

Date of Meeting	22 nd February 2024
Application Number	PL/2022/08744
Site Address	Devizes Community Hospital, New Park Road, Devizes, Wilts, SN10 1EF
Proposal	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.
Applicant	NHS Property Services
Town/Parish Council	Devizes
Electoral Division	Devizes North (Cllr Wallis)
Type of Application	Outline
Case Officer	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

The site comprises of several buildings of varying size, age, physical condition and architectural merit. The site is fully vacant with no operational healthcare facilities. These have all relocated to the

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).

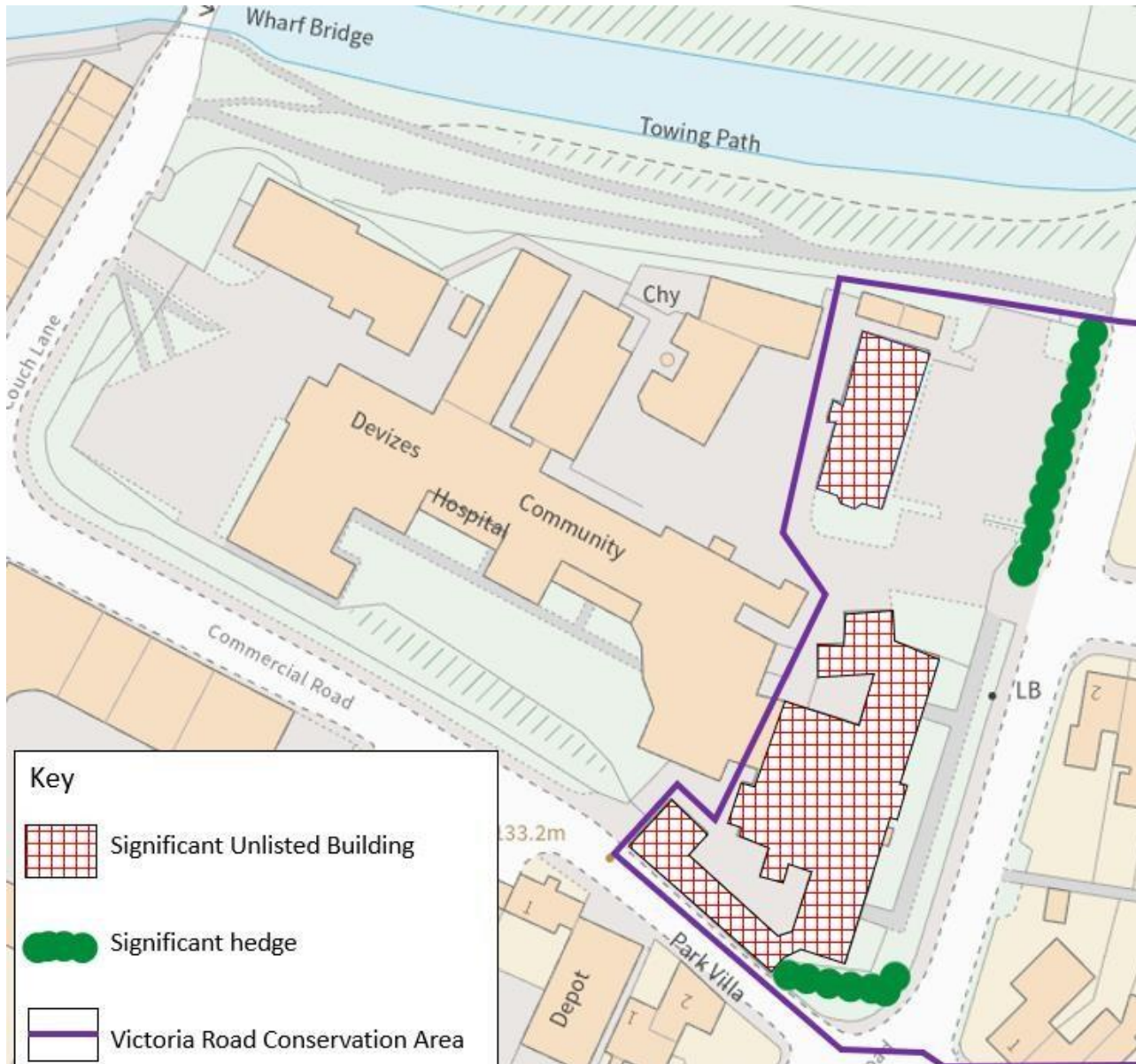


Figure 2: Site Heritage Assets

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).

