

# AGENDA

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**Meeting:** Western Area Planning Committee  
**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN  
**Date:** Thursday 11 January 2018  
**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Jessica Croman, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718262 or email [jessica.croman@wiltshire.gov.uk](mailto:jessica.croman@wiltshire.gov.uk)

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## Membership:

Cllr Christopher Newbury (Chairman)	Cllr Peter Fuller
Cllr Jonathon Seed (Vice-Chairman)	Cllr Sarah Gibson
Cllr Phil Alford	Cllr Edward Kirk
Cllr Trevor Carbin	Cllr Stewart Palmen
Cllr Ernie Clark	Cllr Pip Ridout
Cllr Andrew Davis	

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## Substitutes:

Cllr David Halik	Cllr Jim Lynch
Cllr Deborah Halik	Cllr Steve Oldrieve
Cllr Russell Hawker	Cllr Roy While
Cllr George Jeans	Cllr Jerry Wickham
Cllr David Jenkins	Cllr Graham Wright
Cllr Gordon King	

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## **Public Participation**

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

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

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

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

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 18*)

To approve and sign as a correct record the minutes of the meeting held on

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register by phone, email or in person no later than 2.50pm on the day of the meeting.

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

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

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on 4 January 2018 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 8 January 2018. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

**6 Planning Appeals and Updates (Pages 19 - 80)**

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

**7 Planning Applications**

To consider and determine the following planning applications.

**7a 17/04730/VAR: Land West of Norrington Lane, Broughton Gifford, Norrington Common, SN12 8LR (Pages 81 - 100)**

Minor material amendment to planning permission W/12/02072/FUL (varying conditions 4 and 10) to facilitate the "as built" plans

**7b 17/06733/FUL: The Meadow, Crockerton, BA12 7DU (Pages 101 - 112)**

Change of use of existing buildings and part of site to a nursery school, to include proposed works to existing buildings

**8 Urgent Items**

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

**Part II**

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

## **WESTERN AREA PLANNING COMMITTEE**

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### **MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 13 DECEMBER 2017 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Christopher Newbury (Chairman), Cllr Jonathon Seed (Vice-Chairman), Cllr Phil Alford, Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Peter Fuller, Cllr Sarah Gibson, Cllr Stewart Palmen, Cllr Pip Ridout and Cllr Roy While (Substitute)

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#### 100 **Apologies**

Apologies for absence were received from Councillor Edward Kirk.

Councillor Kirk was substituted by Councillor Roy While.

#### 101 **Minutes of the Previous Meeting**

The minutes of the meeting held on 17 November 2017 were presented.

In relation to a query raised at that meeting from the Codford Residence Group it was stated that subsequently it had been confirmed that an email sent by the parish council clerk to a council inbox had unfortunately not been forwarded to the Democratic Services Officer. Nevertheless, the committee had amended the minutes of its October meeting to further clarify that the parish council had taken a neutral position in relation to the Codford Path No. 15 Right of Way Modification Order 2016.

#### **Resolved:**

**To approve as a true and correct record and sign the minutes of the meeting held on 17 November 2017.**

#### 102 **Declarations of Interest**

Councillor Ernie Clark referred to his register of interest.

Councillor Jonathon Seed noted that he had been in contact with the applicants of item 10 during a public engagement, although he did not have an interest in the item.

103 **Chairman's Announcements**

There were no Chairman's Announcements.

The Chairman gave details of the exits to be used in the event of an emergency.

104 **Planning Appeals and Updates**

The Planning Appeals Update Report was received for the period 03/11/2017 and 01/12/2017

**Resolved:**

**To note the Planning Appeals Update Report for 03/11/2017 and 01/12/2017.**

105 **Public Participation**

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

A question was received from Councillor Ernie Clark and a written response had been provided as detailed in agenda supplement 2.

A supplementary question from Councillor Ernie Clark was asked: Why is it taking so long to publish the information?

It was agreed that the Head of Spatial Planning would be asked to provide a response, to be circulated to all Members of the committee.

106 **Commons Act 2006 - Sections 15(1) And (3) - Application to Register Land as a Town or Village Green - Great Lees Field, Semington**

**Public Participation**

Susanna Isaac spoke in objection to the application.

William Stuart-Bruges spoke in objection to the application.

Dr William Scott, Friends of Great Lees Field, spoke in support of the application.

Brian Smyth on behalf of Semington Parish Council spoke in support of the application.

Janice Green, Rights of Way Officer, presented the report, which recommended that the committee appoint an independent Inspector to preside over a non-statutory public inquiry.

Members of the Committee then had the opportunity to ask technical questions of the officers, where no questions were asked.

Members of the public then had the opportunity to address the Committee, as detailed above.

In response to points raised during the public forum the Rights of Way Officer informed the committee that the planning application had been submitted to Wiltshire Council as the Planning Authority on 14 June 2016, prior to the Village Green application which was received by Wiltshire Council as the Registration Authority on 24 June 2016. However, in order for the planning application to be a valid trigger event over the land, which would extinguish the right to apply to register the land as a town or village green, the planning application must be first published under s.65(1) of the Town and Country Planning Act 1990. In this case the planning application was not published until 29 June 2016, therefore at the time the application was received no trigger events were in place over the land.

Upon receipt of the Town/Village Green application, the Registration Authority consulted with the Planning Authorities who confirmed that there were no planning trigger events in place over the land at the time the Town/Village Green application was received by the Council. The Rights of Way Officer confirmed that where there is a dispute in the evidence provided to the Registration Authority, the holding of a non-statutory public inquiry would assist the Registration Authority in its determination of the application.

A debate followed, where the following key points were raised: the complex nature of the application and the publishing dates of the planning application on the parish list.

A motion was moved by Councillor Johnathon Seed to move the officers recommendation, which was seconded by Councillor Ernie Clark.

At the end of the debate it was;

**Resolved:**

**That Wiltshire Council, as the Commons Registration Authority, appoints an independent Inspector to preside over a non-statutory public inquiry, in order that a recommendation can be made to the Council as the Registration Authority, to assist in its determination of the application to register land off Pound Lane, Semington, known as Great Lees Field, as a Town or Village Green, as soon as is reasonably practicable.**

107 **Planning Applications**

The Committee considered the following applications:

108 **17/01158/FUL - St Pauls Church, Staverton**

Public Participation

Nicola Trumper spoke in objection to the application.

Malcolm Archer, Applicant, spoke in support of the application.

Adrian Browning, Church Commissioners (vendor), spoke in support of the application.

Simon Ferris, Diocese of Salisbury, spoke in support of the application

Steve Sims, Planning Officer, introduced a report which recommended planning permission be granted subject to conditions for the change of use of a church to a 2 bedroom dwelling, with the external and internal alterations and the formal provision of two car parking spaces on land to the rear of No. 95 Staverton.

Key issues highlighted included the Principle of the development; Impact on the The key issues highlighted included the principle of the development; the impact on the setting of listed buildings (including the church itself); the impact on the character of the area; the impact on the living conditions and amenities of neighbouring residents; the impact on highway safety interests; ecology and drainage issues were also highlighted.

Members of the Committee then had the opportunity to ask technical questions of the officer which focused on the modified red line site plan during the planning process and the location and use of the access track.

Members of the public then had the opportunity to address the committee, as detailed above.

A debate followed, where the following key points were raised: acknowledging the subject property's former use as a church and its lack of dedicated car parking and the recognition of finding a viable and suitable use for what is a listed building and appraising the consequential impacts of the development on neighbouring residents and highway safety.

A motion to approve the officer's recommendation was moved by Councillor Ernie Clark and was seconded by Councillor Sarah Gibson.

At the end of the debate is was;

**Resolved:**

**To approve planning permission subject to conditions:**

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

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

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

**Amended Site Location Plan scale 1:1250 (dwg no. 0504 01 rev B)  
Existing Floor Plans scale 1:100 (dwg no 0504 02A)**



**Proposed Floor Plans and Section B scale 1L100 (dwg no. 0504 03A)**

**Existing Elevations scale 1:100 (dwg no. 0504 04)**

**Proposed Elevations scale 1:100 (dwg no. 0504 05)**

**Amended Block Plan scale 1:500 (dwg no. 0504 07 rev G)**

**Proposed Section A-A scale 1:50 (dwg no. 0504 09 rev A)**

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

- 3. No development hereby approved shall commence within the area indicated as the proposed development site until:**
- 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**
  - The approved programme of archaeological work has been carried out in accordance with the approved details.**

**REASON: To enable the recording of any matters of archaeological interest.**

- 4. The development hereby approved shall be carried out in strict accordance with Section 7 of the Ecological Assessment report (Greena Ecological Consultancy, 27th August 2017 V1A) and the mitigation measures proposed therein with respect to roosting, commuting and foraging bats and nesting birds.**

**REASON: To ensure the implementation of appropriate mitigation and protection for protected species, notably bats and birds.**

- 5. No development shall commence on site until the trees on the site which are protected by a Tree Preservation Order have been enclosed by protective fencing, in accordance with British Standard 5837 (2012): "Trees in Relation to Design, Demolition and Construction -Recommendations". Before any fence is erected its type and position shall be approved with the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas.**

**REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity.**

- 6. No part of the development hereby approved shall be occupied until the turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.**

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

**INFORMATIVES TO APPLICANT:**

- 1. New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website [www.wessexwater.co.uk](http://www.wessexwater.co.uk) Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water. Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system.**
- 2. The work should be conducted by a professional archaeological contractor and there will be a financial implication for the applicant.**

109 **17/04707/FUL - Land at Whaddon Lane, Hilperton**

Public Participation

Steve Yalland, applicant, spoke in support of the application.

Ian Cradock spoke in support of the application

Steve Sims, as the senior planning case officer, presented the report which had recommended that the proposed agricultural workers dwelling be granted temporary planning permission for a period of three years subject to conditions.

Steve Sims, as the senior planning case officer, presented the report which recommended that the proposed agricultural workers dwelling be granted temporary planning permission for a period of three years subject to conditions.

Key issues highlighted included: the principle of the development; the visual impact upon the surrounding area; the design, bulk, height, general appearance and the environmental/highway impacts. The Committee was informed that Hilperton Parish Council objected to the application proposal. The committee was informed that the applicant had already moved onto the site with a different mobile home to that being proposed under the application after leaving their previous residency. Members were informed that the on-site occupation was unauthorised and that in the event permission was granted for the development being proposed, a condition could remedy the breach. The financial and functional agricultural justification was also summarised and members were informed that the Council's appointed agricultural adviser had provided a report that was summarised in the committee papers.

The committee presentation identified land that was owned and rented by the applicant to which the Council's agricultural adviser duly referenced in his report. The committee were informed of the parcels of rented land the applicant asserted to have agreements in place with the requisite land owners, however on the day of the committee meeting a late representation had been shared with officers questioning the accuracy of the submission which led officers to make direct contact with the applicant and agent in an attempt to seek clarification before the meeting to ascertain whether the extent of rented land available to the applicant had changed since the application was submitted and what land parcels could be evidenced to have formal rental agreements in place to support the claim that the farm enterprise could fully justify on-site residency for an agricultural worker.

The committee was informed that officers had not received the evidence or clarity being sought on the day of the meeting and out of fairness to the applicant, the committee was asked to consider a deferral until the information was shared and have the case reported back to committee for consideration. Members were furthermore advised that in the event that the land available for the use of the applicant had materially changed, it would be necessary to re-engage the services of the Council's agricultural consultant to review any fresh submission and justification.

Members of the Committee then had the opportunity to ask technical questions of the officers which focused on: The confidential nature of the representation received; the nature of when proof of landownership is normally requested and the enforcement history.

It was also noted that there had been previous enforcement investigations relating to the site whereby an unauthorised mobile home had previously been stationed on the site that was subsequently removed. The current unauthorised mobile home is not yet subject to formal enforcement proceedings and officers advised that this will remain the case until the outcome of the planning application is known.

Members of the public then had the opportunity to address the Committee, as detailed above.

The local member, Councillor Ernie Clark, moved to defer the application, which was seconded by the Chairman, to enable officers to obtain more information to be supplied.

A debate followed, where the following key points were raised which related to the need for the agricultural consultant to review the information again and to submit a clear recommendation.

The original motion was amended to include the need for the agricultural consultant to review the information and to provide a fresh recommendation.

At the end of the debate it was;

**Resolved:**

**To defer the application to enable officers to request more information from the applicant in terms of land available for his agricultural use and for the council's agricultural consultant to review the information and evidence and provide a revised report and recommendation.**

110 **17/08557/FUL - Princecroft School, Warminster**

Public Participation

Mr Healy, local resident, spoke in objection to the application.

Michael Park, Headteacher, spoke in support of the application.

Anthony Dixon, applicant, spoke in support of the application.

The planning officer, Katie Yeoman, presented a report which recommended planning permission be granted for proposed extensions and alterations to Princecroft School including the construction of a new school hall. Key issues were stated to include the principle of the development, impact upon the host building, neighbouring amenity and highways safety, all of which were considered acceptable.

Members of the Committee were given the opportunity to ask technical questions of the officer.

Members of the public then had the opportunity to address the committee with their views, as detailed above.

The local Unitary Member, Councillor Pip Ridout, then spoke in support of the application.

A debate followed, where the impact upon local highways was raised, along with conditioning use of a school travel plan, construction statement, as well as details of the catchment areas and level of traffic in the area.

A motion to approve the officer's recommendation was moved by Councillor Ridout, seconded by Councillor Andrew Davis, and at the conclusion of discussion, it was,

**Resolved:**

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

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

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

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

Site location plan – drawing no. 005 Rev A – received 15/09/2017;  
Existing location plan – drawing no. 010 Rev A - dated 15/09/2017;  
Proposed location plan – drawing no. 011 – received 15/09/2017;  
Existing site plan – drawing no. 050 Rev A – dated 06/07/2017;  
Proposed site plan – drawing no. 051 Rev C – dated 15/09/2017;  
Existing ground floor plan – drawing no. 060 Rev A – 06/07/2017;  
Proposed ground floor plan new hall – drawing no. 061 Rev C –  
dated 15/09/2017; Proposed ground floor plan – drawing no. 062  
Rev C – dated 15/09/2017; Existing elevations – drawing no. 2001  
Rev A – dated 31/08/2017; Proposed elevations – drawing no. 2002  
Rev C – dated 08/11/2017; Existing roof plan – drawing no. 0208 –  
dated 23/11/2017; Proposed roof plan – drawing no. 0209 Rev B –  
dated 08/11/2017; Proposed 3D views 01 birds eye – drawing no.  
9401 Rev A – dated 29/08/2017; Proposed 3D views 02 birds eye –  
drawing no. 9402 Rev A – dated 30/08/2017; Proposed 3D views 03  
street level – drawing no. 9403 Rev A – dated 29/08/2017; Detailed  
drainage layout – drawing no. 500C – dated 30/10/2017; Manhole  
schedule – drawing no. 510C – dated 30/10/2017; Construction  
details – drawing no. 520 sheet 1 – dated 30/10/2017; Construction  
details – drawing no. 521 sheet 2 – dated 30/10/2017; Construction  
details – drawing no. 522 sheet 3 – dated 30/10/2017; Infiltration  
crate details – drawing no. 523 – 30/10/2017; Soakaway crate detail  
– sheet 1-5 – dated 27/10/2017

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

3. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

**REASON:** To ensure that the development can be adequately drained.

4. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

**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 during the construction phase of the development.

5. No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.

**REASON:** To minimise any detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the

natural environment through the risks of pollution and dangers to highway safety.

6. No development shall commence on site until a dust management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of dust during the demolition and/or construction phase of the development. The construction/demolition phase of the development will be carried out fully in accordance with the dust management plan at all times.

**REASON:** The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

7. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- The parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel and road cleaning when necessary;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Measures for the protection of the natural environment;
- The hours of construction, including deliveries

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

**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 and dangers to highway safety, during the construction phase.

8. No development shall commence on site until a photographic pre-condition highway survey of the following roads; Westleigh, Princecroft Lane and Pound Street, has been carried out and issued to the Highway Authority. Within 3 months of the completed development, a post condition survey should be made available to the development management team.

**REASON:** To ensure Westleigh, Princecroft Lane and Pound Street are maintained to an acceptable standard and any defects attributed to the construction traffic are rectified in the interests of highway safety.

9. No part of the development shall be brought into use until a fully updated School Travel Plan, reflecting the increase in pupil numbers, has been submitted to and approved in writing by the Local Planning Authority. The travel plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details and with guidance from the school travel plan adviser who can be contacted on 01225 713483.

**REASON:** In the interests of road safety and reducing vehicular traffic to the development.

10. The development shall be carried out in accordance with the submitted Arboricultural survey, impact assessment and protection plan (prepared by Barton Hyett) in relation to the protection of trees.

**REASON:** In the interests of tree protection and the amenities of the area.

11. No development shall commence on site until details of on-site compensatory tree planting, as referred to in the Arboricultural survey, impact assessment and protection plan (prepared by Barton Hyett) has been submitted to an approved in writing by the Local Planning Authority.

**REASON:** The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and

shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority

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

13. The hereby approved new hall and additional classroom accommodation shall not be brought into use until the 5 additional car parking spaces identified on the approved site plan (drawing no. 3345\_L\_051) have been provided and are available for use. Thereafter, the parking spaces shall be retained for such purposes.

**REASON:** To ensure the school has a satisfactory on-site car parking provision.

#### **INFORMATIVES TO APPLICANT:**

1. The developer is requested to note that Wales and West Utilities have pipes in this area which may be affected and at risk during construction works. The promotor of these works, hereby permitted, should contact Wales and West Utilities directly to discuss their requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.
2. The applicant should be informed that the Highway Authority will pursue rectification of any defects identified by the highway conditions survey which can be attributed to the site construction traffic under the provision of Section 59 of the Highways Act 1980.
3. Pursuant to conditions 2 and 3, Wessex Water advises that the surface water discharge treatment needs to satisfy the Environment Agency guidelines. Non domestic supplies required for firefighting or commercial use would require a separate assessment with network modelling subject to design requirements. Wessex Water recommends the use of storage tanks where network capacity is not available or where off site reinforcement is necessary to provide the stated demand.

111 **17/04730/VAR - Land West of 198 Norrington Lane, Broughton Gifford**

#### Public Participation

Clive Taylor spoke in objection to the application.

Angela Andrews spoke in objection to the application.

Daniel Gerber spoke in objection to the application.

Peter Maclaren, agent, spoke in support of the application.



Cllr Martin Freeman, Broughton Gifford Parish Council, spoke in objection to the application.

James Taylor, senior planning officer, introduced the report which recommended approval be granted for minor material amendment to planning permission W/12/02072/FUL (varying conditions 4 and 10) to facilitate the "as built" plans of the solar park. Key issues included the scale and visual impact of the as built development on the open countryside, conservation area and heritage assets such as the listed Gifford Hall, over and above the consented scheme. The report concluded the proposals addressed previous reasons for refusal on the variation application from 2014, including replacement of metal fencing and omission of CCTV proposals. Furthermore, that the as built scheme did not cause any substantial harm over the consented scheme.

Members of the Committee had the opportunity to ask technical questions of the officer. Details were sought on the differences between the as built site and the extant permission, and it was confirmed that there had been an increase in the number of rows, but that the solar arrays were lower and narrower. It was confirmed that the number of solar panels and the surface area of the panels on the as built scheme was less than the consented scheme and were contained within the same site area.

The local unitary member, Councillor Philip Alford, then spoke in objection to the application.

A debate followed, where the visual impact of the present site was discussed, and whether the density of panels was significantly above that of the consented plans of fewer rows of greater height and width on the same site. The potential impact on the designated conservation area, heritage assets and landscape of the as built vs consented scheme were raised, but a site visit was proposed in order for the committee to consider the level of impact of the site in its present form before making any decision.

Upon the proposal of Councillor Alford, seconded by Councillor Ernie Clark, at the conclusion of debate, it was,

**Resolved:**

**To undertake a site visit at approximately 1pm on 10<sup>th</sup> January 2018.**

112 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 6.25 pm)

The Officer who has produced these minutes is Jessica Croman of Democratic Services, direct line 01225 718262, e-mail [jessica.croman@wiltshire.gov.uk](mailto:jessica.croman@wiltshire.gov.uk)

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**Wiltshire Council**  
**Western Area Planning Committee**  
**11<sup>th</sup> January 2018**

Planning Appeals Received between 01/12/2017 and 21/12/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
17/04323/OUT	Land adjacent Orchard Cottage, Norton Road Sutton Veny, BA12 7AY	SUTTON VENY	Outline application with all matters reserved for erection of B+B and residential annexe	DEL	Written Representations	Refuse	12/12/2017	No

Planning Appeals Decided between 01/12/2017 and 21/12/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
16/05783/OUT	Land to the North of Pound Lane Semington Wiltshire	SEMINGTON	The erection of 75 dwellings including 30% affordable homes, with ancillary public open space and play areas and access from Pound Lane (Outline Application relating to access)	DEL	Inquiry	Refuse	Dismissed	14/12/2017	None
16/06956/OUT	Land North of St George's Road Semington Wiltshire	SEMINGTON	Outline Application - All Matters Reserved (Residential development of up to 72 units)	DEL	Inquiry	Refuse	Dismissed	14/12/2017	None
17/04360/OUT	86 St Thomas Road Trowbridge Wiltshire, BA14 7LT	TROWBRIDGE	Outline application for erection of dwelling	DEL	Written Reps	Refuse	Dismissed	15/12/2017	None

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## Appeal Decision

Inquiry Held on 27-30 June, 3 July-7 July and 5-8 September 2017

Site visit made on 19 July 2017

**by Lesley Coffey BA Hons BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 December 2017**

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**Appeal Ref: APP/Y3940/W/16/3162997**

**Land to the North of Pound Lane, Semington, Wiltshire BA14 6LP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Richborough Estates against the decision of Wiltshire Council.
  - The application Ref 16/05783/OUT, dated 13 June 2016, was refused by notice dated 7 October 2016.
  - The development proposed is the erection of 75 dwellings, including 30% affordable homes, with ancillary public open space and play areas and access from Pound Lane.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The inquiry sat for 9 days from 27 June – 30 June and 3 July - 7 July. It resumed for a further 4 days on 5 September 2017 and closed on 8 September. There was an accompanied site visit on 19 July 2017 and I carried out unaccompanied visits to the site and surrounding area at various times before and during the inquiry.
3. The description above is taken from the application form, during the course of the inquiry the appellant amended the application to increase the proportion of affordable housing to 40%. The number of bungalows to be provided was also increased. Local residents were notified of these changes and I have taken the comments received into account in reaching my decision. I am satisfied that no party would be prejudiced by this revision and I have considered the appeal on the basis of the revised proposal.
4. The appeal was heard together with an appeal by Oxford Law relating to an outline application for the erection of up to 50 dwellings, including affordable housing, with ancillary public open space and play areas at Land to the North of St Georges Road, Semington. The Inquiry heard evidence in relation to both appeals, including evidence on the effect of the two appeal schemes in combination. All of that evidence has been taken into account in both appeal decisions. Although some of the issues are common to both appeals, my findings in respect of these issues reflect the differences between the proposals and the specific circumstances of the individual sites. Oxford Law was a Rule 6 party in respect of this appeal.

