetime of the development.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of residential amenities

18. The internal floor plan layout of plots 24-27 shall be constructed to ensure that no windows to habitable rooms are positioned on the southern elevation facing Tesco Express.

REASON: In the interests of the residential amenities of the occupants of Plots 24-27 to reduce the impact of noise.

19. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: in the interests of the residential amenities of the area

20. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme and the Ultra Low Energy Vehicle Infrastructure should be retained and maintained in accordance with the manufacturer's details for the life time of the development

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to reduce the impact of the development on the area's air quality and to mitigate emission levels in order to protect public health, environmental quality and amenity.

21. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination shall be dealt with and mitigated has been submitted to and approved in writing by the Local Planning Authority. the development shall recontinue in accordance with the approved details.

REASON: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

## INFORMATIVES

- 1) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:  
[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).
- 2) A European Protected Species Licence (EPSL) is required as the buildings on site are currently used as bat roosts. Under the Conservation of Habitats and Species Regulations 2017, it is an offence to harm or disturb bats or damage or destroy their roosts. Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a European Protected Species Licence will be required before any work is undertaken to implement this planning permission.
- 3) The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
- 4) Please note that a short-form S278 agreement or vehicle cross-over licence will be required to undertake the access work on the public highway. The applicant is advised to contact Highways Development Control for further advice on this matter. With regard to this application anything outside of the red lining (including the Tesco store) is not included in the development.
- 5) Please note that the Council's Waste Management Team will only operate on private land where an indemnity is signed by the landowner. The Council will also require an indemnity to operate on any roads prior to their adoption.
- 6) Please note that no surface water drainage system should be installed in areas of potential mobile contamination.
- 7) It is advised that you follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination. Please refer to our Guiding principles for land contamination for



the type of information that is required in order to assess risks to controlled waters from the site. Please consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed. Please also refer to the contaminated land pages on gov.uk for more information

- 8) Please note that the CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works is waste or has ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be reused on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

You should therefore ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

- 9) You are advised to refer to the position statement on the Definition of Waste: Development Industry Code of Practice and the waste management page on GOV.Uk

- 10) Please note that contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

You should therefore ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

- 11) Please note that if the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, you will need to register with the Environment Agency as a hazardous waste producer. Refer to the [hazardous waste](#) pages on GOV.UK for more information.

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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	22 <sup>nd</sup> February 2024
<b>Application Number</b>	PL/2021/11719
<b>Site Address</b>	Former Marlborough Resource Centre, Cherry Orchard, Marlborough, SN8 4AR
<b>Proposal</b>	Erection of 24 dwellings (10 affordable and 14 market dwellings) and associated works and widening of the public right of way along the eastern site boundary
<b>Applicant</b>	Stone Circle Development Company
<b>Town/Parish Council</b>	Marlborough Town Council
<b>Electoral Division</b>	Marlborough West
<b>Type of application</b>	Full Planning Permission
<b>Case Officer</b>	David Millinship

### 1. Reason for the application being considered by Committee

The Scheme of Delegation requires this application to be decided by Planning Committee because whilst the applicant (and landowner) is a recognised and separate legal entity, the company is affiliated with Wiltshire Council. As the Council is the shareholder of the company the application is being referred to committee for determination.

### 2. Purpose of Report

To consider the above application and the recommendation that the application be approved for the reasons detailed below.

### 3. Report Summary

The main issues to be considered are as follows:

- Whether the development is acceptable in principle (CP1 and CP2)
- Whether the proposal constitutes high quality design and layout (CP57)
- Whether the proposal would have an acceptable landscape impact, including on the National Landscape (NL) (CP51)
- Whether the proposal has suitable regard to the compatibility and impact on neighbouring amenities (CP57)
- Whether there are suitable highways, rights of way, access arrangements and sufficient parking (CP61 and CP64)
- Whether the proposals demonstrate suitable protection for features of nature conservation and biodiversity (CP50)

- Whether the site can be adequately drained and suitably protect the Source Protection Zone (CP67 and CP68)
- Whether the suitable mitigation measures in relation to ground conditions and pipeline easement have been demonstrated (CP56)
- Whether suitable development contributions can be secured - waste, public open space/play, education, affordable housing, off-site biodiversity net gain
- Whether there are any other planning considerations associated with the development

The application generated a letter raising no objection from Marlborough Town Council (subject to comments), 25 letters of objection from members of the public and 7 letters raising comments.

#### **4. Site Description**

The application site falls within the defined settlement boundary of Marlborough, defined as a 'Market Town' for the purposes of the adopted Wiltshire Core Strategy (WCS). The site has been allocated for development within the Marlborough Neighbourhood Plan, made in March 2023.

The application site comprises a 0.9ha brownfield site, previously the site of the Wyvern Unit Adult Training centre (closed in 2009) and the Marlborough Resource Centre. The buildings associated with these uses have since been demolished and the site is currently vacant.

The site is situated south of Marlborough town centre, in an area where land levels fall steeply away from north to south. The site is of a largely linear form, running northeast-southwest along the levelled ground of the former railway line that previously ran through the site. On higher ground to the north, the boundary of the site adjoins the rear private gardens of residential dwellings on Upper Churchfields, Cherry Orchard and Orchard Road alongside St John's Academy (secondary school). A mature belt of trees runs along this northern boundary embankment of the site. To the west are the grounds of St John's School. To the southern boundary of the site, a tree belt embankment drops away to the recent 'Land West of Salisbury Road' development; a strategic site allocated within the Wiltshire Core Strategy (WCS), approved under application ref. 15/02026/OUT in 2016, for up to 175 dwellings.

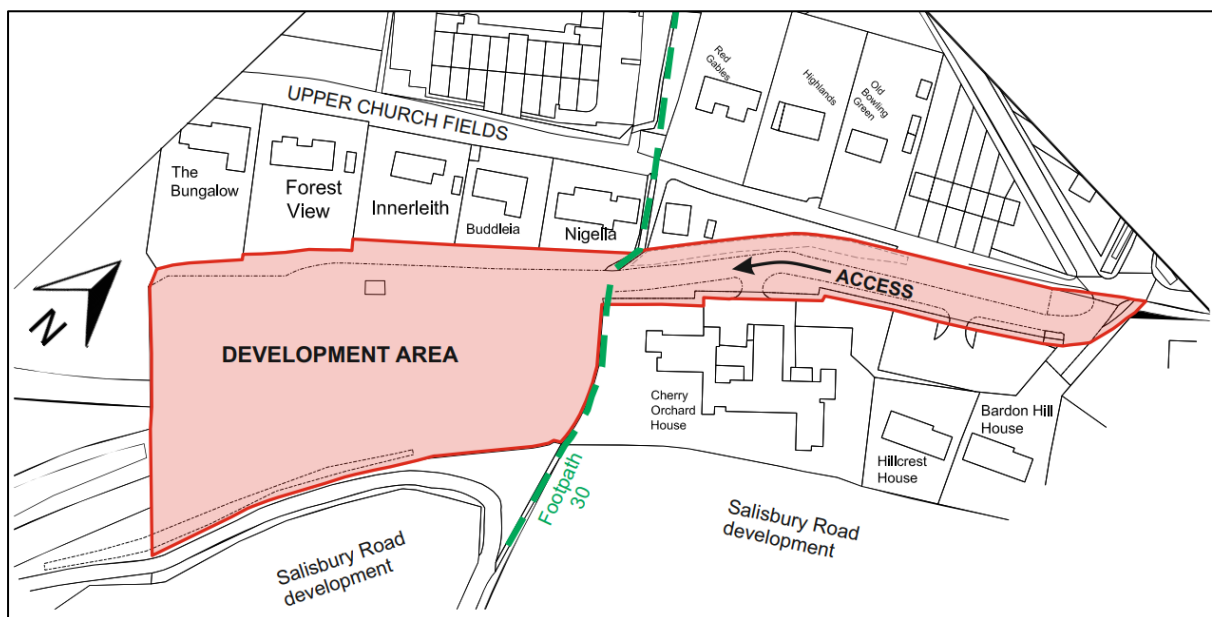
The main vehicular access into the application site is via an existing driveway from Cherry Orchard from the east, that passes by the apartments of Cherry Orchard House. There is an existing public right of way footpath (Marl30) that runs north to south along the eastern boundary of the site, which will be improved and widened as part of these proposals.

The site lies within the North Wessex Downs National Landscape (NL). It is not within a conservation area and there are no heritage assets in close proximity. The site itself is not designated for ecology purposes, however, the edge of Savernake Forest SSSI lies approximately 300m to the southeast of the site. The disused railway tunnel adjacent to the southwestern boundary of the site is on Natural England's list for future SSSI designation given its use by protected bat species and is also designated as a UK Biodiversity Action Plan (BAP) priority habitat (deciduous woodland).

The site is within Flood Zone 1, at the lowest risk of flooding, with the southern area of the site falling partially within an Environment Agency (EA) designated inner source protection zone (SPZ1).

There is a section of underground oil pipeline (operated by Exolum/Fisher German) running east-west across the southwestern corner of the site. According to the submission, the precise location of the pipeline has been surveyed and the proposed layout has taken account of the easement strips either side of the pipeline whereby no development can take place without specific permission.

There is an existing electricity sub-station remaining on the site in poor condition which would need replacing as part of the new development.



*Site Location Plan*

## 5. Planning History

- Pre-application advice was previously sought (ref. 21/00939/PREAPP) prior to this application in 2012.
- The former disused resource centre building was demolished under a prior approval notification consented in 2019.

Application history:

- 19/03953/DEM - Demolition details - Approved 16/05/2019
- 19/05564/DEM - Prior notification of demolition - Approved 16/05/2019
- K/76/0173 - Extension to adult training centre- Approved 29/04/1976

- K/34822 - Construction of single storey building to accommodate additional classrooms and staff facilities, together with extension to existing car park- Approved 21/11/1997
- K/35881- Construction of a timber clad modular building and revision to parking layout- Approved K/35881

## 6. The Proposal

Full planning permission is sought for 24no. x two storey dwellings along with associated works including parking, landscaping and public open space. The following mix of dwellings is proposed:

- 10no. x 2 bedroom homes
- 4no. x 3 bedroom homes
- 10no. x affordable homes comprising:
  - 2no. x 1 bedroom homes
  - 5no. x 2 bedroom homes
  - 3no. x 3 bedroom homes

The development proposes to use the existing vehicular access into the site which is at the end of an unnamed road leading off the priority junction between Cherry Orchard, Orchard Road and Upper Church Fields. The proposal also includes widening and improvement works to the existing public right of way (MARL30) that runs north-south alongside the eastern boundary of the site.

As well as retention and enhancement of the wooded tree belts surrounding the site, new areas of landscaping and an area of casual play space of some 380sqm to the north-east corner of the site are proposed.

The existing southeastern tree belt would be preserved as an ecological priority area and dark corridor for conservation of bats and other wildlife. Provision of ecological mitigations and enhancements including bat boxes, bird boxes and bee bricks would be secured via condition.

The proposed materials for the dwellings include red brick facing brickwork and stone detailing, with slate roof tiles (dark), black rainwater goods, white cottage style (upvc windows) and solid timber doors to reflect the local vernacular. Suitable locations for bin collection and storage have been included.

Financial contributions associated with the development would be secured by way a legal agreement, as detailed in section 11 in this report below.

## 7. Considered drawings and details:

Document/Plan	Reference	Date Received latest version
Application form		17 <sup>th</sup> December 2021



Site Location Plan		17 <sup>th</sup> July 2023
Design & Access Statement	Rev G	12 <sup>th</sup> December 2023
Topographical survey – 2 sheets	20261-A	17 <sup>th</sup> December 2021
Flood Risk Assessment and Drainage Strategy - Issue 4 (dated 10 <sup>th</sup> Sept 2021)	Acl592/21021/FRA/DS	17 <sup>th</sup> December 2021
Additional Information Statement requested by the LLFA (dated 10th Feb 2022)	Acl631/21021/TN	10th Feb 2022
Drainage Strategy & Surface Management Update Statement (dated 7 <sup>th</sup> Dec 2022)	Acl698/21021/A/DS	8 <sup>th</sup> December 2022
Additional Information Statement requested by the LLFA (dated 5 <sup>th</sup> May 2023)	Acl759-21021-TN	13 <sup>th</sup> June 2023
Drainage Update Technical Appendices-part-1 and part 2 (dated 4 <sup>th</sup> January 2024)	Acl807-21021/TA	5 <sup>th</sup> January 2024
Ecological Assessment (Ethos)	November 2023 - ETH21-106 - V.4	12 <sup>th</sup> December 2023
Biodiversity Net Gain Results (Ethos, November 2023)	V.2	12 <sup>th</sup> December 2023
Arboricultural Method Statement – including Tree Protection Plan	October 2021	17 <sup>th</sup> December 2021
Retention Removal Tree Plan Sheet 1 of 2	C871.PL.060 Rev A	12 <sup>th</sup> December 2023
Retention Removal Tree Plan Sheet 2 of 2	C871.PL.060 Rev A	12 <sup>th</sup> December 2023
Indicative details of boundary fencing tree retention	C871.PL.071 Rev A	12 <sup>th</sup> December 2023
Sketch showing planting adjacent to bat corridor	C871.PL.072 Rev A	12 <sup>th</sup> December 2023
Ground Investigation Report	6219-B/GIR, October 2018	17 <sup>th</sup> December 2021
Phase 1 Contaminated Land & Geotechnical Desk Study	6219-B/DS	17 <sup>th</sup> December 2021
Transport Statement	Acl538-21021-TS Issue 08 dated 20 <sup>th</sup> December 2023	5 <sup>th</sup> January 2024
Proposed Site Plan	C8671.PL.050 Rev K	12 <sup>th</sup> December 2023
Enlarged Proposed Site Plan	C8671.PL.051 Rev G	12 <sup>th</sup> December 2023
Enlarged Proposed Site Plan showing protected	C8671.PL.051-1 Rev D	12 <sup>th</sup> December 2023

future cycle and footpath connection to adjacent land		
Proposed Refuse Strategy Plan	C8671.PL.053 Rev E	12 <sup>th</sup> December 2023
Proposed Land Use Plan Sheet 1 of 2	C8671.PL.054 Rev F	12 <sup>th</sup> December 2023
Proposed Land Use Plan Sheet 2 of 2	C8671.PL.054 - 1 Rev A	12 <sup>th</sup> December 2023
Proposed Affordable Tenure Plan	C8671.PL.055 Rev J	12 <sup>th</sup> December 2023
Proposed Boundary Treatment Plan	C8671.PL.056 Rev G	12 <sup>th</sup> December 2023
Indicative Landscape Plan Sheet 1 of 2	C8671.PL.057 Rev F	12 <sup>th</sup> December 2023
Indicative Landscape Plan Sheet 2 of 2	C8671.PL.057 - 1 Rev A	12 <sup>th</sup> December 2023
Proposed Surface Finishes Plan	C8671.PL.052 Rev E	12 <sup>th</sup> December 2023
Proposed Site Section A-A and B-B	C8671.PL.070 Rev G	12 <sup>th</sup> December 2023
Plots 1,2,3: Proposed Floor Plans and Elevations	C8671.PL.110 Rev D	13 <sup>th</sup> June 2023
Plots 4-5: Proposed Floor Plans and Elevations	C8671.PL.130 Rev D	13 <sup>th</sup> June 2023
Plots 6, 7, 8, 9: Proposed Floor Plans and Elevations	C8671.PL.150 Rev D	13 <sup>th</sup> June 2023
Plots 10,11,12,13: Proposed Floor Plans and Elevations	C8671.PL.170 Rev D	13 <sup>th</sup> June 2023
Plots 14, 15, 16 and 17: Proposed Floor Plans and Elevations	C8671.PL.190 Rev D	13 <sup>th</sup> June 2023
Plots 18, 19 and 20: Proposed Elevations and floor plans	C8671.PL.210 Rev D	13 <sup>th</sup> June 2023
Plot 21, 22,23 and 24 Proposed Floor Plans and Elevations	C8671.PL.230 Rev F	13 <sup>th</sup> June 2023
Proposed Materials Schedule Sheet 1 of 2	C8671.PL.058 Rev A	13 <sup>th</sup> June 2023
Proposed Materials Schedule Sheet 2 of 2	C8671.PL.059 Rev A	13 <sup>th</sup> June 2023
Enlarged Proposed Site Plan Swift Bricks Position	C8671.PL.080	15 <sup>th</sup> December 2024
Proposed Elevations Swift Bricks Position	C8671.PL.081	15 <sup>th</sup> December 2024

## 8. Planning Policy

### Wiltshire Core Strategy 2015 (WCS)

Core Policy 1 Settlement strategy

Core Policy 2	Delivery strategy
Core Policy 3	Infrastructure Requirements
Core Policy 14	Spatial Strategy: Marlborough Community Area
Core Policy 41	Sustainable Construction and Low-Carbon Energy
Core Policy 43	Providing affordable homes
Core Policy 45	Meeting Wiltshire's housing needs
Core Policy 50	Biodiversity and geodiversity
Core Policy 51	Landscape
Core Policy 52	Green Infrastructure
Core Policy 57	Ensuring high quality design and place shaping
Core Policy 60	Sustainable Development
Core Policy 61	Transport and New Development
Core Policy 62	Development impacts on the transport network
Core Policy 64	Demand management (parking)
Core Policy 67	Flood risk
Core Policy 68	Water resources

Saved Policies - Kennet Local Plan – (Adopted 2011)

HC34	Recreation Provision on Large Housing Sites (Appendix D saved Kennet Local Plan policy)
HC37	Demand for Education (Appendix D saved Kennet Local Plan policy)

Marlborough Neighbourhood Plan - made March 2023

MARL1	Delivering Affordable Homes in Marlborough
MARL3	Meeting Local Housing Needs
MARL8	Protecting and Improving Sports Facilities
MARL14	Protecting and Improving Green Infrastructure
MARL17	Conserving the Scenic Beauty of the AONB
MARL19	Building to the Passivhaus Standard

Wiltshire Waste Core Strategy 2006 – 2026 (July 2009)

National Planning Policy Framework (NPPF) (2023)

## 9. Consultation responses

A summary of comments received is below. Final comments are provided where reconsultations have taken place. Full sets of comments are also published online.

**Marlborough Town Council: No Objection subject to comments**

Comments of 11/01/23:

*At the Planning Committee of Marlborough Town Council held Monday, 10 January 2022 it was RESOLVED: that Marlborough Town Council has no objection to this application.*

*We note comments about the adjacent footpath and ask the Officer to consider adding a condition to ensure the public footpath MARL30 is temporarily redirected in a safe manner during the development work in the interests of pedestrian safety*

Comments of 24/04/23:

*At the Planning Committee meeting held Monday, 24 April 2023 it was resolved that Marlborough Town Council has no objection to this application subject to the Officer being content that the questions raised by Wiltshire Council Principal Development Officer for Housing can be addressed to everyone's satisfaction; Committee Members reinforced the requirement for affordable housing in Marlborough and noted the site is designated within the Marlborough Area Neighbourhood Plan (Made 23 March 2023)*

**Wiltshire Council Highways: No Objection subject to conditions**

*I am pleased to see that the applicant has provided drawings which now outline the land required for the widening of the PROW as well and noting the location for an "indicative" cycle link to the east of the site. As such based on the information provided I am happy to raise no highway objection subject to the following conditions:*

*No development shall commence on site until a full set of drawings detailing the width, construction and surfacing (including retaining wall, drainage and lighting) of the PROW (shown on C8671.PL.051-1) along the eastern side of the site frontage have been submitted to and approved by the LHA.*

*No part of the development will be occupied until the improvements to the PROW have been fully implemented and the construction works given approval by the LHA as per the approved drawing(s). (The works will be fully inspected throughout construction by the LHA).*

*The development hereby permitted shall not be first brought into use until splays have been provided on all private driveways (with planted boundary treatments) on both sides of the access from the rear of the existing footway based on co-ordinates of 2.4m x 2.4m. The splays shall always be kept free of obstruction above a height of 600mm.*

*No part of the development hereby permitted shall be first occupied [to include at least 1 Electric Vehicle space per unit] have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.*

**Wiltshire Council Drainage: No Objection subject to conditions**

Following the submission of further information and undertaking of further ground investigations, the following final comments were received:

*We are in position to withdraw our objection.*

*We received the following recommendations that the designer must take forward:  
-all foundation to be at 1.6m depth for unity and to ensure that they are all in chalk  
-all soakaway to be located in chalk and not the above layers*

*As per table 5.1 of Drainage Update Technical Appendices Part 1.*

*Any issues encountered on site during the foundations/drainage construction to be reported to this office for consideration. Any changes in the design to be subject to further approvals.*

**Wiltshire Council Education: No Objection subject to contribution**

Financial contribution needed towards provision of 4 x secondary school places at St John's Secondary.

**Wiltshire Council Housing: No Objection subject to conditions**

*Having reviewed the AH Tenure plan 'Plan drawing No.C8671.PL055 Rev H Proposed Affordable Tenure Plan' and the Schedule provided at pages 33 & 34 of the Design and Access Statement, I can confirm that the revised layout meets the requirements of, and reflects discussions with, the Housing Enabling Team in terms of size, tenure mix and distribution of the Affordable Housing dwellings. The suggestion to provide the Affordable Rented housing on the land that is currently subject to a restrictive covenant is also reflected. The layout of gardens and parking spaces also reflects the discussions that have been had with the applicant and are supported.*

*The Affordable Housing mix that reflects the demonstrable need in Marlborough and the discussions between the Enabling Team and the Applicant is as follows:*

*Affordable Rented Accommodation:*

- *2 x 1 bed flats including 1 x GFF built to M4(2) standards\**
- *2 x 2 bed houses*
- *2 x 3 bed house*

*First Homes:*

- *2 x 2 bed houses*
- *1 x 3 bed house*

*Shared Ownership:*

- *1 x 2 bed houses*

*With regards to the plot 6, the Ground Floor flat, the ground level floor plan shows the level access shower as requested in addition to being built to meet M4(2) standard, please be aware that this standard extends to the parking space, with the requirement for it being capable of being widened to 3.3m.*

*As advised in the consultation response dated 30<sup>th</sup> December 2023 the following should be noted:*

*First Homes must be discounted by a minimum of 30% against the market value, with the sale price, at first sale, no higher than £250,00 after the discount has been applied. They must be sold to qualifying first time buyers with the discount and restrictions passed on to subsequent owners in perpetuity.*

Transfer of Affordable Rented and Shared Ownership Units to Registered Provider

The affordable dwellings (other than First Homes) will be required to be transferred to a Registered Provider, approved by the Council, or to the Council, on a nil subsidy basis.

