



## Appeal Decision

Inquiry Held on 24 October 2023

Site visit made on 24 October 2023

**by Peter Mark Sturgess BSc(Hons), MBA, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14<sup>th</sup> November 2023**

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**Appeal Ref: APP/Y3940/W/23/3324031**

**Land to the South of Western Way, Melksham, Wiltshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Hallam Land Management against the decision of Wiltshire Council.
  - The application Ref PL/2022/08504, dated 2 November 2022, was refused by notice dated 27 April 2023.
  - The development proposed is outline application (with all matters reserved except for access) for the erection of up to 210 residential dwellings (class C3) and a 70-bed care home (class C2) with associated access, landscaping and open space.
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### Decision

1. The appeal is allowed and planning permission granted for an outline application (with all matters reserved except for access) for the erection of up to 210 residential dwellings (class C3) and a 70-bed care home (class C2) with associated access, landscaping and open space, in accordance with the details submitted with planning application Ref: PL/2022/08504 on land South of Western Way, Melksham, Wiltshire (Easting 390741 Northing 162689), subject to the conditions set out in Annex A.

### Main Issues

2. The main issues in this appeal are:
  - the suitability of the location for the proposed development having regard to the policies of the development plan;
  - the position of the Council with regard to a 5-year supply of deliverable housing sites, including the status of the Neighbourhood Plan;
  - whether the requirements of the Council in terms of the need for affordable housing, the provision of open space, the provision of public art, healthcare provision, public transport provision, strategic transport provision and waste collection provision are necessary in terms of paragraph 57 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy Regulations 2010 and, if these requirements are found to be necessary, whether they are capable of being addressed through an agreed planning obligation.

## Reasons

### *Location of the development*

3. The development is located to the south of Melksham town centre and close to two main roads (the A350 and the A365). To the north are footpaths and roads which focus on Melksham's town centre.
4. To the east is a site which appears to be under development which will accommodate a school. To the south is the Bowerhill Industrial Estate. The site is proposed to be accessed via the recently completed Maitland Place. Overall, the site appears as an isolated pocket of agricultural land surrounded by major roads, an established industrial estate, new development and the established area of Melksham itself to the north.
5. In planning policy terms, the site lies outside the settlement boundary of Melksham. However, it appears to me that this boundary is becoming blurred in this location given the amount of new development that has taken place to the south. Furthermore, more construction is due to take place immediately to the east of the appeal site.
6. The development plan for the area is comprised of the Wiltshire Core Strategy (WCS), adopted in 2015 and the Joint Melksham Neighbourhood Plan (MNP) 2020-2026 made in July 2021.
7. The policies that are particularly relevant to this appeal are Policies CP1 and CP2 of the WCS and Policy 6 of the MNP. Policies CP1 and CP2 of the WCS work together in order to achieve the delivery of the Council's housing targets. Policy CP1 sets out a settlement hierarchy and Policy CP2 distributes the required housing across this hierarchy. This distribution is predicated on allocated sites and allowing settlements to take other growth, within the settlement limits.
8. The appeal site is located on the edge of Melksham. Melksham is identified in the policies as a market town which, according to Policy CP1, have potential for significant development to increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities. Therefore, the policy expects Melksham to accommodate growth and sees the benefits of growth for the town. However, Policy CP2 restricts this growth to those sites which lie within the defined development limits.
9. The MNP was made in July 2021 therefore the criteria set out at Paragraph 14 of the Framework do not apply. Policy 6 of the MNP deals with housing in defined settlements and repeats the requirement of Policy CP2 of the WCS where new development will not be permitted outside settlement boundaries.
10. Since April 2022, the Council has had in place a briefing note<sup>1</sup> which states, amongst other things, that it will '*positively consider speculative applications where there are no major policy obstacles material to the decision other than the site being outside settlement boundaries or unallocated*'. Whilst this approach is not part of the development plan it is a material consideration in this decision.
11. Overall, the site lies outside the development limits/settlement boundary of Melksham where the current policies of the development plan restrict new housing development. However, the recently adopted briefing note weakens

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<sup>1</sup> Briefing Note On 5-Year Housing Land Supply And Housing Delivery Test (April 2022)

the Policy stance regarding the importance of settlement boundaries. Consequently, whilst I find that the proposal is in conflict with Policy CP2 of the WCS and Policy 6 of the MNP and therefore the development plan, I find that I cannot give full weight to this policy conflict.