5. Following the close of the inquiry a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 was submitted by the appellant. This covenants to provide affordable housing, and to make a financial contribution towards education, towpath improvements and waste and recycling. In addition, it proposes an area of public open space and a play area, together with a management company. It also undertakes to provide a minimum number of bungalows on the site. The Unilateral Undertaking was discussed at length at the inquiry, particularly in relation to the ability of the scheme to deliver the proportion of affordable dwellings proposed, the mix of dwellings and the appropriate trigger for the delivery of affordable dwellings. Following the close of the inquiry the Council and appellant agreed a compromise in relation to the trigger for the delivery of affordable housing and this is reflected in the submitted Unilateral Undertaking.
6. The appeal site is the subject of an undetermined Town and Village Green application. The Council does not put this forward as a reason for refusal, but considers that it affects the deliverability of the site.
7. Following the close of the inquiry, the Government published a follow-on consultation on proposals within the Housing White Paper "Fixing our broken housing market". On 6 November 2017 the Council published the Swindon and Wiltshire Strategic Housing Market Assessment. The parties were provided with an opportunity to comment on both of these publications and I have taken their respective views into account in reaching my decision.
8. The Semington Aqueduct lies close to the appeal site and is a Grade II listed building. The Council's reasons for refusal did not allege harm to the setting of the aqueduct, or the canal, which is an undesignated heritage asset. However, Oxford Law, a Rule 6 Party, raised these issues as a concern and I have considered them below.

### **Main Issues**

9. I consider the main issues to be :
  - The effect of the proposal on the character and appearance of Semington and the surrounding rural landscape, including the Kennet and Avon Canal;
  - The effect of the proposal on The Semington Aqueduct, a Grade II listed building – a designated heritage asset - and any undesignated Heritage Assets;
  - Whether the Council can demonstrate a five year supply of housing land;
  - Whether the proposal would be in an acceptable location and of an appropriate scale having regard to development plan and national policies; and
  - The benefits of the proposal, including affordable housing.

### **Reasons**

#### ***Development Plan and Emerging Plan***

10. The development plan includes the Wiltshire Core Strategy (adopted January 2015), the saved policies of the West Wiltshire Local Plan 2004 and the Chippenham Sites Allocation Plan (CSAP) (adopted May 2017). Although the appeal site does not come within the CSAP area, the housing allocations within

the CSAP contribute to the housing land supply for the North West Wiltshire Housing Market Area(NWWHMA) in which the appeal site is located.

11. The Wiltshire Site Allocations Development Plan Document (WHSAP) is an emerging plan and will allocate future housing sites outside of Chippenham. A Pre-submission draft was published for public consultation between July 2017 and September 2017. Given the very early stage of plan preparation and that public consultation has only just commenced I cannot afford this plan any significant weight.
12. The National Planning Policy Framework (NPPF) is a material consideration. It confirms that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. It also states that planning should be genuinely plan-led.
13. Together policies Core Policy 1 (CP1) and Core Policy 2 (CP2) of the Core Strategy set out the settlement hierarchy and delivery strategy for Wiltshire. CP1 identifies four tiers of settlements. These range from principal settlements such as Chippenham, Market Towns, Local Service Centres to Large and Small Villages. The accompanying text explains that the settlement boundaries will be reviewed as part of the Wiltshire Site Allocations DPD. At Large Villages, such as Semington, housing development is generally restricted to fewer than 10 dwellings and development outside of the boundaries is strictly controlled.
14. Policy CP2 sets out minimum housing requirements for each of the Housing Market Areas. It states that there is a presumption in favour of sustainable development at larger villages, which include Semington. Outside the defined limits of development, policy CP2 restricts development to that falling within the exception policies listed at paragraph 4.25 of the Core Strategy. Paragraph 4.26 sets out indicative housing requirements for each community area. The aim is to direct development at a strategic level to the most suitable and sustainable location. The underlying principle of the delivery strategy is to ensure that communities have a better balance of jobs, services, facilities, and homes.
15. Policy CP15 sets out the strategy for the Melksham Community Area, which includes Semington. It proposes 2,370 new homes within the Melksham Community Area over the plan period, 2,240 should be provided within Melksham with about 130 provided in the remainder of the community area.

### ***Landscape***

16. The appeal site is situated to the west of the village of Semington. It extends to about 15ha and comprises two fields divided by traditional field hedges. It adjoins the development edge of Semington to the east and Pound Lane to the south. The western boundary adjoins pasture land whilst the northern boundary abuts the towpath to the Kennet & Avon Canal.
17. The site slopes downwards from south to north allowing extensive views to the north and the west from the field access off Pound Lane. The site has no current public access apart from public footpath SEMI 1 running along the northern boundary. Pound Lane runs along the southern edge of the site and footpath SEMI 6 crosses the field immediately to the west. SEMI 38, the canal towpath and Sustrans National Cycleway runs along the opposite side of the

- canal. Bridleway SEMI 7 is slightly further west and meets the aforementioned PROWs at the canal swing bridge, just to the west of the site.
18. Core Policy 51 (CP51) of the Core Strategy requires development to protect, conserve and where possible enhance landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. The policy sets out aspects of landscape character which should be conserved. These include the locally distinctive character of settlements and their landscape settings; the transition between man-made and natural landscapes at the urban fringe; landscape features of cultural, historic and heritage value; and tranquillity and the need to protect against intrusion from light pollution, noise, and motion. Core Policy 57 seeks a high quality of design in all new development. It sets out a number of criteria which will be taken into account when assessing proposals.
  19. The NPPF aims to take account of the different roles and character of different areas, as well as recognising the intrinsic character and beauty of the countryside. Oxford Law suggest that the appeal site is a valued landscape for the purposes of paragraph 109 of the NPPF due to its proximity to the Kennet and Avon Canal which is important due to its cultural and recreational value.
  20. The term 'valued landscape' is not defined in the Framework, but land does not have to form part of a designation to be valued in the terms of paragraph 109. The Council consider that although the site includes some valued elements, it is not a 'valued landscape' under NPPF section 11, paragraph 109.
  21. The canal corridor is an attractive and distinctive feature within the landscape. However, given the appeal site does not contain particular physical attributes that would 'take it out of the ordinary'. I agree with the Council that there are some valued elements within the landscape, however, when considered in its entirety it does not amount to a "valued landscape" within the meaning of paragraph 109 of the NPPF.
  22. Although the proposal is an outline application with only the access to be determined at this stage, the appellant submitted an illustrative layout plan and a parameters plan which together indicate how the site could be developed. The vehicular access would be from Pound Lane. The plans indicate that the dwellings would be up to 2.5 storeys high over much of the site, but with housing on more generous plots facing towards the canal. The proposal would also include a number of bungalows. The Design and Access Statement proposes three different areas, a tree lined village street, a rural edge comprising lower density development set against woodland and tree belt and village lanes which will provide a more enclosed environment. The illustrative plans show an area of planting adjacent to the north western boundary linked to a pedestrian route through the site. The area closest to the canal would include a canal side park and a play area, as well as a large attenuation pond.
  23. At the time of the application the proposal was considered by the Council's landscape officer, Ms Kenworthy, together with a number of other documents. The landscape officer supported the proposal and stated that the LVIA report was comprehensive and identified the potential landscape and visual effects. The Council's planning officers disagreed with this view and considered that the proposal would give rise to landscape harm. This concern was reported to the Committee and formed the basis of the third reason for refusal.



24. At the inquiry the Council explained that the landscape impact was originally raised prior to the submission of the application. During the course of the application the site was visited by both the case officer and subsequently by Mr Wilmott, the Head of Planning. It was these visits that informed the officer's report and recommendation.
25. The appellant considers that the committee members may have been unaware of Ms Kenworthy's views. Although the assessment of the proposal within the report did not refer to Ms Kenworthy's comments, her comments were nevertheless reported to the committee. It would seem from the committee report, that a similar approach was adopted with other consultees. I therefore do not consider that the committee were misled by the manner in which the Ms Kenworthy's comments were conveyed.
26. The appeal site was considered by the Local Plan Inspector at the West Wiltshire District Plan 1<sup>st</sup> alteration, in 2004. He found the canal to be very important to the rural setting of the Semington and the canal itself, and concluded that the site did not deserve to be included within the village policy limits. He also noted that the site did not have defensible boundaries and its development would put further pressure on adjoining land as well as destroying the rural scene. I appreciate that this view was reached in the context of the housing requirement of that plan and the prevailing national planning policy in respect of the countryside. However, the relationship of the appeal site with the village and the canal is largely unchanged, and the Local Plan Inspector's conclusions in relation to the contribution of the canal to the setting of Semington remain valid today.
27. The appeal site separates the canal from the built up area of the village. When viewed from the canal or towpath, the surrounding landscape, including the appeal site, has a tranquil and rural character. There are occasional scattered properties close the bridge on the High Street. These appear to have a functional and/or historic association with the canal.
28. The appellant acknowledges that the proposal would alter the character of the appeal site, but considers that the change would be consistent with the existing components within and on the edge of Semington. The appellant submits that whilst the proposal would move the edge of Semington north west of its current position, it would not alter the overall character of the landscape. It is submitted that housing is an intrinsic part of the landscape character and would contribute to the mosaic of land use and functions.
29. When considering the appeal site in its landscape and townscape context the appellant's LVIA categorises the change to the landscape character as moderate adverse due to the loss of the open fields. This is defined as development that would result in localised medium to long term loss of some key characteristic landscape features and the introduction of some uncharacteristic features into the landscape.
30. The appellant considers that one of the benefits of the proposal would be to improve the interface between the built edge of Semington and the canal. At present the eastern and western boundaries of the site abut the rear gardens of existing residential development within Semington. The combined length of these boundaries is about 495 metres, and they vary in terms of their quality and appearance. It is intended that the appeal proposal will face outwards towards the canal and would provide a more attractive appearance. Whilst the

boundaries to the dwellings adjoining the appeal site do not represent a positive feature, they are not experienced as a single boundary. In views from the towpath only short stretches of this boundary can be seen at any particular time. Moreover, they are a considerable distance from the towpath, with the closest part being about 80 metres away, and much of it considerably over 100 metres. Therefore in views from the towpath the boundaries of the existing dwellings give the impression of a village separated from the canal.

31. It is intended that the proposed dwellings would be set back between 45 and 65 metres from the edge of the canal. The canal side park and attenuation pond would provide a landscaped setting for the proposed dwellings. On behalf of the Council, Mr Harley accepted these measures would help to minimise the impacts of the proposal on the canal, but he nevertheless considered that the proposal would give rise to significant harm.
32. The appeal scheme would be visible in views from the swing bridge and the towpath towards the east. Even allowing for the dwellings to be set-back from the canal, suburban features in the form of a canalside park, a LEAP and surface water attenuation pond would change the existing pastoral landscape. The proposal would also be noticeable from a number of the PROW in the immediate vicinity. Particularly from SEMI 1 which runs along the southern boundary of the site, and SEMI 6 which crosses the adjacent field. The expansive views from SEMI 6 towards the canal would be lost.
33. The canal and the towpath in the vicinity of the village are well used by numerous walkers, cyclists and canal users. In views from the canal and towpath Semington is perceived as a rural village separated from the canal. The fact that dwellings on the land adjoining the appeal site do not face towards the canal contributes to this separation and the pastoral setting of the canal. The introduction of housing and the associated activity in such close proximity to the canal would fundamentally change the setting of Semington when viewed from the canal, as well as that of the canal itself. The intended design approach would introduce not only dwellings, but also roads and vehicular activity and street lights in close proximity to the canal. I consider that there would not only be significant visual changes, but also a marked loss of tranquillity that would extend far beyond the boundary of the site. Even allowing for the dwellings to be set-back from the canal, suburban features in the form of a canalside park, a LEAP and surface water attenuation features would completely change the existing agricultural/rural landscape.
34. I consider that the proposal would alter not only the character of the appeal site, but that of the surrounding landscape and the setting of Semington. The canal would no longer be viewed as passing through a predominantly rural landscape. In views from the opposite direction, the proposal would be screened to some extent by the trees along the boundary of the site. The appeal site would be adjoined on either side by open fields. With the exception of Semington Dock it would be the only significant built development along a considerable length of the canal, and would therefore be seen as a very significant intrusion to the setting of the canal. Although the open space proposed would help to maintain a green corridor adjacent to the canal, that corridor would be greatly reduced in depth and would harm the character and setting of the canal.

35. The attenuation pond would occupy almost half of the frontage to the canal. The Flood Risk Assessment suggests that it would need to accommodate up to 1017 m<sup>3</sup> of surface water. The depth of the pond is not specified, and clearly the depth of water within it will vary with rainfall. At the inquiry the appellant suggested that it would have shallow sides and would be designed to ensure that it did not present a danger to children. It is however apparent that the pond would occupy almost 50% of the area between the dwellings and the towpath. Although this area would retain an open character, the attenuation pond would be a substantial landscape feature that would not be characteristic of the existing pastoral setting of the canal. It may be possible that the pond could be designed in a manner that would integrate with the landscape, but on the basis of the submitted information, and having regard to the sloping nature of the site, I consider it may be necessary to alter the existing landform in order to accommodate an attenuation pond of the size proposed. Therefore I am not convinced that the proposed pond would satisfactorily integrate with the landscape.
36. The canal would no longer be separated from the built up area of the village, and would fail to conserve the locally distinctive character of Semington and the setting of the canal. I conclude that it would significantly harm the character and appearance of Semington and the surround rural landscape, including the Kennet and Avon Canal and would conflict with policy CP 51.

### **Heritage**

37. The Council's reasons for refusal did not include the effect of the proposal on the historic environment. At the inquiry the Council confirmed that its position on this matter had not changed. Nonetheless, it considers the canal to be an undesignated heritage asset and that there would be some negative effects arising from the proposal which should be weighed in the overall planning balance.
38. The Kennet and Avon canal cuts through the fields to the north of Semington and is carried over Semington Brook on the Semington Aqueduct, a Grade II listed structure. The aqueduct is supported on earthen embankments which extend some considerable distance from the masonry structure. The parties disagree as to whether the embankments form part of the listed structure.
39. The aqueduct lies within more than one parish, and is the subject of two separate listings. The part within the Parish of Melksham Without was listed in February 1985, whilst that within the Parish of Semington was listed in January 1988. Both listing descriptions are similar. They confirm that the aqueduct dates from the late C18 to early C19, and is constructed from limestone ashlar. It includes swept revetment walls curving away from the canal. Neither description refers to the embankments.
40. Oxford Law submits that the embankments form part of the listed aqueduct, and as a consequence, the appeal scheme extends much closer to the listed building than acknowledged in the appellant's archaeological assessment. In support of this view Oxford Law refer to s1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This confirms that for the purposes of the Act a listed building includes any object or structure fixed to the building.
41. Dr Miele, on behalf of the appellant, disputes that the embankments form part of the listed structure for a number of reasons. Firstly it is not referred to in

- the listing descriptions, moreover, he is unaware of any similar embankments being listed in this way. Whilst he accepted that the listing description is not determinative as to the extent of the listed structure he considered that the description indicates what was in the mind of the listing Inspector.
42. The function of the list is to provide local planning authorities and other interested persons with an authoritative source of information as to whether or not a particular building is listed for its special architectural or historic interest. However, as accepted by Dr Miele the list is not determinative as to the extent of the listing. I agree that the embankments are earth structures involving no special structural techniques, and differ in terms of material, character and appearance from the aqueduct.
  43. The appellant submits that the aqueduct is an example of engineering prowess, whilst the embankment is an earth structure involving no special structural techniques. Dr Miele also referred to Historic England's *Listing Selection Guide for Transport Buildings* (April 2011) which includes canals, bridges and viaducts, but does not refer to embankments or earthworks.
  44. An aqueduct is a structure for carrying water across land, and often carries canals across valleys, as in this case. I agree with the appellant that it is likely that the stone structure of the aqueduct was probably the focus for the listing Inspector and it is certainly where the main architectural interest lies. However the aqueduct is more than the masonry structure and in the absence of the embankments it would not be able to fulfil its primary purpose, namely to transport the water in the canal over Semington Brook. Therefore, on balance, having regard to s1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the embankments form part of the listed building.
  45. It is debateable as to the length of the embankment that forms part of the listed building due to its considerable length, particularly since embankments occur elsewhere along the canal and are not necessarily associated with aqueducts bridges or other structures. I therefore consider that the extent of the listed building, is generally confined to the area close to the masonry structure of the listed aqueduct.
  46. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering applications which affect Listed Buildings, special regard must be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In the case of this appeal the parties agree that the proposal would not have a direct effect on the listed structure, including the embankment. Therefore the issue is the effect of the proposal on the setting of the listed building and its architectural or historic interest. The architectural interest in the aqueduct lies in its stone structure. Its significance also lies in its historic role as part of the canal, and due to its association with John Rennie.
  47. The closest part of the appeal site is located about 140 metres from the stone structure. For most people the aqueduct would be appreciated from the towpath. From this viewpoint most people would be unaware of the embankments which take the form of a continuation of the towpath. Visually the aqueduct is best appreciated from the brook on the northern side of the canal. From this vantage point the embankments are noticeable, however due to the much lower ground level the appeal site is not visible from this location.

Consequently the proposal would not have a significant impact on either the architectural or historic interest of the aqueduct including the embankments.

48. I therefore conclude that the proposal would not harm setting of the listed aqueduct, including the embankments, and would comply with Core Policy 58 (CP58) of Core Strategy which requires designated heritage assets and their settings to be conserved, and where appropriate, enhanced in a manner appropriate to their significance.

#### *Pill Box*

49. There is a WWII pill box on the appeal site situated about 350 m south of the canal. It is an undesignated heritage asset, as agreed by the parties. Paragraph 135 of the NPPF requires the effect of a proposal on the significance of a non-designated heritage asset to be taken into account. It states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.
50. It is one of a number of such defensive structures which have been recorded within and around Semington. It was constructed as part of the GHQ Blue Stop Line of defence along the Kennet and Avon Canal to protect London and central England from a potential German invasion. Pill boxes are not especially rare with about 6,500 surviving nationally and about 400 along the Kennet and Avon Canal. The pill box has historic significance as an example of WWII defences against invasion, but is of limited architectural interest.
51. It is intended that the pill box will be converted into a bat roost. The indicative layout shows that sightlines to the swing bridge will be preserved in order that the historic relationship between the pill box, the swing bridge and the canal can continue to be appreciated.
52. The provision of interpretation and a written programme of archaeological investigation will contribute to the public understanding of the significance of the pill box. In this respect the proposal would not conflict with paragraph 135 of the NPPF and would be a benefit of the proposal.

#### *Canal*

53. The Council and Oxford Law identify the canal as an undesignated heritage asset. The glossary to the NPPF confirms that it is for the local planning authority to identify non-designated heritage assets.
54. The Kennet and Avon canal was constructed between 1794 and 1810 to connect the Avon with the Thames. It provided the first direct route from Bristol to London. It was sold to the Great Western Railway Company on 1852 and GWR continued to operate it until 1948 when the railways were nationalised. The canal has since been re-opened and both the canal and tow path are now used for predominantly recreational purposes. I consider its significance as a heritage asset derives from its role as a transport route connecting two major cities.
55. The canal is about 140 km long. It passes through some towns and other settlements, including Devizes and Bradford on Avon, but its setting is largely rural in character. Although the proposal would extend close to the canal and alter its setting, I do not consider that it would alter its historical significance.

### ***Five Year Supply of Housing Land***

56. The Framework seeks to boost significantly the supply of housing and requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. Paragraph 49 of the Framework explains that the relevant policies for the supply of housing should not be considered up-to-date if a five year supply cannot be demonstrated.
57. The Core Strategy was adopted in January 2015 and identifies a minimum housing requirement of 42,000 dwellings for Wiltshire over the plan period (2006-2026). It divides Wiltshire into three Housing Market Areas (HMAs). The appeal site is located within the NWHMA, where there is a requirement for 24,740 dwellings over the period of the Core Strategy (1,237 units per annum). The parties agree that the five year housing land supply should be assessed against a base date of March 2016, but disagree as to the housing requirement and the extent of the housing supply.
58. The appellant is critical of the housing requirement on two counts, firstly that the OAN which underpins the housing requirement is out of date, and secondly that gypsy and traveller pitches should not be counted towards housing completions. The parties also disagree as to how the shortfall should be addressed and the appropriate buffer to apply to the housing requirement.

#### *The OAN*

59. The appellant submits that the assessment of housing need which underpins the Core Strategy housing requirement is out-of-date, and pre-dates the NPPF and the guidance within Planning Practice Guidance (PPG) in relation to the assessment of housing need. The appellant submitted an assessment of need based on a report prepared by Barton Willmore and considers that this represents significant new evidence in accordance with PPG paragraph ID: 3-030-20140306. The appellant's principal concerns are that the OAN underpinning the Core Strategy housing requirement did not reflect the methodology within the PPG or take account of the most recent evidence.
60. PPG sets out a methodology for the assessment of housing need. It states that the starting point should be the household projections published by the Department for Communities and Local Government. It explains that the household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. In addition, it advises that household projections may need to be adjusted to take account of market signals, economic activity and migration.
61. During the course of the Core Strategy Examination the Council submitted additional evidence and proposed further modifications to the submitted Core Strategy following the Inspector's letter in December 2013. This indicated that the OAN was likely to be in the region of 44,000 homes over the plan period. Public consultation in relation to the additional evidence and proposed modifications was undertaken in April and May 2014. Consultees were also given an opportunity to comment upon the implications of the publication of

- the government's Planning Practice Guidance (PPG) which was published March 2014.<sup>1</sup>
62. The Core Strategy Inspector found the OAN to be about 44,000 dwellings over the plan period. In reaching this view he took account of a variety of evidence, including the Fordham work, the ONS population projections and a range of other evidence, such as alternative assessments of housing need produced by interested parties to identify the appropriate OAN.
63. He recognised that much of the Council's evidence pre-dated the NPPF and PPG. He noted that the submitted evidence '*incorporates data and analysis of household projections, migration, employment trends, affordability and more limited references to what the PPG and the Framework refer to as 'market signals'*'.<sup>2</sup> He observed that the PPG states that there is no single methodological approach to the assessment of development needs.
64. PPG is not policy in itself, but guidance as to how the policies within the NPPF should be implemented. It confirms that establishing housing need is not an exact science and that no single approach will provide a definitive answer. The St Modwen Judgement found that it was an aid to the interpretation of the NPPF<sup>3</sup>.
65. The Inspector was aware that the Council had not followed the PPG methodology, indeed this would have been difficult in the light of the publication date of PPG. He was nevertheless satisfied that the relevant matters had been considered to inform the OAN. Therefore the fact that the OAN was not based on the methodology within the PPG does not represent new evidence or detract from the evidence base that informed the Core Strategy.
66. The Inspector had regard to the most recent population and household projections available at the time, namely the 2011 interim projections and national statistics relating to household projections which were published in April 2013. The 2012 based and 2014 based household projections have been published since the Inspector's Report. Whilst these could potentially represent significant new evidence, in the case of Wiltshire they suggest a need for 37,500 dwellings and 38,400 dwellings respectively, compared to the need for 43,000 dwellings identified by the 2008-based ONS population and household figures. Therefore they do not justify an upwards revision of the housing requirement.
67. PPG paragraph ID: 3-030-20140306, states that housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the 5 year supply. It advises that considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. The Core Strategy Inspector fully considered the implications of PPG and found the plan to be sound. Whilst the more recent household projections could be considered to be new evidence they do not justify an increase in the OAN or setting aside the housing requirement within the recently adopted Core Strategy.