It is strongly recommended that the applicant makes contact with Registered Providers and Wiltshire Council's Residential Development Team as soon as possible in order to discuss the best option for the affordable dwellings including an indication of transfer prices that can be expected. A list of Registered Providers who work in partnership with Wiltshire Council, and contact details for Wiltshire Council's Residential Development Team, can be provided on request.

Sale of First Homes

The First Homes will be required to be sold in accordance with procedures and eligibility criteria set out in government guidance. Please see First Homes - GOV.UK ([www.gov.uk](http://www.gov.uk)) for more information. First Homes should be marketed to households with a local connection to Wiltshire for the period that local eligibility criteria apply.

Nominations

The Local Authority will have nomination rights to the affordable dwellings, secured through a S106 Agreement.

**Wiltshire Council Urban Design: No objection subject to final amendments**

Whilst I've now no objection to the structure of the revised scheme, there are still issues with inadequate detailing, which must be fixed before the scheme could be judged compliant with CP57.

**Wiltshire Council Landscape: No objection subject to conditions**

As per my previous landscape response I have no objection subject to a pre-commencement condition for the provision of a detailed planting plan setting out species, densities, and specification (To National Plant Specification), along with a Landscape and Ecology Management Plan (LEMP).

**Wiltshire Council Waste & refuse: Support subject to conditions**

As discussed, the RCV tracking looks fine with the only issue would be if any cars were parked on the road. This could restrict the vehicle cleanly moving around the development. The plan clearly shows bin storage and collection points so there is no issue with these. Waste management would now in principle support the application subject to any further changes in the planning.

Contribution needed of £101 per dwelling needed towards provision of waste and recycling containers.

**Wiltshire Council Play/ open space: No objection subject to contributions**

**Wiltshire Council Public Rights of Way: No objection subject to comments**

*As identified in the Transport Assessment PRow MARL30 runs along the eastern boundary of the site. This PRow provides a valuable access route and connects to both the recently developed Marlberg Grange site and towards the centre of Marlborough and St Marys*

*Primary School. A section of MARL30 leading directly from Marlberg Grange has recently been improved (see photo attached) and now provides a pleasant walking route, however where it meets the boundary of the Cherry Orchard site the paths condition significantly reduces in quality as per the photos attached, which were sent to us by a member of the public this week.*

*We are currently looking to improve walking / cycling connectivity from the eastern side of Marlborough from NCN 403 (Five Stiles Road) to NCN 403 Isbury Road / George Lane and the town centre, as per our town cycling network plan that was approved by Council in 2013 (attached).*

*A link through this development is key to us being able to deliver the proposed route(s) for the town cycle network in Marlborough.*

#### **Wiltshire Council Ecology: No objection subject to conditions**

*Thank you for consulting Ecology, I have reviewed the application and supporting documents against OS Maps and aerial photography of the site and surrounding area, together with GIS layers of statutory and non-statutory sites and existing records of protected species.*

*The following submitted documentation was reviewed to inform this response:*

- Biodiversity Net Gain Results. November 2023. Ethos;*
- Cherry Orchard, Marlborough BNG Assessment 3.1 Final. Ethos;*
- Ecological Assessment. November 2023. Ethos;*
- Indicative Landscape Plan Sheet 1 of 2 C8671.PL.057 F. October 2022. DPDS;*
- Indicative Landscape Plan Sheet 2 of 2 C8671.PL.057-1 A. July 2023. DPDS;*
- Enlarged Proposed Site Plan Swift Bricks Position C8671.PL.080. December 2023. DPDS;*
- Retention Removal Tree Plan Sheet 1 of 2 C8671.PL.060 A. July 2023. DPDS;*
- Retention Removal Tree Plan Sheet 2 of 2 C8671.PL.060-1 A. July 2023. DPDS*
- Proposed Land Use Plan Sheet 1 of 2 C8671.PL.054 F. October 2022. DPDS;*
- Proposed Land Use Plan Sheet 2 of 2 C8671.PL054-1 A. October 2023 DPDS;*
- Proposed Boundary Treatment Plan C8671.PL.056 G. October 2022. DPDS;*
- Indicative Details of Boundary Fencing/Tree Protection C8671.PL.071. October 2023. DPDS;*
- Proposed Site Section A-a and Section B-B C8671.PL.070 G. October 2022. DPDS and;*
- Sketch Showing Planting Adjacent to Bat Corridor on South Eastern Boundary C8671.PL060-1 A. July 2023. DPDS*

#### *Protected Species*

*We welcome the updated information submitted to support the retention of the important ecological features on site, namely the woodlands running along the eastern and western boundaries which have been noted to support a number of bat species, dormice and reptiles.*

*The latest Ecological Assessment outlines a number of working method statements which support these species which should be incorporated into the construction environment management plan. However, our concerns remain with regards to the proposed fencing design along the key ecological boundaries. To ensure these areas are retained for the benefit of wildlife, and to reduce light spill and disturbance during both construction and occupation, we would advise that the fencing proposed is altered to include close boarded fencing along the perimeter of the woodland belts. This can be addressed through condition.*

#### *Lighting*

*Increases in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can also have a substantial adverse effect on wider biodiversity.*

*Therefore, any new lighting should be for the purposes for safe access and security only and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.*

*A lighting strategy will be required and should demonstrate that flight lines remain dark to allow for foraging and commuting bats and that levels of no greater than 0.5 lux occurs along the woodland edges and trees adjacent. The lighting plan could be secured through condition.*

#### *BNG*

*We welcome the updated BNG assessment and metric spreadsheet which shows that there will be a deficit of no net loss for both area and linear units on site. It is our understanding that this will be addressed through an Offsite Biodiversity Scheme and secured through a section 106 agreement. A Habitat Management and Monitoring Plan for those areas to be retained, created and enhanced on site will be required and can be secured through condition.*

#### *CONDITIONS:*

- 1. The development will be carried out in strict accordance with the following documents:*
  - Biodiversity Net Gain Results. November 2023. Ethos;*
  - Cherry Orchard, Marlborough BNG Assessment 3.1 Final. Ethos;*
  - Ecological Assessment. November 2023. Ethos*
  - Indicative Landscape Plan Sheet 1 of 2 C8671.PL.057 F. October 2022. DPDS;*
  - Indicative Landscape Plan Sheet 2 of 2 C8671.PL.057-1 A. July 2023. DPDS;*
  - Enlarged Proposed Site Plan Swift Bricks Position C8671.PL.080. December 2023. DPDS*

*REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.*

- 2. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning*



authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- A tree protection plan, showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction - Recommendations;
- Working method statements for protected/priority species, such as nesting birds and reptiles.
- Mitigation strategies already agreed with the local planning authority prior to determination, such as for dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- 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 in relation to species and/or habitats.
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

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

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

3. *Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority in support of the BNG Metric assessment. The LEMP will include;*
  - *Details of the habitats to be retained, created and enhanced in line with the submitted BNG metric;*
  - *The short and long term objectives and targets to ensure the metric conditions as stated will be achieved;*
  - *Details of the management responsibilities and maintenance schedules for each ecological feature within the development;*
  - *Details of the mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets and;*
  - *Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.*

*The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.*

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

4. *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 Institution of Lighting Professionals in their publication (ILP) Guidance Notes on the Avoidance of Obtrusive Light (GN 01/2021) and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.*

*REASON: In the interests of conserving biodiversity*

5. *Prior to commencement, the approved boundary fencing and all means of enclosure, including walls and railings, shall be agreed and included on technical drawings, to ensure the protection and retention of the eastern and western woodland habitats.*

*REASON: In the interests of conserving biodiversity*

**Wiltshire Council Archaeology: No objection**

**Wiltshire Council Public Protection: Comment**

*The proposal is for the erection of 24 dwellings (10 affordable and 14 market dwellings) and associated works at the former Marlborough Resource Centre, Cherry Orchard, Marlborough. There are residential dwellings on three sides of the proposed development. Our main concerns relate to possible impacts on amenity for existing residential dwellings during the construction phase due to noise and dust.*

*It is accepted the construction work is noisy, however, to reduce the impact on amenity for nearby residential dwellings, an hours of construction condition is warranted as below. A Construction Management Plan condition is also warranted to reduce and manage the emission of noise, vibration and dust. Please see condition below.*

*Air Quality:*

*Marlborough is within an Air Quality management Area and as such it is expected that the relevant provisions will be made to ensure adequate provision is made for a scheme of Ultra Low Energy Vehicle infrastructure. A condition is warranted as below.*

*Contaminated Land:*

*Mapping layers indicate areas of potential concern due to former railways infrastructure. The applicants have submitted a Desk Study and Ground Investigation report. The Ground Investigation Report (6219-B/GIR) dated October 2018 by terrafirma (south), advises that mitigation will be required due to elevated PAH concentrations on the site. A*

*Contaminated land condition is advisable as below. It is accepted that part i) has been complied with, however this has been left in for the sake of completeness*

### **Natural England: Comments**

*After reviewing the plans and documents submitted alongside this planning application, we have a number of concerns and points to raise.*

#### **Protected Species - Bats**

*The planning application site is located less than 500m from the Savernake tunnel, which supports a significant number of hibernating natterer bats and also hibernating barbastelle bats. The tunnel is in the Natural England pipeline for SSSI designation Natural England's designations programme - GOV.UK ([www.gov.uk](http://www.gov.uk)) thus identified as a site of national importance, and the woodland strip to the east of the site provides connectivity from the tunnel to surrounding habitats. In order to comply with NPPF para 174, (Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures), any planning application on this site, must, at a minimum, demonstrate that it will have no net detrimental impact on these bat species. Therefore, the ecological functionality of the bat corridor to the east of the site must be maintained. We recommend that a lighting plan be produced to ensure that light levels from the proposed development do not impact upon the bat corridor. We concur with the Ecological Assessment which states that light levels should be maintained at less than 0.5 lux on the edge of the woodland.*

*However, a lighting plan should evidence how this will be achieved and that the 2m scrub buffer proposed in the Ecological Assessment is sufficient to ensure light levels of 0.5 lux or less.*

#### **Tree Coverage**

*We note that trees were previously felled during demolition works relating to Planning Application 19/03953/DEM. We further note that a number of trees are intended to be removed, as per the Arboricultural Method Statement, and that other individual trees may be damaged during construction works. We would expect trees along the eastern boundary of the site and adjacent to the woodland corridor to be preserved to maintain this as a dark corridor. We are also concerned that if buildings are erected too close to retained trees that there will be post development pressure to fell or reduce these trees. 'Guideline Distances from Development to Trees – Securing Space for Existing and New Trees' Guideline distances from development to trees.pdf ([leeds.gov.uk](http://leeds.gov.uk)) provides useful information regarding this.*

#### **Biodiversity Net Gain**

*Natural England remains concerned that the site is proposed to deliver a net loss of biodiversity. Measures to ensure that a biodiversity net gain of 10% is achieved should be approved by your Local Authority's Ecology Team. Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service*

*Case Officer Note: Plans have since been amended to protect tree belts; contribution towards off-site biodiversity has been agreed.*

**Exolum Pipeline (Fisher German): Objection withdrawn, subject to comments**

Letter received dated 13<sup>th</sup> June 2023:

*Further to our letter of 19th March 2021 and following discussions between our client and the applicant, our client's objection to the application is withdrawn. We confirm that our client Exolum's apparatus will not be affected by your proposals as indicated on the attached plan(s). The plan(s) supplied are intended for general guidance only and should not be relied upon for excavation or construction purposes. No guarantee is given regarding the accuracy of the information provided and in order to verify the true location of the pipeline you should contact Exolum to arrange a site visit.*

*You should note that the interests of Exolum are conserved by means of the Energy Act 2013, in particular Part IV of the Act, and other legislation such as the Pipeline Safety Regulations 1996. It is, however, the Energy Act 2013 that prohibits any development and most intrusive activities within the Easement Strip without specific consent from Exolum. Exolum's Easement Strips are 6 metres wide and can incorporate other associated Exolum facilities.*

*Exolum will be able to provide guidance on the required procedures for entering into a Works Consent and provide confirmation on permitted development and intrusive activities. The whole process of obtaining a Works Consent can take between four and six weeks depending on circumstances at the time of application.*

*To reiterate, you should not undertake any work or activity without first contacting Exolum for advice and, if required, a Works Consent. For a copy of Exolum's Standard Requirements for Crossing or Working in Close Proximity to Exolum Pipelines, please visit <https://lsbud.co.uk/wp-content/uploads/2021/10/lsbud-standard-requirement-uk-um.pdf>. This will provide you with practical information regarding the legislation that governs the Exolum*

*You should also be aware that landowners and third parties have a duty of care not to carry out any works that have the potential to damage Exolum apparatus. This duty of care applies even if the works themselves are situated more than 3 metres from the pipeline. Examples of such works are mineral extraction, mining, explosives, piling and windfarms.*

*Please note that implementation of any unapproved work that affects the Exolum Easement Strip may result in serious consequences in terms of health and safety, expense and other attendant liabilities. In such cases it is the perpetrator of the act, together with any other promoting organisation, that shall be held fully accountable for any resulting damage.*

Letter received dated 21<sup>st</sup> December 2023: Further standard letter received acknowledging that apparatus will be affected and Works Consent will be required.

**Police Liaison Officer: Comments**

*I have read the Design and Access Statement and am pleased to note p16 point 4.5 which states that the development has been designed to follow Secure by Design principles. However, there are several areas where there are gates missing which, by their omission, would not provide the homes and the occupants the minimum security that should be provided for every home, and the lack of these gates is, therefore, not compliant with Secure by Design. This may be an oversight. I would ask that gates be fitted at the top of the alleyway between plots 2 and 3, the alleyway at the rear of plots 4 – 8 incl. and that the gate beside plot 16 be moved to the building line. This is required to protect the rear of the homes and remove any hiding places that the alleyways provide for offenders.*

*I could not see the access for the rear of plot 23 on the plans. If the access creates an alleyway I would ask that the access is gated at the entrance to the alleyway and again at the entrance to the plot.*

*Plot 8 requires defensible space at the side of the building of not less than one metre to prevent anti-social behaviour and crime such as graffiti. The lack of defensible space in this location which is adjacent to public open space, is likely to cause a reduction in the quality of life for the occupants as well as making it liable to crime. As it stands the public private boundary is the wall of the home. This is not compliant with Secure by Design principles.*

*Plot 19 also requires defensible space of not less than one metre due to it being immediately adjacent to visitor parking. Again, the public/private boundary is the wall of the home which is not compliant with Secure by Design principles. The proximity of the visitor parking is likely to cause nuisance and noise which will adversely affect the quality of life for the occupants. Additionally, the lack of defensible space leaves this wall likely to be used for anti-social behaviour such as ball playing, and crime such as graffiti.*

*Case Officer Note: Plans have since been updated to address comments (with the exception of Plot 19)*

**Thames Water: No objections subject to comments**

**Waste Comments:**

*This site is affected by wayleaves and easements within the boundary of or close to your site. Thames Water will seek assurances that these will not be affected by the proposed development. The applicant should contact Thames Water Property Searches for information relating to the wayleave or easement if they have not already done this.*

*The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.*

*Thames Water would advise that with regard to FOUL WATER sewerage network*

*infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.*

*Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.*

**Water Comments:**

*There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.*

*If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).*

*On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.*

**Wales and West Utilities: No objections subject to comments**

*Wales & West Utilities have no planning objections to these proposals, although it should be noted that Wales & West's apparatus is held pursuant to easements and it has other private law rights in relation to the use of the land in the vicinity of its apparatus. Wales & West's private law land rights are not material planning considerations and therefore no comment is made in relation to those rights and they have no impact on whether or not planning permission should be granted, or whether, if permission is granted, it can lawfully be implemented. It should also be noted that Wales & West's apparatus may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.*

**10. Publicity**

The application was advertised by way of a site notice and neighbour notification letters. An advert was also placed in the press for the application.

Many of the consultee and third-party responses were received during the first round of consultations. The main design, utilities, drainage, waste and ecological issues have been addressed over the course of the application and this is described in the relevant sections below. The most recent revisions to plans have included only minor revisions that have not warranted full reconsultation.

The following is a summary of the issues raised by members of the public/third parties:

25 objection letters from members of the public were received over the course of the application. 7 letters of comments were received with some expressing general support for the principle of delivering more affordable housing.

A letter of objection was received in Dec 2022 from the Cllr for Marlborough West regarding the need for a cycle route to be included which has since been included. Letters were also received from North Wiltshire Swifts and Action for the River Kennet.

Key concerns raised by members of the public include the following (full comments available online):

- Concerns regarding proposed boundary treatments along northwestern boundary:
  - Revised plans are a '*vast improvement in terms of relocation of boundary fencing and the existing hedgerow being retained*' – request that preservation order be a condition before work commences.
  - Relief that previously proposed close boarded fence at the bottom of garden is to be replaced with a 5 ft high mesh fence.
  - Objection to wooden fencing being placed at top of bank at end of gardens – due to impact on views, impact on trees/tree removals, wildlife (such as hedgehogs).
  - Concerns over whether fencing is proposed within private land ownership outside site boundary – any fence should be placed at the bottom of the slope not the top or have no fence at all.
  - The embankment is a haven for wildlife and would not want to see if affected.
  - Neighbour's bank collapsed and required retaining wall put in place so integrity of wall and bank needs to be maintained.
  - Existing footpath along the north of the site should be maintained.

*Case Officer Note: The boundary arrangements along the northwestern boundary have since been amended since these comments were received. Wooden fencing along top of embankment is no longer proposed.*

- Access and traffic related concerns:
  - Concerns regarding additional traffic using the access lane – safety risks for school children/dog walkers that currently use the route as a low trafficked route,

- particularly during construction phase when heavy vehicles will need to access the lane.
- Concern over damage being done to the lane during the construction period – could a before and after survey be required to see if any damage needs to be repaired.
  - Insufficient parking spaces being proposed.
  - Object to the lane being reduced in width which would cause more problems for access/egress.
  - Need to improve the footpath from Jennings Road/Garside Way which is used by children attending St Mary's and St Johns schools – currently in disrepair. Need for a traffic calming measure at the crossing point.
  - Concern about risk of gridlock given the parents currently use the lane for drop off and pick up taking children to school at the five-way junction at top of Cherry Orchard Road.
  - Who will be responsible for private road maintenance?
- Construction site is too close to existing properties – concerned about responsibilities for any problems during construction phase.

*Case Officer Note: Improvements to the footpath are now included as part of the proposals; the access lane is no longer to be reduced in width; a condition is placed requiring construction management plan to address risks during construction phase.*

- Overdevelopment of the site:
  - 24 houses is too many.
  - Properties already standing vacant on Cherry Orchard – why are more houses therefore needed.
- Concern over impacts on wildlife including impacts on nearby bat colonies, disruption to flight paths, need to retain dark skies; impacts on adders and hedgehogs that use the area.

*Case Officer Note: Dark corridor is being maintained to southeastern boundary and northwestern tree to belt to be retained and unaffected, various ecological enhancements to be secured via condition.*

- No street lights shown on plans for pedestrians or cars.
- Concerns over impact on Water supply/ pressure problems.
- Adding to existing air pollution problem.

*Case Officer Note: a street lighting strategy will be required under condition and electric vehicle charging points will be provided to all properties as required under building regulations.*

**North Wiltshire Swifts (summary of final comments)**



The ecological assessment points towards 23 integrated bird bricks being installed in this development, which, although is not the number that will be required in Wiltshire's Local Plan Pre-Submission Draft (Cabinet Version) 2020-2038 September 2023, is very welcome. (see Note below)

However, it is extremely importantly that these bricks are marked on site plans and elevations. The site plan submitted does have some 'red dot' and 'green dot' markers which may or may not indicate ecological enhancements, but there is no key to inform the construction team of their presence which will result in them being omitted.

Ecological enhancements should be clearly marked and labelled on site plans and elevations. We have cases of where they are only marked in LEMPs and these are either not given to the construction teams, or the construction teams are not aware they may contain ecological enhancements that need to be built into the development.

Given this is a Wiltshire Council build please would you add and label the locations of the swift bricks on site plans and elevations.

*Case Officer Note: Revised plans have since been submitted marking on the location of bricks – notwithstanding these plans, these details will also be subject to a condition and further consultation with the Council's ecologist.*

#### **Action for the River Kennet**

*The SuDS options included in this design are limited to water butts and plastic subsurface crates. We are pleased to see the inclusion of SuDS, but we are disappointed that the design has not included any measures that support biodiversity, amenity or water quality. The CIRIA SuDS manual is clear that all four pillars of SuDS should be supported in designs, and this is not the case here. The table on p24 contradicts itself about whether green roofs are included or not, but from the designs it appears that they are not. We urge the designers to be more ambitious in their approach to sustainable drainage and embrace options to include surface features to support biodiversity and create greener, more beautiful spaces for people to live. As a minimum we would like to see water butts with overflows into rain gardens.*

*Case Officer Note: Potential options for Drainage Strategy are restricted by site conditions, since receiving comments plans have been amended to include bio-retention rain gardens with every property.*

## **11. Assessment**

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. (Section 70(2) of the Town and Country planning Act and Section 38(6) of the Planning and Compensation Act 2004). The NPPF is also a significant material consideration and due weight should be given to the relevant policies in existing plans according to their degree of consistency of the framework.

### **Environmental Impact Assessment**

Notwithstanding the Strategic Environment Assessment (SEA) carried out for the NP, the proposed development falls within 'Schedule 2 development' as an urban development project within a 'sensitive area' being within the National Landscape boundary. This requires the council to decide whether the development is likely to have significant effects on the environment that would warrant Environmental Impact Assessment. Given the location within the defined settlement of Marlborough combined with the small scale of the development and the embedding of mitigation measures within the scheme; an Environmental Impact Assessment is not considered to be required in this instance.

### **Principle of development**

The site is located within the defined settlement boundary for Marlborough, identified as a Market Town under Core Policy 1 of the WCS. In relation to Market Towns, Core Policy 1 states:

*Market Towns have the potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self-containment and viable sustainable communities.*

WCS Core Policy 14 states that development within the Marlborough Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1 and assigns a housing requirement of 680 homes for Marlborough over the plan period. to 2026. Core Policy 2 establishes that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Market Towns.