#### *5-year supply of deliverable housing sites*

12. It is common ground between the parties that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites. There is however a disagreement between the parties about the degree of the shortfall. The Council have calculated that the housing supply in the area lies at around 4.6 years. The appellant on the other hand has calculated that the Council has a land supply of around 3.9 years. The difference in the figures appears to be mainly due to whether some of the sites the Council have identified as 'deliverable' are actually deliverable within the 5-year period.
13. Having heard and read the appellant's evidence on this matter it appears that at least some of the sites the Council is relying on to justify its calculation of the supply of deliverable housing sites do not fall within the definition of 'deliverable' as set out in Annex 2 of the Framework. Therefore, I regard the current position in relation to the 5-year supply of deliverable housing sites in the Council's area as lying somewhere between the appellant's figure of 3.9 years and the Council's figure of 4.6 years. In any event the Council cannot demonstrate a 5-year supply of deliverable housing site as required by the Framework.
14. In cases where the Council cannot demonstrate a 5-year supply of deliverable housing sites the most important policies for determining the proposal are deemed to be out of date. None of the policies in the Framework that relate to protected areas or assets of particular importance apply to the site's location in this case. Therefore, I have to assess whether any adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. I shall carry out this balancing exercise later in this decision.

#### *The Planning Obligation*

15. A planning obligation made under s106 of the Town and Country Planning Act 1971 has been submitted in order to make the proposal acceptable in planning terms. However, an assessment needs to be made as to whether the requirements of the obligation comply with paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. In order to do this the obligations, need to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The Council has supplied a CIL compliance statement to support its position that the obligations it requires meet the requirements set out above.

#### *Affordable Housing*

16. In terms of affordable housing, it is clear that this is needed throughout the Council's area and policies within the development plan require certain housing developments to provide affordable housing. The 63 houses proposed to be provided within the scheme complies with the Council's requirements on sites such as this. Therefore, I find that the affordable housing required by the

planning obligation meets the tests set out in the Framework and the Regulations

*Education*

17. It is clear that the appeal proposals will increase the pressure on educational facilities in the area. The consultation replies received from education providers in the area confirmed that early year's provision in Melksham is at capacity. Therefore, the necessity and the relationship of the contribution to the development has been confirmed.
18. In terms of the scale of the required provision this has been calculated in accordance with a formula so that the contribution will relate directly in terms of scale and kind to the impact the development will have on the need for early years provision in the area.
19. I therefore find that this contribution meets the requirements of the CIL Regulations (2010) and the tests set out in the Framework.

*Public Art*

20. The WCS contains policies relating to the provision of public art in new developments. These policies relate to improving the public realm. The amount which is required for public art is calculated in accordance with a formula and the public art itself will be provided within the appeal site.
21. I therefore find that the requirement in the obligation for a contribution for public art to be provided within the development to comply with the requirements of the CIL Regulations (2010) and the tests set out in the Framework.

*Open Space and Leisure*

22. Core Policy 3 of the WCS contains requirements for open space and leisure facilities to be provided within new developments. This requirement is consistent with paragraph 98 of the Framework. The precise requirement is based on standards which have been adopted by the Council and the facilities will be provided within the proposed development.
23. I therefore find that the requirement for public open space and leisure facilities comply with the CIL Regulations (2010) and the tests set out in the Framework.

*Waste and recycling*

24. Core Policy 3 of the WCS requires new bins and recycling boxes to be provided within new developments. Each new property will be required to have waste bins and recycling boxes and the contribution required reflects the cost of providing these facilities to each of the dwellings.
25. I therefore find that the requirements comply with the CIL Regulations (2010) and the tests set out in the Framework.