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<sup>1</sup> IR para 4

<sup>2</sup> WCS IR para 65

<sup>3</sup> St Modwen v SSCLG [2016] EWHC 968 (Admin)

68. In September 2017 the Government published a consultation paper entitled 'Planning the right homes in the right places'. This defines a standard methodology for determining housing requirements, including transitional arrangements. It is based on three key principles, to be: simple, based on publicly available data, and realistic. Since it is a consultation document and could be subject to change, it can only be afforded limited weight at the present time.
69. Accompanying the consultation paper is an indicative assessment of annual housing need 2016-2026 based on a proposed set formula for each local authority area. For Wiltshire the figure of 2,227 dpa is suggested. This compares with the objectively assessed need identified by the Core Strategy Inspector of 44,000 homes over the 20-year period 2006-2026, equivalent to 2,200 dpa. If this figure is apportioned across the 3 housing market areas it would make a marginal difference to the number of dwellings and would not add a significant number of dwellings to the housing requirement for the NWWHMA. I am therefore satisfied that the housing requirement within the Core Strategy remains robust in the light of the consultation paper.
70. The Council recently published a joint SHMA with Swindon Borough Council. It concluded that using the CLG 2012 based household projections the OAN would be 2,824 dpa over a 25 year period, and 1,634 dpa for Wiltshire. However, the 2014 based projections have since been published and these indicate that within Wiltshire the growth would be 1,520 dpa. The figure was adjusted to take account of the need for concealed and homeless households, affordable housing, market signals, and employment trends.
71. The uplift for market signals and employment varied across the 4 different HMAs with Salisbury requiring the greatest uplift due to market signals as well as employment trends. Taken together these adjustments indicate an OAN of 43,247 for Wiltshire, compared to the 44,000 which formed the basis of the Core Strategy housing requirement. Therefore the recently published SHMA does not suggest that the housing requirement within the Core Strategy is out-of-date.
72. The appellant suggests that the SHMA methodology reduces growth in the economically active population by about 1,600 and that the Council's approach to commuting also suppresses growth. The appellant believes that taken together these factors would require a 45,440 increase in homes over the 20 year period. When an allowance for service personnel is made the figure is increased to 46,520.
73. The SHMA cautions that the OAN will need to be tested through the examination process and is not a substitute for the housing requirement in the Core Strategy. PPG provides similar advice. It is not the role of a s78 appeal to review the SHMA which will be tested during the course of the Examination process. Having regard to both the recent consultation paper and the SHMA I remain of the view that there is no significant new evidence to justify a departure from the housing requirement within the Core Strategy.
74. I have also had regard to the case law referred to by the appellant in support of the principle of putting forward OAN evidence and/or challenging a local



authority's position on OAN. The Shropshire case<sup>4</sup> concerned a pre-NPPF Local Plan with a housing requirement based on the RSS. Therefore the housing requirement within the Local Plan was not up-to-date or robust. In contrast the Wiltshire Core Strategy was subject to examination and scrutiny and was found sound by the Inspector and NPPF compliant.

75. The West Berkshire decision<sup>5</sup> concerned a plan that had been adopted in July 2012 (post NPPF), however the examination took place prior to the publication of the NPPF. Policy CS1 of that plan expressly required a NPPF compliant SHMA to be undertaken within 3 years of adoption. The appeal Inspector found that significant new evidence, including household and population projections, along with jobs growth forecast was available, and for this reason departing from the housing requirement within the Core Strategy was found to be appropriate. The appellant also referred to the Hunston<sup>6</sup> Judgement. However, this judgement related to the correct approach to establishing an OAN where there is a policy vacuum, which is not the case with the present appeal.
76. I consider the circumstances of these cases differ materially from the present appeal, where there is a recently adopted, NPPF compliant Core Strategy. I conclude that there is no significant evidence to suggest that the housing requirement within the Core Strategy should not be relied upon.

#### *Gypsy & Traveller Pitches*

77. The appeal site is located within the NWHMA, where there is a requirement for 24,740 dwellings over the period of the Core Strategy (1,237 units per annum). The parties disagree as to the extent of the residual housing requirement. The Council include 120 gypsy and traveller pitches within its completions figure, giving a residual requirement of 12,984. The appellant considers that gypsy and traveller pitches should be excluded from housing completions and that the residual requirement is 13,104 dwellings. Over a five year period this would add 60 dwellings to the housing requirement.
78. The appellant maintains that gypsy and traveller accommodation should be excluded from the completions because it was never part of the housing requirement at CP2, nor was it considered as part of the evidence base informing the Council's housing requirements. This matter was considered at both the Forest Farm Inquiry and the Lyneham Inquiry. In both cases it was found that gypsy and traveller accommodation should count towards completions. That is the Council's position in this case.
79. Strategic Objective 3 of the Core Strategy is 'to provide everyone with access to a decent affordable home'. Paragraph 6.40 states that this is perhaps the biggest contribution that can be made to addressing inequality in Wiltshire. The accompanying text to policy CP2 is found at paragraphs 4.18 – 4.34 of the plan. Paragraph 4.25 refers to 'exception policies' which seek to respond to local circumstances and national policy, and explains that these represent *additional sources of supply*. The exception policies include specialist

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<sup>4</sup> Shropshire Council v Secretary of State for Communities and Local Government & BDW Trading Limited Trading as David Wilson Homes (Mercia) & Others [2016] EWHC 2733

<sup>5</sup> **West Berkshire** District Council v SSCLG and HDD Burghfield Common Ltd [2016] EWHC 267

<sup>6</sup> Hunston Properties Ltd v SSCLG and St Albans City Council

- accommodation provision in accordance with policies CP46 (accommodation for vulnerable and older people) and CP47 (gypsy and traveller accommodation).
80. I see no reason why gypsy and traveller accommodation would fall outside of the definition of a home. If gypsy and traveller accommodation was not considered to be a home for the purposes of the Core Strategy I consider that policy CP2 would specifically exclude it and policy CP47 would not be included as one of the policies which seeks to deliver Strategic Objective 3.
81. Although CP47 sets pitch requirements for gypsies and travellers, I consider this to be a reflection of the specific accommodation requirements for this group. It does not alter the fact that the provision of such accommodation contributes to the delivery of homes within Wiltshire, in accordance with Strategic Objective 3 and policy CP2. The fact that Appendix C of the Core Strategy shows separate calculations for housing land supply and gypsy and traveller accommodation may be a reflection of the different strategies necessary to meet the housing needs for gypsies and travellers, and it does not add weight to the appellant's arguments.
82. I now turn to the evidence base. Matter 4 of the Inspector's report includes '*Is the Core Strategy's approach to housing provision sufficiently justified and consistent with national planning policy?*'. The Core Strategy Inspector's OAN assessment does not specifically refer to gypsy and traveller pitches, however, none of the other types of specialist housing, such as affordable housing, or housing for vulnerable and older people are considered in this part of the report either. His assessment of OAN took account of a range of evidence, including the 2012 Housing Topic Paper, the 2014 Addendum to the Housing Topic Paper and the Wiltshire SHMA (The Fordham Research 2011), the ONS population projections and assessments of need made by interested parties. These matters are set out at Paragraph 75 of the Inspector's Report.
83. The housing topic paper outlines the sources of information used. These include the 2001 Census and sub-national population projections 2008. The Fordham SHMA included primary data derived from a household survey, whereby households were drawn at random from the Council Tax Register and demographic data which took account of Census information and ONS statistics.
84. Gypsy and traveller households are represented within the census statistics, as well as local information in relation to births, deaths and marriages. They are not one of the special populations, such as service personnel, that have a special age structure and are therefore treated differently in census statistics. The ONS projections draw on the census and local information in relation to births, deaths and marriages. Whilst, unlike the census, the population and household projections may not identify gypsies and travellers as a distinct group, no evidence was submitted to suggest that the ONS projections were adjusted to exclude gypsies and travellers, or any other specific group within the population.
85. The household survey sent out by Fordham was sent to a random selection of families on the Council Tax Register. It is not uncommon for gypsy and traveller families to pay Council Tax and therefore there is no evidence to suggest that families paying Council Tax whilst living in caravans were excluded from this survey. It included a number of questions in relation to caravans and mobile homes, suggesting that the researchers were aware that

respondents could include gypsies and travellers, whether resident in caravans, or bricks and mortar accommodation. The addendum to the housing topic paper was published in February 2014 and sought to address issues raised by the Inspector in his letter dated 2 December 2013 rather than the OAN.

86. Therefore on the basis of the evidence submitted to the inquiry I am satisfied that gypsy and traveller accommodation forms part of the housing requirement within the Core Strategy and was taken into account in the evidence base considered by the Core Strategy Inspector.

#### *The Shortfall*

87. The appellant suggests that the housing shortfall should be made up in the next five years of the plan period (the Sedgefield method), whereas the Council believes that it should be spread over the remainder of the plan period (the Liverpool method). Both the Core Strategy and the Shurnfold Inspectors accepted that the Liverpool method was appropriate in Wiltshire.
88. Paragraph ID 3-035-20140306 of PPG advises that any shortfall should be dealt with within the first five years of the plan period where possible (the Sedgefield method). Where this is not possible, it states that planning authorities will need to work with neighbouring authorities under the duty to cooperate. The Sedgefield approach is generally favoured and would be consistent with the aim of the Framework to significantly boost the supply of housing and because it deals with the issue of past delivery failures promptly over the short-term. However, the High Court in *Bloor<sup>7</sup> Homes* confirmed that neither method is prescribed, or said to be preferable to the other, in government policy in the NPPF.
89. The Core Strategy Inspector found that the measured delivery of housing over the plan period did not necessitate undue 'frontloading' in the early years of the plan. In reaching this view, he had regard to the extent of the shortfall and the Council's intention to produce a new SHMA which may revise the objectively assessed needs for the relevant HMAs and inform its plan-making processes.
90. The Shurnfold Appeal, Forest Farm Appeal, Lyneham Appeal and the Hilperton Appeal all favoured the Liverpool approach. The appellant states that since the Council is more than halfway through the plan that there is little time remaining in which to make up the shortfall. Whilst there are only 9 years of the plan period remaining, the housing land supply position is being assessed against a base date of March 2016, and the Core Strategy was only adopted in January 2015. There is little over a year between the base date and the adoption of the Core Strategy. The delivery of housing in the NWHMA is dependant on a number of large strategic sites, which the Council anticipates will be delivered towards the latter part of the five year period and beyond.
91. The appellant referred me to a recent appeal decision<sup>8</sup> where the Inspector favoured the Sedgefield approach. The Council explained that at the hearing, attended by Mr Roe, the Council did not produce any evidence in respect of the preferred method. The extent of the evidence in relation to this matter is unclear from the decision letter, and therefore in the light of the Council's

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<sup>7</sup> *Bloor Homes East Midlands Limited v SSCLG [2014] EWHC 754 (Admin)*

<sup>8</sup> APP/Y3940/W/17/3173509

undisputed evidence I afford this decision limited weight in so far as it seeks to address this issue.

92. The appellant considers that the extent of the shortfall is likely to increase in the coming year. The Wiltshire Housing Site Allocations Plan -Topic Paper 3: Housing Land Supply (June 2017) estimates that there will be 847 completions within the NWWHMA in 2016/17. However it makes clear that this figure is an estimate and those actual completions are likely to exceed the estimations. The Council drew attention to the Malmesbury Decision<sup>9</sup> where the estimated completion figure used by the Inspector was exceeded by some 458 dwellings. I therefore consider that the estimated completions figure within the Topic Paper is little more than a guide, and does not provide a reliable basis for the assessment of future shortfall. This figure will be provided within the next Housing Land Supply Statement.
93. To aim to address the shortfall in the next five years of the plan period would require the identification of many additional sites in the short term. This would undermine the plan led spatial strategy for Wiltshire which seeks to provide jobs and homes, together with supporting community facilities and infrastructure, in the most sustainable way.

#### *Buffer*

94. In addition to a five year supply of housing land, paragraph 47 of the Framework requires local planning authorities to provide an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
95. The appellant maintains that where there is a recently adopted development plan, it is not appropriate to measure either the shortfall or the record of persistent under-delivery against anything other than the annualised requirement in the development plan itself. Whilst I agree that the shortfall should be assessed against the adopted development plan, neither the NPPF, nor PPG state that under-delivery should be assessed against the requirements within the prevailing development plan. Indeed, PPG is clear that the approach to identifying a record of persistent under delivery of housing involves questions of judgment. It further states the factors behind persistent under-delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the term.
96. When assessed against the Core Strategy for the period up to March 2016, the annualised target was not met in 7 out of 10 years, although the shortfall in 2010/11 was only 19 dwellings. The Council calculates that about 95% of the cumulative Core Strategy target has been delivered to date, with a shortfall of 614 dwellings, against an annualised target of 1,237. This compares to 97% at the time of the Shurnhold Inquiry.
97. The Council's assessment relies on the targets within the Wiltshire and Swindon Structure Plan 2016 (published April 2006) for the period up to 2010/11. For

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<sup>9</sup> APP/Y3940/A/13/2200503

the period 2011/2012 it uses the housing requirement within the emerging Core Strategy (37,000). For the remainder of the period (2013/14 and 2014/15) it uses the higher requirement within the Core Strategy. When assessed against these requirements the Council has met the annualised targets for 4 out of the ten years. In each of the years where the delivery figure was met, there was significant over delivery. The appellant suggests that, based on the figures within Topic Paper 3 that there will be a further year of under-delivery. But as explained above, the number of completions for 2016/17 is unknown, and may well exceed that shown in Topic Paper 3. I do not consider it appropriate to take account of the completion figures for 2016/17 when assessing whether there has been a record of persistent under-delivery.

98. Whilst comparing the annualised delivery against that within the adopted development plan is a useful starting point it does not provide the complete picture. The NPPF does not require an assessment against the annualised requirement, moreover, the Core Strategy has an overall housing requirement that extends across the entire plan period rather than an annualised target. PPG takes a similar approach and advises that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle. As explained by the Shurnhold Inspector, it would be statistically possible for the total housing requirement over a given number of years to be met in circumstances where there had been a small shortfall against the annualised targets in all but one year, and a large over-delivery the other year. It is therefore legitimate to look at the overall number of dwellings delivered over a given period and to compare these against the cumulative housing requirement for that period.
99. The housing land supply statements show that for the period from 2006 up to and including March 2014, 101% of the housing requirement within the Core Strategy had been delivered. This figure takes account of the considerable fluctuations in delivery. This figure fell to 97% in March 2015 and 95% in the most recent assessment.
100. The appropriate buffer was considered by both the Core Strategy Inspector and the Inspector in respect of the Shurnhold appeal. Both concluded that there was no persistent under delivery whether assessed against the annualised requirements applied by the Council at the time, or the requirement of the adopted Core Strategy. Since the Shurnhold decision, there has been a further year of completions, and two additional years since the matter was considered by the Core Strategy Inspector. More recently the Lyneham Inspector concluded that whilst the Council's performance in housing delivery is not strong, particularly since the adoption of the Core Strategy that under-delivery had not been persistent in the context of the NPPF. The Forest Farm decision reached a similar conclusion.
101. Topic Paper 4 to the Wiltshire Housing Sites Allocation Plan, includes a reference to aiming towards a figure that includes a 20% buffer. I disagree that this implies that the Council accepts that it is a 20% authority, but as concluded by the Lyneham Inspector it represents a prudent approach to ensure that the plan is not undermined through a determination that it was persistently under-delivering.

102. Prior to 2009 Wiltshire comprised four local planning authorities, with separate development plans and emerging plans for the different areas. There have been a number of development plans and emerging development plans over the plan period. The changing housing requirements are a reflection of these plans and the changes to administrative boundaries, as well as changes to national planning policy. Therefore to assess delivery for the entire period on the basis of an administrative area that did not exist for part of that period would be an unreasonable assessment as to whether there is a persistent record of under-delivery. Moreover, any under-delivery for the period prior to 2014 would be assessed against a housing requirement that had not only not been adopted, but had not yet emerged.
103. The appellant referred to the Malmesbury decision<sup>10</sup> where the Inspector assessed the delivery rate against the adopted Core Strategy requirement over the plan period and concluded that there had been persistent under-delivery. This decision was considered at the Forest Farm Inquiry, as well as that at Lyneham and Hilperton. For the reasons given above I have adopted a different approach, which I consider to be consistent with the Cotswold judgement<sup>11</sup>. This confirms that, in assessing previous performance, a decision-maker is entitled to take the figures in the previous development plans as a measurement of what the housing requirement was in order to assess whether there has been a record of persistent under delivery of housing.
104. Although in some years the annualised targets were not met, having regard to the considerable fluctuations in delivery, as well as the changing housing requirements and administrative boundaries over the past ten years, I do not consider that there has been a persistent record of under-delivery. Therefore, on the basis of the evidence before me, a 20% buffer is not justified in this instance. In reaching this conclusion I have had regard to the various appeal decisions which have been brought to my attention. As these decisions demonstrate the judgment as to whether or not there has been a persistent under-delivery falls to be determined on the particular facts of each case having regard to the information available.
105. I conclude that a 5% buffer remains appropriate and that the Liverpool method is still an acceptable means of dealing with the shortfall. On this basis, I consider there to be a 5 year housing land requirement for 6,817 homes across the NWHMA as put forward by the Council.

#### *Land Supply*

106. The Housing Statement of Common Ground outlined the parties' respective positions with regard to the supply of housing sites. The Council stated that it had a deliverable supply of 6,821 dwellings, whilst the appellant considered that the Council is only able to deliver 6,329 dwellings. However, during the course of the inquiry the Council's position changed in respect of some of the identified sites. At the close of the inquiry the Council considered that it was able to demonstrate a housing land supply sufficient for 6,905 dwellings against a housing requirement for 6,817 (including a 5% buffer).

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<sup>10</sup> APP/Y3940/A/13/2200503

<sup>11</sup> *Cotswold District Council V SSCLG, Fay & Son Ltd* [[2013] EWHC 3719 (Admin)]

107. As a consequence, there are now five disputed sites. The appellant also questions the inclusion of the two strategic sites allocated by the CSAP, since the CSAP was not adopted until May 2017, after the base date for the assessment of housing land supply. The appellant does not dispute that these sites are capable of delivering housing in the five year period up to 2020/21, but questions whether it was appropriate to include them in the five year housing land supply, given the base date of March 2016. I shall address the CSAP sites first, and then deal with the disputed sites.
108. The Housing Land Supply Statement covers the period from April 2015 – March 2016, and was originally published in November 2016. However, following the publication of the CSAP Inspector’s Report the delivery from the two allocated sites, Rawlings Green and Rowden Park and Patterdown were included in the March 2017 update to the Housing Land Supply Statement, although the base date remained the same.
109. The Housing Land Supply Statement, published in November 2016, explains at Paragraph 5.5 that sites identified in the pre-submission draft of the CSAP and were included in the previous Housing Land Supply Statement as contributing to the deliverable supply. However the public examination for the CSAP was suspended in November 2015 to allow the Council to carry out additional work on the site selection process. As a result, the Council could not rely on the proposed allocations contributing to the deliverable supply.
110. Although these sites continued to be listed at Appendix 1 which provides a breakdown of the deliverable supply, they were shown as making no contribution to housing land supply during the plan period. Appendix 3 of the Housing Land Supply Statement provides a detailed assessment of sites contributing to the deliverable supply. Patterdown and Rowden and Rawlings Green, were both shown to be available and achievable as well as consistent with policy. However, neither site was considered to be suitable or deliverable because the CSAP Inspector’s report was awaited. The March update to the Housing Land Supply Statement did not alter the base date, but showed these sites contributing to the five year housing land supply and Appendix 3 showed that both sites were now suitable and deliverable.
111. The November 2016 Housing Land Supply Statement also made reference to these two sites at Table 3 which lists additional sites identified beyond the monitoring base date of 1 April 2016, on the basis that there had been a resolution to grant planning permission, subject to a s106 agreement/unilateral undertaking in September 2016.
112. The Council consider the inclusion of these sites within the housing land supply is justified and referred to the Wainhomes judgement<sup>12</sup>. This found that housing allocations within emerging plans are capable of being considered to be deliverable dependant on the circumstances of the case. This approach is confirmed by the advice at PPG paragraph 3-031-20140306. This explains that a planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. However, Local planning authorities are expected to provide robust, up to date evidence to

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<sup>12</sup> Wainhomes v SSCL[2013]EWHC 579(Admin)

support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out.