This Site is allocated within the made Marlborough Neighbourhood Plan under Policy MARL1 ('Site 2') '*for at least 15 homes on a developable area of no more than 1 hectare, limited to ensure that the development retains a natural setting*'. The full wording of the policy and policies map extract is included below.

**Land off Cherry Orchard**

**Within the site boundary shown on the adjacent plan, proposals will be supported for at least 15 homes on a developable area of no more than 1.0 Ha, limited to ensure that the development retains a natural setting, and subject to the following:**

- a. The proposals shall include for 40% affordable housing:**
- b. The scheme shall have a highways access on to Cherry Orchard only with appropriate mitigation to assure safe vehicular, cycle and pedestrian access:**
- c. The layout shall retain public right of way MARL30 through and on the boundary of the site:**
- d. The issues arising from part of the site's location within the Marlborough public water Source Protection Zone 1 must be satisfactorily addressed:**
- e. A biodiversity strategy shall include retaining the green infrastructure along its south-western boundary to protect the habitat corridor (the former railway line) towards the Savernake Forest SSSI to its south, as well as demonstrating proposals to deliver a biodiversity net gain; and**
- f. The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB.**

## Marlborough Neighbourhood Plan – Policies Map Extract (MARL 1 Site 2):



### **Housing Land Supply – tilted balance not engaged**

At the time this application was submitted, under the provisions of the NPPF the Council was required to demonstrate a 5-year supply of housing land. The NPPF was subsequently updated in December 2023 and as such, under the latest national policy requirements, the Council is now only required to demonstrate a 4-year housing land supply given the stage of advancement of the emerging Local Plan. At present the Council is able to demonstrate 4.6 years housing land supply; this is currently confirmed at 4.6 years via the Housing Land Supply Statement (Base date: April 2022) that was published in May 2023. As such, the presumption in favour of sustainable development (or 'tilted balance') does not automatically apply to this application in respect of housing land supply. Furthermore, footnote 7 to paragraph 11 of the NPPF requires consideration of the policies within the Framework that protect areas or assets of particular importance. In this case, the application falls within a National Landscape (formally Area of Outstanding Natural Beauty). The tilted balance would not apply where conflict is identified with the NPPF policies that protect these assets.

### **Principle of development summary**

In policy terms, the principle of the development is supported under CP1 and CP2 of the WCS. The site lies within the settlement boundary of a Market Town and is allocated for development within the NP.

The proposals will include the delivery of new affordable homes which is in line with the stated local needs for this area and supported under Core Policy 43. The local need for additional

affordable housing is clearly set out within the NP (i.e. paragraph 2.24, 3.12, 4.1). The need for more affordable homes for low-income groups, including young people, forms part of the vision and is a key objective of the NP to 2036.

The proposals involve the regeneration of a previously developed brownfield site which aligns with the objectives of the Core Strategy (Strategic Objective 5) and is supported under Core Policy 36. Core Policy 2 also states that new development will be delivered through the re-use of previously developed land. Furthermore, paragraph 123 of the NPPF clearly promotes the use of previously developed land in making effective use of land in meeting the need for homes.

### **Landscape and Visual Impact – National Landscape (formally AONB)**

The site lies wholly within one of the two largest settlements within the North Wessex Downs National Landscape, within the built-up urban edge of Marlborough. Core Policy 51 provides that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character. Proposals should, amongst other things, be informed by and be sympathetic to, the distinctive character areas identified in the relevant Landscape Character Assessment(s)<sup>1</sup> and any other relevant assessments and studies. Within the AONB, proposals need to demonstrate that they have taken account of the AONB Management Plan.

NPPF paragraph 182 advises that ‘great weight’ should be given to conserving and enhancing landscape and scenic beauty in AONBs (now NLs). Paragraph 183 of the NPPF states that planning permission should be refused for ‘major’ development in the AONB (now NL) other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. Whether a proposal is considered ‘major development’ in the AONB (now NL) is a matter for the decision maker, taking into account its nature, scale and setting and whether it could have a significant impact on the purpose for which the area has been designated or defined. Given the limited contribution the site directly makes to the wider designation of the NL, the proposal is not considered to be ‘major development’ for the purposes of the NPPF.

The principle of new housing within the NL area is supported by the North Wessex Downs AONB Management Plan 2019-2024 in certain circumstances, “*only where it is necessary to meet appropriate local needs will new housing be supported. This should be within existing settlements, preferably on previously developed sites*”, but “*small scale housing sites within or on the edges of the secondary larger villages may be supported where all landscape and other planning issues have been resolved*” (paragraphs 7.25-7.26). Paragraph 7.25 states that “*Good design and siting of all new developments in the North Wessex Downs is essential. They should reflect the local landscape character and architecture and make use of local materials.*” Housing is also supported by the plan where it is delivered through a Neighbourhood Plan process and is considered appropriate in terms of landscape and environmental impact (paragraph 7.27).

Development policies of relevance within the Management Plan include DE01 requiring development to conserve and enhance the character and quality of the AONB (now NL) and DE02 encouraging high standards of design, landscaping and traditional building styles and energy conservation and innovation.

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<sup>1</sup> As listed in Core Policy 51 supporting text para. 6.80

Policy MARL1 of the Neighbourhood Plan in respect of the visual impact of the development, requires that *'The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB'*.

At a strategic level, the principle of this development within the NL has already been considered through the allocation and independent examination of the NP. Both the Local Authority and the AONB unit supported the principle given the location within the defined limits of development and it being a brownfield site. However, the examination report on the NP highlighted the need to remain cautious in terms of respecting the AONB status and in particular the ecological sensitivities and constraints as discussed in further detail below.

In respect of the NL setting, the development would retain and reinforce the mature tree belts surrounding the site that would help to visually screen it from surroundings. The new development would be viewed in the context of the existing surrounding housing and would be an improvement compared with the current vacant state of the site. Given its location, it is not considered that the development would give rise to unacceptably adverse effects on the wider landscape and scenic beauty of the North Wessex Downs NL. The Council's Landscape Officer and other consultees have raised no objection in this regard, subject to sensitive design.

In conclusion, subject to securing the retention of the landscape setting around the boundaries of the site, the proposal is considered acceptable with regards to impact on the NL in accordance with Core Policies 51, 57 and Policy MARL 1 of the NP.

### **Design and Layout**

Core Policy 57, as well as the AONB Management Plan, require a high quality of design to create a strong sense of place through drawing on the local context and being complementary to the locality. Proposals must demonstrate how they will make a positive contribution to the character of Wiltshire by, amongst other things, relating positively to the landscape setting and the existing pattern of development and responding to local topography (57(i)).

The application site is discretely positioned and largely screened by mature tree belts such that the development would have a relatively limited direct impact on the character of the surrounding streets. However, glimpses through to the new development would be afforded from the PROW and from the access lane. The site has several constraints which limit the potential options for the layout, including the presence of the underground oil pipeline, the steep embankments on either side and the need to maintain wide tree buffers for conservation of protected species including a dark corridor on the eastern side, designed to prevent public access. The layout has been through several iterations during the determination period, with amendments made to address comments raised by consultees, including local residents, urban design, highways, police liaison, drainage and public protection officers.

It has been recognised that the existing dwellings to the north have the potential to be affected by any new boundary treatments put in place within their rear gardens along the northwestern tree embankment. Amendments have been made to the masterplan to reduce the potential for adverse visual and amenity impacts on the occupiers of these properties and to retain the existing rear garden arrangements as existing as far as is practicable.

conditions have been placed to ensure the quality of final finishes, use of materials and selection of boundary treatments.

Core Policy 41 and NP Policy 4 encourages development designed towards achieving zero emissions of CO2. The development has been designed to future planned building regulation standards and is to be all-electric with no reliance on gas. It is likely that air source heat pumps will be incorporated into the development at detailed design stage where possible to do so.

Following the amendments, it is concluded the development is capable of satisfying the requirements of good design as set out in Core Policy 57. Subject to conditions, no unacceptable impacts are considered likely to arise either on the built environment or the surrounding landscape which would otherwise warrant the refusal of planning permission.

### **Neighbour amenity considerations**

Core Policy 57 requires proposals to demonstrate how they will have regard to the impact on the amenities of existing neighbours and to ensure that appropriate levels of amenity are achievable within the development itself for future occupants including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter).

#### **Properties in Upper Churchfields**

The rear gardens of the five closest detached properties in Upper Churchfield back onto the application site. They are set on higher ground with garden depths ranging from approximately 8.5m to 25m. Some residents have raised concerns regarding the introduction of new boundary fencing that was originally proposed to be erected at the top of the embankment along the northern site boundary, which would be visible at the end of their gardens. Concerns were also raised by the Council's ecologist regarding the splitting up of the tree belt to be conveyed into separate sections within the new private gardens. The masterplan has since been amended to retain a continuous tree belt for the benefit of wildlife without the need to place fencing at the end of the existing gardens. The base of the embankment will continue to be retained by the existing retained wall and the introduction of new timber sleepers with fence above, to prevent public access. The retention of the tree belt will reduce the risk of adverse visual and amenity impacts on the occupiers of these adjacent properties.

#### **Cherry Orchard House**

A public footpath separates properties at Cherry Orchard House from the application site. The footpath is proposed to be widened to a width of 3.5 metres (through dedicating land from within the development site boundary). Plots 1 and 2 would face across the footpath at an angle towards the rear gardens at a distance of 10m+. 10m is generally accepted as the minimum acceptable distance between a rear of a property and the side of a neighbouring rear garden. Given also the angled relationship directing views towards the end of the gardens rather than squarely across them, it is concluded that there would not be an unacceptable effect in terms of privacy, light loss or overbearing impact.

### 32 & 34 Garside Way

These properties to the south of the site are set on lower land than the application site. No. 32 is circa 27m from the nearest dwelling (Plot 5) and No. 34 circa 20m from proposed new Plot 9. The new properties do not have south-facing windows at first floor level and given the separation distance, gradient and intervening tree cover there would not be material impacts on amenities in terms of privacy, light loss or overbearing impact.

### Amenity for future occupiers

The proposed properties broadly comply with the Nationally Described Space Standards. All properties have the use of private garden spaces, with adequate parking and waste arrangements. Amendments have been made to the plots with elevations on to the eastern tree corridor to increase the amount of defensible space and planting to manage this transition. The layout has also been designed to ensure that utility easements have been respected.

A Construction Management Plan as well as a Construction Environmental Management Plan would be required by way of planning condition to manage the construction phase in a way that does not give rise to unacceptable adverse effects on local residents. A restriction limiting working hours is also proposed to be imposed.

In conclusion, the proposal as amended is considered to comply with CP57 and CP51 of the WCS. Appropriate levels of amenity are achievable within the development.

### **Ecology, Trees, and Hedgerows**

Core Policy 50 of the WCS states that development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. All developments should seek opportunities to enhance biodiversity.

The application site does not lie within or immediately adjacent to any sites designated for nature conservation, however the Savernake Forest SSSI lies approximately 500m to the southeast of the site. The Savernake Bat Tunnel to the immediate southwest is in the process of being considered for designation by Natural England as a new SSSI. An Ecological Assessment was submitted with the application, which included a UK habitat and species assessment with extended surveys for bats and reptiles. It concluded as follows:

- The bat habitat assessment identified the existing woodland as a potential commuting corridor between a known natterers roost in the railway tunnel, the Savernake SSSI, and the wider environment.
- The site is likely used by badger, hedgehog, dormouse and polecat.
- The grassland contained a low population of slow worm and potential habitat for common species of amphibian.

The report recommended the following:

- Working method statements be provided for slow worms, amphibians and dormouse.
- Works to be timed to avoid impacting nesting birds.
- A lighting plan to avoid impacting bats foraging and commuting on the woodland.



- Habitat recommendations include the retention/enhancement of grassland and woodland and the creation of scrub, grassland, hedgerow and small orchard.

Following various amendments, the Council's Ecologist is now satisfied that the final plans retain suitable functional habitat for biodiversity by retaining vegetated boundary features, including a darkened corridor for bat foraging and commuting, and additional planting of scrub and wildflower/grassland that will sustain bats, dormice and reptiles. The eastern boundary of the development has been designed, through planting and use of boundary fencing, to prevent and deter public access into the ecological corridor.

Biodiversity Metric 3.0 has been used to calculate the loss of habitat resulting from the development, as required by CP50 and the NPPF. Given the various site constraints, it has not been possible to achieve no net loss within the site itself, however the functionality of the retained habitat will be maintained. The Council's ecologist has agreed that a financial contribution can be made to secure habitat units off-site, deliverable through Wiltshire Council's own scheme, to make up for the shortfall. This would be secured via a S106 legal agreement.

Conditions are proposed to be imposed to ensure compliance with the various agreed ecological mitigations and enhancements as detailed set out within the ecology assessment. Subject to such conditions and off-site financial contribution, no outstanding objections are raised under CP50.

An Arboricultural Impact Assessment (AIA), Tree Constraints Plan and Method Statement have been submitted to support the application. As detailed above, the masterplan has been designed to retain the mature tree belts surrounding the development site for the purposes of both visual screening and for the benefit of biodiversity. Some 14 trees are proposed to be removed as part of the development. An Indicative Landscape plan has been submitted indicating areas for new and retained planting with several new and replacement trees proposed. The final details of the landscaping scheme will need to be agreed via condition. A requirement for a Landscape and Ecological Management Plan (LEMP) setting out the details of the long-term management arrangements can be secured via planning condition. During the construction phase, landscape and ecological features will be protected by way of a Construction and Environmental Management Plan (CEMP), including Tree Protection Plan.

Following the amendments, it is considered that the proposals are now acceptable in relation to the retention and protections afforded to the tree belts surrounding the site. In conclusion, subject to conditions, no objection is raised under policies CP57, CP50 and CP51 in this regard.

### **Highways, Access and Rights of Way**

Core Policy 60 seeks to reduce the need to travel, particularly by car, and supports and encourages the sustainable, safe and efficient movement of people and goods through a series of initiatives and together with Core Policy 62 seeks to mitigate any adverse impact on the transport network on transport users, local communities and the environment.

Core Policy 61 requires proposals to demonstrate that the proposal is capable of being served by safe access to the highway network and states in the supporting text that transport impacts

of new developments need to be assessed and connection to the highway should be safe for all road users.

Vehicular access would be gained from the east along Cherry Orchard, the access previously used for the former Resource Centre, as well as the housing at Cherry Orchard House. Tracking plans have been submitted to demonstrate that the layout would be accessible for the largest vehicles of refuse truck and fire tender. The Highways Officer is satisfied with the level of parking provided as well as the provision of EV charging points and cycle parking.

Given there is no vehicle through-route, the road layout is not required to be adopted by the Highway Authority. If the roads were to be adopted in the future, the existing access track would need to be assessed for its suitability to be brought up to adoptable standards.

The development is proposing to deliver a significant benefit in terms of widening of a section of footpath Marl30 which links northwards towards the town centre. The development would provide for widening and surface improvements of the path to a width of circa 3.5 metres to better enable cycling. This is supported by local members as well as the Council's highway, transport and public rights of way teams as part of a strategic objective to improve the local pedestrian and cycling network. This commitment would be secured by way of legal agreement.

Concerns have been raised by local residents in terms of disturbance from vehicles during the construction phase, as well as the potential for an increase in the risk of accidents. A Construction Management Plan would be required to be submitted via condition, this to be agreed with the highway authority and restrictions on working hours imposed.

In conclusion, subject to conditions, the proposal is considered acceptable in terms of highways and access matters and no outstanding objections are raised under Core Policies CP57, 60 and 61.

### **Drainage and flood risk**

Core Policy 67 requires proposals to include measures to reduce the rate of rainwater run-off through the use of sustainable drainage measures.

The site falls is within Flood Zone 1 and is an area of low risk of flooding from surface water. A Flood Risk Assessment has been submitted with the application, along with a proposed drainage strategy and number of subsequent technical notes addressing various technical issues raised. Further ground investigations took place during September 2023 to ensure the ground conditions are suitable for the drainage infrastructure proposed. Rainwater garden planters are also now proposed within the garden of each dwelling. The Drainage team, as the Lead Local Flood Authority have now removed their holding objection subject to certain compliance conditions.

In conclusion, following amendments, no outstanding objections are raised under Core Policies CP67 subject to conditions.

### **Water quality – Source Protection Zone**

Policy MARL1 requires that “The issues arising from part of the site’s location within the Marlborough public water Source Protection Zone 1 must be satisfactorily addressed”.

The southern corner of the site falls within Source Protection Zone 1 as highlighted yellow on the plan below. The Environment Agency provides guidance on groundwater protection<sup>2</sup>.

Residential occupation of the site is a low-risk use of the land in terms of potential direct or indirect contamination of ground water, other than a potential impact in the event of faulty sewers. The construction phase also gives rise to potentially polluting activities.

A condition to secure details of and adherence to a Construction and Environmental Management Plan is considered sufficient to ensure that the development avoids direct and indirect contamination of groundwater.



### **Ground Conditions and Pipeline Easement**

There is a pipeline operated by Exolum crossing the southern corner of the site requiring a 6m easement strip (3m either side), whereby no development works can take place. Development and intrusive activities within this easement are prohibited under separate legislation outside of planning. The masterplan has been designed to respect the location of the easement and no objection has been sustained by the pipeline operator. A Works Consent will be required to be entered into with the pipeline operator under separate agreement post-planning.

The former uses of the site may have given rise to potential sources of land contamination. As such a condition has been placed that would require a scheme of remediation to be submitted for approval prior to commencement to avoid and prevent any risks.

### **Developer contributions - affordable housing, waste, public education, open space/sports facilities, off-site biodiversity, PROW widening**

#### CIL

The Community Infrastructure Levy (CIL) is a charge that local authorities in England and Wales can put on new development in their area to raise funds to help deliver the infrastructure necessary to support this development. An informative would be placed on any permission.

#### Affordable housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the NPPF, sets a requirement for 40% on-site affordable housing, which equates to 10 dwellings. The Housing Team advises that this should comprise the following tenure mix to meet identified needs as follows:

#### Affordable Rented:

- 2 x 1 bed flats including 1 x Ground Floor Flat built to M4 (2) standards
- 2 x 2 bed houses
- 2 x 3 bed houses

<sup>2</sup> <https://www.gov.uk/government/collections/groundwater-protection>

### First Homes

- 2 x 2 bed houses
- 1 x 3 bed houses

### Shared Ownership:

- 1 x 2 bed house

With regard to plot 6, the Ground Floor flat, the ground level floor plan shows the level access shower as requested in addition to being built to meet M4(2) standard. This standard extends to the parking space, with the requirement for it being capable of being widened to 3.3m.

First Homes must be discounted by a minimum of 30% against the market value, with the sale price, at first sale, no higher than £250,00 after the discount has been applied. They must be sold to qualifying first time buyers with the discount and restrictions passed on to subsequent owners in perpetuity.

The affordable dwellings (other than First Homes) will be required to be transferred to a Registered Provider, approved by the Council, or to the Council, on a nil subsidy basis.

On this basis, the housing officer supports this mix of housing which will be secured in the associated legal agreement accordingly.

Therefore, no objection would be raised under CP43 subject to the applicant entering a Section 106/legal Agreement to provide affordable homes in line with the Council's standard requirements set out in the full response from housing.

### Education

Core Policy 3 requires new development to provide for essential related infrastructure (including education facilities) to be delivered, where appropriate, through financial contributions. Similarly saved policy HC37 states that 'a contribution towards improvement of the existing school infrastructure will be sought where there is evidence that demonstrates that the need for the improvement is a consequence of the new housing development'. The Local Authority has a duty to provide sufficient childcare for working parents under Section 6 of the Childcare Act 2006.

### Early Years Places

The Council's Head of School Place Commissioning reports that for pre-schools there is currently no requirement for a developer contribution towards the expansion of Early Years infrastructure in this area.

### Primary School Places

It has been assessed that primary education capacity within the vicinity is sufficient and that no contribution is required in respect of primary education as the pupil yield of the development can be accommodated within St Mary's CE Primary and Preshute CE Primary.

### Secondary School Places

The designated secondary for this site is St John's, Marlborough which currently has no spare capacity. As such a contribution is needed towards provision of 4 additional secondary school places. Using the current cost multiplier of £22,940 per place x 4 = £ £91,760. (subject to indexation).

### Open space and sports provision

Open space and play areas are 'place-shaping infrastructure' for the purpose of Core Policy 3 which requires that development provides for the infrastructure requirements for the development. Saved policy HC34 sets out the recreation provision required in developments of 20+ dwellings. Core Policy 52 requires the provision of accessible open space and arrangements for ongoing management and maintenance.

For this site, the SPG indicates a requirement for 1400m<sup>2</sup> of play and open space provision comprising:

Equipped play space	179 m <sup>2</sup>
Casual play space	236 m <sup>2</sup>
Formal sports pitches	985 m <sup>2</sup>

Diagram 3.1 of the SPG identifies that no equipped play space is required on-site when there is adequate provision for primary school children within 240m radius of the site. Adequate provision is defined as 'a well-maintained equipped play area of at least 400m<sup>2</sup> with at least 5 pieces of play equipment'. The Orchard Road Play Area is a c. 380m<sup>2</sup> existing play area 50m to the north of the application site. It is identified in MARL16 as a 'Valued Community Open Space'. It appears to be well-maintained and with a variety of play equipment.

The site plan identifies an a 380m<sup>2</sup> area of new public open space within the site. Together with the Orchard Road Play Area it is concluded that this would provide for adequate equipped and casual play space to meet the needs of the development.

Sports pitches cannot feasibly be provided on-site and notwithstanding the comments of the Play and Open Spaces Officer, the SPG highlights that developments of less than 157 houses should contribute towards improvement of off-site sports facilities. A contribution of £11,256 is identified in accordance with the SPG.

### Refuse and Recycling

Waste Core Strategy Policy WCS6 requires developers to provide facilities for separation and storage of waste for recycling and composting. It also states that any such provision must "have regard to the existing Municipal Waste Management Strategy". The Council's waste strategy expects that new developments are designed to enable waste collection services to operate safely and efficiently, and, to this end, the waste SPD sets out what is deemed to be safe and efficient.

Recycling and collection facilities are classified as essential infrastructure for the purposes of WCS Core Policy 3: Infrastructure Requirements. The Council's Waste Storage and Collection: Guidance for Developers SPD requires financial contributions towards the provision of bins and boxes for the dwellings at £101 per dwelling to be secured by way of planning obligation. As such a financial contribution of £2424 would be secured via legal agreement.