*Highways and safety*

26. The obligation requires a contribution towards creating safe cycling and walking routes from the appeal proposal into the centre of Melksham. This approach is supported in planning policy and directly relates to the pedestrian and cycling

movements generated by the proposal. Moreover, the contribution has been calculated in accordance with a formula.

27. I therefore find that the proposed contribution complies with the CIL Regulations (2010) and the tests set out in the Framework.

*Public transport*

28. There is a requirement that the appeal proposal is served by a bus service which will give its residents satisfactory access to the services in the town. The contribution is required in order to ensure that bus services serve the appeal proposal.
29. I therefore find that the requirement complies with the CIL Regulations and the tests set out in the Framework.

*Rail accessibility*

30. The contribution relates to providing a safe cycling route between the appeal site and Melksham railway station. It is necessary in that it helps to develop safe transport links, it is directly related to the development as it will improve its accessibility to the station, and it is fairly and reasonably related to the development as the development is only expected to fund part of the costs of its provision.
31. I therefore find for the reasons given above that the contribution meets the requirements of the CIL Regulations (2010) and the tests set out at paragraph 57 of the Framework.

*Residential travel plan*

32. Part of the implementation of the sustainable travel arrangements planned for the proposal is to use a residential travel plan to publicise the sustainable travel options available to residents. This will be distributed to every new household created by the development.
33. I therefore find that the provisions for a residential travel plan comply with the requirements of the CIL Regulations (2010) and the tests set out at paragraph of 57 of the Framework.

*Travel monitoring plan*

34. This part of the obligation is related to the delivery of the sustainable transport provisions. It allows the effectiveness of the measures to be assessed. It is therefore necessary, directly related to the development and fair and reasonable in scale and kind. Therefore, it complies with the provisions of the CIL Regulations (2010) and the tests set out at paragraph 57 of the Framework.

*Healthcare contribution*

35. It is clear from the consultation responses received in relation to the planning application that the appeal proposal will place additional pressure on the healthcare facilities in the area. Moreover, there appears to be no existing '*spare primary care floorspace capacity in the local area*'. Therefore, the necessity for the contribution and its direct relationship to the appeal proposal has been demonstrated. The contribution has also been calculated in

accordance with a formula which also indicates that it is fairly and reasonably related in scale and kind to the proposal.

36. I therefore find that the requirement complies with the provisions of the CIL Regulations (2010) and the tests set out in paragraph 57 of the Framework.

### **Other Matters**

#### *Highways and traffic*

37. The vehicular access to the proposed development would be taken from Maitland Place. Maitland Place is currently a cul de sac which serves a number of recently constructed houses and links to Pathfinder Way, a main distributor road. The part of Maitland Place that would give access to the appeal proposal is around 5.5m wide and has recessed parking bays. It has also been designed to incorporate traffic calming measures in order to help regulate traffic speed. The Maitland Place link between Pathfinder Way and the proposed access to the appeal site is also relatively short.
38. Given the configuration of Maitland Place, its width and the distance between the entrance to the appeal site and Pathfinder Way I find that it could reasonably accommodate the additional traffic generated by the proposed development without compromising highway safety or lead to unacceptable congestion. The overall 5.5m width is consistent with the standard for this type of road set out in Manual for Streets. Moreover, the Framework states at paragraph 111 that development should only be prevented or 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.
39. In terms of roads around the proposed development these have been designed to accommodate not only local traffic, but traffic passing through Melksham. Whilst the provision of an additional pedestrian/cycle crossing could slow down passing traffic it is unlikely to lead to an unacceptable increase in congestion in the area.
40. In terms of construction traffic, whilst I can appreciate that the residents of Maitland Place might be caused some short-term inconvenience during the construction period this would be temporary. Furthermore, the impact of construction traffic on residents is capable of being mitigated through a Construction Management Plan imposed by an appropriate condition should the appeal be allowed.
41. Overall, for the reasons set out above I find that the appeal proposal is acceptable in terms of its impact on highway safety and congestion in the area.