113. The Wainhomes judgement acknowledged that the inclusion of a site in an emerging plan provides some evidence that a site is deliverable by a local planning authority, it stated that the weight to be attached to that inclusion can only be determined by the quality of the evidence base, the stage of progress that the draft document has reached and a knowledge of the nature and number of objections that might be outstanding. By the time of the March 2017 update, the CSAP Inspector's report had been published and the CSAP was at an advanced stage. At this stage, in accordance with paragraph 216 of the NPPF the CSAP and the allocations within it would be afforded very considerable weight.
114. Footnote 11 of the NPPF states that to be considered deliverable, sites should be available now, and offer a suitable location for development now. At the base date the CSAP had been subject to the initial hearings, and the Council had undertaken additional work in order to address the concerns of the CSAP Inspector. However, it is clear from the Council's own evidence that the site allocations proposed by the CSAP were not deliverable at April 2016. The assessment as to the deliverability of these sites extended not only to the five year period up to 2020/21, but to the end of the plan period. Appendix 1 showed the total number of dwellings each site could accommodate but did not indicate any delivery in any year.
115. The Council state that by April 2016 additional work in respect of these sites and other sites had been completed. It seems to me that the Council took an overly cautious approach within the Housing Land Supply Statement. If it genuinely considered these sites to be unsuitable I consider that they would have been removed from the housing land supply. More importantly, the Council would not have continued to promote them as part of the CSAP.
116. In relation to other sites the trajectories put forward as part of this appeal have been modified to take account of changes that have occurred since April 2016 in terms of appeal decisions and new evidence. Some of these changes have been considerable, such as Ashton Park where as a consequence of new evidence between the time of the Forest Farm Inquiry and the Lyneham Inquiry the trajectory was reduced by about 300 dwellings. It therefore seems reasonable that other changes, particularly a change as significant as the publication of the CSAP Inspector's Report, should allow for the upward provision of housing trajectories.
117. Therefore taking account of the available evidence I consider that the CSAP sites should form part of the five year housing land supply. I now turn to the disputed sites.

#### *Hunters Moon*

118. A resolution to grant planning permission for a mixed use development with up to 450 dwellings, subject to the completion of a section 106 agreement, was made in January 2014. In October 2016 the Shurnhold Inspector concluded that the site was unlikely to produce completions before the end of the monitoring year 2019/20 and that 240 dwellings should be deducted from the supply. This position was reflected in the 2016 supply statement which



indicated that only 80 dwellings would be delivered in the five year period up to 2020/21.

119. It is evident that there were concerns about the viability of the scheme and its ability to deliver an acceptable level of affordable housing. In the light of a further viability assessment, and an independent viability assessment, changes to the scheme were agreed. A further application was submitted in January 2017. This reflected the fact that it was no longer necessary to provide a primary school as part of the scheme, and the layout for Phase 1 of the site was revised. The Council state that the level of affordable housing has also been agreed following the consideration of the most recent viability evidence and resolved to grant planning permission for this recent application in June 2017. The Council's solicitor dealing with the s106 advises that the draft obligation and related discussions are at an advanced stage.
120. The Council submitted an email from Mr Kerton, the Planning Director of Bloor Homes, which outlined the intended timetable for the delivery of housing on this site. Mr Kerton's timetable (submitted in May 2017) anticipated that the application would go to committee by June 2017 and planning permission would be granted by November 2017. On this basis it was anticipated that 140 homes would be delivered by the end of 2019 and 80 dwellings a year thereafter. This would increase the number of homes by 60 compared to the Council's position in the Housing Statement of Common Ground.
121. The appellant expressed concern that the Council sought to change its position in relation to this site at the inquiry and it did not reflect the Council's position in the Statement of Common Ground. Mr Roe explained that the initial evidence had been prepared by another officer who has since left the Council and in his preparation for the inquiry, he considered the implications of the submitted emails and this caused him to revise the Council's trajectory. Whilst it is unfortunate that the Council's position changed so late in the inquiry process, all of the evidence it relied upon had been submitted with the Council's disputed sites statement. Moreover, it also changed its position with some other sites where the Council conceded a lower amount of delivery.
122. The appellant suggest that the homes to be delivered at this site should be discounted in their entirety, due to issues with the delivery and availability of the site at April 2016, these included viability concerns, objections from the County ecologist and the Council's urban designer.
123. Although there were viability concerns with the delivery of the site in April 2016, it is apparent from the committee report that both parties were seeking to resolve this matter. It would seem that the difference between the parties was the proportion and mix of affordable housing to be delivered, rather than whether the site would be delivered at all. Therefore there was no evidence to suggest that the site was unlikely to come forward within the next five years.
124. Although at April 2016 the site did not have planning permission, there was a resolution to grant planning permission, which indicates that it is in a suitable location, and there was a realistic prospect that housing on the site would be delivered in the next five years. Although there were concerns with viability, it is evident that the parties were seeking to address these. I therefore consider that the site was deliverable within the terms of footnote 11 of the NPPF.

125. The appellant also questioned the reliability of the delivery evidence provided by the developer. Reference was made to the Yate appeal decision<sup>13</sup>, where the Inspector observed that the Council appeared to have been unquestioning of delivery rates provided by housebuilders/developers who may talk up delivery rates to retain the support of the Council. PPG states that the advice of developers and local agents will be important in assessing lead-in times and build-out rates by year.<sup>14</sup> The Yate Inspector did not suggest that such advice should be disregarded and in the absence of any substantive evidence as to why the trajectory submitted by the developer was unreliable I afford it significant weight. It is evident from the committee report that viability has been independently assessed and agreed, and this is supported by the view of the Council's solicitor. On the basis of the evidence submitted to the inquiry, I consider that there is a realistic prospect that housing on the site will be delivered in accordance with Mr Kerton's trajectory.

*Land south of Bradford Road, Corsham*

126. Outline planning permission was granted in April 2015 for up to 88 dwellings. The Council's original trajectory indicated that a total of 75 dwellings would be delivered over the five year period. This comprised 15 dwellings in 2017/18, with 20 dwellings a year in the following 3 years. Since reserved matters have not yet been submitted the appellant considers that the trajectory should be pushed back by one year reducing the number of dwellings to be delivered over the 5 year period to 55. I agree with the appellant that there would seem to be little if any prospect of dwellings being delivered on this site by March 2018.

127. Hannick Homes, the owner of the site, advises that the site is in the process of being sold to a national housebuilder (Bellway). Evidence from the Council confirms that the prospective owner has engaged in pre-application discussions with the Council. Bellway's trajectory is to complete 50 dwellings in 2019/20 and the remainder in 2020/21. There is no evidence to suggest that this is not achievable and would increase the Council's original trajectory by 13 dwellings. These figures were provided in an email from Hannick Homes following verification with the prospective purchaser.

128. Given that the developer will be a national house builder and that delivery is not due to commence until 2019/20 the Council's trajectory would appear to be achievable and realistic.

*Foundry Lane/Langle Park*

129. The site is allocated in the North Wiltshire Local Plan 2011 for a mixed use development including 250 dwellings. Outline planning permission was granted in January 2017 for up to 400 dwellings, a hotel, cafe, a discount foodstore, B1, B2 & B8 floorspace and highway improvements. Full planning permission was also granted for a 69 bed hotel with cafe and 22 residential units. The parties agree that the 22 dwellings will be delivered by 2020/21. The Council advise that the majority of the conditions in relation to the full application have been discharged, and that a pre-application request for the second phase has been received.

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<sup>13</sup> APP/P0119/A/12/2186546

<sup>14</sup> Reference ID: 3-023-20140306

130.

131. The Council's trajectory shows 130 dwellings delivered in 2019/20 and 98 the following year providing a total of 250 dwellings for the period up to 2020/21. The appellant believes that delivery will not commence until 2020/21 and only 40 dwellings will be delivered.

132. The site is a complicated site with multiple occupants and there is also a need for remediation work on the site. The proposal is for a mixed use scheme and seeks to accommodate both existing and new businesses, and some tenants will need to be relocated. At the time of the Forest Farm Inquiry there was uncertainty regarding how the site would be marketed and the impact of this on delivery rates.

133. Details submitted by the appellants included an extract from the intended programme for construction and phasing, which would appear to be part of the Environmental Statement submitted at the time of the application. This envisaged a demolition and construction programme of about 60 months with development commencing in January 2017. It took account of the need to relocate existing occupiers and the need for remediation works on the site.

134. It proposed that the construction of phase 2 of the residential part of the site would commence in 2017. Whilst there has been some slippage, the Council suggest that the first residential completions on the balance of the site would be 2019/20.

135. The site has been allocated for a number of years and the delivery of housing has been pushed back several times. This is evidenced by the Malmesbury and Shurnhold decisions. However, matters have moved on since these decisions. Planning permission has now been granted and there is no dispute that works in relation to part of the site is imminent. The evidence suggests that the site is soon to be marketed, and the owner has appointed marketing agent. However, without a developer for the balance of the site in place the submission of reserved matters is likely to be delayed. Although remediation works will be necessary, the broad extent of such works were identified at the time of the Environmental Statement, and have been accounted for within the programme. The appellant submitted evidence to show that it can typically take 2 years from the grant of outline planning permission to the delivery of the first dwellings. On this basis I consider that the Council's trajectory, which shows the first dwellings delivered in 2019/20, to be achievable.

136. The appellant's suggested delivery rate of 40 dpa, is based on an analysis of delivery rates over a number of sites within Wiltshire. However, this is an average delivery rate and even the evidence submitted by the appellant shows that many sites exceed this average rate. Moreover, it is apparent that the average rate for individual sites often does not reflect typical annual delivery rates with many sites significantly exceeding the average rate in one or more years. Based on the evidence in the Environmental Statement the remainder of the residential accommodation would be delivered over a period of 4 years which equates to an average of about 95 dpa.

137. It is probable that delivery will fluctuate over these years. In addition, it is intended that many of the dwellings will be flats, and therefore a greater number of dwellings may be delivered at one time, and the delivery rate for

flats tends to be quicker than for houses. However, in the absence of a detailed scheme, I do not consider that there is a reasonable basis for exceeding the average delivery rates implied by the Environmental Statement. Therefore I consider that the Council's trajectory should be reduced by 38 dwellings.

*Station Road, Westbury*

138. This is a saved allocation from the West Wiltshire Local Plan for 90 dwellings. Planning permission was granted in November 2013 for 92 dwellings. The Council advise that the site has recently been sold to Newland Homes, and a planning application is due to be submitted shortly for 88 dwellings.

139. The appellant states that the site has a long history of delay and delivery on the site is frequently pushed back. Moreover, the previous developer has walked away from the scheme because the expectations of the owner were unrealistic. The Council explained that ground investigations had been carried out to inform viability prior to the submission of the most recent application. It would therefore seem that there is a realistic prospect of housing on this site being delivered in accordance with the Council's trajectory.

*Rowden Park*

140. Outline planning permission was granted in March 2017 for 1,000 dwellings on one of the main parts of the Rowden Park site which is to be developed by Crest Nicholson and Redcliffe Homes. CSAP Policy CH1 also identified a further 11 hectares of land to provide 400 additional dwellings over the plan period. This land includes Showell Nursery, owned by Taylor Woodrow.

141. The Council considers that this site will deliver 400 dwellings during 5 year period. This comprises 210 dwellings on the Crest Nicholson site and 150 dwellings on the Redcliffe site, commencing in 2018/19, together with 40 dwellings on the Showell Nursery site. The Appellant considers that the site is only likely to deliver 330 dwellings up to the end of the 5 year period, with 60 dwellings delivered on the main part of the site in 2018/19 and 120 dpa thereafter, with the Taylor Woodrow site contribution 30 dwellings. The appellant considers this approach to be justified in that reserved matters remain outstanding and the planning permission includes 41 pre-commencement conditions which still need to be discharged.

142. The difference between the parties relates to delivery in 2018/19 and the delivery on the Showells Nursery site in the final year. Evidence submitted by the appellant considered the delivery rates on sites within Wiltshire, including the time period between the grant of planning permission and the first units becoming available. This evidence suggests that on average it takes about two years from the grant of outline planning permission to the delivery of the first dwellings on the site. However, an average figure also takes account of sites where there is a significant delay in delivery, and it is evident from the submitted table that on 50% of the sites, including large sites, housing was delivered within one year of planning permission being granted.

143. The appellant also suggests that average delivery rates vary between 122dpa for large sites and 36dpa for other sites. It is however evident from the table submitted by the appellant that the larger sites, of which Rowden Park is one, generally deliver a greater number of dwellings each year.

144. The Council relies on emails from Crest Nicholson and Redcliffe Homes. At the time of the Forest Farm inquiry both developers anticipated that they would be on site later this year. As acknowledged in the Lyneham decision this appears to be increasingly unlikely and this is reflected in the Council's revised trajectory. Crest Nicholson advise that they have a full proving layout and a team working on reserved matters in place. They also state that phases 1 and 2 could commence with minimal improvements to infrastructure. Redcliffe Homes advised that it had submitted a pre-application in respect of the first phase of the scheme for 118 dwellings. Redcliffe Homes acknowledged that work was intended to commence in November/December this year, but the delivery of 30 dwellings by April 2018 'may be pushing it'. However, it confirmed that the trajectory for from 2018/19 onwards 'was ok'.
145. Although the reserved matters are yet to be submitted, it would seem that both parties are progressing matters. Even on the basis of the appellant's submitted evidence regarding lead in times, it is entirely feasible that the first dwellings could be delivered in 2018/19. The only delivery rate the appellant suggests should be adjusted is that in relation to the Showell's Nursery site where 10 dwellings have been removed to allow for the effect of competition. The appellant justifies this approach by reference to an appeal decision at Yate<sup>15</sup>, however, there is no substantive evidence to suggest that the proximity of other housing outlets is likely to reduce delivery from this site. I therefore conclude that no adjustment is necessary to the Rowden Park figures.

#### *Conclusion on Housing Land Supply*

146. For the reasons given above I consider that 38 dwellings (Foundry Lane site) should be removed from the Council's housing land supply. Therefore the Council has sufficient land to deliver 6,867 dwellings against a housing requirement for 6,817 dwellings including the 5% buffer.

#### ***Principle of Location***

147. The appeal site lies outside of the limits to built development. The appellant acknowledges that the proposal would fail to comply with policies CP1, CP2 and CP15 of the Core Strategy. However, the appellant contends that the weight to be afforded to these policies should be reduced because the settlement boundaries on which they rely are derived from a previous development plan and will need to be revised. It is also submitted that the Council does not yet have a complete development plan since the site allocations plan is still at a very early stage and that the Council does not have a five year housing land supply.
148. Policy CP2 is underpinned by an aspiration to ensure that communities have a better balance of jobs, services, facilities and homes in order to achieve a sustainable pattern of development. The settlement boundaries on which it relies have been brought forward from the previously adopted District Local Plan and were not reviewed to inform the Core Strategy. The Core Strategy Inspector considered that the efficacy of the plan was partially undermined by the absence of robust evidence to support of the identified limits for each settlement. He considered that whilst a combination of commitments, windfalls and strategic allocations may ensure a supply of development land to meet

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<sup>15</sup> APP/P0119/A/12/2186546

needs in the shorter term, the effectiveness of CP2, in combination with CP1, is dependent upon a timely review of settlement limits. He was however satisfied that this matter could be resolved by the Sites DPDs.

149. The settlement boundaries are intrinsic to the overall settlement strategy, but they are only one component of it. The strategy also relies on the settlement hierarchy, and the distribution of housing and employment land between and within the Community Areas. The strategy for the Melksham Community Area, as set out at CP15, proposes that the majority of dwellings should be situated within Melksham. It aims to improve the economic self-containment of Melksham and focus the delivery of services and infrastructure within the town.
150. Within the Melksham Community Area 1,362 dwellings were delivered in the period up to April 2016, against a requirement of 2,370 for the plan period. Of these, the majority were within Melksham. Within the remainder of the community area 83 dwellings were delivered, against a target of 130 dwellings. When development commitments for Melksham are taken into account the indicative minimum requirement is exceeded by 15%. It is therefore probable that the number of houses delivered both within Melksham and the remainder of the community area will exceed the aspirations of the policy CP15 by the end of the plan period. Accordingly there is no evidence to indicate that the settlement boundaries that underpin policy CP2 are constraining development within the Melksham Community Area. Consequently development outside of the settlement boundary is not necessary to meet the housing needs of the Melksham Community Area.
151. However, neither the overall housing requirement for Wiltshire, nor the housing target for the Melksham Community Area, represents a ceiling. Paragraph 4.30 of the Core Strategy is clear that the disaggregation of housing to Community Areas is not intended to be inflexible, but aims to clarify the Council's intentions in the knowledge of likely constraints in terms of market realism, infrastructure and environmental capacity. I therefore see no reason in principle why some additional housing could not be delivered within the Melksham Community Area to offset the shortfall within the adjoining Trowbridge Community Area. However I note that the shortfall is within Trowbridge town itself rather than the remainder of the community area where 242 dwellings have been delivered against a target of 165. Moreover, any additional housing should generally be compliant with settlement hierarchy at policy CP2 and the intention of the Core Strategy to achieve a better balance between homes and jobs. Consequently there is no pressing need for the identification of additional land at the present time.
152. The appellant suggests that the proposal would be similar in scale to development permitted in the 1970's and 1990's when the number of dwellings in the village increased by 81% and 43% respectively. These previous dwellings were permitted in a different policy context and evidence submitted by the appellant suggests that they took the form of a number of smaller developments dispersed around the village.
153. At the present time there are about 400 dwellings within the village. The appeal proposal would significantly increase the size of the village, both in terms of the number of dwellings and also the extent of built development. The 75 dwellings proposed would considerably exceed the indicative threshold

of less than ten dwellings permissible within larger villages. Whilst this figure is not a ceiling it does provide an indication of the level of development considered appropriate. The strategic objectives of the Core Strategy include modest growth, proportionate to the size of the settlement. When the dwellings proposed on the Oxford Law site are included the cumulative increase would be in excess of 30%. Consequently the proposal, whether considered by itself, or together with the Oxford Law scheme, would not represent modest growth proportionate to the size of the settlement. It would therefore conflict with the delivery strategy due not only to its location outside of the settlement boundary, but also because of the number of dwellings proposed.

154. The development plan will not be complete until the WHSAP is adopted, in that all of the land necessary to deliver the Core Strategy housing requirement has not yet been identified. However, the Core Strategy Inspector was satisfied that there would be a sufficient supply of land to meet development needs in the short term, and I have found above that the Council currently has a five year supply of housing land. Therefore there is adequate land at the present time to deliver the housing strategy within the development plan.
155. The Council are currently progressing the WHSAP and anticipate that the examination will take place in 2018, with adoption later the same year. The emerging WHSAP is at a very early stage and therefore cannot be afforded any significant weight. In Semington some minor changes to the settlement boundaries are proposed to reflect development that has already occurred, rather than to accommodate additional development. Whilst there are proposals to modify the settlement boundaries of some villages, these represent areas where either the housing needs for the plan period have not already been accommodated, or alternatively, addressed by way of neighbourhood plans. These proposals are subject to consultation, and the modification of these boundaries through a Site Allocations DPD is in accordance with policy CP2 and is consistent with the plan led process advocated by the NPPF.
156. I found above that the Council can demonstrate a five year supply of housing and therefore the relevant policies for housing are not absent silent or out- of-date at the present time. Accordingly I afford policies CP1, CP2 and CP15 significant weight.
157. Paragraph 55 of the NPPF states that within rural areas housing should be located where it will enhance or maintain the vitality of rural communities. The appellant also considers that weight should be afforded to the *Living Working Countryside The Taylor Review Of Rural Economy And Affordable Housing* published in 2008. The Council confirmed that the Taylor Review was one of a number of documents that helped to inform the *Topic Paper 3: Settlement Strategy* and *Topic Paper 4: Rural Signposting* which formed part of the evidence base for the Core Strategy.
158. The Taylor Review highlighted the importance of building affordable homes to enable people who work in rural communities to continue to live in them. It stated that in many cases just a handful of well-designed homes, kept affordable in perpetuity for local people, would make all the difference to the sustainability of the community and its services. It also referred to the need to consider the benefits of development for villages rather than focusing on the negative effects. As acknowledged by the appellant it was a precursor to the

- NPPF. The housing strategy within the Core Strategy provides for some additional housing within rural villages through policies CP1 and CP2 and is consistent with the principles of the Taylor Review. Moreover, it is evident that the Council adopt a flexible approach development within villages, and have permitted schemes for in excess of 10 dwellings where the proposal would deliver significant community benefits.
159. The appellant considers that the proposal would deliver a number of benefits, including the expansion of a primary school, the delivery of affordable housing and bungalows, as well as a canalside park and children's play areas.
160. The submitted Unilateral Undertaking covenants to make a financial contribution towards the expansion of the primary school, and would fund an additional classroom. This would allow the children to be taught in 4 mixed age groups rather than 3 as at present. The purpose of the financial contribution is to mitigate the effect of the proposal since the school cannot accommodate the children from the proposed development in addition to those from the Hannick Homes Development. Evidence was submitted to the inquiry to show that the contribution is necessary to make the development acceptable in planning terms, directly related to the development, and would be fairly and reasonably related in scale and kind.
161. Although the school was rated as inadequate in the most recent Ofsted report, the reasons for this were unrelated to either the size of the school or the mixed age classes. There is no suggestion either in the recent Ofsted report, or from the school itself, that the school requires an extension in order to meet the educational needs of the pupils. Whilst there is not a need for an additional classroom at the present time, and the primary purpose of the contribution is to mitigate the impact of the proposal, there could be some benefit to the village through the provision of an additional classroom.
162. The proposal would provide up to 30 affordable dwellings, including up to 9 bungalows. The Parish Needs Survey indicated a need for 3 affordable homes. I agree with the appellant that it is likely that the Parish Needs Survey underestimated the need for affordable homes within the village due to the low response rate, the demographic, social and economic profile of the village, and also because it only sought to address needs for the period up to July 2017. At the present time there are 27 affordable dwellings within Semington, with about 2 re-lets a year. I understand that there have been no affordable housing completions in Semington for the last 7 years.
163. There is just 1 household on the housing register listing Semington as a first preference, compared to 119 for Melksham and 306 in the case of Trowbridge. On behalf of the appellant, Mr Stacey suggested that this was because there was a more realistic prospect of obtaining an affordable home within Melksham or Trowbridge. Whilst this may be the case listing Semington as a first preference does not exclude applicants from applying for homes within Melksham.
164. Whilst I agree that the need for affordable homes within Semington is likely to be greater than indicated by the Parish Needs Survey, the recently permitted Hannick Homes scheme would provide 7 affordable homes. Although I do not doubt that the delivery of affordable homes would be a significant benefit of the proposal in terms of the overall affordable housing needs in the area, I am



- area, I am not persuaded that it would be a positive benefit for the village or would add to, or maintain, the specific vitality of Semington.
165. The proposal would provide 17 bungalows. At the time of the Parish Needs Survey only 2 households sought a bungalow. For the reasons given above, the Parish Needs Survey does not provide either a complete or up-to-date assessment of the demand for bungalows and it may be higher than suggested by the survey.
166. Core Policy 46 supports the provision of housing to meet the needs of vulnerable and older people in suitable locations. Such schemes should help older people to live independently and securely in their communities. Evidence submitted by the appellant shows that the proportion of the population within Semington over 65 is similar to the rest of Wiltshire and the region as a whole. The provision of bungalows could encourage those residents wishing to downsize to move thus releasing larger properties for family use. However, the submitted evidence does not indicate that there is an undersupply of larger properties within Semington, indeed it would seem that the proportion of one and two bedroom dwellings is much lower by comparison with the remainder of the Wiltshire or the South West region. Moreover there is no substantive evidence that there is a need or demand for bungalows within Semington beyond those to be provided as part of the Hannick Homes scheme. Having regard to the range of services available within Wiltshire, and the tendency of older people to have a greater degree of reliance on services, I am not persuaded that Semington would be a suitable location for the provision of additional housing to meet the needs of older and vulnerable residents or that the proposal would comply with policy CP46.
167. The proposal would also provide a canalside park and two children's play areas. These would add to the range of recreational facilities available to residents. However, the village benefits from a good network of footpaths and PROWs, as well as children's play park, football pitch and tennis courts. Whilst there is no evidence to suggest that there is a need for a park within the village, it would nevertheless be a benefit of the proposal.
168. Whilst the delivery of affordable housing and bungalows are benefits of the proposal, it is doubtful that they would add to, or maintain, the viability of Semington. The provision of an additional classroom and the canal side park would both benefit the village to some extent, but there is no evidence to indicate that there is a need for such facilities. Accordingly I do not consider that the proposal is consistent with paragraph 55 of the NPPF.
169. Semington has a primary school, a public house, a village hall and a part time post office. In addition there are existing employment opportunities at Semington Dock, and at St Georges Road. The proposal would not provide any employment opportunities in Semington other than during the construction period. Therefore most residents in employment would need to commute out of the village to work. Balanced against this, the appeal site is not particularly remote from Melksham or Trowbridge. It lies within 3.6km of major industrial estates at Bowerhill which accommodate over 4,000 jobs. The Bowerhill employment area is accessible by a car free cycle route, and is also served by a bus route linking Semington with Melksham and Trowbridge. The service is reasonably frequent in the morning peak period, but less so during the evening.