#### Off-Site Biodiversity Contribution

A financial contribution to the delivery of off-site habitat units has been sought to offset the net loss on-site. The development would deliver a net loss of -6.34% for habitats (0.26 biodiversity units) and a net loss of linear units of -9.7% (0.2 biodiversity units) for hedgerows. This translates into a financial contribution of £13,800 based on £30,000 per biodiversity unit.

#### PROW Widening

The S106 agreement will include the requirement for the applicant to enter into an agreement with the Local Highway Authority to complete the widening and surfacing of MARL30 in accordance with drawings submitted and approved under that agreement. The description of the works will be:

*PROW MARL 30 will be widened to a width of between 3m and 3.5m. The construction will meet Highway Adoption Standards. It will be surfaced in tarmac with concrete edging kerbs and provided with positive drainage. The level of the path incline will be within the criteria outlined in the relevant Government guidance. A retaining wall will be required with details to be submitted to and approved in writing by the LHA. A temporary closure of the PROW will be required during construction and the applicant will be required to fund any TROs associated with the diversion/closure.*

#### Summary of Developer Contribution Matters

The education, waste, affordable housing, ecology, and public open space teams have all made representations regarding the proposals. Following amendments, no objections have been raised subject to the appropriate contributions being secured via suitably worded legal agreement. As such the proposal is considered to comply with policies CP3, CP43, the adopted Planning Obligations DPD, and policy WCS6 of the Waste Core Strategy.

## **12. The Planning Balance**

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions. Planning decisions should apply a presumption in favour of sustainable development and this means approving development proposals that accord with an up-to-date development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. For this application, paragraph 11d of the NPPF ('the tilted balance') would not automatically apply due to the National Landscape (formally AONB) location, which is one of the exceptions under NPPF footnote 7.

The principal benefit of the proposed development is in terms of its contribution to the supply of new homes in Wiltshire, and particularly in meeting locally identified needs for Marlborough, as identified through the Neighbourhood Plan. The delivery of 24 new homes, including 10 affordable homes on a brownfield site, in a sustainable location within the settlement boundary is afforded substantial weight in favour of the development. There would also be economic benefits through the construction phase and when in operation, the associated boost to local businesses and community facilities within the village assisting with continued viability. The delivery of a new open space area, the improvements to the right of way as well as the off-site financial contributions, including education places are also benefits of the scheme. These further benefits attract moderate weight.

Concerns have been raised during the course of the application with particular regard to suitably addressing the constraints of the site, ecological and landscape impacts, boundary features and drainage strategy. These matters are now considered to have been satisfactorily resolved following further rounds of amendments to plans. The provision of biodiversity protection and enhancement measures and retention of boundary tree belts will help to avoid and mitigate risk of ecological and landscape harms and impacts. Drainage and flooding matters have been thoroughly considered and can be suitably conditioned to ensure that the new dwellings can be adequately served by on site infrastructure and a SUDs scheme provided.

Subject to securing conditions and legal agreement, officers it is considered that any adverse impacts of approving the development would not significantly or demonstrably outweigh the benefits of the scheme, when assessed against the policies of the Local Plan and the NPPF. The planning balance weighs in favour of the development and planning permission should therefore be forthcoming.

### **13. RECOMMENDATION:**

**Subject to the applicant entering into a Legal Agreement to secure the following financial contributions:**

- **£ £91,760** for secondary school places
- **£2,424** for provision of containers for waste and recycling
- **£11,256** for Off-site sports pitches
- **£13,800** for off-site biodiversity contribution
- **£1,192 for S106 monitoring fee (1% of total contributions)**

**and to secure a scheme of 10 Affordable Housing Units** with the agreed tenure mix, at nil subsidy, meeting NDSS design and floorspace standards, subject to the nomination rights remaining with Wiltshire Council and the homes being transferred to a Registered Provider, approved by the Council, or to the Council.

**and to secure the requirement to enter into an agreement with the Local Highway Authority** to complete the widening and surfacing of MARL30.

**APPROVE subject to the following conditions:**

1. **Timeframe**

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

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

2. **Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- C8671.PL.050 REV K - Proposed Site Plan
- C8671.PL.051 REV G - Enlarged Proposed Site Plan
- C8671.PL.051-1 REV D - Enlarged Proposed Site Plan for Future Connections
- C8671.PL.052 REV E - Proposed Surface Finishes Plan
- C8671.PL.053 REV E - Proposed Refuse Strategy Plan
- C8671.PL.054 Rev F - Proposed Land Use Plan Sheet 1 of 2
- C8671.PL.054 - 1 Rev A - Proposed Land Use Plan Sheet 2 of 2
- C8671.PL.055 REV J - Proposed Affordable Tenure Plan
- C8671.PL.056 REV G - Proposed Boundary Treatment Plan
- C8671.PL.057 REV F - Indicative Landscape Plan Sheet 1 of 2
- C8671.PL.057 -1 REV A - Indicative Landscape Plan Sheet 2 of 2
- C8671.PL.058 REV A - Proposed Materials Schedule Sheet 1 of 2
- C8671.PL.059 REV A - Proposed Materials Schedule Sheet 2 of 2
- C8671.PL.070 REV G - Proposed Site Section A- A and Section B-B
- C8671.PL.110 REV D - Plot 1 - 3 - Proposed Floor Plans and Elevations
- C8671.PL.130 REV D - Plot 4 - 5 - Proposed Floor Plans and Elevations
- C8671.PL.150 REV D - Plot 6 - 9 - Proposed Floor Plans and Elevations
- C8671.PL.170 REV D - Plot 10 - 13 - Proposed Floor Plans and Elevations
- C8671.PL.190 REV D - Plot 14 - 17 - Proposed Floor Plans and Elevations
- C8671.PL.210 REV D - Plot 18 - 20 - Proposed Floor Plans and Elevations
- C8671.PL.230 REV F - Plot 21 - 24 - Proposed Floor Plans and Elevations
- Retention Removal Tree Plan Sheets 1 of 2 and 2 of 2 - C871.PL.060 Rev A
- Indicative details of boundary fencing tree retention- C871.PL.071 Rev A
- Sketch showing planting adjacent to bat corridor- C871.PL.072 Rev A
- Design and Access Statement (A3 Landscape) Cherry Orchard (Revised June 2023) Rev G
- Ground Investigation Report-6219-B/GIR, October 2018
- Phase 1 Contaminated Land & Geotechnical Desk Study-6219-B/DS
- Flood Risk Assessment and Drainage Strategy - Issue 4 (dated 10<sup>th</sup> Sept 2021) - Acl592/21021/FRA/DS
- Additional Information Statement requested by the LLFA (dated 10th Feb 2022) - Acl631/21021/TN



- Drainage Strategy & Surface Management Update Statement (dated 7<sup>th</sup> Dec 2022)- Acl698/21021/A/DS
- Additional Information Statement requested by the LLFA (dated 5<sup>th</sup> May 2023)- Acl759-21021-TN
- Drainage Update Technical Appendices-parts-1 and 2 (dated 6<sup>th</sup> Oct 2023)- Acl807-21021
- Ecological Assessment (Ethos) - ETH21-106 - V.4
- Biodiversity Net Gain Results (Ethos, November 2023) – V.2

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

### 3. **Materials**

No development of the new buildings shall progress above ground floor slab level until full details, including a Materials Plan, of the materials and finishes to be used, including external walls, all visible features on external facades and roofs (including external walls, brickwork, lintels/cills, roof tiles, windows, joinery/paint colour, rainwater goods, doors and garage doors and porches) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

The details to be submitted under this condition shall include for example, product literature and photographic examples (submitted electronically in pdf format) and shall not include links to manufacturer/ vendor web sites. If requested, samples of materials and finishes are to be made available for inspection on the development site. The details to be submitted of the porches shall include all construction materials, which will be expected to be of traditional construction and not of GRP pre-fabrication.

REASON: In the interests of visual amenity and the character and appearance of the area.

### 4. **Scheme of footpath widening**

No part of the development shall be occupied until the improvements to the section of the MARL30 Public Right of Way (area as indicated on approved plan C8671.PL.051-1 Rev D) have been fully implemented and the construction works given approval by the Local Highway Authority. The works shall be fully inspected throughout construction by the Local Highway Authority.

REASON: In the interests of highway safety.

### 5. **External Lighting**

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.

REASON: In the interests of the amenities of the area to minimise unnecessary light spillage above and outside the development site and for the protection, mitigation and enhancement of biodiversity.

**6. Ecology – Compliance with assessment**

The development hereby approved shall be carried out in strict accordance with the submitted Ecological Assessment (Ethos) - ETH21-106 - V.4.

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity

**7. Ecological Enhancements Plan**

Notwithstanding the approved plans, no development shall commence until an Ecological Enhancements Plan has been submitted as well as specifications and full details of the following ecological features to be submitted and approved in writing by the Local Planning Authority, in accordance with the provisions set out within the Ecological Assessment (Ethos) - ETH21-106 - V.4:

- Details of artificial bat boxes and roof tiles to include one integrated bat brick for each house backing on to the woodland edge, three bat boxes for the woodland and a bat access tile for each dwelling within the development.
- 24 integral bird nesting bricks will be installed into the buildings and four external board boxes within the new orchard and retained habitat.
- 24 integrated bee bricks to be installed one per housing unit (ideally south-facing)
- Insect hotel.

Prior to first occupation, all approved ecological features shall be implemented thereafter and maintained for the lifetime of the development.

REASON: For the protection, mitigation and enhancement of biodiversity

**8. Site planting scheme**

i) No development shall commence until details of a site planting scheme have been submitted to and approved in writing by the local planning authority, the details of which shall include:

- a) all soft surfacing materials,
- c) a detailed plan identifying existing trees and hedges to be retained and a planting plan and specification showing all plant species, supply and planting sizes and planting densities, and details of after-care.

ii) All so-approved planting shall be carried out no later than the first planting and seeding season following the first occupation of any part of the development or the substantial completion of the development whichever is the sooner.

iii) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

iv) Any trees or plants (including existing trees and hedges to be retained) which, within a period of five years from first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development.

**9. Implementation of Boundary Fencing**

Prior to first occupation, the approved boundary fencing and all means of enclosure, including wall and railings, shall be constructed/installed in accordance with the details of approved plan no. C8671.PL.056 REV G (Proposed Boundary Treatment Plan) and retained in accordance with the approved details thereafter.

REASON: In the interests of visual amenity and the character and appearance of the area.

**10. Landscape and Ecology Management Plan (LEMP)**

No development shall commence until a Landscape and Ecology Management Plan (LEMP), in accordance with the measures outlined in the Ecological Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

- long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development,
- together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.
- The LEMP shall include the recommendations set out within the Ecological Assessment (ETH21-106 - V.4).
- The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full to ensure long-term management of landscape and ecological features 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.

**11. Tree Protection Plan**

No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until tree protection fencing has been erected in the location shown on approved plan no. C8671.PL.060 Rev A (Retention/Removal Tree Plan Sheet 1 of 2) in accordance with protective fencing design specifications of British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction - Recommendations".

The protective fencing shall remain in place for the construction phase of the development until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations and construction shall be completed strictly in accordance with the recommendations of the submitted Arboricultural Method Statement (Author: Sharples Tree Services, Dated: October 2021).

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

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

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

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

**12. Construction And Environmental Management Plan (CEMP)**

No development shall commence, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works until a Construction

Environmental Management Plan (CEMP) has been submitted to the Local Planning Authority and approved in writing. The Plan shall include the recommendations set out within the Ecological Assessment shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- i. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- ii. Working method statements for protected/priority species, such as nesting birds and reptiles.
- iii. Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre- construction/construction related elements of strategies only.
- iv. 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.
- v. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- vi. Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

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

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

### 13. **Construction Management Plan**

- No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- - I. The movement of construction vehicles;
  - II. The cutting or other processing of building materials on site;
  - III. Wheel washing and vehicle wash down facilities;
  - IV. The transportation and storage of waste and building materials;
  - V. The recycling of waste materials (if any);
  - VI. The loading and unloading of equipment and materials;
  - VII. The location and use of generators and temporary site accommodation;
  - VIII. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts.

The details to be submitted under this condition shall include all details of timing and phasing of proposed measures to ensure that they are in place and maintained for so long as required.

- 
- The construction/demolition phase of the development shall be carried out fully in accordance with the construction management plan at all times. The development shall not be carried out otherwise than in full accordance with the Plan without the prior written permission of the Local Planning Authority.
- Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

**14. Hours of Demolition/Construction**

No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

**15. Highways - Visibility Splays**

The development hereby permitted shall not be first brought into use until splays have been provided on all private driveways (with planted boundary treatments) on both sides of the access from the rear of the existing footway based on co-ordinates of 2.4m x 2.4m. The splays shall always be kept free of obstruction above a height of 600mm.

REASON: In the interests of highway safety.

**16. Highways - Electric Vehicle Charging**

No dwelling hereby permitted shall be occupied until an electric vehicle charging point has been provided for that unit in accordance with details first to have been submitted to and approved in writing by the local planning authority. The details to be submitted for consideration under this condition will be expected to comply with Approved Document S of the Building Regulations 2010.

REASON: In accordance with national move to reduce reliance on fossil-fuelled vehicles, and to avoid the need for retro-fitting of electric vehicle charging facilities at a later date.

**17. Parking and Vehicle Turning**

No part of the development hereby permitted shall be first occupied until the access, turning areas and parking spaces have been completed in accordance with the details

shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

REASON: To ensure adequate off-street parking provision and vehicle turning manoeuvring space in the interests of amenity and highway safety and to prevent displaced parking on to adjacent highway. To meet National guidance in relation to Electric Vehicle Charging.

**18. Drainage Works compliance**

The development hereby permitted shall not be occupied until the works set out in the approved drainage strategy (including foul drainage) have been implemented in full and completed in accordance with the submitted and approved details. The drainage works must be delivered in full accordance with the details set out in Drainage Update Technical Appendices-parts-1 and 2 (dated 6<sup>th</sup> Oct 2023)- Acl807-21021. All foundations shall be at 1.6m depth for unity and to ensure that they are all in chalk. All soakaways shall be located in chalk and not the above layers (as per Table 5.1).

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy (adopted January 2015) and to ensure that the development can be adequately drained without increasing flood risk to others.

**19. Bioretention rain garden planter Maintenance Plan**

Prior to first occupation a management and maintenance plan for the on-going maintenance of the bio-retention rain garden planters shall be submitted and approved in writing by the Local Planning Authority.

Each householder shall be provided with the approved plan upon taking occupation of each new dwelling.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy (adopted January 2015) and to ensure that the development can be adequately drained without increasing flood risk to others.

**20. Contaminated Land**

No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until the below requirements of steps (i) to (ii) have been fully complied with and no dwellings shall be occupied until the requirements of steps (iii) and (iv) have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

**Step (i) Submission of Remediation Scheme:**

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

**Step (ii) Implementation of Approved Remediation Scheme:**

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

**Step (iii) Reporting of Unexpected Contamination:**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

**Step (iv) Verification of remedial works:**

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

The verification report should be submitted to and approved in writing of the Local Planning Authority.

**Step (v) Long Term Monitoring and Maintenance:**

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

REASON: Core policy 56, To reduce the risks associated with land contamination  
Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.



## INFORMATIVES

1. This planning permission is to be read alongside the associated legal agreement drafted under the provisions of Section 106 of the Town and Country Planning Act. 1990 (as amended) (the s.106 agreement) the requirements of which must be met, before the development can commence or at such a time as defined within the s.106 agreement, along with the requirements of the conditions of this planning permission.
2. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.
3. The attention of the applicant is drawn to the contents of the letter from Fisher German LLP dated 4<sup>th</sup> May 2023 pertaining to the pipeline (Fisher German/Exolum) that crosses part of the site. Development and intrusive activities are prohibited within the Pipeline Easement Strips without specific consent from Exolum. You should not undertake any work or activity without first contacting Exolum for advice and, if required, a Works Consent. For a copy of Exolum's Standard Requirements for Crossing or Working in Close Proximity to Exolum Pipelines, please visit <https://lsbud.co.uk/wp-content/uploads/2021/10/lbud-standard-requirement-uk-um.pdf> for further information.
4. There are water mains crossing or close to the site. Thames Water do not permit the building over or construction within 3m of water mains. If planning significant works near the mains (within 3m) Thames Water will need to check that the development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit their services. The applicant is advised to read the Thames Water guidance for working near or diverting our pipes. If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](https://thameswater.co.uk/buildingwater).
5. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

6. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.
7. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All appropriate licences for skips or waivers for construction-related vehicles should be sought from the appropriate teams within the Council.
8. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.



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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

Item 11

<b>Date of Meeting</b>	25 January 2024
<b>Application Number</b>	PL/2023/07058
<b>Site Address</b>	Land at Clackersbrook Farm, Bromham
<b>Proposal</b>	Erection of single dwelling and associated works to existing access and landscaping.
<b>Applicant</b>	Mr and Mrs Greg Wilkinson
<b>Town/Parish Council</b>	BROMHAM CP
<b>Electoral Division</b>	Cllr Laura Mayes
<b>Grid Ref</b>	395,779 165,275
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jonathan James

### Reason for the application being considered by Committee

The application has been called-in by Cllr Laura Mayes, in order to discuss the positive contributions that the scheme would have in terms of design, ecological and landscape enhancements with minimal impact on the environment, enhancement of the immediate area and respect for its setting.

#### 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 refused.

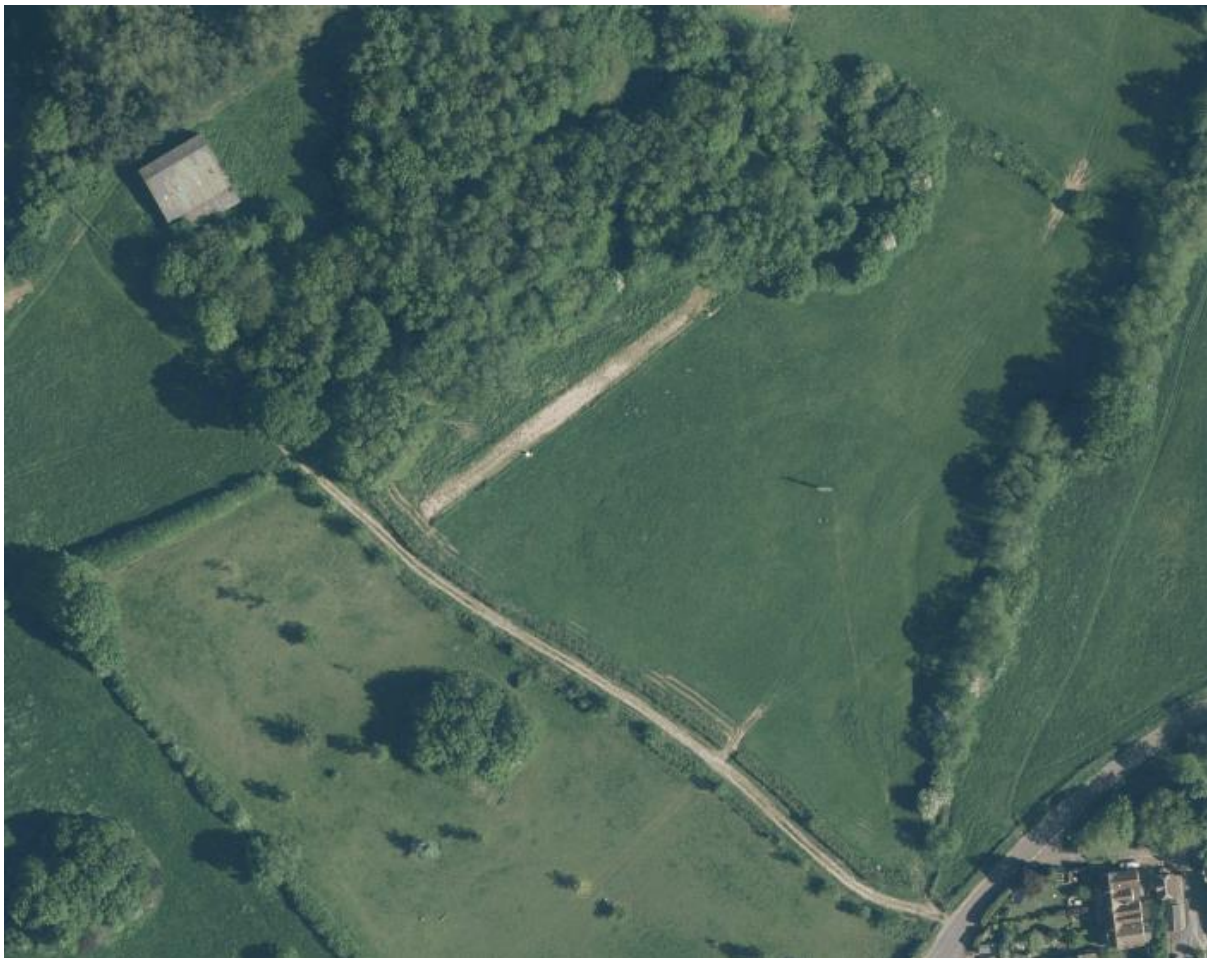
#### 2. Report Summary

Concerns are raised regarding the likely harm to the character of the area and the location of the site, to which occupiers would be wholly reliant on the private motor car for access to every-day facilities, job opportunities and services and would be contrary to the requirements of both local and national policy in directing development to a sustainable location. The development would be contrary to and undermine the requirements of planning policies seeking to direct development within sustainable locations and there are no benefits that would outweigh this harm.

### 3. Site Description

The site is located within open countryside outside of the village of Bromham at approximately 280m from the village boundary 'limits of development'. The site is bounded on three sides by existing mature woodland (Berry Moor Wood) with open views to the west. Along the site's west boundary is public right of way BROM9 and this joins with PRow BROM10 nearby to the access to the site. There are further footpaths to the southeast (BROM9), east (BROM5) and north (BROM7), however, due to the topography of the land and existing screening, the site is not visible from these public vantage points.

The area has a distinct agricultural/rural quality, with access along the single track that follows the line of right of way BROM9 to the south and connects to the nearby highway of the 'The Common' to 'Church Hill' that enters Bromham. The topography of the land is gently sloping, rising up from Church Hill to the south and continuing to rise to the north beyond. The existing barn on the site is a large asymmetric, dual pitched steel-framed structure with a small lean-to to the southeast elevation. Internally, there are concrete slab floors serving the building on three levels, and an internal blockwork wall which would once have formed the rear of the original dual-pitched building. The external walls are a mixture of corrugated cladding and blockwork, with openings to allow access. The barn sits within a grassed wooded glade, surrounded on three sides by trees. The fourth side faces towards farmland, separated by a post and wire fence.