Key

-  Significant Unlisted Building
-  Listed Building
-  Victoria Road Conservation Area
-  Devizes Conservation Area

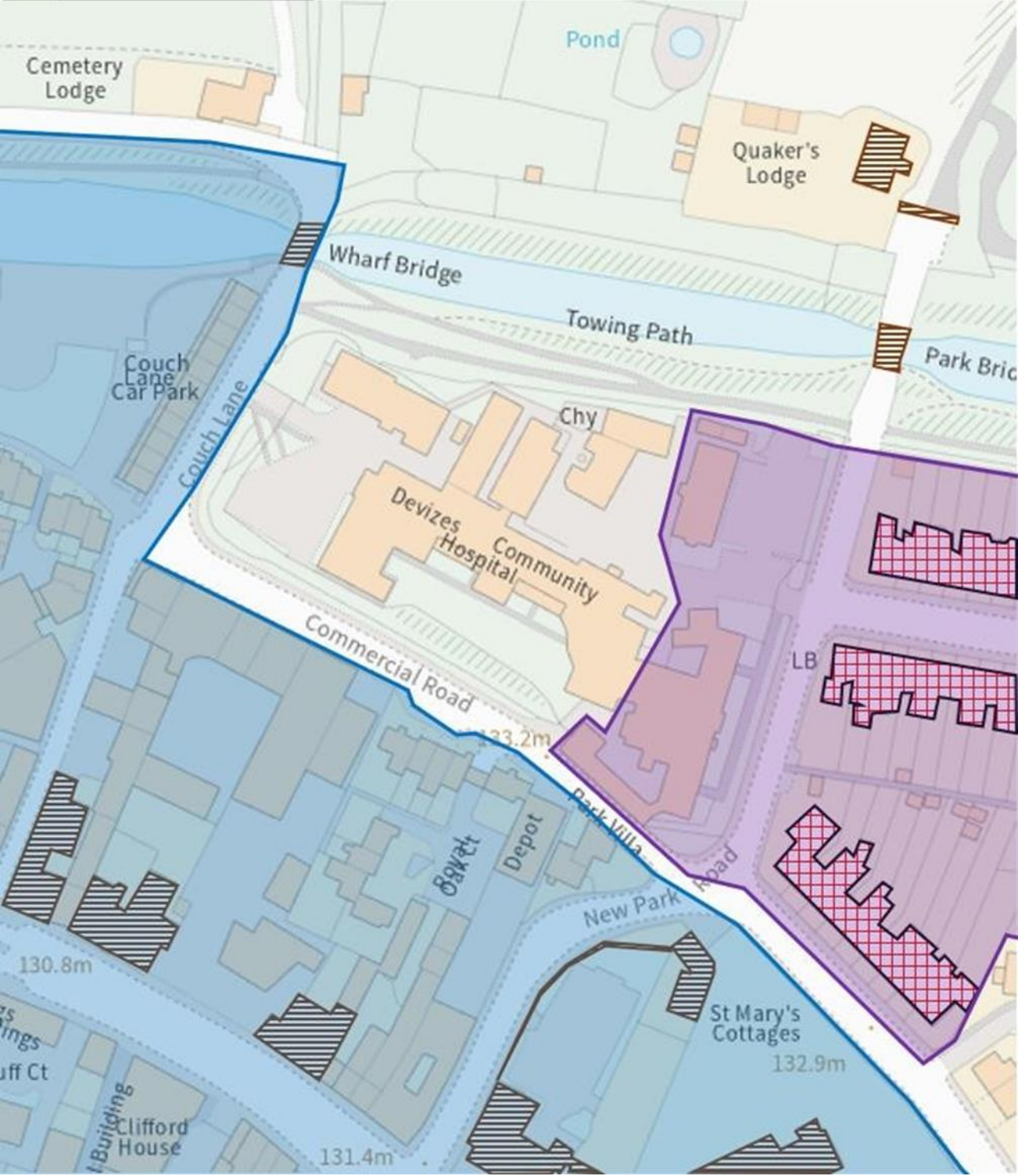


Figure 3: Surrounding Heritage Assets

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.