#### *Living conditions of existing residents*

42. I have had regard to the comments regarding the impact of the proposed development on the living conditions of existing residents, both in Maitland Place and elsewhere around the proposal, in terms of noise, air pollution and effects of additional traffic on the stability of houses. The site is already partly surrounded by main roads and is not located in an area which suffers from poor air quality. In terms of the amount of traffic using the roads around the site the contribution the appeal proposal would make to worsening air quality would be marginal and would not take levels of air pollution to unacceptable levels. I therefore do not consider that the appeal proposal in itself would materially

affect either the noise or air pollution levels experienced by those people living in the area or the stability of houses next to roads.

*Impact on local infrastructure – Doctors Surgery*

43. I heard evidence that the local Doctor's surgery and medical centre is at or over capacity. This has been accepted in the consultation responses received and will be dealt with through a contribution to additional facilities should the appeal be allowed which I have dealt with above.

*Economic development more appropriate*

44. It was put to me at the Inquiry that the site would be more suitable for economic development and accessed through the existing industrial estate located to the south. I have to deal with the application that is before me which is as described in the planning application submitted to Wiltshire Council. Therefore, whilst economic development might well be suitable for the site I have to consider whether it is also suitable for the quantum of houses proposed and the proposed care home. Moreover, from my site visit I noted that there is no direct access between the site and the Bowerhill Industrial Estate to the south.

*Status of the Neighbourhood Plan*

45. The current Neighbourhood Plan is the Joint Melksham Neighbourhood Plan 2020-2026 which was made in July 2021. I understand from submissions made at the Inquiry that this plan is under review and a draft of a reviewed plan has been issued, the Joint Melksham Neighbourhood Plan 2020-2038, Pre-Submission Consultation Draft October 2023. Whilst the draft of the reviewed plan is capable of being a material consideration in this appeal, given the stage it is at it is afforded limited weight in this decision.
46. I also understand the effort local people put into producing Neighbourhood Plans, however once made they become part of the development plan for the area and are subject to the same consideration as all other elements of the development plan in the planning system as a whole. One of the aims of the system is to ensure that areas maintain a 5-year supply of deliverable housing sites so that they meet their housing need. Therefore, policies in the development plan are considered to be out of date where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. That applies to the whole of the local planning authority's area and not just part of it.
47. In this case it is accepted by the Council that it cannot demonstrate a 5-year supply of deliverable housing sites. Therefore, the policies that are most important for determining the application are out of date, in particular those policies in the MNP that relate to settlement boundaries. This does not mean that they are set aside or ignored it simply means that they do not carry full weight in this appeal.

**The Planning Balance**

48. The policies of the development plan that apply to the appeal site are those set out above in the WCS and MNP. The most important policies for determining this application are Policies CP1 and CP2 of the WCS and Policy 6 of the MNP. The heart of the objection to the proposal is that it lies outside the settlement

boundary, and this is set out in these policies. However, the Council has accepted that it does not have a 5-year supply of deliverable housing sites. Moreover, it has published a briefing note in order to assist in delivering more houses which sets aside development boundaries where this is the only objection to a proposal. I therefore find that the most important policies for determining the appeal are out of date. Furthermore, and in view of the Council's briefing note and their only substantive objection to the proposal is that the site is outside the settlement boundary, I give these policies limited weight in this decision.