*Aerial photo of site including existing track to the adjacent highway*

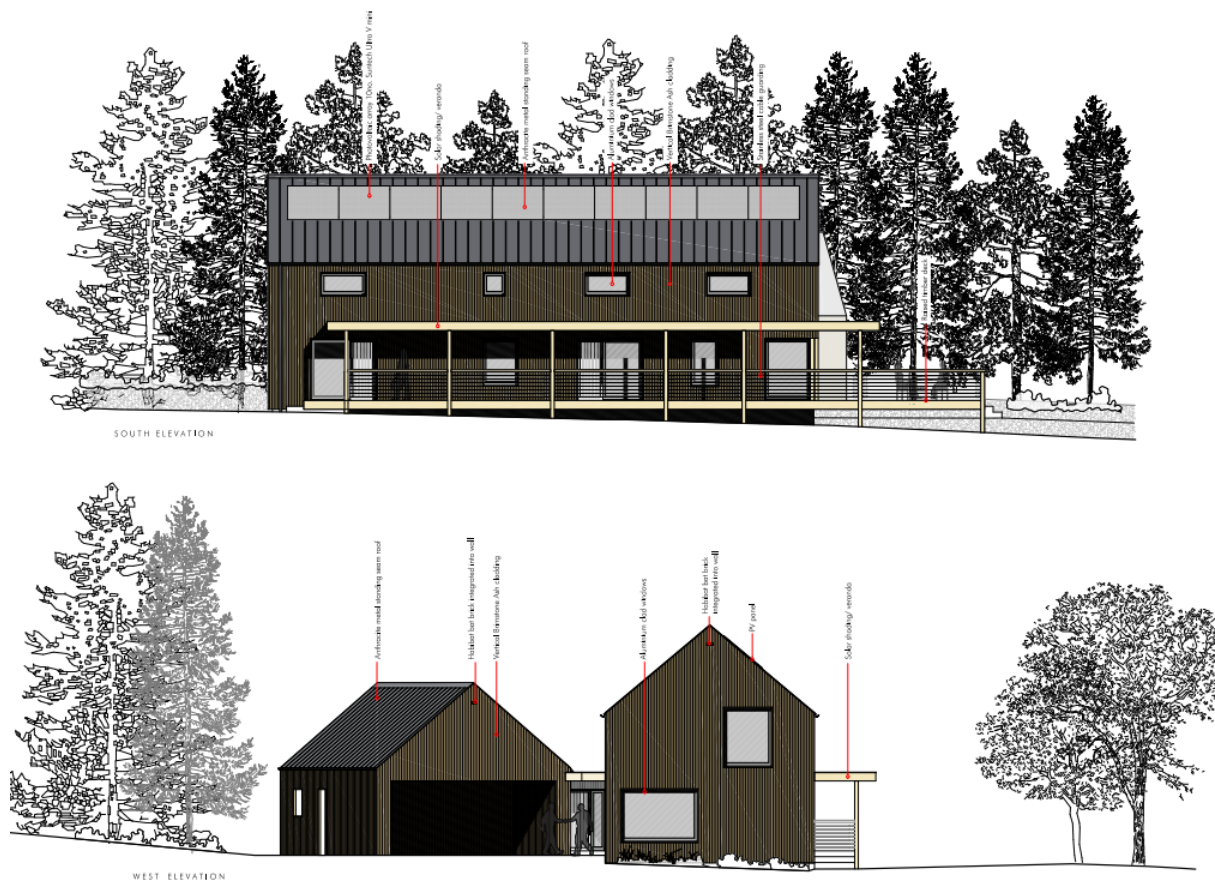
#### 4. Planning History

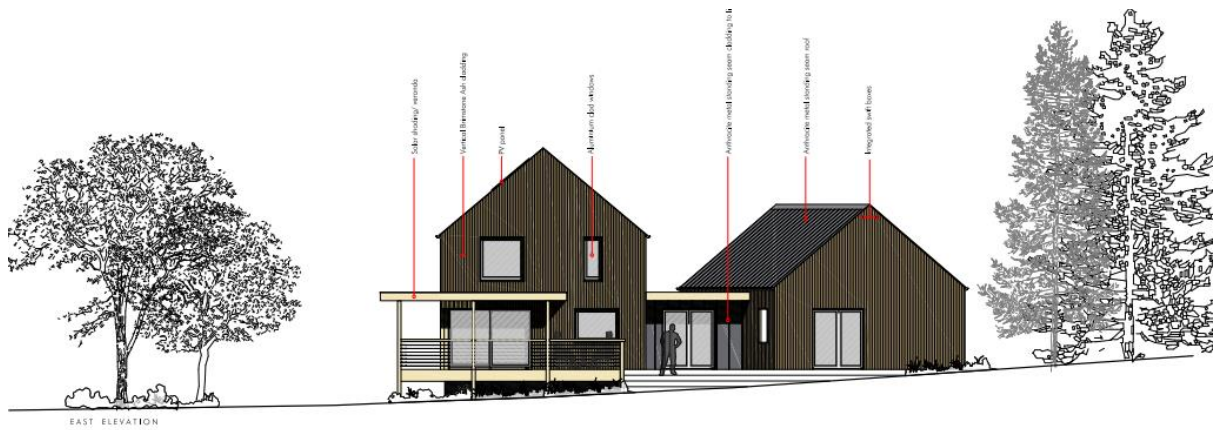
None relevant.

#### 5. The Proposal

The application is for the demolition of the existing structure and the erection of a single dwelling, associated works to the existing access and landscaping.

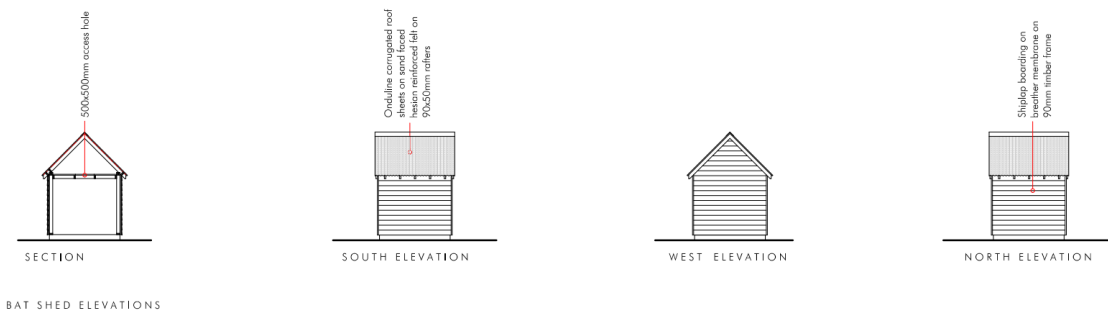
*Proposed scheme (elevations):*





The proposed dwelling has the appearance of two separate structures; a two storey and a chalet style structure connected by a single storey flat roof hall. The structures would be finished in a vertical timber 'Brimstone Ash' cladding, a metal standing seam roof (anthracite in colour), and aluminium clad windows. The single storey link would be finished in an 'anthracite metal standing seam cladding' and timber decking along the south and east elevations.

The proposal incorporates solar PV panels, a veranda with solar shading, habitat bricks and swift boxes integrated into the fabric of the proposed building. Outside of the garden curtilage it is proposed to erect a 'bat shed', finished in timber walls and onduline roof.



## 6. Local Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate



otherwise. In this case, the development plan comprises the Wiltshire Core Strategy (WCS) (2015) and the saved policies of the Kennet Local Plan (KLP) (2004).

#### Wiltshire Core Strategy 2015 (WCS):

- Core Policy 1 Settlement Strategy
- Core Policy 2 Delivery Strategy
- Core Policy 12 Spatial Strategy: Devizes Community Area
- Core Policy 41 Sustainable Construction and Low Carbon Energy
- Core Policy 48 Supporting Rural Life
- Core Policy 50 Biodiversity and Geodiversity
- Core Policy 51 Landscape
- Core Policy 52 Green Infrastructure
- Core Policy 56 Contaminated Land
- Core Policy 57 Ensuring High Quality Design and Place Shaping
- Core Policy 58 Ensuring the conservation of the historic environment.
- Core Policy 60 Sustainable transport
- Core Policy 61 Transport and new development
- Core Policy 64 Demand management

Kennet Local Plan (2004) no saved policies relevant to this development

National Planning Policy Framework (NPPF, 2023)

National Design Guide, Planning practice guidance for beautiful, enduring and successful places (NDG) (2019)

Wiltshire Local Transport Plan 2011 – 2026: Car Parking Strategy (2015)

## **7. Summary of consultation responses**

Bromham Parish Council – Support;

WC Landscape – No objection; The site sits in the Spye Parklands landscape character area with the North Wessex Downs escarpment 3.3km to the east with prominent views from Beacon Hill and Olivers Castle Scheduled Ancient Monument and the Grade II listed Spye Park located to the north of the site. The closest PRoW is BROM9 which runs adjacent to the south western boundary of the site. BROM10 meets BROM 9 at the western edge of the site before heading west towards Westbrook Farm across fields.

The site is surrounded by Berrymoor Wood which is an ancient woodland and typical of the wooded landscape character of the Spye Parklands. There is an existing agricultural building on the site which it is proposed to be demolished in order to allow for the development of the new residential building. The proposed built form is approximately 265m outside the settlement boundary of Bromham although it is replacing an agricultural building set at a similar distance.

Having reviewed the LVA and its mitigation strategy, I have no particular concerns regarding the visual impact of the development on the surrounding landscape. Much of the site will be screened off by Berrymoor Wood especially from views out to the east (AONB) and to the North (Spye Park). views to the west and the visual impact on BROM9 PRow will be limited by the proposed mitigation strategy of hedge and tree planting which could be considered of minor visual benefit to those walking along the local PRow which currently view a derelict barn.

I have two concerns regarding the proposals, around external lighting and the potential impact on the dark skies and rural tranquillity of the countryside, and the detailing of the proposed entrance gates. The gates need to be of an 'agricultural' aesthetic (metal or timber five bar gate) to match the rural context of the lane and not close boarded timber or other solid screening type detail. Gate posts should be simple timber or metal and not brick or stone piers with minimal discrete lighting again to match the rural aesthetic of the adjacent access track and to avoid its suburbanisation with urbanising elements. This I believe can be dealt with by a pre-commencement condition in terms of light spill drawings and a detail of the front gate.

WC Highways – No objection subject to condition; site is located outside of the limits of development in countryside, an adverse highway recommendation on sustainability grounds is appropriate and the scheme is therefore contrary to Core Policies 60 and 61 which aim to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives.

The proposal utilises an existing access track and would involve betterments to visibility splays, surface materials and relocation of the gate allowing a safer refuge for vehicles entering the site. There is sufficient parking and turning space provided for on the site to allow for vehicles to enter and exit in a forward gear.

Other than the sustainability issue highlighted I do not raise an objection to the proposal with regard to highways, subject to the imposition of conditions.

WC Rights of Way - Public footpath BROM9 runs along the existing access track. The footpath should remain open and unobstructed at all times. Any proposed changes to the location of gates across the footpath should be approved by the Countryside Access Officer prior to works being undertaken(rightsofway@wiltshire.gov.uk).

WC Ecology – Comments; no objection subject to conditions. We note the proposals to demolish the existing agricultural building on site as part of the works to erect a new residential dwelling. The Bat Survey Report (May 2023 Malford Environmental Consultancy) submitted in support of the application identified a lesser horseshoe night feeding perch within the central compartment of the existing lean to, evidenced from droppings identified at the site. Bats and their roosts are afforded stringent protection under the Conservation of Habitats and Species Regulations 2019 (as amended) and as such are a material consideration within the planning consultation process. This roost will be lost to the proposals. However, mitigation has been outlined within the ecology report and included on technical drawings to ensure the lesser horseshoe night feeding perch is retained in perpetuity on site and in close proximity to the woodland edge habitat.

A European Protected Species (EPS) bat Mitigation Licence will need to be obtained for the lawful construction of this development.

No evidence of other protected species were identified on site. However, reasonable avoidance measures to ensure impacts upon breeding birds are minimised were included within the ecology appraisal.

BNG - The plot is located in grassland clearing within Bromham Wood, an area of ancient woodland and adjacent to priority woodland to the north. However, the proposals have been designed to ensure no development will occur within 10m of the existing adjacent woodlands. Section 7.7 of the Ecological Appraisal together with the Landscape Implementation and Maintenance Plan outline details of the protection measures and enhancement planting to ensure the woodland habitats adjacent to the proposal are protected during construction and in perpetuity.

Section 7.5 and 7.6 of the Ecological Appraisal detail a number of additional enhancements which include the provision of bird and bat boxes both within the new development and within the wider woodland area.

Lighting - A Lighting Report (Alan Tulla Lighting) was submitted in support of the application and lux plots have been provided.

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region.

Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

Although we welcome the Lighting Report provided, to date no detail of the proposed external lighting has been provided. Although useful the lux plots should be overlaid onto the aerial photos so that the extent of light spill onto the woodland edge can be fully determined. Additional information will therefore be required to ensure the woodland edge habitats are retained as dark wildlife corridors, this additional information can be secured through condition.

Dorset and Wiltshire Fire Rescue – Comments; In the event the planning permission is granted for this development, the development would need to be designed and built to meet current Building Regulations requirements. The Authority raises the profile of these future requirements through this early opportunity and requests the comments made under B5 of Approved Document B, The Building Regulations 2010 be made available to the applicant/planning agent as appropriate.

## **8. Publicity**

The site has been advertised by letter to local residents and by site notice; representations have been received; these are summarised as follows:

### Third party comments:

Support:

- No visual impact
- Well thought out, exciting proposal
- Sympathetic to surrounding environment
- Minimal aesthetic impact on surrounding area
- Sympathetic with the woodland surroundings
- Removes existing building eyesore
- Removes dilapidated asbestos building
- Sustainable design – PV and rainwater harvesting
- Goes above and beyond current Building Regulations with proposed energy efficiency
- Sympathetically designed ‘passiv’ house
- Sustainable dwelling
- High level of eco credentials
- Sets a standard for future building in the area
- Sympathetic lighting designs
- Supports local family to live close to family and work commitments
- Existing building is of no agricultural benefit
- Retains existing trees
- Does not affect adjoining ancient woodland
- Affordable

Comments:

- Not against the development but concerned may lead to a precedent for further similar development within the countryside
- Likely increase in noise

## **9. Planning Considerations**

### 9.1 Principle of Development

The site is located within open countryside near to the village of Bromham which is designated as a large village within the Wiltshire Core Strategy (2015) (WCS). The site lies approximately 260/280 metres from the limits of development of Bromham. Fundamentally, the application is for the erection of a new dwelling within open countryside, contrary to the policies of the local development plans direction for delivering sustainable housing.

In the interests of promoting sustainable development and the protection of the countryside the policies of the WCS (2015) seek to restrict all new residential development to locations within the Limits of Development defined for the towns and villages. The WCS includes a settlement strategy, Core Policy 1 'Settlement Strategy' and Core Policy 2 'Delivery Strategy' outline that there is a presumption in favour of sustainable development within the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances as set out within the relevant core policies contained within the plan. There are no exceptional circumstances that would suggest a departure from the development plan in this instance.

However, the application submitted argues that the proposal is for a development that accords with the special circumstances identified under paragraph 80(e) (now 84(e)) of the NPPF, that supports isolated homes within open countryside and which are of a design that is of exceptional quality.

Paragraph 84 states that "*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply.*"

Points a) to d) do not apply to the proposed scheme; and point e) states:

*"the design is of exceptional quality, in that it:*

- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; **and** [my emphasis]*
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area".*

In applying the requirements of paragraph 84 e) to this scheme, the first test is whether the development is in an isolated location, as if it is not an isolated location then the criteria of this paragraph do not apply. In this instance the site is located at approximately 260 to 280m from the nearest village and is in a location that due to the topography of the land and surrounding woodland has a sense of remoteness and is clearly physically and visually separated from the nearest settlement or any other built form. It is therefore agreed that the site is in an isolated location in this instance and that the proposal should be tested against the exception provided for in point e).

Is the scheme of an 'exceptional quality' that is 'truly outstanding' and reflects the 'highest standards in architecture'? As described within the application's supporting statements, the proposed dwelling is a bespoke design that takes many visual clues from the existing building on site with the form being a modern interpretation of a typical agricultural building. Such designs have been put forward on various sites across Wiltshire and are not atypical in schemes seeking to reflect the rural character of an area in order to ensure that a proposal does not have a detrimental visual impact within a countryside location. Such a typical and unobtrusive design therefore cannot be construed as being of such 'exceptional quality' that is 'truly outstanding' and of the 'highest standards in architecture'.

As part of the applicant's argument that the scheme is an 'outstanding example', it is contended that the proposal would be built out to 'Passivhaus' standards. The submission

claims that *“the proposal is capable of meeting the strict criteria of a passivhaus with a heating load of 10w/m<sup>2</sup>, 0% risk of overheating and risk of excessive humidity and a primary energy requirement of just 45kwh/m<sup>2</sup> per year. These figures are considerably lower than a similar sized dwelling built to current Building Regulations standards”*. The submission further argues that *“the house has also been designed to optimise energy efficiency through sustainable construction techniques, use of integrated renewable energy technologies, use of sustainable drainage systems and water efficiency measures”*. The energy efficiencies and sustainable design techniques proposed in this scheme are commended; however, these are all standard practices coming forward in designs, including schemes within the limits of development of villages and do not in themselves constitute ‘exceptional quality’ that is ‘truly outstanding’ such as to disregard the policies of the development plan and of the NPPF in directing new development to sustainable locations.

It is acknowledged that the proposal is akin to a typical ‘rural’ building within a countryside location and on this basis, the scheme is considered to fail the first part of sub-paragraph e) in that it is **not** of such an exceptional quality, to be considered truly outstanding and reflective of the highest standards in architecture expected of such schemes.

It is acknowledged that the application seeks to encourage and raise the standards of design more generally in rural areas; however, visually the scheme when viewed from the adjoining public right of way would not have the significant sustainability credentials as is suggested and instead would have the appearance of typical rural building conversion within a countryside location.

It is considered that the proposal would likely enhance the immediate setting through the removal of a dilapidated building and through the enhanced planting suggested within the application. The design and scale of the proposed structure is considered to reflect the scale and simplicity of typical rural structures found within a countryside location. For example, the west elevation facing the public right of way has the appearance of barn like structures, in terms of the materials finishes and simplistic roof form and detailing. On balance, it is considered that the scheme on face value draws on the rural character of the area and is a relatively sensitive design in that aspect.

As such it is the first part of the test at sub-paragraph e) that the scheme is considered to fall short on and the scheme in principle should be rejected as there are no other policies that support this type of development within this location. The is therefore considered to be contrary to the requirements of paragraph 84 e) of the NPPF (2023).

The applicant has been offered the opportunity to present their proposal to a Design Review Panel, a peer group which independently assesses the merits of a scheme against this policy of the NPPF. They have chosen not to follow this path.

The applicant has argued that there is a ‘fallback position’, namely that there is a realistic option to develop the site under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 as amended. They argue that permitted development rights exist at the site that would allow for the conversion of the existing agricultural building to a residential use, meaning that a new home can be created from the existing agricultural building. However, it is considered to test this option they would need to submit the correct application and gain consent in order for this to be a realistic fallback option. During the case

officer site visit, it was noted that the barn is in a dilapidated state. The applicant relies on this within their arguments that there would be an enhancement of the site through the removal of this dilapidated building. It was further noted that extensive works beyond that set out within the criteria of Part 3, Class Q would need to be carried out in order to provide a dwelling. As such, it is considered that this is not a realistic 'fallback' position as suggested.

Core Policy 60 Sustainable Transport supports the premise for development within sustainable locations. The policies of the WCS (2015) are consistent with the NPPF (2023) in terms of delivering sustainable development. The WCS defines a "*Sustainable Location*" as a location or site for housing that is close to employment, schools, shops, parks, civic buildings and other services and amenities; is accessible by existing roads and close to existing public transport services; can be linked easily to existing infrastructure for roads, water, waste, and utilities; has low flood risk; and avoids sensitive features of the natural environment.

As identified within the supporting information, this site is in an isolated location with poor connectivity to sustainable forms of transport. Whilst the design of the scheme itself has positive sustainability credentials, the location does not. The creation of a new dwelling where one does not exist at present cannot be considered to be a sustainable form of development.

Policy 60 of the WCS (2015) relates to the need to reduce travel, particularly by the private car and makes clear that development should occupy sustainable locations; this is supported by the requirements of the NPPF (2023). As such the development is considered contrary to Core Policies 1, 2, 12 and 60 of the WCS (2015), and with the principle of sustainable development as defined by the NPPF.

## 9.2 Visual Impact

The site lies in open countryside outside of the defined limits of development of the village of Bromham. The site sits in the Spye Parklands landscape character area with the North Wessex Downs escarpment 3.3km to the east with prominent views from Beacon Hill and Olivers Castle Scheduled Ancient Monument and the Grade II listed Spye Park located to the north of the site.

The topography of the land is gently sloping, rising up from Church Hill to the south and continuing to rise to the north beyond. The site is bounded on three sides by existing mature woodland (Berry Moor Wood, an ancient woodland) with open views to the west. Along the sites west boundary is a public right of way, BROM9 and this joins with PRoW BROM10 nearby to the access to the site and from which the site would be viewable.

There are further footpaths to the east (BROM5) and north (BROM7), however, due to the topography of the land and existing screening the site is not visible from these public vantage points. With regard to the LVA, it is acknowledged that a mitigation strategy would be necessary to screen the site within this landscape. Whilst much of the site will be screened off by Berry Moor Wood, especially from views out to the east National Landscape (former AONB) and to the north (Spye Park). Views to the west and the visual impact on BROM9 PRoW will occur.

The area has a distinct agricultural/rural quality, with access along the single track that follows the line of right of way BROM9 to the south and connects to the nearby highway onto 'Church Hill'. There is an existing agricultural building on the site, that is considered typical for the rural character of the area and which it is proposed to be demolished to allow for the development of the new residential building and associated works and paraphernalia. The argument has been made that the barn is in a dilapidated state and that its removal would be a betterment. However, the barn has an agricultural appearance that is in keeping with the vernacular of the countryside location and is therefore not comparable to the erection of a new dwelling with associated domestic paraphernalia.