170. Semington does not have a shop, and the mobile post office visits two mornings a week. There is no early years provision either planned or existing within Semington. Therefore nursery aged children would need to travel out of the village and residents would need to travel out of the village on a daily basis to meet most of their day-to-day needs
171. In terms of primary education there would be additional capacity within the village due to the educational contribution which would facilitate the provision of an additional classroom. Notwithstanding this, the proposal would be likely to give rise to a significant increase in the number of residents commuting out of the village to work, for shopping, education (other than for primary education), leisure and nursery/child care. The Transport Assessment suggests that there would be 40 additional journeys by car during peak hours, but the overall number of trips would be much greater. Some of these journeys would not be especially long given the proximity of Melksham and Trowbridge. Nevertheless, due to the number of dwellings proposed and the absence of any commensurate increase in employment or other facilities, the proposal would be likely to lead to an increased reliance on the use of cars to access employment, shops, services and other facilities which are regarded as reasonably necessary to modern life. It would therefore conflict with the settlement strategy of the Core Strategy which seeks to ensure that communities have a better balance of jobs, services, facilities and homes in order to achieve a sustainable pattern of development. When considered together with the Oxford Law proposal the overall number of journeys to and from the village would be even greater. Even with the additional classroom the primary school would have insufficient capacity to accommodate all of the potential primary age children from both developments, and therefore these journeys would be likely to include children travelling to and from primary school.
172. The appellant contends that the Council has adopted a more flexible approach in respect of other proposals, where it had not adhered to either the constraint of the settlement boundary or the nine dwelling limit for development within larger villages. Reference was made to the Hannick Homes decision and the Allington decision.
173. In the case of Hannick Homes the Officer's report was clear that although the proposal was contrary to the development plan because the site was located outside of the limits of development, but that other considerations weighed in favour of the proposal. These other factors included the delivery of affordable housing and allotments. The Council considered that the absence of harm to the character of the area combined with these benefits justified the grant of planning permission. The scheme at Allington included 24 dwellings, a community building and a recreation ground. This scheme followed a previous permission for 18 dwellings where the Council decided that the benefits of the scheme justified an exception to policy. In both cases the Council considered that although the schemes conflicted with the development plan, other material considerations, including the benefits of the proposals justified granting planning permission. The Council is entitled to reach this judgement which forms part of the overall planning balance. However, by their very nature the material considerations that were taken into account in these decisions will vary from scheme to scheme. Therefore these decisions do not set a precedent for further development outside of the settlement boundary, or indeed represent schemes of the scale proposed.

174. I therefore conclude that the proposal would not be in an acceptable location and of an appropriate scale having regard to development plan and national policies.

### **Affordable Housing**

175. Core Policy 43 requires at least 30% of new homes on sites of five or more dwellings within Semington to be affordable. A higher affordable housing requirement of 40% applies to some other parts of Wiltshire.

176. The scheme, as amended, proposes 40% affordable housing. At the inquiry the appellant confirmed that the delivery of these dwellings would not undermine the viability of the scheme and submitted a viability assessment to support this position. On the basis of the evidence submitted to the inquiry, I am satisfied that the appeal scheme could deliver the affordable housing proposed.

177. There can be little doubt that there is a pressing need for affordable housing both within Wiltshire and the country as a whole. The Core Strategy anticipates that 13,000 affordable homes will be delivered over the plan period. The Council does not dispute the need for affordable housing, but suggest that there is not a demonstrable need for affordable housing within Semington. It considers that Semington is the wrong location to meet the district-wide need for affordable housing and would require out commuting in order to access many services and facilities.

178. The Parish Needs Survey identified a need for three affordable homes for the period up to July 2017. The survey had a response rate of 42.4% and the majority of respondents were homeowners. However, it was clear that this was a minimum need and reflected the housing requirements of those who responded to the survey. It acknowledged that it may underestimate the total need for affordable housing within Semington and noted that at April 2014 there were 10 households on the housing register seeking affordable accommodation within Semington Parish. Therefore whilst the Parish Housing Needs Survey provides a useful snapshot of the affordable housing needs of those resident in the village at the time it was undertaken, it is possible that the does not take account of all those wishing to live in Semington or the need for affordable housing beyond 2017. Accordingly the weight to be afforded to the Parish Housing Needs Survey is limited.

179. At the present time there is one household on the register wishing to move to Semington. The affordable housing proposed is a combination of 60% affordable rent and 40% shared ownership. The need for affordable housing in Melksham and Trowbridge may well be greater than indicated by the housing register. In the light of the considerable shortfall in affordable housing and the proximity of Semington to these locations, the proposed affordable housing is likely to be attractive to many households in need of an affordable home.

180. The unilateral undertaking proposes that the scheme would provide 9 affordable bungalows. The appellant states that one third of those requiring housing support require a bungalow. This evidence is not disputed by the Council. It may be that some of the residents of Semington may wish to downsize to a bungalow either now or in the future. However, it is debateable as to how many of the older residents living within Semington would have a need for, or qualify for, affordable housing given the high proportion of

owner/occupied dwellings and low proportion of rented dwellings, particularly social rented dwellings. I agree with the Council, that it would be more appropriate to meet the affordable housing needs of the elderly within the nearby towns, or other higher order settlements where they would have access to a range of facilities and public transport.

181. Notwithstanding this, the unilateral undertaking provides sufficient flexibility for the Council to require an alternative mix to that shown within it. Consequently, whilst the provision of 9 affordable bungalows does not in itself weigh in favour of the proposal, this does not detract from the significant weight to be afforded to provision of affordable housing as part of the proposal.
182. I am also mindful that policy CP43 only requires affordable housing on sites of five or more dwellings, and consequently the reliance on settlement boundaries and the scale of development anticipated within Larger Villages such as Semington could limit the delivery of affordable housing within rural areas. However, Core Policy 44 allows for rural exception sites meet any identified need for affordable housing within rural areas. It is apparent from the Hannick Homes scheme that the Council takes a flexible approach to the delivery of such housing.
183. For the reasons given above, although I do not consider the proposal is necessary to meet the affordable housing needs of Semington, it would nonetheless help to meet the District wide need for such housing and assist with the delivery of Strategic Objective 3. Given the extent of the need for affordable housing and the shortfall in delivery, I afford significant weight to the delivery of affordable housing on this site.

### **Other Matters**

#### *Town and Village Green Application (TVGA)*

184. The application to register the appeal site land as a Village Green was lodged on 24 June 2016. The appellant suggests that the TVG was a triggered by Richborough Estates pre-application consultation with the Parish Council and the Council. As such Richborough Estates considers that it at a disadvantage due to its engagement in pre-application discussion in accordance with the policies in the NPPF. Whilst the TVGA is a material consideration in relation to the appeal, the matters which gave rise to it, or indeed the merits of the application are not.
185. The Council and Oxford Law submit that the site is not deliverable until the TVGA is resolved. Moreover, if the TVGA is granted the site cannot be developed. The appellant disagrees and contends that an unproven claim for a TVGA does not justify the refusal of planning permission. Reference was made to an appeal decision in Matlock<sup>16</sup> in support of this view. However, it would seem that in the Matlock case the Inspector did not consider the effect of the TVGA on the deliverability of the site.
186. The appellant states that the site is "available now" since at the present time it is not a TVG since the claim has not been proven. It was suggested that any other approach would require a judgement about the merits of the TVGA and

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<sup>16</sup> APP/P1045/A/14/2227116

this is not a matter for this appeal. The appellant considers that should planning permission be granted and the TVGA is subsequently proven the site would not come forward for development and would be removed from the housing land supply. Had I found that the proposal complied with the development plan I consider that there could be some merit in this approach. However, I found that the proposal would harm the character and appearance of the surrounding area, including the setting of the canal, and would fail to comply with the delivery strategy of the Core Strategy considered as a whole.

187. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. As acknowledged by the appellant the appeal proposal is contrary to policies CP1, CP2 and CP15 of the Core Strategy. Whether the site is capable of making a contribution to the supply of market and affordable housing is a relevant material consideration.
188. The appellant is a land promoter and not a housebuilder. At the inquiry it was explained that Richborough Estates's business model was to deliver sites with planning permission to the market and these were generally developed quickly. In the case of the appeal site the uncertainty regarding the TVGA would be likely to deter prospective developers from either purchasing or committing to the site until this matter is resolved. Therefore even if the TVGA is unsuccessful, at the present time it is an impediment to the delivery of houses on the appeal site. This is a matter to be weighed in the overall planning balance.

#### *Benefits*

189. I am aware that the Canal and Rivers Trust expressed support for the proposal because it would deliver benefits such as the canalside park and potentially reduce antisocial behaviour. There is no evidence to suggest that the canal in the vicinity of Semington suffers from such problems. At the time of my visits the canal, towpath and PROWs seemed to be well used by walkers, cyclists and those using boats on the canal. In the light of the significant harm to the character and appearance of Semington and its rural setting this consideration does not add significant weight in favour of the proposal. The canalside park and play areas would deliver some benefit but this needs to be balanced against the environmental harm arising from the proposal.
190. The proposal would also deliver some environmental benefits through the creation of a wider range of habitats, including the wetland area/attenuation pond and the conversion of the pill box to a bat roost, and also from the ecological enhancements proposed. The improved access to and proposed interpretation in relation to the pill box would be a cultural and heritage benefit of the proposal.
191. The proposal would also provide economic benefits through investment and the provision of jobs during the construction period. The increase in population would add to household expenditure and economic activity within the District.

#### ***Planning Balance***

192. The proposal would deliver affordable and market housing. In the light of the current national housing shortage, and the shortfall in housing delivery within Wiltshire, these considerations add significant weight in favour of the

proposal. However, although the Government sees the provision of housing as a priority as evidenced by the recent consultations, it is also eager to ensure that housing is provided in the right place.

193. The NPPF requires development plans to be prepared with the objective of achieving sustainable development and describes Local Plans as key to delivering sustainable development. The Core Strategy seeks to deliver sustainable development. The proposal would conflict with the strategy for the delivery of housing within it and as such it would add to the existing imbalance between housing and employment and give rise to significant harm to the character and setting of Semington. It would conflict with the development plan as a whole. Therefore the conflict with the Core Strategy is a matter of considerable weight.

194. I have found that the Council does have a five year supply of housing land and although the emerging WHSAP is still at an early stage, the development plan is not absent, silent or out-of-date. Consequently paragraph 14 of the NPPF is not engaged.

195. Looked at in the round the proposal would not represent sustainable development. The benefits of the proposal and other material considerations do not outweigh the harm that would arise from the proposal, or justify a decision other than in accordance with the development plan. Therefore the appeal should be dismissed.

### **Conclusion**

196. For the reasons given above I conclude that the appeal should be dismissed.

*Lesley Coffey*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

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He called	
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David Way	Wiltshire Council
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### FOR THE APPELLANT:

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RULE 6 PARTY:

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He called

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Framptons Planning Consultants

INTERESTED PERSONS:

Councillor Morland  
Brian Smyth  
William Scott

Semington Parish Council  
Semington Parish Council



## DOCUMENTS

- 1 List of Appearances submitted by the Council
- 2 Letter notifying arrangements for the Inquiry submitted by the Council
- 3 Suggested route for site visit submitted by the Council
- 4 Draft Site Allocations Plan and associated reports submitted by the Council
- 5 Education Note submitted by Richborough Estates
- 6 LDS timetable May 2005 – Present submitted by Richborough Estates
- 7 Transcript of Councillor Morland’s submissions to Cabinet Meeting dated 20 June 2017 submitted by Richborough Estates
- 8 Appeal ref: APP/F1610/16/W/3151754 Love Lane , Cirencester submitted by Oxford Law
- 9 Marketing information for Oxford Law site
- 10 Hannick Home Officer’s Report submitted by Oxford Law
- 11 Submission on behalf of Mr Smyth on behalf of Parish Council
- 12 Extract from West Wiltshire Local Plan Inspector’s Report submitted by the Council
- 13 Unilateral Undertaking submitted by Richborough Estates
- 14 Landscape Institute Advice Note 01/11 submitted by Richborough Estates
- 15 Appeal Ref: APP/R0660/A/14/2211721 Willaston, Cheshire submitted by Richborough Estates
- 16 Canalside park and attenuation pond dimensions submitted by Richborough Estates
- 17 Open space calculations submitted by Richborough Estates
- 18 Listing information in respect of other aqueducts along Kennet and Avon canal submitted by Richborough Estates
- 19 Note in respect of attenuation pond and safety
- 20 Extract from Planning Listed Buildings and Conservation Area Act 1990 submitted by Oxford Law
- 21 Photograph of canal embankment submitted by Richborough Estates
- 22 Conservation Officer’s comment in respect of Oxford Law scheme submitted by Richborough Estates
- 23 Listing details of Embankment and Aqueduct at Brecknock and Abergavenny submitted by Oxford Law
- 24 Claim Form CO/7802/2011 for Cheshire East submitted by Richborough Estates
- 25 Objectively Assessed Housing Need Statement of Common Ground submitted by Richborough Estates
- 26 Email dated 26 May 2017 from Mr O’Donoghue submitted by Richborough Estates
- 27 Appeal Ref: APP/P1615/A/14/2228822 Land North of Ross Road, Newent submitted by Richborough Estates
- 28 Extract from Cheshire East Inspector Report submitted by Richborough Estates
- 29 Extract from PAS: Good Plan Making Guide submitted by the Council

- 30 Zurich Assurance v Winchester City Council[2014]EWHC 758 (Admin) submitted by the Council
- 31 Planning Practice Guidance Housing and Economic Land availability assessment submitted by the Council
- 32 Email dated 26 May 2017 from Mr Humphreys submitted by the Council
- 33 Sajid Javid speech to LGA Conference July 2017 submitted by Richborough Estates
- 34 Barwood Strategic Land LLP v East Staffordshire Council and SoSCLG [2017] EWCA Civ893 submitted by Richborough Estates
- 35 Montage of viewpoints B and D submitted by Richborough Estates
- 36 Distance to supermarkets in Trowbridge and Melksham submitted by Richborough Estates
- 37 Pedestrian and cycle audit by PTB submitted by Richborough Estates
- 38 Size of housing sites south of Cheltenham submitted by Richborough Estates
- 39 Appeal Ref: APP/T3725/A/14/2222868 Radford Semele submitted by Oxford Law
- 40 Landscape sensitivity plans for Radford Semele dated November 2013 and April 2014 submitted by Richborough Estates
- 41 OS Extract of Kennet and Avon canal passing through urban areas submitted by Richborough Estates
- 42 Email dated 27 June 2017 from Clare Medland submitted by Richborough Estates
- 43 SoS decision APP/K3415/A/14/2224354 Curborough, Lichfield submitted by Oxford Law
- 44 Landscape Statement of Common Ground dated 5 July 2017
- 45 Note From Mr Donagh regarding instructions submitted by Richborough Estates
- 46 Technical Note from PTB in relation to Travel to Work Data for Rural Wiltshire submitted by Richborough Estates
- 47 Extract from draft WHSAD showing Semington settlement boundary submitted by Richborough Estates
- 48 Number of jobs within Melksham and Bowerhill submitted by Richborough Estates
- 49 Officer's report land off A338 and Bourne View Allington submitted by Richborough Estates
- 50 Three Wiltshire schemes Cliff Lane has been involved with submitted by Richborough Estates
- 51 Planning Practice Guidance Rural Housing submitted by Richborough Estates
- 52 GP surgeries accepting new registrations submitted by Richborough Estates
- 53 Email dated 14 March 2017 from Ruaridh O'Donaghue submitted by Richborough Estates
- 54 West Wiltshire Local Plan extract submitted by Richborough Estates
- 55 Ofsted report St Georges Semington submitted by Richborough Estates
- 56 Letter dated 4 September 2017 from Mr Read, Chester Commercial's submitted by Richborough Estates
- 57 List of suggested conditions submitted by the Council

- 58 Email dated 6 March 2017 from Mr Roe regarding CSAP sites submitted by Richborough Estates
- 59 Letter dated 31 August 2017 from Rupert Taylor to the Council regarding Bath Road site submitted by Richborough Estates
- 60 E mail dated 7 September from Mr Hunnybun to Mr Way submitted by Richborough Estates
- 61 Appeal decision Franklin Drive
- 62 Laying the Foundations Report submitted by Richborough Estates
- 63 Chester Commercial's response dated 7 September 2017
- 64 Appeal Ref: APP/Y3940/W/17/3173509 Hilltop Way, Salisbury submitted by Richborough Estates
- 65 Consultation responses to Appellant's revised proposal submitted by Richborough Estates
- 66 Mark Carney Article in relation to housing market submitted by Richborough Estates
- 67 Examples of variation to s106 agreement
- 68 Further suggested conditions
- 69 Affordable Housing Officer comments on appeal scheme dated 29 June 2016 submitted by Richborough Estates
- 70 E mail from Clare Medland dated 8 September 2017 submitted by the Council
- 72 Bloor Homes v SoSCLG and Hinckley and Bosworth Council [2014] EWHC 754 (Admin)
- 73 Email dated 8 September from WCC Planning Solicitor
- 74 Email dated 4 September 2017 from Chesters Commercial
- 75 Letter dated 8 September 2017 from Chesters Commercial

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## Appeal Decision

Inquiry Held on 27-30 June, 3 July-7 July and 5-8 September 2017

Site visit made on 19 July 2017

**by Lesley Coffey BA Hons BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 December 2017**

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**Appeal Ref: APP/Y3940/W/16/3164255**

**Land North of St Georges Road, Semington BA14 6GA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Oxford Law against the decision of Wiltshire Council.
  - The application Ref 16/06956/OUT, dated 15 July 2016, was refused by notice dated 4 November 2016.
  - The development proposed is residential development for up to 50 dwellings.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The inquiry and sat for 9 days from 27 June – 30 June and 3 July -7 July. It resumed for a further 4 days on 5 September 2017. There was an accompanied site visit on 19 July 2017 and I carried out unaccompanied site visits to the site and surrounding area at various times before and during the inquiry.
3. The application as submitted was for 72 dwellings. It was submitted in outline with all matters reserved for subsequent consideration. Prior to the commencement of the inquiry the appellant amended the scheme and the number of dwellings was reduced to 50. A revised illustrative plan was submitted. This shows how the appeal site could be developed. The appellant carried out consultation with local residents, the Parish Council, and other interested parties. I am satisfied that the reduction in the number of dwellings proposed would not be prejudicial to any party and I have considered the appeal accordingly. In reaching my decision, I have taken into account the responses received in relation to the appellant's consultation exercise.
4. The appeal was heard together with an appeal by Richborough Estates relating to an outline application for the erection of 75 dwellings, including affordable housing, with ancillary public open space and play areas and access from Pound Lane. The Inquiry heard evidence in relation to both appeals, including evidence on the effect of the two appeal schemes in combination. All of that evidence has been taken into account in both appeal decisions. Although some of the issues are common to both appeals, my findings in respect of these issues reflect the differences between the proposals and the specific

circumstances of the individual sites. Richborough Estates was a Rule 6 party in respect of this appeal.

5. An agreement under s106 of the Town & Country Planning Act 1990 was submitted by the appellant. This covenants to make financial contributions towards early years, primary and secondary education, as well as towpath improvements and waste and recycling. It also covenants to provide 30% of the dwellings as affordable housing. Two deeds of variation were submitted. These clarified the use of the primary education contribution and the trigger for the transfer of the affordable housing. The Council is satisfied that the submitted Agreement would overcome its fourth reason for refusal, namely the lack of available primary school places. I have considered the appeal accordingly.
6. The appellant did not present any evidence in respect of the 5 year housing land supply, and during the adjournment accepted that it is likely that the Council does have a 5 year supply of housing land. For reasons summarised briefly below, I agree with that position.
7. Following the close of the inquiry, the Government published a follow-on consultation on proposals within the Housing White Paper "Fixing our broken housing market". On 6 November 2017 the Council published the Swindon and Wiltshire Strategic Housing Market Assessment. The parties were provided with an opportunity to comment on both of these publications and I have taken their respective views into account in reaching my decision.
8. The Council's reasons for refusal did not allege harm to the setting of St Georges Hospital, a Grade II listed building on the opposite side of the road from the appeal site. However, Richborough Estates, a Rule 6 Party, raised this as a concern and I have considered the matter below.

### **Main Issues**

9. I consider the main issues to be :
  - The effect of the proposal on the character and appearance of Semington and the surrounding rural landscape;
  - The effect of the proposal on the setting of St Georges Hospital, a Grade II listed building designated and any undesignated Heritage Assets; and
  - Whether the proposal would be in an acceptable location and of an appropriate scale having regard to development plan and national policies.