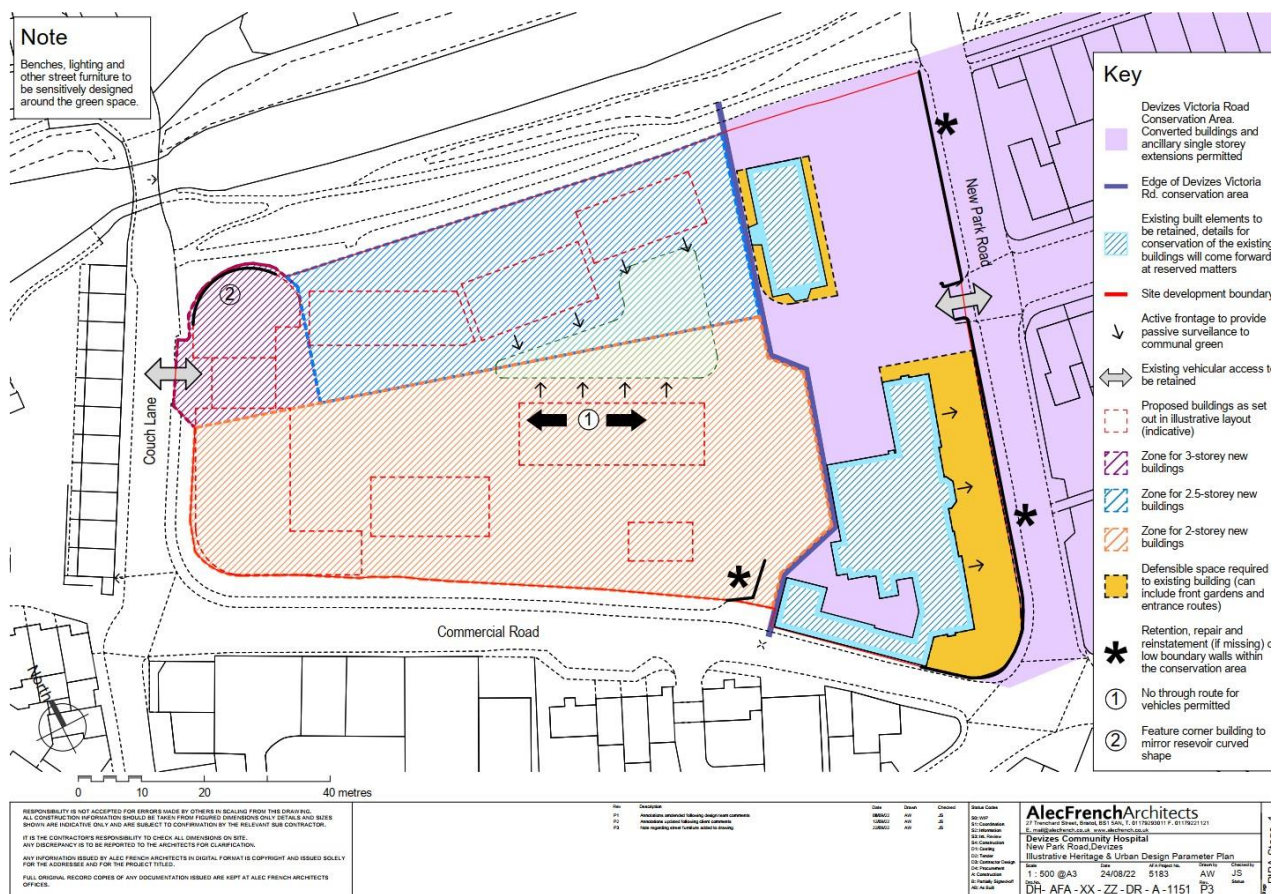


Figure 5 - Heritage and Urban Design Parameter Plan

6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015):

- CP1 – Settlement Strategy,
- CP2 – Delivery Strategy,
- CP3 – Infrastructure Requirements,
- CP12 – Spatial Strategy Devises,
- 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.



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 67m² 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 of the design. 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 22nd 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 i.e., the Kennet and Avon Canal due to the significant level change between the site and the canal.

The LLFA have reviewed the FRA and do not raise any objections to its broad conclusions.

The Wiltshire Council Strategic Flood Risk Assessment map (SFRA) shows the area as within a high ground water vulnerable zone (see figure 7 below) and at a level where this would be an issue requiring Sequential testing (ST) to be carried out (it is the bottom two levels in the key shown on figure 7 that trigger ST). ST requires applicants to consider if the development could be located in an area of lower flood risk i.e., on a suitable alternative site.