The site is located within a clearing, bounded on three sides by mature woodland, with a strong rural woodland character. From the LVA, it is acknowledged that Berrymoor Wood is located in the Spye Parklands, in an area characterised by an undulating landscape dominated by a woodland and farmland mosaic.

Comments received from the Council's Landscape Officer raise concerns about the proposal relating to external lighting and the potential impact on the dark skies and rural tranquillity of the countryside, along with the detailing of the proposed entrance gates. It is considered that the gates need to be of an 'agricultural' aesthetic (metal or timber five bar gate) to suit the rural situation, which can be reasonably controlled by condition.

Notwithstanding the above, it is considered that the introduction of a new dwelling, with its associated inevitable domestic paraphernalia, and the proposed change in use of the land would have an adverse and detrimental impact through the urbanisation of this overtly rural site. The existing agricultural building is typical of a rural location so the proposed development is considered to result in a detrimental character change to the rural area through the change of use of the land and thereby the urbanising effect of the development on the landscape.

Whilst a condition could be attached to prevent the construction of domestic outbuildings on the land without the granting of planning permission, no condition could prevent the introduction of domestic paraphernalia that would not constitute development under Section 55 of the Town and Country Planning Act 1990. Such paraphernalia would lead to a degradation of the rural nature of the site.

On balance, it is considered that the creation of a new dwelling, with associated domestic curtilage and access would have a detrimental impact on the rural character of the area and would therefore be contrary to Core Policy 51 and Core Policy 57 of the WCS (2015) which collectively seek, in part, to protect, conserve and where possible enhance landscape character, enhance local distinctiveness, and avoid harmful impact upon landscape character. Additionally, there is also conflict with the National Planning Policy Framework (NPPF, 2023), which seeks to protect and enhance our natural environment and recognise the intrinsic character and beauty of the countryside.

### 9.3 Impact on ecology

The development involves the demolition of an existing building to allow for the erection of the new dwelling. The submitted Bat Survey Report (May 2023 Malford Environmental Consultancy) in support of the application identifies a Lesser Horseshoe night feeding perch



within the central compartment of the existing lean to, evidenced from droppings identified at the site.

Bats and their roosts are afforded stringent protection under the Conservation of Habitats and Species Regulations 2019 (as amended) and as such are a material consideration within the planning consultation process. This roost will be lost as a result of the proposal, however, mitigation has been outlined within the ecology report and included on the submitted technical drawings to ensure that the Lesser Horseshoe night feeding perch is retained in perpetuity on site and in close proximity to the woodland edge habitat. A European Protected Species (EPS) Bat Mitigation Licence will need to be obtained for the lawful construction of this development.

There is no evidence of other protected species on the site, however reasonable measures will be taken to ensure the potential for any impacts is minimised. The scheme will seek to ensure that no development takes place within a 10m buffer of the surrounding woodland and the submitted documents outline protection measures and enhancements to the woodland habitat during the construction phase. It is recognised that external lighting can have a negative impact on species using the area and there is currently insufficient information relating to this specific issue to assess the level of potential impact. However, this can be reasonably controlled through an appropriately worded condition.

On balance, it is considered that the proposed mitigation and enhancements are acceptable and that the scheme is therefore considered to comply with the requirements of core policy 50 of the WCS (2015) and the NPPF (2023).

#### 9.4 Highway Safety Impact / Parking

Core Policy 61 - Transport and New Development - seeks to ensure that new development is capable of being served by safe access to the highway network. Core Policy 64 seeks to ensure that parking standards are met as set out in the Council's adopted standards. The NPPF (2023) states that an application should only be refused on highway grounds if *"there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*.

Comments received from the highway officer raise no objections to the proposed scheme on highway safety grounds. It is recognised that the proposal would use an existing track and access point onto the adjoining highway. The proposed development will alter the location of the entrance gates to allow vehicles accessing the proposed dwelling and the surrounding fields a safe area off the highway, which would be an improvement to highway safety. The first 6m back from the edge of the highway would also be finished in a surface material that would alleviate any debris being dragged onto the highway. The submitted plan also demonstrates 62m sight lines in either direction which are a betterment to the visibility splays for this access point. It is considered that there is sufficient parking and turning space provided for on the site to allow for vehicles to enter and exit in a forward gear.

Paragraph 109 of the NPPF clarifies 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.

It is acknowledged that public footpath BROM9 runs along the existing access track. Comments from the PRoW officer state that the “footpath should remain open and unobstructed at all times”. As this is the access point for the site and would be required to be available for this purpose, it is considered unlikely that the development would have a detrimental impact on the use of this right of way. The proposed changes to the location of gates across the footpath will need to be carried out in accordance with requirements of the PRoW officer. The path should remain available for access at all times.

Based on the highway comments received, it is considered that the proposal will be served by safe access and adequate parking in line with the requirements of the local and national policies. As such, the scheme is considered to meet the relevant criteria of Core Policies 61 and 64 of the WCS (2015) and the WLTP (2011 – 2026) Car Parking Strategy (2015) and with the relevant sections in the NPPF (2023).

#### 9.5 Other matters

Surface water will be dealt with, as identified within the application form, by way of a soakaway and foul sewage through a package treatment plant. The indicative drainage plan identifies where the PTP and soakaways will be located. Other than a 1800l rainwater harvesting tank there is little to no design detail to confirm the sustainability credentials of the drainage system. However, it is considered that drainage issues could be reasonably resolved through the imposition of conditions.

### **10. Conclusion (The Planning Balance)**

There are three aspects of sustainable development - economic, social and environmental - The NPPF identifies that there should be a presumption in favour of such sustainable development. This is seen as a golden thread running through the decision-making process and that local planning authorities should approve development in accordance with the development plan without delay.

There are no nearby properties to the site that could be impacted by the proposed development and sufficient space exists for vehicles to enter and exit the site safely.

It is acknowledged that there is some positive weight to be given to economic benefits through the likely local employment that may be generated by the development for a limited period. There are likely to be some social benefits through the provision of a new dwelling within the local housing market. However, given the likely cost of a unit of this size in an attractive rural location, the social benefits would be restricted to those on a higher income; they would not benefit lower income families and would certainly not add to the affordable housing market within this area.

The scheme is described as a template for more affordable rural housing. However, the scale of the proposed dwelling set within a generous plot of land, could never be described as affordable in the true sense of the word so this point is not concurred with.

It is acknowledged that the scheme would provide ecological enhancements across the site, although some of these enhancements are mitigation for the destruction of a recognised bat roost. Limited weight can be attributed to these enhancements as if the development did not

go ahead with the proposed ecological enhancements the status quo of the site would remain unchanged and any impacts would not occur.

An increase in traffic movements to and from the site could lead to an increase in air pollution, an identified key issue in the WCS.

The creation of a new dwelling, with associated domestic curtilage and access, would have a detrimental impact on the rural character of the area and any such harm is irreversible.

It is considered that the proposal conflicts with the settlement strategy in the WCS which identified where new housing should be located. The site is located in the countryside and in an unsustainable location. There is no reasonable access to local services and facilities and the proposed new dwelling would result in a car dependant development to access most services and facilities due to alternative transportation methods not being attractive enough to encourage non-car use.

In respect of housing supply and delivery, the revised NPPF contains two important amended/new paragraphs that have altered the Councils position in terms of housing land supply. For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing. The Council's most recent Housing Land Supply Statement (published May 2023; base date April 2022) sets out the number of years supply against local housing need as 4.6 years. This means that the planning balance is now level rather than 'tilted'. With a level balance, full weight can now be given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) – namely Core Policies 1 and 2.

The scheme would be contrary to the Framework's aim to promote sustainable transport. Also, as it would be set away from the nearest services, the house would not be located to maintain or enhance the vitality of rural communities. It is considered that the adverse impacts of the development would significantly and demonstrably outweigh any benefits when considered against the Framework. Consequently, the presumption in favour of sustainable development as set out in paragraph 11 (NPPF) does not apply.

It is considered that any limited public benefit that may occur if this development were approved, would not outweigh the harm that would be caused by allowing such a development in an unsustainable location and on a site that has not been brought forward for development by the local community. Overall, this is not sustainable development. On balance, it is considered that the proposed development would be contrary with the policies of the Wiltshire Core Strategy (2015) and guidance set out in the National Planning Policy Framework (2023).

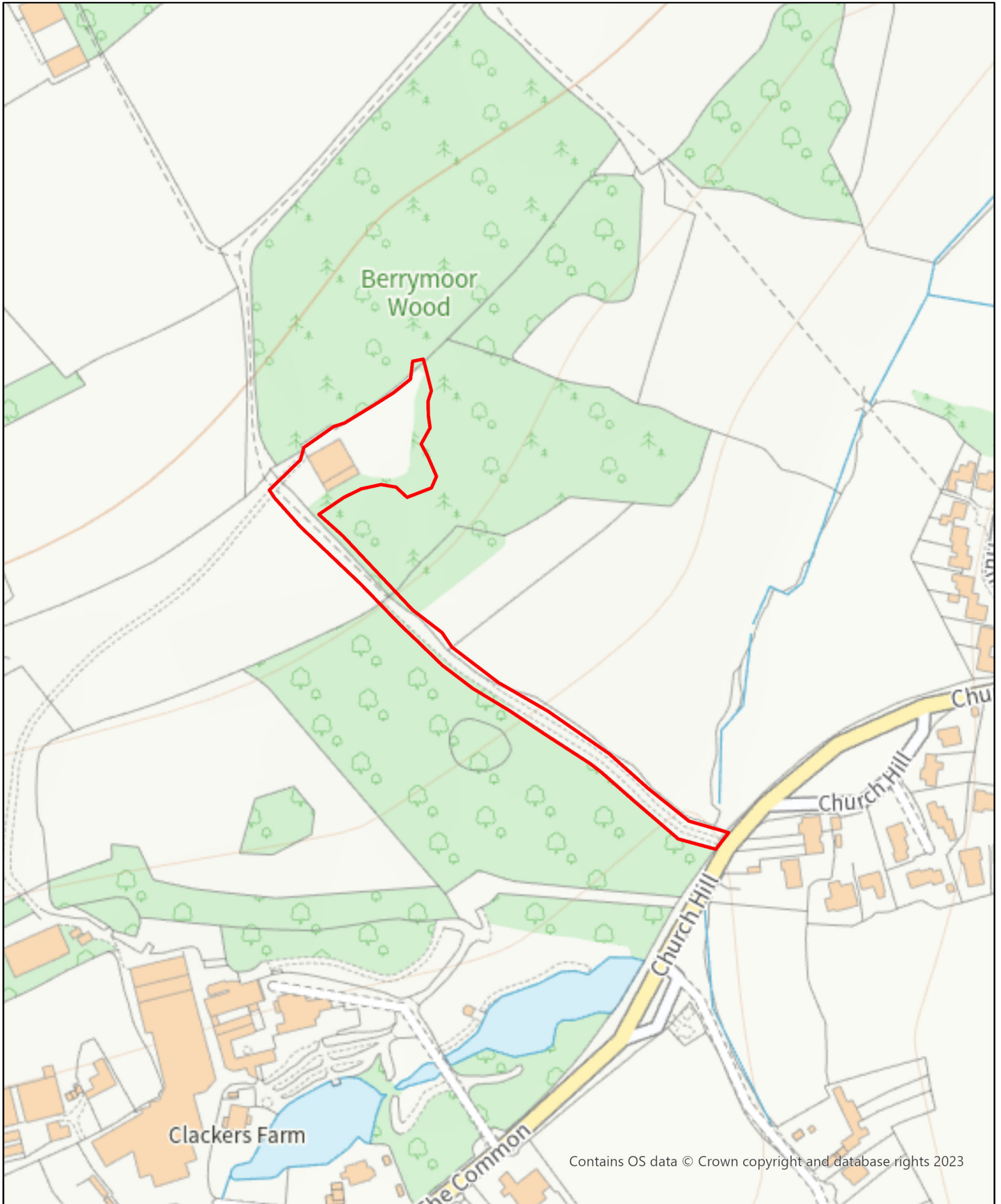
## **RECOMMENDATION**

### **Refuse for the following reasons:**

1. The proposed development, due to the position of the site within the 'open countryside', would conflict with the settlement strategy of the Wiltshire Core Strategy. The site is

within a location that has limited access to local services and public transport facilities and future occupants would need to travel by car to reach services, facilities and employment opportunities. The proposed development is therefore deemed to be unsustainable and would conflict with the Council's plan-led approach to sustainable development. There are no exceptional circumstances which justify the approval of the proposed development and no objective evidence to demonstrate it would meet an identified housing need of the settlement or meet the criteria identified by Core Policy 2. In light of the above, the proposed development is considered to conflict with Core Policies 1 'Settlement Strategy', 2 'Delivery Strategy', 12 'Spatial Strategy: Devizes Community Area'; 60 'Sustainable Transport' and 61 'Transport and New Development' of the Wiltshire Core Strategy, and with Central Government policy contained within the National Planning Policy Framework; in particular, Chapters 2 'Achieving Sustainable Development', 4 'Decision-making', 5 'Delivering a Sufficient Supply of Homes', and 9 'Promoting Sustainable Transport'.

2. The proposed development of a new dwelling, with associated domestic curtilage and access would have a detrimental impact on the rural character of the area and would therefore be contrary to Core Policy 51 and Core Policy 57 of the WCS (2015) which collectively seek, in part, to protect, conserve and where possible enhance landscape character, enhance local distinctiveness, and avoid harmful impact upon landscape character. Additionally, there is also conflict with the National Planning Policy Framework (NPPF, 2023), which seeks to protect and enhance the natural environment and recognise the intrinsic character and beauty of the countryside.
  
3. **INFORMATIVE TO APPLICANT:** In accordance with the NPPF (2023) an offer to allow the applicant the opportunity to provide further justification on the schemes exceptional merits to meet with the exceptions policy for isolated dwellings was offered. It was also recommended that the scheme be presented to a Design Review Panel to allow for a peer assessment of the proposal to qualify the assertion that the scheme met the exacting standards considered necessary to be met to qualify as a paragraph 80 (e) dwelling. Neither opportunity was taken to support the proposed development.



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## REPORT TO EASTERN AREA PLANNING COMMITTEE

Item 12

<b>Date of Meeting</b>	22 <sup>nd</sup> February 2024
<b>Application Number</b>	PL/2023/01684
<b>Site Address</b>	Hedgerows, Bytham Road, Ogbourne St George, SN8 1TD
<b>Proposal</b>	Proposed Erection of 6 No Dwellings (Class C3) and associated works
<b>Applicant</b>	Mr & Miss Convey
<b>Town/Parish Council</b>	OGBOURNE ST. GEORGE CP
<b>Electoral Division</b>	Aldbourne & Ramsbury
<b>Grid Ref</b>	53.6309, -5.415842
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Meredith Baker

### Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Sheppard should the application be recommended for refusal, on the basis that “the development proposed has support from the local Parish Council and will enhance the entrance to the village, sitting opposite an existing farm yard it could be described as infill.”

#### 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 consideration, and to consider the recommendation that the application be refused planning permission.

#### 2. Report Summary

The proposed development would result in the erection of six dwellings outside the defined Limits of Development which is in conflict with the Settlement Strategy for Wiltshire as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy. The harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the Development Plan and the National Planning Policy Framework (NPPF).

By reason of the distance to the majority of local services, facilities and amenities for day-to-day living, the proposal would result in a heavy reliance on use of the private motor transport for the majority of day-to-day activities, in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the NPPF.

Core Policy 43 of the Wiltshire Core Strategy (as amended following the NPPF revisions) sets out a requirement for 40% on-site affordable housing provision within the 40% Affordable Housing Zone, on sites of 5 to 9 dwellings if the area of the site is 0.5 hectares or greater. The application is for six dwellings and is over 0.5 hectares and therefore affordable housing requirements apply whereby two affordable units are expected to be provided. The proposed development does not seek any affordable housing provision and would be for six open market dwellings. As such the proposal would not address the need for affordable housing and would

therefore be contrary to Core Policy 43 of the Wiltshire Core Strategy and guidance contained within the NPPF.

It is also deemed that, by reason of its siting, design, height and layout of the dwellings and residential plots, together with the associated residential paraphernalia within the open countryside, the proposal would be harmful to the visual amenities of the area and to landscape character. The proposal would result in the elongating of the existing built form beyond the existing built-up area of Ogbourne St George into the open countryside and valuable transition area so would not enhance the character or appearance of the area. The proposal would also not enhance or conserve the special rural characteristics or scenic beauty of the North Wessex Downs National Landscape and is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy and guidance contained within the NPPF.

The applicant has also failed to provide sufficient information to determine the likely ecological impact of the proposal and, consequently, the application is not considered to be environmentally sustainable. The proposed development therefore does not comply with Core Policy 50 of the Wiltshire Core Strategy, or advice contained within the NPPF.

In terms of the impact upon neighbour amenity, it is considered that there would be overlooking from the eastern elevation window of Unit 6 (serving 'bedroom 1') towards the private amenity area of Unit 5 – this is not considered to be high-quality design and would provide an unacceptable degree of overlooking to the future occupiers of Unit 5 and therefore a loss of privacy. The proposal would therefore result in an unacceptable impact on neighbour amenity impacts that would be contrary to Core Policy 57 of the WCS and guidance contained within the NPPF.

The proposal also seeks permanently closed windows on the development with trickle vents to provide ventilation to each habitable room, one vent for each window system. The submitted acoustic report concludes that acceptable internal noise levels may be achieved by using the construction and glazing specified within the report. This is due to the proximity of the development against the A346. Wiltshire Council has guidance that closed windows to mitigate transport noise will only be considered if all other reasonable measures in the hierarchy have been utilised and only for an absolute minimum of rooms. Insufficient information has been submitted to justify the mitigation approach such as considering other measures and thus it is considered that the proposed closed windows is not an acceptable mitigation measure for the future occupants. Furthermore, insufficient information has been provided that the closed windows and trickle vents proposed would not result in unacceptable risk of overheating and would be within the acceptable levels. The design of closed windows with vents would therefore not represent a good standard of residential living and the proposed development does not comply with Core Policy 57 of the Wiltshire Core Strategy, or advice contained within the NPPF and the 'Planning Consultation Guidance Notes' namely Section 5 – Good Acoustic Design.

The applicant has also failed to provide sufficient information to determine the likely impact of the proposed development upon the archaeological potential of the site. The absence of a trial trench evaluation of the site which straddles the projected route of the former Roman Road between Cunetio (Midenhall) and Durocornovium (Swindon) has resulted in the Local Planning Authority not being able to make an assessment of the likely impacts upon archaeology. The proposed development therefore does not comply with Core Policy 58 of the Wiltshire Core Strategy, or advice contained within the NPPF.

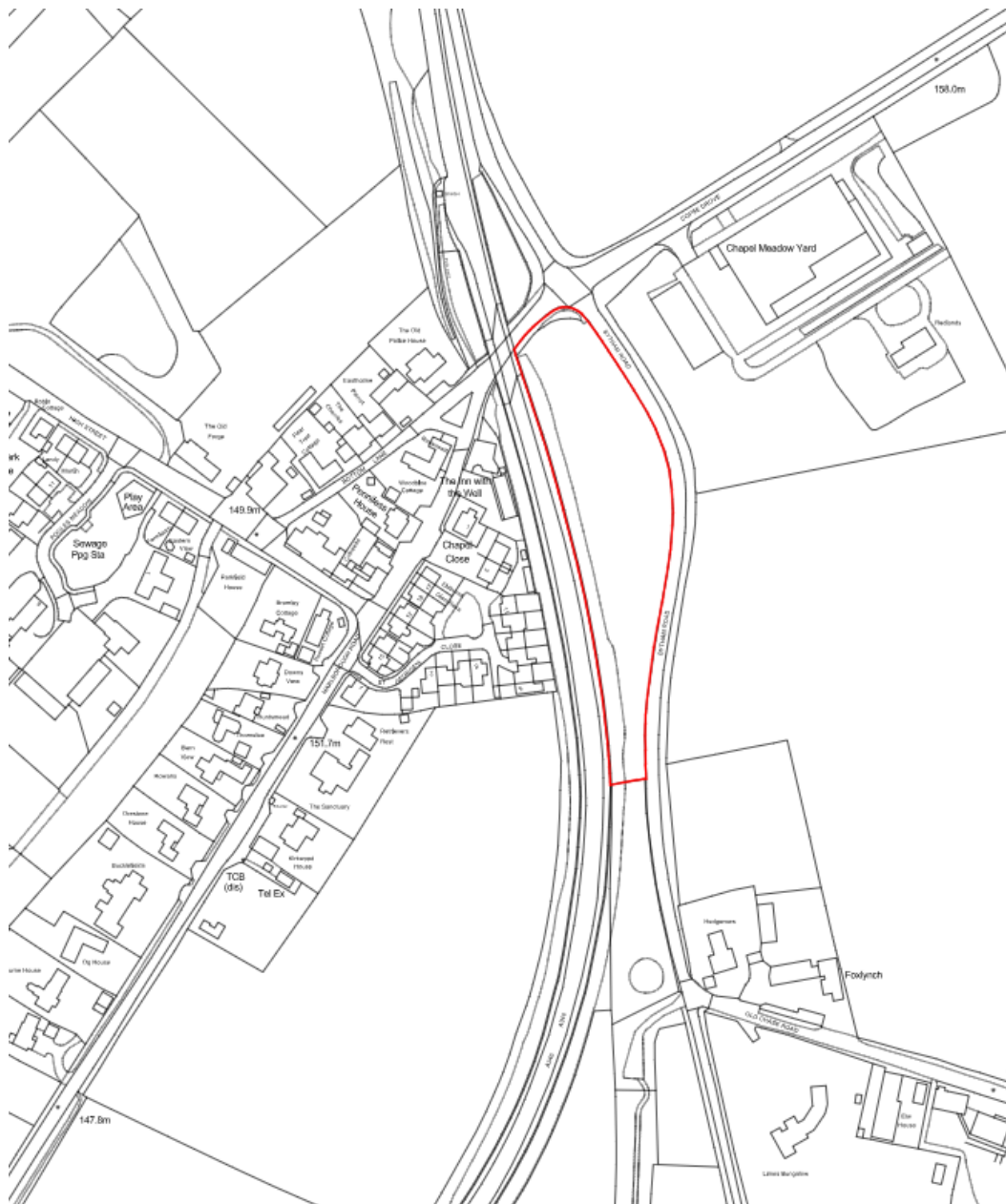
Finally, the proposal does not provide and secure adequate provision, through a section 106 legal agreement, for the required affordable housing provision on-site to make the application acceptable in planning terms. The application is therefore contrary to Core Policy 43 of the Wiltshire Core Strategy, as well as guidance within the National Planning Policy Framework.