### **Reasons**

#### ***Development Plan and Emerging Plan***

10. The development plan includes the Wiltshire Core Strategy (adopted January 2015), the saved policies of the West Wiltshire Local Plan 2004 and the Chippenham Sites Allocation Plan (CSAP) (adopted May 2017). Although the appeal site does not come within the CSAP area, the housing allocations within the CSAP contribute to the housing land supply for the North West Wiltshire Housing Market Area (NWWHMA) in which the appeal site is located.
11. The Wiltshire Site Allocations Development Plan Document (WHSAP) is an emerging plan and will allocate future housing sites outside of Chippenham. A

Pre-submission draft was published for public consultation between July 2017 and September 2017. Given the very early stage of plan preparation and that public consultation has only just commenced I cannot afford this plan any significant weight.

12. The National Planning Policy Framework (NPPF) is a material consideration. It confirms that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. It also states that planning should be genuinely plan-led.
13. Together policies Core Policy 1 (CP1) and Core Policy 2 (CP2) of the Core Strategy set out the settlement hierarchy and delivery strategy for Wiltshire. CP1 identifies four tiers of settlements. These range from principal settlements such as Chippenham, Market Towns, Local Service Centres to Large and Small Villages. The accompanying text explains that the settlement boundaries will be reviewed as part of the Wiltshire Site Allocations DPD. At Large Villages, such as Semington, housing development is generally restricted to fewer than 10 dwellings and development outside of the boundaries is strictly controlled.
14. Policy CP2 sets out minimum housing requirements for each of the Housing Market Areas. It states that there is a presumption in favour of sustainable development at larger villages, which include Semington. Outside the defined limits of development, policy CP2 restricts development to that falling within the exception policies listed at paragraph 4.25 of the Core Strategy. Paragraph 4.26 sets out indicative housing requirements for each community area. The aim is to direct development at a strategic level to the most suitable and sustainable location. The underlying principle of the delivery strategy is to ensure that communities have a better balance of jobs, services, facilities, and homes.
15. Policy CP15 sets out the strategy for the Melksham Community Area, which includes Semington. It proposes 2,370 new homes within the Melksham Community Area over the plan period, 2,240 should be provided within Melksham with about 130 provided in the remainder of the community area.

### ***Landscape***

16. The appeal site is about 2.2 ha in area and currently comprises two agricultural fields. It adjoins the existing village to the east and is located opposite St Georges Hospital, a grade II listed building originally built as a workhouse. The southern and northern boundaries adjoin agricultural land and are defined by established hedgerows interspersed with native trees. The eastern boundary adjoins a public footpath (SEMI 9) which links St Georges Road and Pound Lane. The southern part of the footpath borders a large formal garden set behind a chain link fence, as well as a tennis court and small parking area, whilst the northern part adjoins existing residential development. St Georges Road terminates adjacent to the appeal site where it adjoins footpath SEMI 9A. Whilst Pound Lane terminates adjacent to the eastern boundary of the site and adjoins footpath SEMI 8. Therefore the site occupies an edge of settlement location and visually and functionally contributes to the rural setting of Semington.
17. Core Policy 51 of the Core Strategy requires development to protect, conserve and where possible enhance landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape

- measures. The policy sets out aspects of landscape character which should be conserved. These include the locally distinctive character of settlements and their landscape settings; the transition between man-made and natural landscapes at the urban fringe; landscape features of cultural, historic and heritage value; and tranquillity and the need to protect against intrusion from light pollution, noise, and motion.
18. Core Policy 57 seeks a high quality of design in all new development. It sets out a number of criteria which will be taken into account when assessing proposals.
  19. Although the proposal is in outline with all matters reserved, the illustrative plan shows how the site could be developed. The vehicular access would be from St Georges Road with a further access for use by pedestrians and cyclists at Pound Lane. The layout shows the proposed dwellings located to the west of the spine road with an area of open space immediately to the east. The proposal includes the re-instatement of the hedgerow across the centre of the site forming two clusters of residential development. The scheme includes an area of open space around the WWII pill box and a landscape buffer along the western and northern boundaries of the appeal site.
  20. Although St Georges Hospital originally occupied an isolated position, it is now adjoined by residential development to the west, which includes St Georges Place a development of about 25 dwellings. Immediately opposite the hospital is a tennis court enclosed by a chain link fence with a parking area. In addition, planning permission was granted for the residential development of land to the east of the listed building in 2016. Whilst the permission is in outline, the illustrative plans show dwellings situated across the width of the site, extending close to the boundary with St Georges Hospital, with allotments to the rear of the site.
  21. The rural character of the appeal site is reinforced by the change from a formal carriageway to a public footpath (SEMI 9A). Notwithstanding this, the land to the south and the east St Georges Road is clearly part of the settlement, and will be consolidated once the Hannick Homes scheme is built.
  22. The footpath adjacent to the eastern boundary of the site marks the boundary between the existing village and the countryside beyond. The boundaries to the dwellings in Pound Lane extend up to the footpath and form an abrupt edge to the village. The tennis courts and parking area at St Georges Road form a similarly harsh boundary. Beyond the historic core of Semington, which is focussed on the High Street, much development takes the form of small cul de sacs, many of which were built in the period between 1970 and 1990.
  23. The appellant acknowledges that there would be some harm arising from the proposal in that it would introduce development into the open countryside. However, it was considered that the extent of any harm could be mitigated by planting.
  24. The illustrative plans show the proposed dwellings located to the west of the spine road, and those on the southern part of the site would not extend in front of the listed building. Whilst the dwellings to the north occupy the full width of the site these would be a considerable distance from the listed building and on slightly lower ground. Therefore in views from St Georges Road the proposal



- would not be harmful to the setting of the hospital, provided a landscaped area similar to that shown on the illustrative plan is provided.
25. The proposal would generally retain the existing hedgerows other than in the vicinity of the access and it is intended re-instate a hedgerow across the centre of the site. Areas of landscaping are proposed towards the northern boundary and adjacent to the boundaries of the site to mitigate the appearance of the proposal. These elements, together with the low density of the proposed development, would assist with providing a transition between the man-made and natural environment in accordance with criterion iii of CP51. They would replace the more abrupt existing boundary, which has a distinct urban quality formed by the tennis courts, and the dwellings in Pound Lane that presently adjoin the footpath. However, the Council is concerned that the proposed landscaping could in itself be at odds with the rural character. Whilst the boundaries of the site would be able to accommodate some additional planting to supplement the existing vegetation, the areas of open space would need to be carefully designed in order to integrate with the surrounding landscape.
  26. The proposal would change the character of the appeal site in that the settlement boundary would move westwards and the open countryside that currently occupies this part of St Georges Road would be lost, but it would not alter the overall character of this part of St Georges Road, which is subject to numerous urban influences.
  27. The illustrative layout shows the proposed dwellings separated from the Pound Lane frontage by an area of landscaping. This frontage is more rural in character than the St Georges Road, with agricultural fields adjoining the site to the north and west. The existing houses are set behind substantial hedges, and although it is evident that these are domestic hedges due to their species height and form. The proposal would adopt a similar approach, but the dwellings would be set further back from the road and there would be a much more substantial area of planting. It is not proposed to provide a vehicular access onto Pound Lane, and therefore the integrity of the existing hedgerow would be retained.
  28. Due to the sloping nature of the site it is visible from footpaths SEMI 6 and SEMI 1 as well as from part of the towpath. It would not however breach the skyline in that the site slopes away from St Georges Road and therefore the roofline of the proposed dwellings would be likely to be lower than the existing properties on St Georges Road, including the hospital. Moreover, since the proposal is in outline form, when the reserved matters are submitted it would be possible to ensure the proposed dwellings did not break the skyline.
  29. The proposal would be noticeable in views to the east of the swing bridge, but it would be seen against the backdrop of existing residential development and would have a limited impact on the character of Semington and the rural landscape. From the swing bridge and the footpath to the west of it, the proposal would be much more noticeable and would clearly be identified as an extension to Semington. In these views the proposal would change the setting of the listed building.
  30. The existing rural footpath along the eastern boundary affords long open views to the west and south. As a consequence of the proposal they would be screened by the proposed landscaping and therefore the openness on which these views depend would be lost.

31. The proposal would maintain the character and landscape setting of Semington in that it would remain a rural village surrounded by agricultural fields. There would be some loss of views from the footpaths in the locality, including from part of the towpath. The appellant considers that these views would be of short duration because people would be moving along either the canal or the footpaths. In the case of the canal and the towpath views the proposal would be noticeable from the swing bridge, this is a place where both canal users and pedestrians wait whilst the bridge is opened or closed and also a place where people naturally pause due to the intersection of several footpaths.
32. Overall I conclude that the proposal would harm the character and appearance of Semington and the surround rural landscape contrary to policy CP 51. In particular there would be a loss of tranquillity and views from the footpath adjacent to the site.

### **Heritage Assets**

#### *St Georges Hospital*

33. The appeal site is situated on the north side of St Georges Road, close to St Georges Hospital, a grade II listed building, which was originally built as a workhouse. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering applications which affect Listed Buildings, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This duty is reflected in the Framework. Core Policy 58 (CP58) of Core Strategy confirms that designated heritage assets and their settings will be conserved and where appropriate, enhanced in a manner appropriate to their significance.
34. The officer's report at the time of the application found less than substantial harm to the setting of the listed building and judged that this would be outweighed by the public benefits of the proposal. For this reason the Council's decision did not refer to any harm to the setting of the listed building or other heritage harm. The Council explained that it was inferred that this meant that the identified harm was at the low end of the less than substantial bracket. At the inquiry, Mr O'Donaghue, on behalf of the Council, stated that the officer's report focussed on the harm to near views of the listed building rather than the wider landscape setting. In his opinion the views from the swingbridge/towpath form part of the setting of the listed building and should also have been considered by the Heritage Officer when considering harm to the significance of the listed building. Taking these views into account, Mr O'Donaghue stated that he disagreed that the public benefits outweigh the harm, irrespective of the 5 year supply issue. Notwithstanding this, in the light of the Council's decision he confirmed that it did not seek to rely on the last indented paragraph of NPPF paragraph 14.
35. The workhouse was built in 1836-1838 in response to the Poor Law Amendment Act 1834. The Melksham Union Board of Guardians agreed that the new workhouse, which served several parishes, would be located in Semington. The building became a hospital in 1948, and in 2002-3, it was converted into 25 flats and a further 25 dwellings were built within the grounds.

36. The building was designed so that its principal elevation faced north onto Knap Lane (now St Georges Road). The main elevation of the building is three storeys high, with the central bays projecting forwards with a pediment above, and is faced in limestone ashlar. The building adopts a cruciform layout and was designed to segregate men, women and children. It has been subject to a number of extensions and alterations over the years, prior to being listed in 1988, and is now occupied as flats.
37. The architectural interest of the building derives from its architect, Henry Edward Kendall. The historic interest of the building derives from its example of a workhouse built in response to the Poor Law Amendment Act 1834. At the time it was constructed the workhouse was located outside of Semington in a relatively isolated location. The parties agree that this was probably due to the cheaper land outside of the village and the social stigma associated with the workhouse.
38. The original setting of the building has been eroded due to the construction of housing on land to the south and west of the building, and an enclosed tennis court immediately opposite. In addition, planning permission was granted in December 2016 for the construction of 22 houses on land to the east of the workhouse. This development would effectively close the gap between the existing dwellings within the village and St Georges Hospital.
39. Richborough Estates considers that the rural setting and isolation of the building is important to the appreciation of the history of the workhouse and its architecture, particularly in views from the canal. The appellant disagrees that the building was designed to have significance in the landscape.
40. Many workhouses constructed in the C18 and C19 were located at the edges of settlements. Dr Miele suggests that this was due to the cheaper land and social stigma associated with the workhouse. He submitted details of several workhouses within Wiltshire. It is apparent that such buildings were generally built outside of settlements. Overtime, it would seem that most have been absorbed into the closest settlement.
41. St Georges Hospital is situated on higher land than much of Semington and is visible from the canal and towpath. Views from the towpath extend from the west of the swing bridge to a point slightly to the east of the site. In views from the east, the upper part of the former workhouse is visible, and is seen against the residential properties that occupy the foreground. Therefore from this direction the building is not seen as an isolated building, but as part of the townscape. In views from the west of the swing bridge, the building is seen in a pastoral setting, albeit some distance from the towpath. The appeal site forms part of this setting and the proposed development would intrude upon it.
42. The extent to which the rural fields on the opposite side of the road contribute to the setting of the listed building is doubtful. Neither the historic maps, nor the accounts of the workhouse, suggest that the workhouse had a functional relationship with the surrounding rural landscape. Indeed the only reference, within the submitted evidence to work carried out by the residents of the workhouse, relates to stone crushing by 'casuals'. It is apparent that this work took place within the curtilage of the building.
43. St Georges Hospital has to a large extent been absorbed into the Semington in a similar manner to the examples of other workhouses submitted by Dr Miele.

There is development to the west in the form of a suburban housing estate, the houses on the opposite side of the road form an almost continuous frontage up to the junction with High Street. Immediately opposite is a tennis court enclosed by a chain link fence about 4 metres high with an associated parking area. The permitted scheme on the adjoining land will further consolidate built development along St Georges Road. Although there is some planting to the front boundary of the workhouse, the forecourt is dominated by a large expanse of tarmac and a surface car park which further dilute any contribution that its original rural setting makes to the significance of the setting of the listed building.

44. The illustrative layout shows the proposed dwellings towards the front part of the site located to the west of an estate road, with an area of open space on the opposite side of the access road. The dwellings towards the rear part of the site would be a considerable distance from the building. Accordingly the proposed dwellings would not intrude on short to medium distance views of the listed building.
45. I find that the wider rural landscape does not contribute to either the architectural or historic interest of the former workhouse. The building no longer occupies an edge of settlement location, and I therefore conclude that the proposal would not harm the setting of the listed building.

#### *Pill Box*

46. There is WWII pill box on the appeal site. The parties agree that it is a non-designated heritage asset. It was constructed as part of the GHQ Blue Stop Line of defence along the Kennet and Avon Canal to protect London and central England from a potential German invasion. Pill boxes are not especially rare with about 6,500 surviving nationally and about 400 along the Kennet and Avon Canal. The pill box has historic significance as an example of WWII defences against invasion, but is of limited architectural interest.
47. It is intended that the pill box will be retained. Based on the indicative layout, the sightlines to the canal and swingbridge would be lost and consequently the historic relationship between them would be diluted. This would give rise to some limited harm. Balanced against this, the proposal would allow public access to the site of the pill box. I conclude that overall the proposal would have a neutral effect on the significance of the pill box.

#### ***Principle of Location***

48. The appeal site lies outside of the limits to built development. The appellant acknowledges that the proposal would fail to comply with policies CP1, CP2 and CP15 of the Core Strategy. However, the appellant contends that the weight to be afforded to these policies should be reduced because the settlement boundaries on which they rely are derived from a previous development plan and will need to be revised; and the Council does not yet have a complete development plan since the site allocations plan is still at a very early stage. During the course of the inquiry the appellant conceded that it is likely that the Council does have a 5 year supply of housing land.
49. Policy CP2 is underpinned by an aspiration to ensure that communities have a better balance of jobs, services, facilities and homes in order to achieve a sustainable pattern of development. The settlement boundaries on which it

relies have been brought forward from the previously adopted District Local Plan and were not reviewed to inform the Core Strategy. The Core Strategy Inspector considered that the efficacy of the plan was partially undermined by the absence of robust evidence to support of the identified limits for each settlement. He considered that whilst a combination of commitments, windfalls and strategic allocations may ensure a supply of development land to meet needs in the shorter term, the effectiveness of CP2, in combination with CP1, is dependent upon a timely review of settlement limits. He was however satisfied that this matter could be resolved by the Sites DPDs.

50. The settlement boundaries are intrinsic to the overall settlement strategy, but they are only one component of it. The strategy also relies on the settlement hierarchy, and the distribution of housing and employment land between and within the Community Areas. The strategy for the Melksham Community Area, as set out at CP15, proposes that the majority of dwellings should be situated within Melksham. It aims to improve the economic self-containment of Melksham and focus the delivery of services and infrastructure within the town.
51. Within the Melksham Community Area 1,362 dwellings were delivered in the period up to April 2016, against a requirement of 2,370 for the plan period. Of these, the majority were within Melksham. Within the remainder of the community area 83 dwellings were delivered, against a target of 130 dwellings. When development commitments for Melksham are taken into account the indicative minimum requirement is exceeded by 15%. It is therefore probable that by the need of the plan period the number of houses delivered both within Melksham and the remainder of the community area will exceed the aspirations of the policy CP15. Accordingly there is no evidence to indicate that the settlement boundaries that underpin policy CP2 are constraining development within the Melksham Community Area. Consequently development outside of the settlement boundary is not necessary to meet the housing needs of the Melksham Community Area.
52. However, neither the overall housing requirement for Wiltshire, nor the housing target for the Melksham Community Area, represents a ceiling. Paragraph 4.30 of the Core Strategy is clear that the disaggregation of housing to Community Areas is not intended to be inflexible, but aims to clarify the Council's intentions in the knowledge of likely constraints in terms of market realism, infrastructure and environmental capacity. I therefore see no reason in principle why some additional housing could not be delivered within the Melksham Community Area to offset the shortfall within the adjoining Trowbridge Community Area. However I note that the shortfall is within Trowbridge town rather than the remainder of the community area where 242 dwellings have been delivered against a target of 165. Consequently there is no pressing need for the identification of additional land at the present time. Moreover, any additional housing should generally be compliant with settlement hierarchy at policy CP2 and the intention of the Core Strategy to achieve a better balance between homes and jobs.
53. At the present time there are about 400 dwellings within the village. The appeal proposal would significantly increase the size of the village, both in terms of the number of dwellings and also the extent of built development. The 50 dwellings proposed would considerably exceed the indicative threshold of less than ten dwellings permissible within larger villages. Whilst this figure is not a ceiling it does provide an indication of the level of development

considered appropriate. The strategic objectives of the Core Strategy include modest growth, proportionate to the size of the settlement. When the dwellings proposed on the Richborough Estates site are included the cumulative increase would be in excess of 30%. Consequently the proposal, whether considered by itself, or together with the Richborough Estates scheme, would not represent modest growth proportionate to the size of the settlement. It would therefore conflict with the delivery strategy due not only to its location outside of the settlement boundary, but also because of the number of dwellings proposed.

54. The development plan will not be complete until the WHSAP is adopted, in that all of the land necessary to deliver the Core Strategy housing requirement has not yet been identified. However, the Core Strategy Inspector was satisfied that there would be a sufficient supply of land to meet development needs in the short term, and as explained above I find that the Council currently has a five year supply of housing land. Therefore there is adequate land at the present time to deliver the housing strategy within the development plan.
55. The Council are currently progressing the WHSAP and anticipate that the examination will take place in 2018, with adoption later the same year. The emerging WHSAP is at a very early stage and therefore cannot be afforded any significant weight. In Semington some minor changes to the settlement boundaries are proposed to reflect development that has already occurred, rather than to accommodate additional development. Whilst there are proposals to modify the settlement boundaries of some villages, these represent areas where either the housing needs for the plan period have not already been accommodated, or alternatively, addressed by way of neighbourhood plans. These proposals are subject to consultation, and the modification of these boundaries through a Site Allocations DPD is in accordance with policy CP2 and is consistent with the plan led process advocated by the NPPF.
56. I therefore find that the relevant policies for the supply of housing are not absent silent or out of date at the present time. Accordingly I afford policies CP1, CP2 and CP15 significant weight.
57. Paragraph 55 of the NPPF states that within rural areas housing should be located where it will enhance or maintain the vitality of rural communities. I have also had regard to the *Living Working Countryside The Taylor Review Of Rural Economy And Affordable Housing* published in 2008, and was a precursor of the NPPF. The Council confirmed that the Taylor Review was one of a number of documents that helped to inform the *Topic Paper 3: Settlement Strategy* and *Topic Paper 4: Rural Signposting* which formed part of the evidence base for the Core Strategy.
58. The Taylor Review highlighted the importance of building affordable homes to enable people who work in rural communities to continue to live in them. It stated that in many cases just a handful of well-designed homes, kept affordable in perpetuity for local people, would make all the difference to the sustainability of the community and its services. It also referred to the need to consider the benefits of development for villages rather than focusing on the negative effects. The housing strategy within the Core Strategy provides for some additional housing within rural villages through policies CP1 and CP2 and is consistent with the principles of the Taylor Review. Moreover, it is evident

- that the Council adopt a flexible approach development within villages, and have permitted schemes for in excess of 10 dwellings where the proposal would deliver significant community benefits.
59. The appellant considers that the proposal would provide a number of benefits, including the delivery of affordable housing, economic benefits in the form of jobs during the construction phase and thereafter through increased expenditure through new residents, ecological benefits, the provision of open space and benefits to the pill box.
60. The proposal would provide 30% of the proposed homes as affordable dwellings. The Parish Needs Survey indicated a need for 3 affordable homes. The Parish Needs Survey is likely to have underestimated the need for affordable homes within the village due to the low response rate, the demographic, social and economic profile of the village, and also because it only sought to address needs for the period up to July 2017. At the present time there are 27 affordable dwellings within Semington, with about 2 re-lets a year. I understand that there have been no affordable housing completions in Semington for the last 7 years.
61. However there is just 1 household on the housing register listing Semington as a first preference, compared to 119 for Melksham and 306 in the case of Trowbridge. On behalf of Richborough Estates, Mr Stacey suggested that this was because there was a more realistic prospect of obtaining an affordable home within Melksham or Trowbridge, however listing Semington as a first preference does not exclude applicants from applying for homes within Melksham.
62. Whilst I agree that the need for affordable homes within Semington is likely to be greater than indicated by the Parish Needs Survey, the recently permitted Hannick Homes scheme would provide 7 affordable homes. Although I do not doubt that the delivery of affordable homes would be a significant benefit of the proposal in terms of the overall affordable housing needs in the area, I am not persuaded that it would be a positive benefit for the village or would add to, or maintain, the specific vitality of Semington.
63. Whilst there would be some economic benefits arising from the creation of jobs during the construction phase and also through increased expenditure from new residents. There is no evidence to indicate that this would be a benefit to Semington, rather than the nearby towns of Melksham and Trowbridge, or Wiltshire as a whole.
64. There would be some benefit arising from the provision of open space and access to the pill box, although there is no evidence to suggest that there is a need for additional open space in Semington at the present time, or that these facilities would add to the vitality and viability of the village.
65. The pill box will be modified to create a bat roost and areas of native tree planting and improvements to hedgerows are proposed. These would mitigate and potentially enhance the ecological interest of the site. Whilst the proposal would deliver some benefits, looked at in the round I do not consider that the proposal is consistent with paragraph 55 of the NPPF.
66. Semington has a primary school, a public house, a village hall and a part time post office. In addition there are existing employment opportunities at

Semington Dock, and the employment units in St Georges Road. The proposal would not provide any employment opportunities in Semington other than during the construction period. Therefore most residents in employment would need to commute out of the village to work. Balanced against this, the appeal site is not particularly remote from Melksham or Trowbridge. It lies within 3.6km of major industrial estates at Bowerhill which accommodate over 4,000 jobs. The Bowerhill employment area is accessible by a car free cycle route, and is also served by a bus route linking Semington with Melksham and Trowbridge. The service is reasonably frequent in the morning peak period, but less so during the evening.