49. In support of the appeal proposal the appellant has set out a range of benefits it would bring, including, a contribution to the 5-year supply of deliverable housing sites, a contribution towards the Council's affordable housing requirement, the delivery of a 70 bed care home, economic benefit through the creation of jobs at the care home and support of local businesses in the area once the development is complete. I give substantial weight to these benefits.
50. In addition, the appellant has outlined that the development would bring jobs during the construction phase. These benefits would be transient. Therefore, I give them limited weight in this decision.
51. I also give limited weight to the benefits related to bio-diversity net gain (BNG), the provision of green infrastructure and the provision of new play areas as these are policy requirements and therefore would be required in order to make the development acceptable in any case.
52. Overall, for the reasons given above, I find that the adverse impacts of allowing the appeal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### **Conditions**

53. In addition to the normal conditions relating to times for commencement, the submission of reserved matters and referencing the approved plans, for the avoidance of doubt and to comply with the relevant legislation, I consider that further conditions are necessary in order to make the development acceptable.
54. Whilst the main access to the site is under consideration in this appeal conditions are necessary to control the design of the internal road layout, footpaths, junctions and verges, including street furniture, drainage, materials and surface finishes in order that the development is finished in an acceptable manner. In addition, and in order to achieve this a further condition is necessary to secure the implementation of the approved details.
55. A condition is necessary to ensure that the Toucan Crossing on Western Way is implemented to ensure that the development has safe and convenient access to Melksham town centre.
56. A condition is necessary to ensure that a footpath is delivered along the southern side of Western Way, to an appropriate standard, to ensure that the development has safe and convenient access to Melksham town centre.
57. A condition triggering the installation of the emergency vehicle access and routing is necessary in order to ensure that emergency vehicles have access to



- the site at the appropriate stage of the development in the interests of highways and public safety.
58. A condition is necessary to ensure that a scheme for the installation of electric vehicle charging points is capable of implementation on the site. This condition should also ensure that the approved scheme is implemented in a timely manner. In order to assist in controlling emissions from vehicles to protect public health and to contribute to mitigating the effects of emissions from vehicles on climate change.
  59. Conditions requiring the production, distribution, implementation and monitoring of travel plans to cover the care home and the dwellings are necessary in order to help mitigate the impact of vehicles using the development on the local road network.
  60. Conditions dealing with the disposal of foul and surface water drainage are necessary in order to manage flood risk and to ensure that sewage from the proposed development is adequately dealt with.
  61. A condition requiring the submission of a Landscape and Ecology Management Plan to be submitted and implemented prior to the start of construction is necessary in the interests of nature conservation and the character and appearance of the area.
  62. A condition requiring the submission of a Construction Environmental Management Plan (CEMP) prior to the commencement of work is necessary in order to ensure that ecological assets present on site are protected during the period of construction.
  63. A condition is necessary to control the installation of external lighting within the development in order to protect the habitats used by wildlife species from intrusive light.
  64. A condition is necessary in order to control how the construction of the site is managed through the submission and implementation of a Construction Management Statement which shall be adhered to throughout the construction period in order to minimise the effects of the construction of the proposed development on the living conditions of nearby residents, the natural environment and the safety of those using surrounding public highways.
  65. In order to protect the occupants of the proposed dwellings from unacceptable levels of noise a condition is necessary to ensure that no dwelling is occupied until a scheme for protecting the dwellings from unacceptable noise has been submitted to and approved by the Council.
  66. In order to ensure that the approved landscaping scheme is implemented in a timely manner, a condition is necessary to ensure that a timetable for the implementation of all soft landscaping is submitted to and approved by the Council.
  67. In order to record anything on the site that is of archaeological interest a condition is necessary to ensure a written programme of archaeological work be submitted to and approved by the Council, together with a requirement that it be carried out in accordance with the approved scheme.

## **Conclusions**

68. I have found above that whilst the proposal is in conflict with the policies of the development plan that relate to developments outside settlement boundaries, material considerations relating to the lack of a 5-year supply of deliverable housing sites, accepted by the Council, and the benefits of the proposal are sufficient to outweigh the harm that is caused to these policies. Therefore, the appeal is allowed.

*Peter Mark Sturgess*

INSPECTOR

## **ANNEX A – CONDITIONS**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. No development shall commence on the residential area and care home area or the site respectively until details of the following matters (in respect of which approval is expressly reserved) for each respective area have been submitted to, and approved in writing by the Council:
  - (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.