### 3. Site Description

The application site comprises a parcel of land of approximately 0.78ha which is agricultural in status and is situated to the east of the built-up settlement of Ogbourne St George. The site is bounded by public highways to the east, west and north and to the west is the A346 which is set at a higher level than the application site. The application site is also set higher than the adjacent highway to the north and east, though is set at a lower level than the adjacent A346.

The land is unused in nature with vegetation and trees within it. The site is washed over by the North Wessex Downs National Landscape. Below is an extract from the submitted Location Plan that shows the context of the site.



#### **4. Planning History**

PL/2022/06848 - Permission in principle for residential development of a minimum of 3 and maximum of 5 dwellings (resubmission of PL/2022/03347) - Withdrawn

PL/2022/03347 - Permission in Principle for residential development of a minimum of 4 and maximum of 8 no. dwellings. - Withdrawn

13/04981/FUL - Erection of a village shop with ancillary office and residential accommodation, on-site parking, turning and landscaping, the creation of a new vehicular access point and extension to existing footway – Withdrawn

K/52080/O – Erection of detached dwelling (outline permission) – Refused 25.05.2005

This application was refused for the following reasons:

1. The proposed dwelling located remote from services and many employment opportunities would be unsustainable in that it would increase the need to travel, especially by car. The proposal is therefore contrary to policies PD1 and HC26 of the Kennet Local Plan, to policy DP1 of the Wiltshire Structure Plan and to the key government planning policy guidance objective of the need to deliver sustainable development.
2. To allow an isolated dwelling beyond the built up area of Ogbourne St George would completely undermine the Council's strategy for the control of residential development in the open countryside. No agricultural or forestry justification for the proposal has been advanced; neither is the proposal essential to the rural economy or to the social well-being of the rural community in the locality. Hence the proposal is very clearly contrary to policies HC26 and NR6 of the Kennet Local Plan, to policy DP15 of the Wiltshire Structure Plan and to government advice contained in Planning Policy Statement 7 'Sustainable Development in Rural Areas'.
3. The proposed dwelling, by virtue of its elevated and isolated location, would be harmful to the scenic quality of this part of the North Wessex Downs Area of Outstanding Natural Beauty, particularly when viewed from the A346 and from the C189 Aldbourne Road. The proposal is therefore contrary to policies NR8 and PD1 of the Kennet Local Plan, to policy C8 of the Wiltshire Structure Plan and to advice contained within the Kennet Landscape Conservation Strategy, which has been adopted by the local planning authority as Supplementary Planning Guidance to the Kennet Local Plan.

K/10705 – Tipping of Chalk and Top Soil – Granted 24.09.1987

#### **4. The Proposal**

The application seeks planning permission for the erection of six two-storey dwellings, together with associated development including single storey garages, hardstanding and a new vehicular access point.

Six dwellings are proposed as follows:

- Plots 1 and 2 – semi-detached dwellings to the north of the site. These are two storey in nature and would comprise of red facing brickwork at ground floor and on the west

and south first floor level, and natural flint to the first floor level on the north and east elevation. The dwellings would be three bedroomed.

- Plots 3 and 4 – semi-detached dwellings to the eastern side of the site. These are two storey in nature and would comprise red facing brickwork at ground floor level and timber boarding at first floor level. One inset dormer window is proposed on the ‘front’ elevation. These dwellings would be two bedroomed.
- Plot 5 – a detached dwelling to the south of the site. This dwelling is two-storey and would comprise of red facing brickwork at ground floor level and timber boarded at first floor level. The dwelling would be four bedroomed.
- Plot 6 – a detached dwelling to the south of the site. This dwelling is two-storey and would comprise of red facing brickwork at ground floor level and timber boarded at first floor level. The dwelling would be four bedroomed.

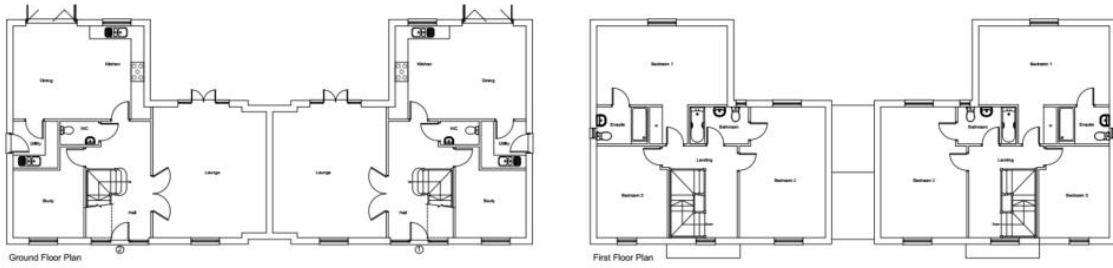
In relation to the garages, it is proposed that two four bay car port structures would be sited on the western side of the site and a single double car port would be sited to the eastern side of the plot in context to ‘Plot 2’.

Furthermore, a new highway access is proposed to the east of the plot onto Bytham Road and a balancing pond is to be formed to the south of the site and the proposed dwellings. One timer cycle store/shed is proposed in the garden of Plot 3.

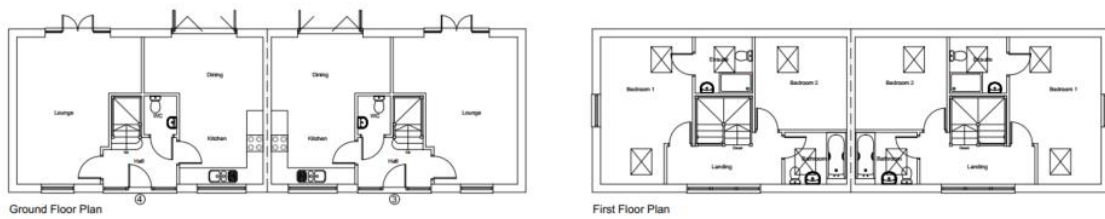
*Proposed scheme:*



Proposed Site Plan



Plots 1 and 2



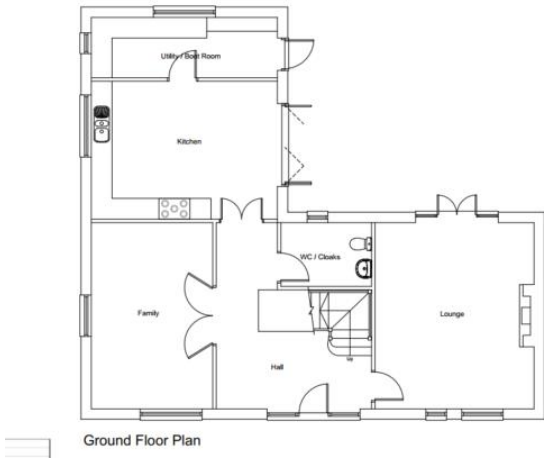
Plots 3 and 4



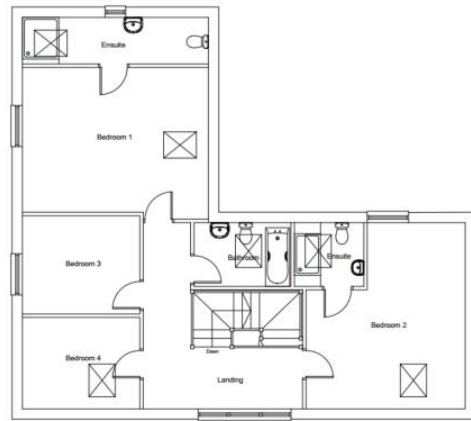
Rear Elevation



Side Elevation



Ground Floor Plan



First Floor Plan

All drawings are proposed

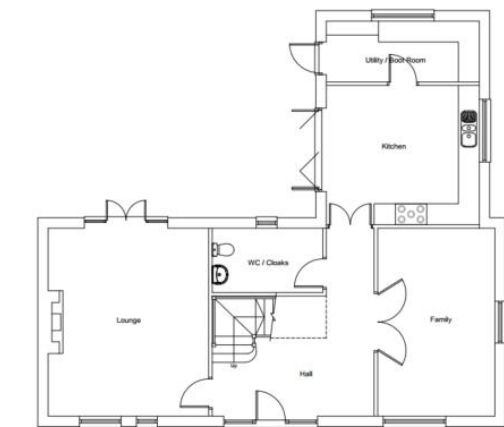
### Plot 5



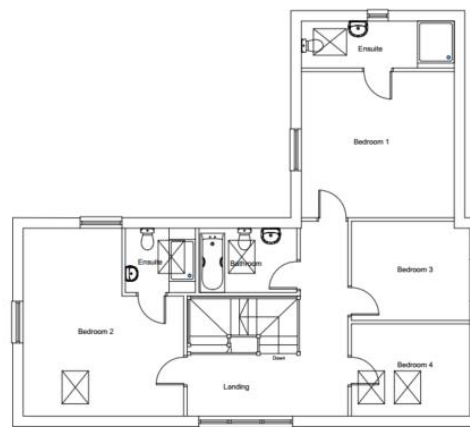
Rear Elevation



Side Elevation

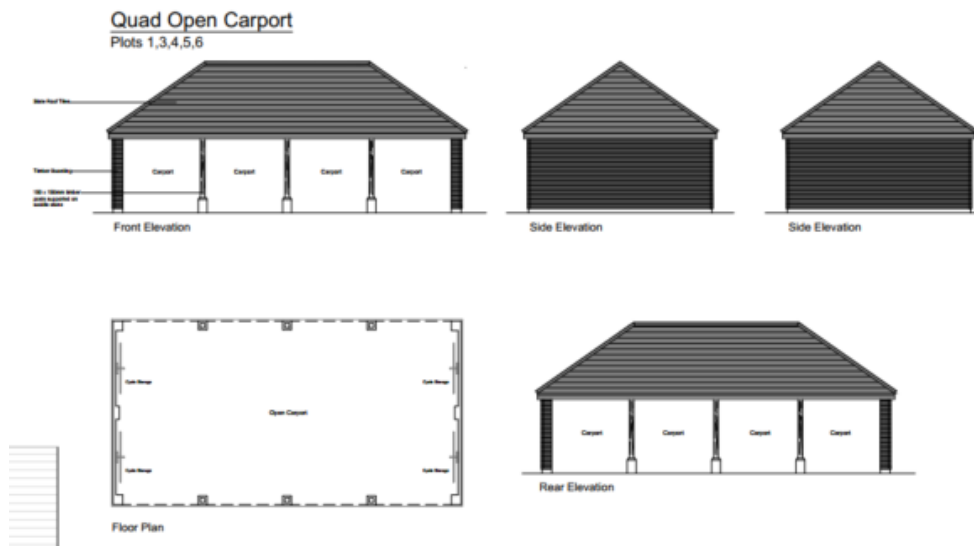
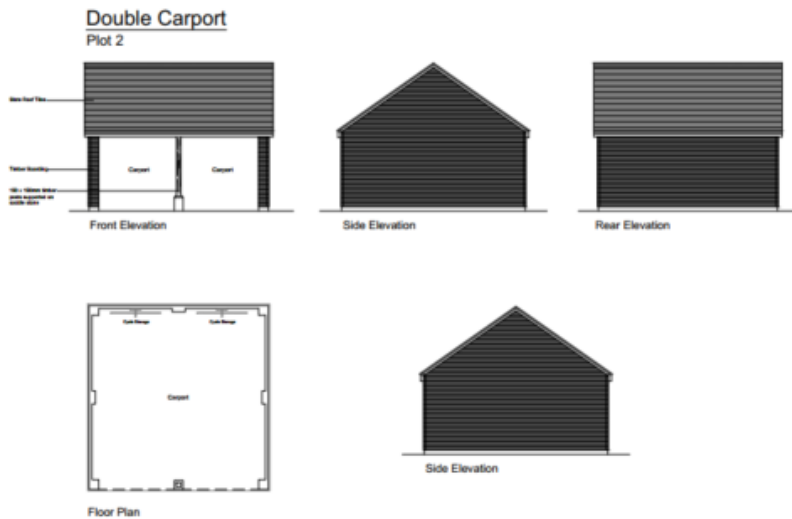


Ground Floor Plan



First Floor Plan

### Plot 6



Car Ports

## Planning Policy

### National Planning Policy Framework (NPPF)

Section 2 (Achieving sustainable development)

Section 4 (Decision-making)

Section 5 (Delivering a sufficient supply of homes)

Section 7 (Ensuring healthy and safe communities)

Section 9 (Promoting sustainable transport)

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)

Section 15 (Conserving and enhancing the natural environment)

Planning Practice Guidance (PPG)

National Design Guidance

### Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy  
Core Policy 2: Delivery Strategy  
Core Policy 14: Marlborough Community Area  
Core Policy 41: Sustainable Construction and Low Carbon Energy  
Core Policy 43: Providing Affordable Home  
Core Policy 44: Rural Exceptions Sites  
Core Policy 45: Meeting Wiltshire's Housing Needs  
Core Policy 48: Supporting Rural Life  
Core Policy 50: Biodiversity and Geodiversity  
Core Policy 51: Landscape  
Core Policy 56: Contaminated Land  
Core Policy 57: Ensuring High-Quality Design and Place-Shaping  
Core Policy 60: Sustainable Transport  
Core Policy 62: Development Impacts on the Transport Network  
Core Policy 64: Demand Management

### Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers  
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)  
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)  
North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2019-2024  
Wiltshire Character Assessment  
Planning Consultation Guidance Notes

## **5. Consultation responses**

Ogbourne St George Parish Council: "Support in principle"

Ecology Officer: Additional documents required.

Highway Officer: No objection subject to conditions.

Archaeology Officer: Request for trial trench evaluation of the site.

Public Protection Officer: Object with regard to noise matters.

Housing Team: Affordable housing provision (2 dwellings) required.

CPRE: Objection noting the proposal does not accord with Core Policies 1 and 2 of the WCS and is not 'infill' development. No archaeological evaluation has also been submitted.

North Wiltshire Swifts: Welcome the recognition in the Preliminary Ecological Appraisal for the need to provide nesting provision for swifts and the site plan makes the location of 6 integrated swift bricks.

## **6. Publicity**

The application has been advertised by letter to local residents. No third-party representations have been received.

## 7. 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.

### Principle of Development

- Wiltshire Core Strategy (WCS)

Core Policy 1 'Settlement Strategy' of the WCS outlines a settlement strategy which identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Core Policy 2 'Delivery Strategy' of the WCS outlines there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances (in circumstances as permitted by other policies within this plan, identified in paragraph 4.25).

The site lies to the east of the built-up area of the settlement of Ogbourne St George. Ogbourne St George is defined as a 'small village' within the Marlborough Community Area as set out within Core Policy 14 of the WCS. Core Policy 1 identifies that small villages 'have a low level of services and facilities, and few employment opportunities'. Core Policy 2 thus limits development at small villages to infill development within the existing building area (or development supported by the 'exception policies' listed at para. 4.25 of the Strategy, none of which are relevant in this case).

Infill development is defined at para. 434 of the Core Strategy as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling. In this regard it is not considered that the application site forms part of the small village, nor is it infill development. The existing building area of the settlement is considered to lie to the west of the A346. The settlement is of a linear form which mainly follows High Street and Marlborough Road up to the underpass of the A346. It is acknowledged that there are buildings to the east of the A346 however is sporadic in nature and does not form part of the 'built-up' area which forms the settlement.

It is acknowledged that the Local Councillor has stated that the site could be considered infill due to the siting of the adjacent farm 'Chapel Meadow Yard' to the east. In this regard, the application site is not considered infill in terms of Core Policy 2. The site does not lie within the 'existing building area', and as above, infill development is the filling of a small gap within the village that is only large enough for not more than a few dwellings. In this regard six dwellings are not considered a 'few dwellings' and it is a significant portion of land to the edge of the settlement. The proposal is not considered infill development within the existing building area and thus does not accord with Core Policy 2 of the WCS and for the purposes of assessing the planning merits of the proposal, the site falls within the 'open countryside'.

Core Policy 2 states that development outside of any defined limits of development will only be permitted where it has been identified through community-led planning policy documents including neighbourhood plans, or a subsequent development plan document which identifies specific sites for development. Development proposals which do not accord to Core Policy 2 are deemed unsustainable and as such will only be permitted in exceptional circumstances under the exception policies of the WCS. In this instance, the proposal would not fall within any of the exception policies as it is not a rural exception site nor a conversion or re-use of a rural building. As such, the proposed development is considered unsustainable in location and is contrary to the housing policies of the Core Strategy.



## Affordable Housing

Core Policy 43 of the WCS (as amended following the NPPF revisions) sets out a requirement for 40% on-site Affordable Housing provision within the 40% Affordable Housing Zone, on sites of 5 to 9 dwellings if the area of the site is 0.5 hectares or greater. The application is for six dwellings and is over 0.5 hectares and therefore the affordable housing requirements apply whereby two affordable units are expected.

During the application process, it has been confirmed by the agent that the applicant is willing to provide 2 x 2 bedroomed affordable housing units on this site. This is acceptable as it would meet the requirements of Housing Officer who outlined that it is expected that the 2 x 2 bedroomed (4 person houses) was set out for affordable housing. It has not been outlined by the tenure mix, however it has been taken that they are in agreement with the Housing Team comments that “normally we would ask for a tenure mix of 60% of the units being for Affordable Rented housing, and 40% of the units being provided for shared ownership. However, in this instance we would ask for all the Affordable units to be provided as Affordable Rented Housing.”

Although the provision of two affordable housing units has been agreed with the applicant, the proposal does not provide and secure this provision through a section 106 legal agreement. In the absence of a legal agreement to secure this provision, the application is therefore contrary to Core Policy 43 of the Wiltshire Core Strategy, as well as guidance within the National Planning Policy Framework

## Design and Visual Impact

Core Policy 57 requires a ‘high standard of design’ for all new developments and to draw on the local context and be complementary to the locality. Core Policy 51 requires that development should protect, conserve and where possible enhance the landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

The application site is located within a rural location and is washed over by the North Wessex Downs National Landscape, within which there is a duty to have regard to the purposes of conserving and enhancing natural beauty.

The proposed development would comprise six dwellings with associated large garage structures located outside the current built up area of Ogbourne St George. The current arrangement of Ogbourne St George is mainly linear in form and is to the west of the A346 which forms a clear visual break between the settlement and the open countryside to the east. Although there are buildings to the eastern side of the A346 they are generally sporadic in nature commensurate to the rural character whereby in particular the spaces around the buildings contribute to its rural character.

The proposed development would involve the provision of a suburban style development outside the existing built form of the settlement and would adversely spread and elongate the settlement into the rural countryside and the North Wessex Downs Area National Landscape. This urban extension to the east of the A346 into an attractive transition area to the rural countryside is harmful to the character and appearance of the landscape area and would not preserve or enhance the National Landscape. As previously mentioned, this site should not be considered as ‘infill development’ and in any case the space around the farm complex to the east forms part of the character of the rural area whereby the agricultural complexes are surrounded by agricultural land.

When coming west to Ogbourne St George from Copse Drove, the application site would form the new frontage to the settlement and would not visually relate to the existing settlement as the existing dwellings are not visible until passing the application (with the views from through the underpass). There is no appropriate visual tie of the development to the existing settlement from the visual receptors from the east of the A436 whereby this urban development would be seen in isolation from the village, in a countryside setting. From the A436 itself, the development would be seen in isolation from any other settlement when looking east and would bring urban development into the special rural landscape where there is a duty to conserve and preserve the natural beauty. External lighting associated with residential development would also result in harm to the dark skies and appearance of the National Landscape, given it is not viewed in context to Ogbourne St George from visual receptors, including the A346 and views from the east. There would be a material loss of tranquillity as a result of the development. Furthermore, insufficient landscaping is proposed around the built form to mitigate any impacts of the development.

It must be acknowledged that the application site is raised in nature whereby the site currently has banks to the boundaries bordering the northern and eastern highways. The banks, as demonstrated on the 'street scenes & site sections', are to remain and thus the development would be higher than the adjacent public highway and thus would be unduly prominent in the area and would draw additional attention in the rural landscape. The ground level of the site would be higher than the buildings within the settlement itself, so when entering and exiting the village, the proposed development would not be in-keeping with the character of the settlement and would not respect, preserve, or enhance the character of the rural area and the rural settlement itself. Due to this level difference, as viewed from the A346 itself the proposed development would be adversely prominent in comparison to the existing settlement of Ogbourne St George. The roof forms, in particular those of the two storey Unit 1 and 6, would be prominent in views from this A-road and would interrupt views across the open landscape and the National Landscape so would be harmful to its character and appearance. It should be noted that no Landscape and Visual Impact Assessment (LVIA) has been submitted to support the application, acknowledge the impact of the development from visual receptors within the National Landscape and to appropriately consider mitigation measures that would be drawn from this assessment.

In relation to the design and layout of the site itself, the arrangement is suburban in form with a rear garage forecourt of the area which is not an in-keeping form of development in the rural countryside, including the prevailing pattern of development of the settlement of Ogbourne St George. The density of the site is not considered appropriate to this rural transition area and would result in an adverse urban form of development, which is inappropriately sited in this valuable and attractive transition area into the countryside.

With regard to the design of the built form, it is deemed that the dwellings are suburban in nature and do not currently reflect the character of the area. The dwellings would be mixed - some dwellings would have brick and flint walls whilst others would comprise brick and timber boarding walls. The designs would contribute to the suburban appearance of the site, albeit it is noted that the dwellings with the timber boarding could be considered to try and replicate a more agricultural conversion style building. Units 1 and 2 are not symmetrical although are adjoined with draws unnecessary attention to the buildings along the frontage. This is also the same for Units 2 and 3 whereby also semi-detached are not symmetrical which draws the eye to the build further. The designs of the dwellings is not considered to be high quality in nature drawing from the local context, nor is it complementary to the locality (Core Policy 57).