67. Semington does not have a shop, and the mobile post office visits two mornings a week. There is no early years provision either planned or existing within Semington. Therefore nursery aged children would need to travel out of the village and residents would need to travel out of the village on a daily basis to meet most of their day-to-day needs.
68. In terms of primary education there would be additional capacity within the village due to the educational contribution which would contribute to the provision of an additional classroom. Notwithstanding this, the proposal would be likely to give rise to a significant increase in the number of residents commuting out of the village to work, for shopping, education (other than for primary education), leisure and nursery/child care. Some of these journeys would not be especially long given the proximity of Melksham and Trowbridge. Nevertheless, due to the number of dwellings proposed and the absence of any commensurate increase in employment or other facilities, the proposal would be likely to lead to an increased reliance on the use of cars to access employment, shops, services and other facilities which are regarded as reasonably necessary to modern life. It would therefore conflict with the settlement strategy of the Core Strategy which seeks to ensure that communities have a better balance of jobs, services, facilities and homes in order to achieve a sustainable pattern of development. When considered together with the Richborough Estates proposal the overall number of journeys to and from the village would be even greater. Even with the additional classroom the primary school would have insufficient capacity to accommodate all of the potential primary age children from both developments, and therefore these journeys would be likely to include children travelling to and from primary school
69. I am aware that the Council has granted planning permission for more than 10 dwellings both in Semington ( the Hannick Homes site) and Allington. Moreover both sites were located outside of the settlement boundary.
70. In the case of Hannick Homes the Officer's report was clear that although the proposal was contrary to the development plan because the site was located outside of the limits of development, but that other considerations weighed in favour of the proposal. These other factors included the delivery of affordable housing and allotments. The Council considered that the absence of harm to the character of the area combined with these benefits justified the grant of planning permission. The scheme at Allington included 24 dwellings, a community building, and a recreation ground. This scheme followed a previous permission for 18 dwellings where the Council decided that the benefits of the scheme justified an exception to policy. In both cases the Council considered that although the schemes conflicted with the development plan, other material



considerations, including the benefits of the proposals, justified granting planning permission. The Council is entitled to reach this judgement which forms part of the overall planning balance. However, by their very nature the material considerations that were taken into account in these decisions will vary from scheme to scheme. Therefore these decisions do not set a precedent for further development outside of the settlement boundary, or indeed represent schemes of the scale proposed.

71. I therefore conclude that the proposal would not be in an acceptable location and of an appropriate scale having regard to development plan and national policies. In reaching this conclusion I have taken account of other appeal decisions that have been brought to my attention, including the Love Lane decision where the appeal was allowed despite the finding that there was a five year supply of housing land. The context of the Love Lane appeal differs from this appeal in that Wiltshire has a recently adopted Core Strategy.

### **Other Matters**

#### *Housing Land Supply*

72. Although the appellant no longer relies on the lack of a 5 year housing land supply, substantial evidence in relation to this matter was presented to the inquiry and it remains a material consideration in relation to this appeal. On the basis of the evidence submitted by the Council and Richborough Estates, and dealt with in detail in the other appeal, I have found that the Council does have a five year supply of housing land. Since this matter is no longer disputed by the appellant I shall briefly summarise my findings in relation to this matter below.
73. In summary I concluded that there is no justification to use a different housing requirement to that within the Core Strategy. Moreover, the inclusion of gypsy and traveller sites within the housing completions is acceptable. On this basis there is a residual housing requirement of 12,984 dwellings over the remainder of the plan period. Using the Liverpool method and applying a 5% buffer there is a five year housing requirement for 6,817 dwellings against a housing land supply sufficient for 6,867 dwellings. Consequently the Council does have a 5 year housing land supply.

#### *Affordable Housing*

74. The proposal would deliver 30% affordable housing in accordance with policy CP43 of the Core Strategy. There can be little doubt that there is a pressing need for affordable housing both within Wiltshire and the country as a whole. The Core Strategy anticipates that 13,000 affordable homes will be delivered over the plan period. The Council does not dispute the need for affordable housing, but suggest that there is not a demonstrable need for affordable housing within Semington. It considers that Semington is the wrong location to meet the district-wide need for affordable housing and would require out commuting in order to access many services and facilities.
75. The Parish Needs Survey identified a need for 3 affordable homes within Semington and the Council consider that this has been met by the recently permitted Hannick Homes scheme. However, the survey was clear that this was a minimum need and that it was a description of the housing requirements of those who responded to the survey. It acknowledged that it may

underestimate the total need for affordable housing within Semington. It noted that at April 2014 there were 10 households on the housing register seeking affordable accommodation within Semington Parish. Therefore whilst the Parish Housing Needs Survey provides a useful snapshot of the affordable housing needs of those resident in the village at the time it was undertaken, it is possible that it does not take account of all those wishing to live in Semington or the need for affordable housing beyond 2017.

76. At the present time there is 1 household on the register wishing to move to Semington. The affordable housing proposed is a combination of 60% affordable rent and 40% shared ownership. The need for affordable housing in Melksham and Trowbridge is much greater than for Semington and in the light of the considerable shortfall in affordable housing and the proximity of Semington to these locations, the proposed affordable housing is likely to be attractive to many households in need of an affordable home.
77. I am also mindful that policy CP43 only requires affordable housing on sites of five or more dwellings, and consequently the reliance on settlement boundaries and the scale of development anticipated within Larger Villages such as Semington could limit the delivery of affordable housing within rural areas. However, Core Policy 44 does allow for rural exception sites meet any identified need for affordable housing within rural areas. It is apparent from the Hannick Homes scheme that the Council takes a flexible approach to the delivery of affordable housing.
78. For the reasons given above, I do not consider the proposal is necessary to meet the affordable housing needs of Semington, but it would nonetheless help to meet the District wide need for such housing. Given the extent of the need for affordable housing and the shortfall in delivery, I afford this matter significant weight.

### ***Planning Balance***

79. The proposal would deliver affordable and market housing. In the light of the current national housing shortage, and the shortfall in housing delivery within Wiltshire, these considerations add significant weight in favour of the proposal. However, although the Government sees the provision of housing as a priority as evidenced by the recent consultations, it is also eager to ensure that housing is provided in the right place.
80. The proposal would also deliver economic and ecological benefits as outlined above. These matters add weight in favour of the proposal.
81. The NPPF requires development plans to be prepared with the objective of achieving sustainable development and describes Local Plans as key to delivering sustainable development. The proposal would conflict with the strategy for the delivery of housing within the Core Strategy which seeks to deliver sustainable development. It would add to the existing imbalance between housing and employment and give rise to significant harm to the character and setting of Semington. It would conflict with the development plan as a whole. The conflict with the Core Strategy is a matter of considerable weight.
82. I have found that the Council does have a five year supply of housing land and although the emerging WHSAP is still at an early stage, the development plan

is not absent, silent or out-of-date. Consequently paragraph 14 of the NPPF is not engaged.

83. Looked at in the round the proposal would not represent sustainable development. The benefits of the proposal and other material considerations do not outweigh the harm that would arise from the proposal, or justify a decision other than in accordance with the development plan. Therefore the appeal should be dismissed.

**Conclusion**

84. For the reasons given above I conclude that the appeal should be dismissed.

*Lesley Coffey*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Richard Humphreys QC	Of Counsel Instructed by Frank Cain Head of Legal Services
He called Will Harley BSc(Hons) CMLI	Director W H Landscape Consultancy
Ruaridh O'Donoghue BA(Hons) MA TP	Senior Planning Officer Wiltshire Council
Jonathan Lee BSC (Hons)	Managing Director Opinion Research Services
Christopher Roe MSC, MRTPI	Senior Planning Officer Wiltshire Council
David Way	Wiltshire Council
Dorcas Ephraim	Solicitor Wiltshire Council

### FOR THE APPELLANT:

Killian Garvey	Of Counsel Instructed by Oxford Law
He called Dr Jonathan Edis BA,MA,PhD,MCIfA, IHBC	Heritage Collective
Paul Harris BA,Dip LA,CMLI	MHP Chartered Landscape Architects
Peter Frampton BSc(Hons), MRTPI RICS	Framptons Planning Consultants

### RULE 6 PARTY:

Christopher Young	Of Counsel Instructed by Richborough Estates
He called Clare Brockhurst FLI, BSc(Hons),Dip LA	Landscape Consultant Tyler Grange
Dr Christopher Miele MRTPI IHBC	Montague Evans
Cliff Lane	Director Savills

James Stacey  
BA (Hons)DipTP MRTPI

Tetlow King

James Donagh  
BA(Hons) MCD,MIED

Barton Willmore

Neil Hall BA (Hons) BTP  
MRTPI

Amec Foster Wheeler

James Parker

#### INTERESTED PERSONS:

Councillor Morland  
Brian Smyth  
William Scott

Semington Parish Council  
Semington Parish Council

#### DOCUMENTS

- 1 List of Appearances submitted by the Council
- 2 Letter notifying arrangements for the Inquiry submitted by the Council
- 3 Suggested route for site visit submitted by the Council
- 4 Draft Site Allocations Plan and associated reports submitted by the Council
- 5 Education Note submitted by Richborough Estates
- 6 LDS timetable May 2005 – Present submitted by Richborough Estates
- 7 Transcript of Councillor Morland's submissions to Cabinet Meeting dated 20 June 2017 submitted by Richborough Estates
- 8 Appeal ref: APP/F1610/16/W/3151754 Love Lane , Cirencester submitted by Oxford Law
- 9 Marketing information for Oxford Law site
- 10 Hannick Home Officer's Report submitted by Oxford Law
- 11 Submission on behalf of Mr Smyth on behalf of Parish Council
- 12 Extract from West Wiltshire Local Plan Inspector's Report submitted by the Council
- 13 Unilateral Undertaking submitted by Richborough Estates
- 14 Landscape Institute Advice Note 01/11 submitted by Richborough Estates
- 15 Appeal Ref: APP/R0660/A/14/2211721 Willaston, Cheshire submitted by Richborough Estates
- 16 Canalside park and attenuation pond dimensions submitted by Richborough Estates
- 17 Open space calculations submitted by Richborough Estates
- 18 Listing information in respect of other aqueducts along Kennet and Avon canal submitted by Richborough Estates

- 19 Note in respect of attenuation pond and safety
- 20 Extract from Planning Listed Buildings and Conservation Area Act 1990 submitted by Oxford Law
- 21 Photograph of canal embankment submitted by Richborough Estates
- 22 Conservation Officer's comment in respect of Oxford Law scheme submitted by Richborough Estates
- 23 Listing details of Embankment and Aqueduct at Brecknock and Abergavenny submitted by Oxford Law
- 24 Claim Form CO/7802/2011 for Cheshire East submitted by Richborough Estates
- 25 Objectively Assessed Housing Need Statement of Common Ground submitted by Richborough Estates
- 26 Email dated 26 May 2017 from Mr O'Donoghue submitted by Richborough Estates
- 27 Appeal Ref: APP/P1615/A/14/2228822 Land North of Ross Road, Newent submitted by Richborough Estates
- 28 Extract from Cheshire East Inspector Report submitted by Richborough Estates
- 29 Extract from PAS: Good Plan Making Guide submitted by the Council
- 30 Zurich Assurance v Winchester City Council[2014]EWHC 758 (Admin) submitted by the Council
- 31 Planning Practice Guidance Housing and Economic Land availability assessment submitted by the Council
- 32 Email dated 26 May 2017 from Mr Humphreys submitted by the Council
- 33 Sajid Javid speech to LGA Conference July 2017 submitted by Richborough Estates
- 34 Barwood Strategic Land LLP v East Staffordshire Council and SoSCLG [2017] EWCA Civ893 submitted by Richborough Estates
- 35 Montage of viewpoints B and D submitted by Richborough Estates
- 36 Distance to supermarkets in Trowbridge and Melksham submitted by Richborough Estates
- 37 Pedestrian and cycle audit by PTB submitted by Richborough Estates
- 38 Size of housing sites south of Cheltenham submitted by Richborough Estates
- 39 Appeal Ref: APP/T3725/A/14/2222868 Radford Semele submitted by Oxford Law
- 40 Landscape sensitivity plans for Radford Semele dated November 2013 and April 2014 submitted by Richborough Estates
- 41 OS Extract of Kennet and Avon canal passing through urban areas submitted by Richborough Estates
- 42 Email dated 27 June 2017 from Clare Medland submitted by Richborough Estates
- 43 SoS decision APP/K3415/A/14/2224354 Curborough, Lichfield submitted by Oxford Law
- 44 Landscape Statement of Common Ground dated 5 July 2017
- 45 Note From Mr Donagh regarding instructions submitted by Richborough Estates
- 46 Technical Note from PTB in relation to Travel to Work Data for Rural Wiltshire submitted by Richborough Estates

- 47 Extract from draft WHSAD showing Semington settlement boundary submitted by Richborough Estates
- 48 Number of jobs within Melksham and Bowerhill submitted by Richborough Estates
- 49 Officer's report land off A338 and Bourne View Allington submitted by Richborough Estates
- 50 Three Wiltshire schemes Cliff Lane has been involved with submitted by Richborough Estates
- 51 Planning Practice Guidance Rural Housing submitted by Richborough Estates
- 52 GP surgeries accepting new registrations submitted by Richborough Estates
- 53 Email dated 14 March 2017 from Ruaridh O'Donaghue submitted by Richborough Estates
- 54 West Wiltshire Local Plan extract submitted by Richborough Estates
- 55 Ofsted report St Georges Semington submitted by Richborough Estates
- 56 Letter dated 4 September 2017 from Mr Read, Chester Commercial's submitted by Richborough Estates
- 57 List of suggested conditions submitted by the Council
- 58 Email dated 6 March 2017 from Mr Roe regarding CSAP sites submitted by Richborough Estates
- 59 Letter dated 31 August 2017 from Rupert Taylor to the Council regarding Bath Road site submitted by Richborough Estates
- 60 E mail dated 7 September from Mr Hunnybun to Mr Way submitted by Richborough Estates
- 61 Appeal decision Franklin Drive
- 62 Laying the Foundations Report submitted by Richborough Estates
- 63 Chester Commercial's response dated 7 September 2017
- 64 Appeal Ref: APP/Y3940/W/17/3173509 Hilltop Way, Salisbury submitted by Richborough Estates
- 65 Consultation responses to Appellant's revised proposal submitted by Richborough Estates
- 66 Mark Carney Article in relation to housing market submitted by Richborough Estates
- 67 Examples of variation to s106 agreement
- 68 Further suggested conditions
- 69 Affordable Housing Officer comments on appeal scheme dated 29 June 2016 submitted by Richborough Estates
- 70 E mail from Clare Medland dated 8 September 2017 submitted by the Council
- 72 Bloor Homes v SoSCLG and Hinckley and Bosworth Council [2014] EWHC 754 (Admin)
- 73 Email dated 8 September from WCC Planning Solicitor
- 74 Email dated 4 September 2017 from Chesters Commercial
- 75 Letter dated 8 September 2017 from Chesters Commercial

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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No.1

<b>Date of Meeting</b>	11 January 2018
<b>Application Number</b>	17/04730/VAR
<b>Site Address</b>	Land West Of Norrington Lane, Broughton Gifford, Norrington Common SN12 8LR
<b>Proposal</b>	Minor material amendment to planning permission W/12/02072/FUL (varying conditions 4 and 10) to facilitate the "as built" plans
<b>Applicant</b>	Norrington Solar Farm Ltd
<b>Town/Parish Council</b>	BROUGHTON GIFFORD
<b>Electoral Division</b>	MELKSHAM WITHOUT NORTH – Cllr Alford
<b>Grid Ref</b>	388136 164692
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	James Taylor

### **Reason for the application being considered by Committee**

Councillor Phil Alford has requested that this application be determined by Members should officers be supportive of it and to allow Members to consider the following key issues:

- Scale of development;
- Visual impact upon the surrounding area;
- Design - bulk, height, general appearance; and
- Fencing.

This application was deferred at the 13<sup>th</sup> December 2017 Western Area Planning committee to allow a site visit to be conducted by Members on the 10<sup>th</sup> January 2018 prior to considering the merits of the development further at the 11<sup>th</sup> January 2018 meeting.

### **1. Purpose of Report**

The purpose of this report is to consider the merits of the application and to explain the rationale for officers recommending approval.

### **2. Report Summary**

The following report outlines the relevant material considerations, the results of the consultation process, the assessment of the planning merits and concludes by recommending that the application should be approved.

The key planning issues are considered to be:

- Introduction, Principle of Development and Planning History
- Potential contribution to reducing climate change and sustainable development objectives
- Impact on the Landscape of the Open Countryside
- Impact on Public Rights of Way

- Impact on Highway Safety
- Impact on Ecological Interests
- Impact on Archaeological Interests
- Impact on agricultural land and surface water flooding
- Impact on Heritage Assets
- Conditions

This conclusion and recommendation to grant permission is reached on the basis that the proposals address the previous reasons for refusal on the variation application 14/01962/VAR, an application determined by this planning committee. This is because the CCTV proposals have been omitted from this scheme and the previous metal fencing has been entirely removed and replaced with deer proof fencing, as per the original permission.

This proposal as built and operating makes a significant (10 Mw) and highly valued contribution towards Wiltshire's renewable energy targets. Although the site is located within the open countryside it has to be acknowledged that to provide the scale of renewable energy necessary to meet climate change targets that this type of development needs to be located in rural and semi-rural areas.

The on-going negative public response to this variation application compared to the original application is noted. However significant weight must be given to the fact that planning permission was granted in June 2013 for the installation of a solar photovoltaic (PV) farm covering this site of 22.1 hectares.

Furthermore the variation application of 2014 that sought to regularize the as built scheme was refused due to the impact of the existing fencing and proposed CCTV. These elements of the scheme have been addressed, with the fencing replaced by the approved fencing and the CCTV proposals dropped.

The development has been virtually completed and this application (by a new owner) seeks to make material alterations to the original approval. Officers submit that the alterations would not result in any significant material harm in planning terms above and beyond the extant approval when considered singularly or cumulatively with more recent large-scale solar PV schemes in the vicinity.

### **3. Site Description**

The application site, until the implementation of planning approval W/12/02072/FUL, was agricultural fields. In total there were 4 fields with mature field margins and drainage ditches on the periphery. Since the implementation of the planning permission (albeit not wholly in accordance with the approved plans), the 4-field site has taken on a different character formed by the solar panel arrays and associated development such as invertors and fencing whilst retaining the same mature field margins.

It is important to stress that the site is not subject to any special landscape designations.

Access is to the east of the main solar farm area onto Norrington Lane – which is a single width country lane bounded by high hedgerows. The access point to the public highway was originally via a farm access. This has been altered (as previously approved) to facilitate the implementation of W/12/2072/FUL.

The application site has public rights of way across it, some of which have been formally diverted following the implementation of W/12/02072/FUL.

To the south of the application site is Broughton Gifford Common and the associated designated Conservation Area. There are also a number of listed buildings within the

designated conservation area including the Grade II\* listed Gifford Hall. There are isolated rural dwellings close to the site to the east, next to the electricity station and residential property around The Common to the south of the application site.

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

W/12/02072/FUL - Installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access – Permission on 25.06.2013

14/01962/VAR - Minor material amendment to planning permission W/12/02072/FUL to facilitate CCTV and revised access track – Refused on 3 September 2014 for the following reasons:-

*1. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would have an unacceptable adverse visual impact on the countryside and landscape contrary to policies C1 and C34 of the West Wiltshire District Plan (1st alteration) and with policy CP51 of the emerging Core Strategy (April 2014 tracked changes version) and with the Governments Planning Practice Guidance that recognises the impact security measures on solar farms could have on the landscape.*

*2. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would be detrimental to the heritage assets and setting of the Grade II\* listed building known as Gifford Hall contrary to the National Planning Policy Framework and policy 58 of the emerging Core Strategy (April 2014 tracked changes version) and the Governments Planning Practice Guidance.*

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

This is a minor material amendment application seeking to vary the original planning approval for the installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access. As with the 2014 application the following alterations are detailed – and did not form a part of the reasons for refusal in the 2014 minor material amendment application:

- Amendments to access to allow separation from SSE electricity pole;
- Extension to permanent track way to allow year round maintenance access;
- Arrays to have 1 leg instead of 2 and 0.73 metres lower in height;
- Arrays to be 2x landscape rather than 6x portrait and closer together;
- Alterations to on-site substation detail including reduction in area by circa 22sqm and height by circa 0.5 metres;
- Alterations to DNO substation so circa 15sqm smaller but approximately 0.73 metres higher;
- Reduction in number and height of inverter houses to allow 8 (rather than 13) and circa 0.5 metres lower in height;
- Revised landscaping detail to reflect alterations above.

In order to address the previous reasons for refusal against the 2014 minor amendment application and in order to address wider Parish Council and resident concerns the following works/alterations to the proposal have been detailed/agreed with the Parish Council and

your officers:

- Removal of CCTV cameras from the proposal in order to reduce visual and heritage impacts (Never installed);
- Removal of all metal security fencing and replacement with deer proof fencing. (Deer proof fencing was approved in the 2012 application) (Work completed);
- Three acoustic noise barriers around the inverters closest to the southern and eastern boundaries of the site to address a concern raised by neighbours (Work completed);
- Revised drainage strategy (To be completed and a condition suggested by the applicants);
- Replacement of a stile with a kissing gate as requested by the Parish Council (Work completed) and signage as requested by Parish Council (Work completed);
- Completion of ecological and mitigation requirements from the original planning permission and Landscape Environment Management Plan (LEMP) as far as possible, including site and surroundings tidying; ecological enhancement; ditch clearing; and enhanced landscape planting (Work completed, on-going implementation);
- Additional landscaping in key areas to reduce the visual impact of the solar PV farm from the surrounding properties, landscape and heritage assets (Work completed);
- Replacement of dead Ash tree (Work completed).

It is understood that works are substantially complete and the development has been producing renewable energy since installation in July 2014. Outstanding planning requirements relate to installation of some drainage swales. The reference in the description to seeking changes to conditions 4 and 10 reflects the fact that condition 4 refers to the plans approved, and condition 10, the landscaping.