3. An application for the approval of all of the reserved matters shall be made to the Council before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - site location plan, scale 1:2500 – 22497 – 1000A
  - land use parameter plan, scale 1:2500 – 22497 – 4010C
  - scale parameter plan, scale 1:2500 – 22497 – 4030C
  - landscape parameter plan, scale 1:2500 – 22497 – 4050C
  - density parameter plan, scale 1:2500 – 22497- 4020C
  - access and movement parameter plan, scale 1:2500 230209 – 22497 -4040D
  - proposed access strategy 16307-019-P3
5. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for the provision of such works have been submitted to and approved by the Council. The development shall not be first occupied until the works have been undertaken in accordance with the approved details and timetable.
6. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that before it is occupied, each dwelling has been provided with a

properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the existing highway.

7. Prior to commencement of the construction of the development the design of the Toucan Crossing off Western Way as detailed on drg no. 019 rev P3 'Proposed Access Strategy' (contained in Appendix L of the Transport Assessment) shall be submitted to and approved in writing by the Council. The Toucan Crossings shall thereafter be provided in full prior to the occupation of the first dwelling on the site and maintained as such thereafter.
8. Prior to the occupation of the first dwelling on the site a minimum of a 2m wide footway connection along the southern side of Western Way (as detailed on drg no. 019 rev P3 'Proposed Access Strategy') shall be designed, submitted to and approved in writing by the Council. The footpath connection shall be provided in full in accordance with the submitted details before the final dwelling on the site is occupied and maintained as such thereafter.
9. Prior to the occupation of the 50<sup>th</sup> dwelling on the site, the design of the proposed emergency vehicle access and routing shall be submitted to and approved in writing by the Council. The approved design shall be completed before the final dwelling on the site is occupied and thereafter maintained.
10. No development shall commence on site until a scheme, including details of the timing of its implementation, of Electric Vehicle Charging infrastructure has been submitted to and approved in writing by the Council. The approved scheme shall be implemented in accordance with the approved details and in accordance with the approved timescale and thereafter permanently retained.
11. Prior to the first occupation of the Care Home Facility, a Care Home Travel Plan, in broad compliance with the submitted Framework Travel Plan shall be submitted to and approved by the Council. The Travel Plan shall include measures to reduce vehicle trips by staff and visitors and these shall include but not be exclusive to the provision of travel information for staff and visitors, personal travel planning for staff, the employment of a Travel Plan Coordinator and the monitoring of travel arrangements through agreed survey methods on every anniversary of first occupation, up to and including the fifth anniversary, with a summary of success or failure and details of all proposed remedial measures to be implemented.
12. Prior to occupation of the first residential dwelling, a Residential Travel Plan, in broad compliance with the submitted Framework Travel Plan shall be submitted to and approved by the Council. The Travel Plan shall include measures to reduce vehicle trips by residents and these shall include but not be exclusive to the provision of Green Travel Vouchers, travel information, offer personal travel planning, the employment of a Travel Plan Coordinator and the monitoring of travel arrangements through agreed survey methods.
13. No development shall commence on site until a scheme for the discharge of surface water from the site, including sustainable drainage systems and all third-party approvals, has been submitted to and approved in writing by the Council in consultation with the Lead Local Flood Authority.

14. No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing sewer have been submitted to and approved in writing by the Council. No dwelling shall be occupied until the approved sewage disposal measures have been fully implemented in accordance with the approved details.
15. Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Council. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature with the development, together with a mechanism for monitoring the success or 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 the 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.

16. Prior to the commencement of works, including demolition, ground works/excavations, site clearance, vegetation clearance, boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council. The CEMP shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase including but not limited to the following:

- identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means or protection e.g., exclusion fencing;
- working method statements for protected/priority species such as bats, nesting birds, reptiles, great crested newts (GCN), badgers and small mammals;
- mitigation strategies already agreed with the Council prior to the determination, such as for reptiles, GCN, birds and bats, this should comprise the preconstruction/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;
- key personnel, responsibilities and contact details (including site manager and ecologist/ECoW);
- Timeframe for the provision of compliance report to the Council to be completed by the ecologist/ECoW and to include photographic evidence;
- The fencing off of the watercourses surrounding the development site to protect them from pollution during construction and to retain a corridor for wildlife;

- a buffer from the top of the river bank towards the development site within the fenced area with riparian vegetation retained.