The provision of six dwellings in this location, by reason of their siting, design, height and layout, together with their residential curtilages and associated residential paraphernalia within the open countryside, would be harmful to the visual amenities of the area and to landscape character. The proposal would result in the elongating of the existing built form beyond the

existing built-up area of Ogbourne St George into the open countryside and would not enhance the character or appearance of the area. The proposal would furthermore not enhance or conserve the special rural characteristics or scenic beauty of the North Wessex Downs National Landscape, whereby it is considered that this site does contribute positively to the rural character and appearance of the landscape and forms a valuable transition area into the open countryside. Therefore, the proposal is deemed contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy and guidance contained within the NPPF.

### Residential Amenity and Noise Pollution

Core Policy 57 criterion vii) outlines that there needs to have regard to the compatibility of adjoining buildings and uses, including the levels of amenity of existing occupants.

- Amenity of future occupants

The proposed internal layout the proposed dwellings would allow adequate light to allow habitable rooms and the amount of amenity space would be sufficient for the enjoyment of the future occupants.

Attention is however afforded towards noise pollution. The application site is in close proximity to the A346 which runs to the immediate west of the development. As part of this submission an Acoustic Consultancy Report which undertook a noise survey. The conclusion of this report was that “with the construction and glazing specified within this report, internal ambient noise levels can achieve the BS8233 design criteria.”

The Council’s Public Protection Officer has reviewed this report and has referred to the Good Acoustic Design guidance by Wiltshire Council. For developments that are proposed close to noise sources the guidance states that ‘ECP will not accept a strategy that relies on the occupier of the noise sensitive premises having to close the window during noisy activities other than for noise without character such as transportation noise. Closed windows to mitigate transport noise will only be considered if all other reasonable measures in the hierarchy have been utilised and only for an absolute minimum of rooms. Designs that result in whole dwellings needing windows closed to mitigate transport noise will not be accepted’.

In this regard, the noise report infers that no habitable rooms would be able to comfortably have windows open and all windows would be closed with trickle vents. It is not accepted that closed windows are an appropriate form of mitigation of noise and would not be considered high quality design. Closed windows to mitigate transport noise will only be considered if all other reasonable measures in the hierarchy have been utilised and only for an absolute minimum of rooms. Insufficient information has been submitted to justify the mitigation approach such as considering other measures and thus it is considered that the proposed closed windows is not an acceptable mitigation measure for the future occupants from the road traffic noise. The design of closed windows with vents would not represent a good standard of residential living.

Furthermore, insufficient information has been provided to demonstrate that the closed windows and trickle vents proposed would not result in unacceptable risk of overheating (such as through submitting an early stage overheating risk tool) and would be within the acceptable levels. The proposed development therefore does not comply with Core Policy 57 of the Wiltshire Core Strategy, or advice contained within the NPPF and the ‘Planning Consultation Guidance Notes’ namely Section 5 – Good Acoustic Design.

- Residential Amenity

The proposed development is not considered to give rise to any unacceptable impacts upon neighbouring amenities. The nearest existing residential properties lie to the west over the adjacent A-road and thus there would be no adverse impacts towards these buildings in terms of overbearing effect, loss of outlook, overshadowing or loss of privacy. To the east of the application site lies a farmyard, which is also considered not to be adversely impacted due to the distance between the buildings and the intervening highway of Bytham Road.

In considering the impacts of the new properties on each another, dwellings 1 and 2 are appropriately laid out that would ensure there would be no adverse impact on residential amenity. There are no first-floor windows on the elevations facing another (on the gable) and the two storey gables are acceptably sited away from the shared boundary to not give rise to any unacceptable overbearing effect. It is acknowledged that there would be some direct views from Unit 2 to the dwellings to the south, namely Unit 3, however given the intervening distance of circa 22m to the boundary of Unit 3 and noting there is an intervening garage in some views, there would not be any significant overlooking or loss of privacy.

In relation to Units 3 and 4, these dwellings would not give rise to any unacceptable impacts towards another due to the semi-detached design and siting. These dwellings are also sited acceptably away from Units 2 and 5 to not give rise to any amenity concerns.

Lastly, consideration has been afforded towards Units 5 and 6 which are the southern dwellings within the built-up complex. The dwellings are acceptably sited to not give rise to an unacceptable overbearing effect or loss of outlook. Unit 5 would have a first-floor window to the northern (front) elevation which would have direct views into the private amenity area of the proposed Unit 4 (whereby there is circa 6.7m between this window and the boundary of the garden for Unit 4). This window has potential to give rise to unacceptable overlooking and loss of privacy. Although there is potential for harmful overlooking from the first-floor window, the use of the room which serves the window is a landing area and is not a habitable room. A landing area is considered an area of travelling and not social congregation and therefore it is considered, on balance, that there would not be such a degree of overlooking or loss of privacy as to justify a refusal reason on this basis. There would be a perception of overlooking, however, this would be known at the stage any future occupants purchase the properties. The roof lights on the front elevation, given the siting on the roof slope, are also not considered to give rise to an unacceptable loss of privacy.

Unit 6 would however give rise to an unacceptable loss of privacy to the future neighbouring occupants of Unit 5. As demonstrated on the site plan and the floor plans for the dwelling, an inset dormer window would be present on the rear two storey gable element and would face eastwards. This inset dormer window would be circa 9.5m from the shared boundary and would have a direct outlook onto the private amenity space of Unit 5. This dormer window is furthermore the sole window for 'Bedroom 1' and therefore it is not considered that any conditions could be imposed, such as obscure glazing it, to prevent harmful overlooking or loss of privacy. Given the arrangement, design and the intervening distance of less than 10m between the window and the shared boundary, it is considered that this arrangement would result in an unacceptable degree of overlooking and loss of privacy between Units 5 and 6, which is contrary to Core Policy 57 of the WCS and forms a reason for refusal.

It is further noted that there is a bedroom window on the eastern elevation of Unit 6 which serves 'bedroom 2'. In this regard the window would face the blank wall of Unit 5 and only very oblique views would be formed to the private amenity area. As such, the outlook from this window, whilst undesirable, would not form part of the refusal reason. It is also acknowledged that this window is a secondary window for 'bedroom 2' and thus in the event it was considered

to give rise to harmful overlooking could have been conditioned to be obscure glazed to mitigate the concern.

It is therefore considered that given the direct overlooking from the eastern elevation window on Unit 6 (serving 'bedroom 1') towards the private amenity area of Unit 5, the proposal would result in unacceptable neighbouring amenity impacts that would be contrary to Core Policy 57 of the WCS and guidance contained within the NPPF.

### Contaminated Land

The Council's Public Protection Officer has reviewed the submission and noting that the Historic Use mapping layer indicated that a former railway with a medium risk of contamination is approximately 20 metres to the west of the proposed site and possibly adjoining it on the most southerly edge. It does not follow the course of the A346 entirely, diverting off in places including close to/adjoining the proposed site.

In this respect given the proximity of the former railway, the Public Protection recommended a condition regarding contamination. If the application was recommended for approval a condition would be imposed in this regard and thus there is no objection in terms of contaminated land.

### Highways

- Locational sustainability

Core Policy 60 and 61 aim to direct development to accessible locations where it is 'located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives'.

Core Policies 1 and 2 of the Core Strategy identifies areas of where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. This approach is to provide the sustainable development, in particular due to the intention to reduce the need to travel (an approach agreed by Planning Inspectors such as within APP/Y3940/W/21/3280947).

The application site is located outside of the built-up form of the settlement of Ogbourne St George which is defined as a 'small village' under the Marlborough Community Area as set out within Core Policy 14 of the WCS. Core Policy 1 identifies that small villages 'have a low level of services and facilities, and few employment opportunities'. In particular for Ogbourne St George there are a number of facilities available such as a pre-school, primary school, bus stops and place of worship. Although there a number of services and facilities which could be used by future occupants and could be accessed by foot given the proposed provision of a footpath to connect to existing footpaths under the A road, given the proposal is not in accordance with Core Policies 1 and 2, and there is a lack of all the facilities and services required for day-to-day living in Ogbourne St George, there would be a reliance on the private vehicular. As there would be a reliance of the private car, the proposal is considered to be contrary to Core Policy 60 and 61 and guidance contained within the NPPF which seeks that development should be moving to a low carbon economy (Paragraph 8 of the NPPF).

- Access and Parking

The proposed development would involve the provision of a new access point onto the site from Bytham Road to the east. Within the site the private road would form an 'L' shape which would serve the rear of the dwellings and the associated garages proposed. A pavement is also sought to connect the site from the new vehicular access point along the northern

boundary of the site and would connect to the hardstanding area underneath the bridge to the north-west.

The Council's Highway Officer has reviewed the submission and raised no objection to the internal layout of the site. The proposal would provide an acceptable level of parking for each dwelling. It has been raised by the Highway Officer that it would be beneficial for at least one space to have EV provision which could be secured by condition if the proposal was recommended for approval.

It does appear from the site plan that only Unit 3 would have a cycle storage, and thus if the application was being recommended for approval it would request further information by way of planning condition, whereby it will be expected that every dwelling has cycle storage.

The proposed access is considered acceptable by the Highway Officer subject to conditions including the implementation of the submitted visibility splays, the gradient of the access not being steeper than 1m in 15m from its junction, means to avoid private water from entering the highway and an informative advising the applicant of a license being required from the Highway Authority for the new access. If the application was being recommended as granted, these conditions (and informative) would have been recommended in the interests of highway safety. In this respect, subject to condition the proposal is considered acceptable in terms of its impacts upon highway safety and parking.

### Ecology

The application site is agricultural in planning use and comprises of grassland, mixed and bramble scrub, vegetation and scattered trees.

The application was supported by a Preliminary Ecological Appraisal Report which has been reviewed by the Council's Ecology Officer. In this respect it has been considered that the Ecology Team has insufficient information to be able to determine the ecological impacts of the proposal. The Preliminary Ecological Appraisal Report submitted makes recommendations for additional survey work, a final impact assessment and a Biodiversity Net Gain calculation. The conclusion of the report outlines:

"The baseline habitats are common and widespread with no important habitat features identified on site. It is considered that the scrub and scattered trees provide some biodiversity value and should be retained and enhanced where possible. The baseline assessment concluded that the site provides suitable habitats for reptiles, amphibians, bats and birds and further recommendations are recommended for these species.

From the desktop assessment of the site, it is assessed that the site could form a part of a potential commuting corridor for bats and may provide habitats which link the two sections of the Chiseldon and Marlborough LWS. This will be considered in terms of the development layout and will be discussed following the recommended surveys within the following EclA.

Recommendations within this report include strengthening the boundary features with vegetation, creating a pond, enhancing areas of grassland, and creating a dark corridor for bats. It is recommended to provide an EclA and BNG assessment for this planning application."

The recommended information has not been submitted. As such, there has been no adequate assessment undertaken into the impact upon ecology, including protected species such as bats and reptiles where, as outlined within the second paragraph of the conclusion of the appraisal report, it has the potential to impact the development layout. An Ecological Impact

Assessment (the reference EcIA) must be completed and submitted at this planning application stage to understand the impacts of the development upon ecology. It is considered that these reports cannot be submitted at a later stage through the discharge of condition process given it is a material matter for the planning application which has significant potential to change the layout and design of the scheme.

Whilst it is acknowledged that some of the recommended features of the Appraisal Report has been incorporated within the design, such as the pond and some planting, without the evidence submitted on how the site is used through the recommended surveys and the assessment on how this would be mitigated, the Local Planning Authority is unable to discharge its statutory duty in this regard.

The applicant has therefore failed to provide sufficient information to determine ecological impacts of the proposal and consequently, the application is not considered to be environmentally sustainable. The proposed development does not comply with Core Policy 50 of the Wiltshire Core Strategy, or advice contained within the National Planning Policy Framework and thus this forms a reason for refusal.

### Archaeology

The application site straddles the projected route of the former Roman road between Cunetio (Mildenhall) and Durocornovium (Swindon). As confirmed by the County Archaeologist there is the potential for as-yet unrecorded sub-surface archaeological features and/or deposits relating to potential roadside settlement or the physical remains of the road itself (agger) or the accompanying roadside ditches (fossa) to survive here.

The County Archaeologist reviewed the submission and advised that a trial trench evaluation of the site was required. Once the report on the results is submitted it would then be submitted to the Archaeologist for review. Depending on what is found, further work may be required prior to development to mitigate the impact of the proposals upon any archaeological resource that has been identified.

Whilst a trial trench evaluation was requested during the application process, this was not submitted by the applicants. This information is required up front at this application stage as if archaeological features are found there is a potential that the scheme would need to be amended to prevent adverse impacts to the features, including changes to the layout and location of built form which cannot be changed through planning condition or through a non-material amendment to an application.

Due to the absence of the required trial trench evaluation the applicant has also failed to provide sufficient information to determine the likely impact of the proposed development upon the archaeological potential of the site. The absence of a trial trench evaluation of the site which straddles the projected route of the former Roman Road has resulted in the Local Planning Authority not being able to make an assessment of the likely impacts upon archaeology. The proposed development therefore does not comply with Core Policy 58 of the Wiltshire Core Strategy, or advice contained within the National Planning Policy Framework and forms a reason for refusal.

### Refuse and Recycling

Refuse storage area has been demonstrated on the submitted plans within the garden of each dwelling, which is acceptable. A bin collection point has been identified adjacent to the access point and this arrangement is considered acceptable and therefore there is no objection in this regard.

### S106 contributions/CIL

The property will be CIL liable charged at the standard council rate.

### Conclusion/Planning Balance

The site falls within the 'open countryside' and does not apply with Core Policies 1 and 2. The proposal does not fall within any of the WCS exception policies. The proposed site is located within the North Wessex Downs National Landscape which is a protected area whereby there is a duty to have regard to the purposes of conserving and enhancing natural beauty.

As assessed above in this report, it has been identified that harm would be caused to the character and appearance of the National Landscape by reason of the proposal siting, design, height and layout. The proposal would also not assist in addressing the need for affordable housing by providing affordable housing in accordance with Core Policy 43 of the WCS. Insufficient information has been received in relation to ecology and archaeology to enable the Local Planning Authority to determine the impacts of the development and furthermore the proposal by reason of design and siting would result in unacceptable loss of privacy for the future occupants of Unit 5 from the siting of the inset dormer window at Unit 6.

The proposal also seeks closed windows for the dwellings which is not considered an acceptable mitigation approach without further justification and does not represent a good standard of residential living. Finally, the proposal by reason of the distance to the majority of local services and facilities for day-to-day living would result in the future occupants having a heavy reliance on the use of the private motor vehicle.

There would be limited social and economic benefits resulting from the construction of new properties and its subsequent occupation. Economically the proposed development would encourage development and associated economic growth through the building works. The future occupants would also contribute to the local economy and to the continued viability of local services in the local villages. Socially, the dwellings would create the opportunity for the site to develop social and community ties and facilitate future community involvement. Finally environmentally the proposal could reasonably be expected to demonstrate a degree of inherent sustainability through compliance with Council supported energy efficiency and Building Regulation standards.

Notwithstanding the limited benefits identified, the identified harm of the proposed development significantly and demonstrably outweighs those benefits. In conclusion, taking all material planning considerations into account, the development is not considered to represent sustainable development as required by Paragraph 11 of the NPPF and does not accord with the Development Plan policies. The application is therefore recommended for refusal.

### **RECOMMENDATION:**

That planning permission be REFUSED for the following reasons:

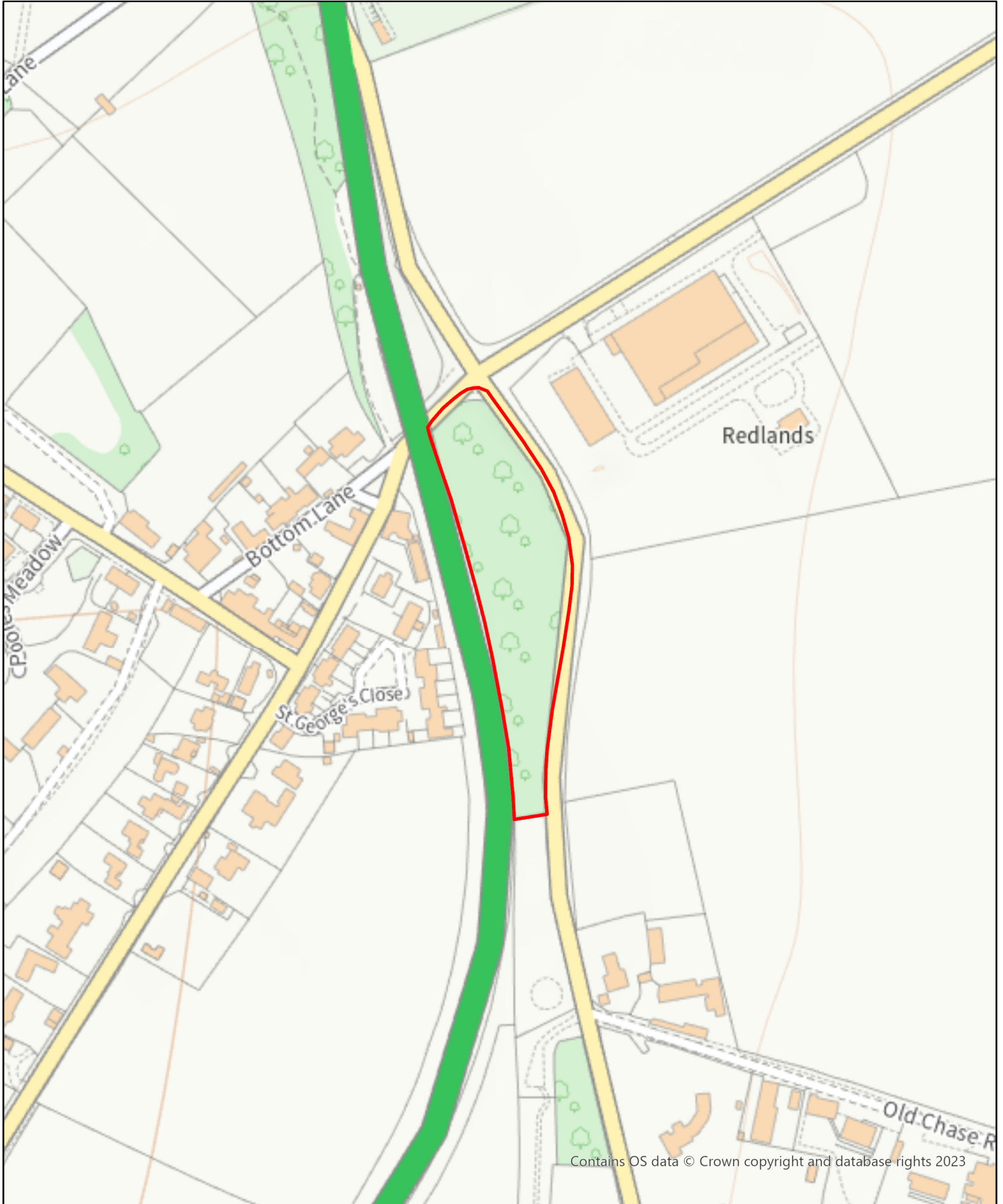
1. The proposed development is located outside of the defined limits of development and within the 'open countryside.' The open countryside siting would not provide a suitable location for housing as it would conflict with the residential development strategy under Core Policies 1, 2 and 14 of the Wiltshire Core Strategy and the NPPF (2023). There is no justification for departing from the Development Plan Policies or any other material considerations to establish the principle of development which would be of sufficient weight to allow for the creation six dwellings on the site.



2. The proposed development, by reason of the distance to the majority of local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2023).
3. The proposed development would, by reason of its siting, design, height and layout be harmful to the visual amenities of the area, the landscape character and the special qualities of the North Wessex Downs National Landscape. The proposal would result in the elongating of the existing built form beyond the existing built-up area of Ogbourne St George into the open countryside and into a valuable transition area into the countryside and would not enhance the character or appearance of the area. The proposal would furthermore not enhance or conserve the special rural characteristics or scenic beauty of the North Wessex Downs National Landscape and is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy and guidance contained within the National Planning Policy Framework (2023).
4. The applicant has furthermore failed to provide sufficient information to determine ecological impacts of the proposal and consequently, the application is not considered to be environmentally sustainable. The proposed development therefore does not comply with Core Policy 50 of the Wiltshire Core Strategy, or advice contained within the National Planning Policy Framework (2023).
5. The applicant has failed to provide sufficient information to determine the likely impact of the proposed development upon the archaeological potential of the site. The absence of a trial trench evaluation of the site which straddles the projected route of the former Roman Road between Cunetio (Midenhall) and Durocornovium (Swindon) has resulted in the Local Planning Authority not being able to make an assessment of the likely impacts upon archaeology. The proposed development therefore does not comply with Core Policy 58 of the Wiltshire Core Strategy, or advice contained within the National Planning Policy Framework (2023).
6. The proposed development would result in an unacceptable impact on the amenity of the future occupants of 'Unit 5'. There would be a harmful degree of overlooking from the eastern elevation window on Unit 6 (serving 'bedroom 1') towards the private amenity area of Unit 5 which is not considered high-quality design and would result in a significant loss of privacy for the future occupiers of Unit 5. The proposal would therefore result in an unacceptable residential amenity impact which would be contrary to Core Policy 57 of the Wiltshire Core Strategy and guidance contained within the National Planning Policy Framework (2023).
7. The proposal seeks permanently closed windows on the development, with trickle vents to provide ventilation to each habitable room, one vent for each window system. The submitted acoustic report concludes that acceptable internal noise levels may be achieved by using the construction and glazing specified within the report. This is due to the proximity of the development to the A346. Wiltshire Council has guidance that closed windows to mitigate transport noise will only be considered if all other reasonable measures in the hierarchy have been utilised and only for an absolute minimum of rooms. Insufficient information has been submitted to justify the mitigation approach, such as considering other measures, and thus the proposed closed windows is not an acceptable mitigation measure for the future occupants. Furthermore, insufficient information has been provided that the closed windows and

trickle vents proposed would not result in unacceptable risk of overheating and would be within the acceptable levels. The design of closed windows with vents would therefore not represent a good standard of residential living and the proposed development does not comply with Core Policy 57 of the Wiltshire Core Strategy, or advice contained within the National Planning Policy Framework (2023) and the 'Planning Consultation Guidance Notes' namely Section 5 – Good Acoustic Design.

8. The proposal does not provide and secure adequate provision, through a section 106 legal agreement, for the required affordable housing provision on-site to make the application acceptable in planning terms. The application is therefore contrary to Core Policy 43 of the Wiltshire Core Strategy, as well as guidance within the National Planning Policy Framework



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