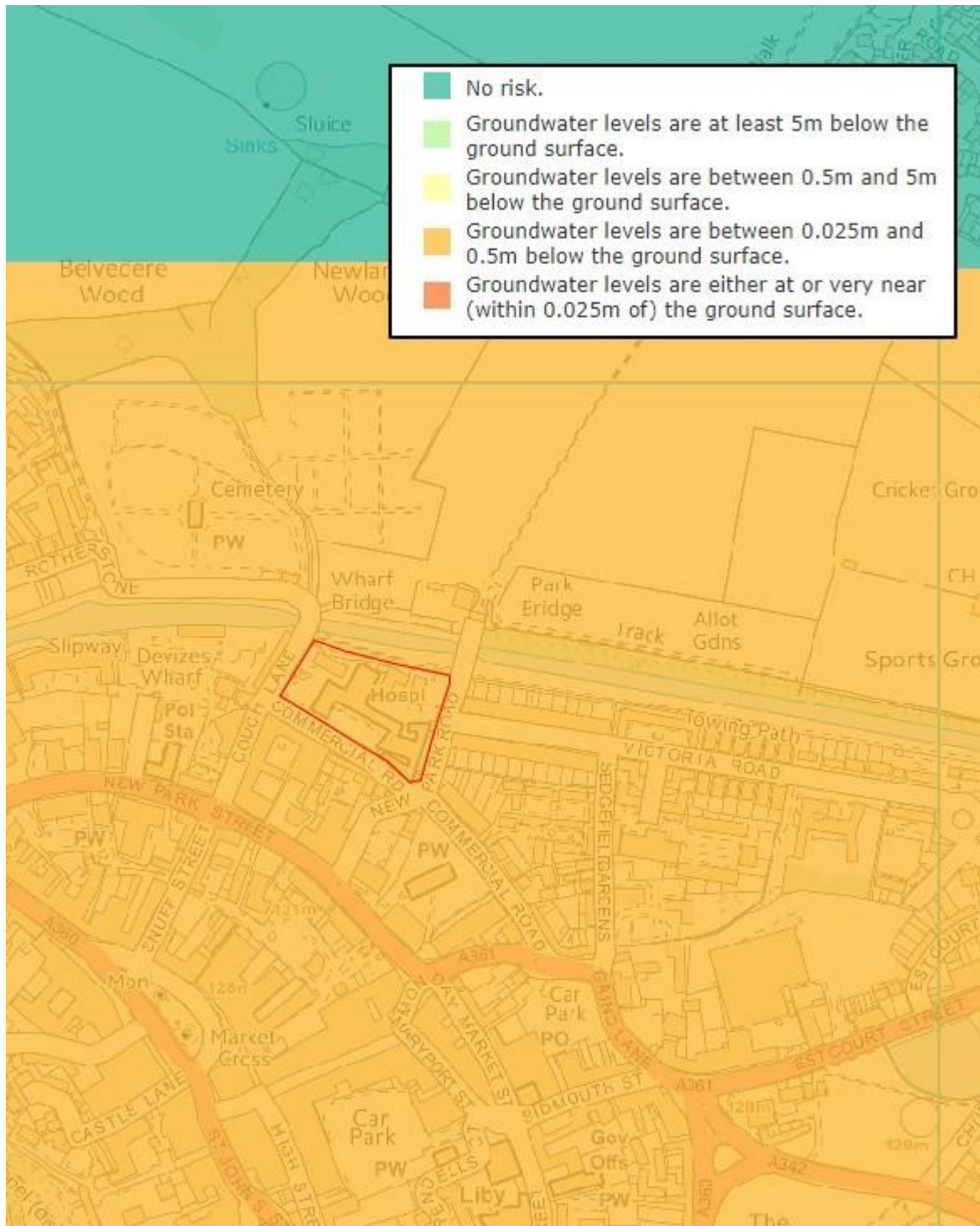


Figure 7 – Extract from Wiltshire Council's SFRA

However, the data contained within the SFRA is out of date and in need of review. When loading the online mapping there is a disclaimer as such on the homepage. Upon receipt of legal advice, it was confirmed that other sources of evidence should be used in conjunction with the SFRA to conclude upon whether or not ST is required in areas at risk from any or all sources of flooding. In light of the conclusions of the site-specific FRA and the comments from the LLFA in reviewing this document, it has not been necessary to insist upon ST. In any event, this would be brownfield development and it would probably be unlikely that a suitable alternative site could be found within Devizes central area that could achieve the same benefits as this redevelopment proposal would.

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 23rd 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 a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. ... This is irrespective of whether any potential harm amounts to substantial harm, total loss

or less than substantial harm to its significance.”

Paragraph 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 sustain 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 reduce 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).

Proposed Scheme - Appraisal Inputs & Outputs			
Income	Quantum	Basis	
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			-£8,592
Total Income			£15,518,468
Costs			
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
Total Costs			£18,026,971
Residual Land Value			-£2,508,503
Benchmark Land Value			£1,750,000
Viability Deficit			-£4,258,503

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 ²	£350/ft ²	-
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 ² capital value	£162/ft ² 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 i.e., it 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 this 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
		Total	£ 7,387

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 m² Casual Open Space & 431.52m² 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 2380.32m² 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 secure 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 pedestrian 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 to discuss which elements of the proposal should comply with the Canal & River Trusts 'Code of Practice for works affecting the Canal & River Trust'.