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

17.No external lighting shall be installed on the site until detailed plans showing the type of external light appliances, the height and position of the fittings, the illumination levels and light spillage levels in accordance with the appropriate Environment Zone standards as set out by the Institute of Lighting Engineers in their publication 'Guidance Note 1 for the Reduction of Obtrusive Light 2021', have been submitted to and approved in writing by the Council. All external lighting shall be installed and maintained in accordance with the approved details.

18.No development shall commence on site (including any works of demolition), until a Construction Management Statement (CMS), together with a site plan has been submitted to and approved in writing by the Council. The CMS shall include the following:

- point of access into the site for construction vehicles;
- the parking of vehicles of the site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measure to control the emission of dust and dirt during the construction;
- a scheme for the recycling/disposing of waste resulting from demolition and construction work;
- working hours, including deliveries
- details of drainage arrangements during the construction phase;
- large vehicle and delivery routing plan;
- communication procedures with the Council and local community regarding key construction issues (newsletters, fliers etc.)

The approved CMS shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved CMS.

19.Notwithstanding the Noise Assessment by Brookbanks dated September 2022 no dwelling shall be occupied until a scheme for protecting the occupants from unacceptable internal noise levels has been submitted to and approved in writing by the Council. The development shall be implemented in full accordance with the approved scheme.

20. A timetable for the implementation of all soft landscaping comprised in the details of landscaping approved under condition 2 shall be submitted to and agreed in writing with the Council alongside the first reserved matters application for the residential area and the care home area of the site. The works shall be carried out in accordance with the timetable. 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 5-years, die, are removed or damaged, seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development.
21. No development shall commence on site until a) a written programme of archaeological investigation, which shall include on-site and off-site work such as analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Council, and b) the approved programme of archaeological work has been carried out in accordance with the approved details.

**END**

## **APPEARANCES**

### FOR THE COUNCIL:

Gary Grant	Barrister
He called:	
Alwyn Thomas	Solicitor at Wiltshire County Council <sup>2</sup>
Steve Sims	Planning Officer, Wiltshire County Council <sup>3</sup>

### FOR THE APPELLANT:

Christopher Young	Kings Counsel
He called:	
Nick Matthews MA, MTCP, MRTPI	Director (Planning), Savills
Matthew Grist BSc(Hons), Dip UD, CILT, CIHT	Director, Jubb
Ben Pycroft BA(Hons), Dip TP, MRTPI	Director, Emery Planning

### INTERESTED PARTIES WHO SPOKE AT THE INQUIRY

Mrs B Lukes	Local Resident
Nick Holder	Councillor
Alex Jones	Local Resident – Pathfinder Place, Chair of the Residents Association
Richard Wood	Local Resident – Melksham without Parish Council, Chair of Planning Committee
Edward Pafford	Local Resident and Joint Neighbourhood Plan Steering Group (Chair)
Sue Tweedie	Local Resident and Bowerhill Residents Action Group (Secretary)
Mr Lukes	Local Resident
Jane Green	Local Resident
Dion Green	Local Resident
Claire Skelton	Local Resident
Teresa Strange	Local Resident – Melksham without Parish Council

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<sup>2</sup> S106/conditions RTS only

<sup>3</sup> S106/conditions RTS only



**DOCUMENTS SUBMITTED AT THE INQUIRY**

ID1 Opening statement on behalf of the LPA

ID2 Letter dated 11 October 2023 from the local MP, the Rt. Hon. Michelle Donelan MP.

ID3 Appeal decision APP/X2410/W/21/3271340, Land at Maplewood Road, Woodhouse Eaves, LE12 8RA

ID4 Appellant's closing submission