## **6. Planning Policy**

### Local context:

#### Wiltshire Core Strategy 2015

SO2: Addressing Climate Change;

SO5: Protecting and Enhancing the Natural, Historic and Built Environment;

CP3: Infrastructure requirements;

CP15: Spatial Strategy for the Melksham Community Area;

CP42: Standalone Renewable Energy Installations;

CP50: Biodiversity and Geodiversity;

CP51: Landscape;

CP57: Ensuring High Quality Design and Place Shaping;

CP58: Ensuring the conservation of the historic environment;

CP62: Development Impacts on the Transport Network;

CP67: Flood Risk; and

appendix D's 'saved policy CR1 (Footpaths and Rights of Way) of the West Wiltshire Leisure and Recreation DPD 2009.

National Context:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Section 66 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving and enhancing the character or appearance of the conservation area.

## **7. Consultations**

Broughton Gifford Parish Council: Objection.

*“Broughton Gifford Parish Council has commented on this planning application after a Special Planning Meeting held on 7th June and a subsequent site walkabout on Monday 12th June. The site visit showed that some of the work on the ground did not match what was in the plan and generally seemed scrappy and unfinished.”*

*“In view of this, while the Parish Council SUPPORTS three recent improvements, (two on the ground and one promised by Jacobs) generally it has no option except to OBJECT to the Minor Amendment Application as a whole, as currently presented.*

*The Parish Council SUPPORTS the following proposals within the application:*

*1. ACCOUSTIC BARRIERS – INVERTERS: The Jacoustic close-timber-fencing enclosures around the inverter cabinets, albeit heavy in appearance for the open countryside, do appear successful in reducing the noise.*

*2. REPLACEMENT OF BROKEN STILE WITH KISSING GATE: Jacobs has promised to install a new kissing gate at the Norrington end of the site, where the existing stile, due to soil level changes, now steps from/to a big dip in the land, making it extremely unsafe/ hard to use. The Parish Council welcomes this change as it will enable safe footpath access from Norrington to the fields again.*

*3. REINSTATEMENT OF VERGES AT NORRINGTON: The Parish Council welcomes the re-instatement work done recently along the carved-up verges.*

*The Parish Council OBJECTS to the MMA application for the following reasons:*

*4. DETERIORATING FENCING The Parish Council does not support the developer being allowed to retain the incorrect industrial fencing, rather than the required deer fencing, and is sceptical about the £100,000 cost that has been quoted. How has this sum been calculated? Apart from the fact that the industrial fence looks inappropriate, overbearing and obtrusive in the open countryside, it is not fit for purpose. It does not enclose the panels effectively or keep livestock in the enclosures. After less than a third of the life of the Solar Farm, the fence is already breaking down in several places ; peeling upwards at its base with gaps underneath to allow easy breaches and movement by all types of animals. The recent Parish Council site visit showed that sheep were running freely inside and outside the enclosures. The fencing must be replaced because it is deteriorating and is not stock-proof.*

*5. SOLAR PANELS: As you will be aware, 67% more solar panels have been built than were given permission. In some fields these are jammed together, making the corridors outside the enclosures too narrow and in other fields there are huge gaps, meaning an unnecessary loss of agricultural land. If the correct deer fencing were to be installed to replace the poor*

*industrial fence, this would provide an opportunity to redress the imbalances and place the fence at the same regular distance from panels throughout the site.*

*6. POOR QUALITY, UNPROTECTED LANDSCAPING* The additional landscaping and screening is of poor quality; spindly new 3-5 ft whips and small hedgerow plants have been used. Sadly as the landscaping has not been properly protected from sheep roaming inside the enclosures, much of what has been planted, has been eaten or has died through lack of care. In one area sheep have completely knocked off the small protective sleeves. The new landscaping does not therefore provide the necessary additional screening. To be acceptable, some areas need to be redone using good quality strong plants, that are fully protected from animals.

*7. POND AND DRAINAGE:* There is no 10m exclusion zone around the pond and it is tightly fenced with barbed wire. While the plans show several drainage swales, only two sections (25%) have been installed so far.

*8. REQUIREMENT FOR TARMAC SPLAY, NORRINGTON:* The heavy duty tarmac splay, where the track from cottages joins the main Norrington Lane, has not yet been installed. There was a requirement for hedgerow adjacent to the Lane to be set back by 1.5 metres to give visibility and this has not yet been done.

*9. BLOCKED, UNDELINEATED RIGHTS OF WAY:* There is no explanatory rights of way board, showing diverted routes at the main Common stile or any directional waymarks to indicate diverted routes. Ideally, at least two boards are needed at either end of this large site; both at the main Common and at Norrington, next to the main stiles so that they are well placed to assist walkers. Two rights of way are blocked by a barbed wire "Wiltshire gate" which many walkers would find unnegotiable. One stile to the left of the first field from Norrington, actually has barbed wire along one side, making it difficult to climb without getting one's foot entangled. This needs to be made safe.

*10. WILD FLOWER PLANTING, BORDER HEDGEROW ZONES & TREE DAMAGE:* There is no ecological area protected from cattle, as promised in the original application. Some of the zones between hedgerows and the industrial fencing are narrower than the required 10m zones. With heavy cattle and bulls roaming the border areas, the narrower corridors along fields could make some dog walkers feel vulnerable. Two mature trees set within the hedgerow were not given the 10m zone required during construction and so one large Ash tree is now dead and needs to be replaced.

*In summary, the Parish Council believes that this MMA Application has been prematurely submitted without the necessary changes being done to bring the site up to an acceptable standard, namely:-*

*a) Correct deer fencing to replace damaged industrial fencing. New fencing should be installed at the same distance away from solar panels in all fields.*

*b) Good quality, larger landscaping plants that are properly protected from animals and guaranteed to provide full screening within 5 years.*

*c) 10m exclusion zone around pond.*

*d) 100% swales, as shown in plans, to be installed.*

*e) 2 Explanatory rights of way boards at either end of Solar Farm; (The Common and at Norrington).*

*f) Removal of "Wiltshire gates" and replacement with fence/kissing gates.*

*g) Barbed wire removed from stile near Norrington and made safe or kissing gate installed.*

*h) Ecological zone provided with wild flower planting.*

*j) Replacement of dead Ash with mature new tree (12-15 ft high).*

k) Fund retained to guarantee landscape management plan in place for duration of Solar Farm.

*It is now four years since the original Solar Farm was installed (W/12/02072/FUL and there has already been much time and opportunity to rectify some of the worst planning breaches. There is concern that if the MMA application is permitted as it is, with set conditions, this work will never be properly completed. The Parish Council would therefore recommend that the MMA application should either be put on hold until the above work is seen to have been completed satisfactorily or rejected outright."*

*"Further to my Council's comments on 28<sup>th</sup> June 2017, the Parish Council wish to express their full support for the many letters sent by residents in objection to the original gross breach of planning consent in installing 67% more solar panels than the permission allowed. The extra unscheduled panels alters the appearance of the site overall quite considerably in giving the effect of solid glass and a greatly diminished open aspect. The overbuild on the site is shocking, showing a total lack of respect for the planning process. The Parish Council believes the developers should be taken to task for this and made to comply to the number/ total area of panels set by the original application and to remove the excess panels."*

Melksham Without Parish Council: No objection.

Historic England:

*"Within the village of Broughton Gifford are a number of listed structures that have the potential to be affected by this proposal; Gifford Hall (grade II\*) being the most highly graded and nearest to the site. There are also a number of Grade II listed buildings in close proximity to Gifford Hall that could also be affected. This group of designated heritage assets is located to the eastern side of Broughton Common and forms an important element of the Broughton Gifford Conservation Area.*

*The site of the solar farm covers approximately 20 hectares of land located to the west of Norrington Lane and abuts the Conservation Area boundary. The topography is generally flat with minor undulations, and the land around the Conservation Area is predominantly agricultural in use and rural in character with a number of public footpaths connecting the village to outlying areas.*

*The list description for Gifford Hall states that it is "A good, little altered example of an early 18th century classical house", and whilst its primary facade faces south towards the Common, its wider setting, and that of the Conservation Area, is one of rural, open character.*

*I visited site on 11 September 2017 and observed the solar farm from public footpaths and from Gifford Hall itself.*

*The solar farm impacts on the agricultural, rural character which defines the setting of the Grade II\* Gifford Hall and of Broughton Gifford Conservation Area. Their settings are harmed by the introduction of a form of modern development at odds with the historical character of the area.*

*Given the scale of the consented solar array and its impact on the setting of the Grade II\* Gifford Hall and Broughton Gifford Conservation Area, Historic England would have expected to have been consulted on the original application that has now been implemented, albeit not in accordance with the permitted plans.*

*The current application is to increase in the number of rows of panels (from 93 to 155), with a reduction in the gaps to the hedges in some places. This suggests that, despite the*

*reduction in height of the panels, the local, visual impacts are greater than the permitted scheme.*

*The solar farm is visible from some of the rear windows of the upper floors of Gifford Hall, where the rows of panels appear as a solid mass, i.e. due to the oblique viewing angle the gaps between the rows are not visible. The permitted scheme had fewer rows, with taller panels, and may also have appeared as a similar mass of panels.*

*The approved “deer fence”, with wooden posts, is more akin to what one would expect to find in an agricultural environment.”*

*“In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess; section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas; and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.*

*Your authority should take these representations into account in determining the application.”*

Wiltshire Council's Conservation Officer: No comments and did not object to original scheme.

Environment Agency: No comments received. Note that they raised no objection to original scheme

Natural England: No comment.

Wiltshire Council's Archaeology: No comments received. Note that they raised no objection to original scheme.

Wiltshire Council's Ecology: No objection. Note that they raised no objection to original scheme.

Wiltshire Council's Environmental Health: No objection.

Wiltshire Council's Highways: No objection.

Wiltshire Council's Landscape Officer: No comments received. Note that they raised no objection to previous variation application but stated that they would prefer not to have seen the addition of CCTV or changes to fencing but there are no major landscaping concerns.

Wiltshire Council's Rights of Way: No comments received. Note that they raised no objection to original scheme.

Wiltshire Council's Tree Officer: No comments received. Note that they raised no objection to original scheme.

## **8. Publicity**

This application was advertised by means site notices; neighbour notification letters; newspaper advertisement and publication on the Council's website.



Circa 52 letters of objection have been received and the issues raised may be summarised as follows:

- This is the same application as in 2014 and should be refused again. Nothing has changed;
- Only one retrospective application can be made, (nothing has changed / exactly the same) and so this must be refused. – We ought to determine the application as there have been material changes in circumstances;
- Statutory duty to remove an illegal eyesore through enforcement;
- Land should be returned to agricultural use;
- Site should be developed as agreed by 2012 permission;
- Applicant has shown disregard to neighbours; and planning and government conditions and guidelines;
- Developer has disregarded / flouted terms and conditions on earlier application;
- Additional planting inadequate in face of such a massive and significant overbuild;
- Harm to heritage assets of Gifford Hall (Grade II\* listed) and conservation area through overbuild and fencing;
- Landscape and visual impact, harmful to the countryside character and therefore amenity of local residents and rambles;
- 67 - 70% overbuild / too many rows / rows too close together;
- This overbuild was not approved / considered as part of the refused 2014 variation;
- Legal principle of desirability of consistency in decision making applies / need to have regard to relevant previous decisions / 3<sup>rd</sup> party comments on perceived overbuild are a material consideration that allows a different decision to be reached over 2014 variation;
- Fence seven times the length of the Titanic;
- Inadequate notification and consultation;
- Wildlife (deer, foxes, badgers, rabbits) being trapped inside enclosures / biodiversity and landscaping enhancements not realised;
- Cumulative impact with other solar development in the vicinity;
- Significant damage to the highway verges, adjacent drainage ditches and common land;
- The access has not been completed;
- Do not understand how this is a minor amendment;
- Noise from inverters unacceptable / barriers ineffective / well designed acoustic cabins and bunding required;
- Detracts from local economy by reducing agricultural labour force demand and reliance on non-local maintenance and construction labour; and
- Deprived people of a right of way through farm land.

## 9. Planning Considerations

### 9.1 Introduction and Principle of Development and Planning History:

Planning permission (ref: W/12/02072/FUL) has been granted for the installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access. This sets the principle for such development on the site.

The development, save for provision of some swales is completed with the production of renewable energy having been occurring since July 2014. The detailed material considerations are the potential impact on planning interests from the proposed modifications.

A variation planning application was refused by planning committee in September 2014 (ref: 14/01962/VAR). This was refused for the following reasons:

1. *The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would have an unacceptable adverse visual impact on the countryside and landscape contrary to policies C1 and C34 of the West Wiltshire District Plan (1st alteration) and with policy CP51 of the emerging Core Strategy (April 2014 tracked changes version) and with the Governments Planning Practice Guidance that recognises the impact security measures on solar farms could have on the landscape.*

2. *The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would be detrimental to the heritage assets and setting of the Grade II\* listed building known as Gifford Hall contrary to the National Planning Policy Framework and policy 58 of the emerging Core Strategy (April 2014 tracked changes version) and the Governments Planning Practice Guidance.*

Reason 1 and reason 2 for refusal have been addressed in this current proposal because:

The metal security perimeter fencing has been removed from the site. This has been replaced with deer proof fencing as required under the original consent. The applicant removed the metal fencing in 2017 after discussion and negotiation with Council officers. The installed deer proof fencing is approximately 10cm lower than the approved deer proof fence and has fewer supporting poles as they are at 5m intervals rather than the 4m intervals approved originally. Otherwise the as built security fencing is as originally approved.

These differences are considered to be minimal and with the reduction in the number of supporting poles and the slightly lower fence, would be a minor improvement on the originally approved fencing that would result in no unacceptable adverse visual impact on the countryside and landscape; and no detrimental impact to heritage assets and setting of the Grade II\* listed building known as Gifford Hall.

Furthermore no CCTV cameras (or associated poles) are being proposed. No CCTV cameras have been installed on site and the site has been producing renewable energy since 2014 without any known security issues.

Based on the above it is clear that the reasons for refusal in September 2014 by the Western Area Planning Committee have been addressed and overcome.

It must be borne in mind that beyond the fencing and CCTV a number of alterations formed a part of the 2014 variation application; were described in the officer report to the committee and were not objected to by the Council at the time and did not form part of the reasons for refusal. This includes the items listed within section 5 above, namely:

- Amendments to access to allow separation from SSE electricity pole;
- Extension to permanent track way to allow year round maintenance access;
- Arrays to have 1 leg instead of 2 and 0.73 metres lower in height;
- Arrays to be 2x landscape rather than 6x portrait and closer together;
- Alterations to on-site substation detail including reduction in area by circa 22sqm and height by circa 0.5 metres;
- Alterations to DNO substation so circa 15sqm smaller but approximately 0.73 metres higher;
- Reduction in number and height of inverter houses to allow 8 (rather than 13) and

circa 0.5 metres lower in height;

- Revised landscaping detail to reflect alterations above.

This variation application has also detailed a number of further alterations (listed within section 5 above) to the as built scheme. These have been driven by requests made from the Parish Council to the applicants, namely:

- Three acoustic noise barriers around the inverters closest to the southern and eastern boundaries of the site to address a concern raised by neighbours (Work completed);
- Revised drainage strategy (To be completed and a condition suggested by the applicants);
- Replacement of a stile with a kissing gate as requested by the Parish Council (Work completed) and signage as requested by Parish Council (Work completed);
- Completion of ecological and mitigation requirements from the original planning permission and Landscape Environment Management Plan (LEMP) as far as possible, including site and surroundings tidying; ecological enhancement; ditch clearing; and enhanced landscape planting (Work completed, on-going implementation);
- Additional landscaping in key areas to reduce the visual impact of the solar PV farm from the surrounding properties, landscape and heritage assets (Work completed);
- Replacement of dead Ash tree (Work completed).

## 9.2 Potential contribution to reducing climate change and sustainable development objectives

The modifications proposed would enable the solar farm to continue to contribute to ambitious targets to cut greenhouse gas emissions and accord with the economic, social and environmental dimensions of sustainable development. The NPPF supports the increase in the supply of renewable energy generation, and advises that local planning authorities should approve such applications if their impacts are or can be made acceptable.

## 9.3 Impact on the landscape of the Open Countryside

In short, there would be some nominal apparent changes in terms of the immediate landscape context, but these would not cause significant harm over the extant approval. The reduction in the gaps between the solar arrays and resultant increase in rows is balanced by the reduction in the height and width of the arrays, reduction in the number of solar panels, easement allowed for overhead wires through the site, the reduction in inverter buildings and the reductions in scale and heights that have occurred. The gap between the rows of the solar arrays is not materially different from the nearby solar farm at Norrington that was approved following a site visit from members, and is similar to other approved solar farms, such as Poulshot.

Wider impacts would be negligible and the amendments would not affect the potential

cumulative impact of this scheme with other developments in the area over and above the extant approval.

This proposal details a revised landscape mitigation that has recently been provided. This is because previous mitigation planting failed as a result of sheep grazing at the site and a lack of suitable protection. The landscaping strategy has also been reviewed and supplementary planting over and above previous applications. In November 2017 planting work has taken place and protective fencing has been installed to allow hedges to grow and reach a manageable height of between 2 and 3 metres and 2 metre width as it matures. The hedges include a mix of native species including hawthorn, blackthorn and goat willow. Further planting includes a wildflower mix around the retained pond and additional hedgerow trees to the eastern end of the site to include oak and field maple.

This is not a landscape that is subject to any special landscape designations. Due to the topography of the area, the presence of mature field boundaries that have been retained and the additional mitigation landscaping that has now been provided it is considered that the proposals would cause no harm over and above the extant planning approval.

#### 9.4 Impact on Public Rights of Way

Over and above the extant approval, the rights of way and their routes are unchanged.

The experience of those using the rights of way would be little altered over and above the extant scheme, especially now that the deer proof fencing has been installed instead of the metal fencing and the CCTV cameras have been omitted from the proposal.

#### 9.5 Impact on Highway Safety

The proposals would have no impact over and above the extant scheme in terms of highway safety and the highway officer raises no objection. As the scheme has been implemented, traffic generation is minimal. The access has been consolidated with tarmac and the arrangements in situ do not pose any highway safety concerns.

#### 9.6 Impact on Ecological Interests

The Council's ecologist has raised no objection to the revisions and it is assessed that they would have no impact on ecological interests.

#### 9.7 Impact on Archaeological Interests

The alterations detailed would not affect the archaeological area of interest on the site. The area that has no or limited archaeological interests would be less disturbed with the reduction in the number of legs on the arrays.

#### 9.8 Impact on agricultural land and surface water flooding

The modifications have no impact on the ability to use the site for grazing. The site has been grazed for a number of years whilst electricity has been generated. Suitable protection has now been provided to ensure the additional landscaping may reach maturity.

The surface water management has been reviewed in the context of the as built scheme and a number of improvements suggested by the applicant's drainage consultants. The drainage memo sets out the provision of an additional 90m long swale in the north-west corner of the site. It also sets out a requirement for 15 "check dams" to be provided within

the existing swales along the southern edge of the site. These will address the gradient within the swale and slow down water transfer by the swale. These changes are considered to be reasonable and proportionate to the nature of the development that has merely incased impermeable surfaces by as little as 0.64%

The drainage works are now the only outstanding work at the site and it is considered that they can be subject to a condition so as to allow this variation application to be approved.

#### 9.9 Impact on Heritage Assets

Historic England's officer has visited the site and viewed the development from within Gifford Hall as part of their assessment of this proposal. They have noted the designated heritage assets as the conservation area and the grade II\* listed Gifford Hall. Their comments have been set out verbatim above.

*It is noted that the topography of the area is generally flat with minor undulations, and the land around the Conservation Area is predominantly agricultural in use and rural in character with a number of public footpaths connecting the village to outlying areas. Some of these rights of way dissect the application site. It is also noted that there are significant landscape features between the recognized heritage assets and the application site commensurate with the rural character at this point.*

It was previously assessed that the impact on views from Broughton Gifford Conservation Area would be very limited. This is as a result of distance, topography and the trees in between. Any views from public areas, such as The Common, are small distant glimpses through the intervening trees. The significance of The Common as part of the Conservation Area lies in its open nature and the houses bordering it. The solar farm has no impact on this and so any impact on the character and appearance of the conservation area from the changes to the solar farm is negligible and at best, at the very bottom end of less than significant.

It was previously assessed under application W/12/02072/FUL that there were 2 listed buildings whose settings could be affected - Gifford Hall and The Hayes. It was assessed that *"Gifford Hall is visible from the site in long distance views, and long distance oblique views of the PV arrays will be visible from upper floor rooms of the property. However, the distance (300m) of the property from the site and the intervening landscape would ensure that the setting of the listed building would not be harmed as a result of the landscape. At the Hayes upper floor south facing windows would have views of the development. The distance of the 550m would ensure that any impact on the setting of the building would be so small as not to be significant."*

As was the case in September 2014 the proposed alterations for which consent is now sought, would not impact further on these heritage assets over and above the extant approval as they would be viewed within the context of other similar development which either creates a backdrop of development or obscures it from view. As set out above the contentious fencing and CCTV no longer form part of this proposal.

Historic England advise that Gifford Hall's primary facade faces south towards the Common and not the application site. They set out that the solar farm is visible from some of the rear windows of the upper floors of Gifford Hall and appears as a mass of panels as it would likely have done under the consented scheme. As such, any impact from the amended proposal only affects the setting of the rear upper part of the building, and this only from limited parts of the application site as the house is not visible at all from other parts of the site. Any impact is therefore at the lower end of less than substantial.

Historic England considers that the character and setting of the heritage assets at this point is one of a rural, open character. It was acknowledged at the time of the original permission that the countryside in the application site would be altered in character but the limited impact on the countryside was outweighed by the benefit of providing a significant amount (10Mw) of renewable energy. It is considered that the very much less than substantial harm to the setting of the rear of Gifford Hall from the amended proposals is still outweighed by the public benefit of provision of the renewable energy generated from the site.

The wider rural context to the settings of the heritage assets is considered to be of limited relevance to their significance. The open character of the Common, where grazing would have traditionally occurred, is of greater significance to the setting and it ought to be appreciated that the traditional buildings generally face towards the common land at Broughton Common and Norrington Common rather than the wider countryside where the development has been sited.

The statutory nature of designated heritage assets as a material consideration is clearly set out within the policy section above where the statutory duties under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to listed buildings and their settings, and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding conservation areas and their settings are clearly set out as policy context. Considerable care has been had in the assessment in relation to these matters and Historic England's advice has been set out verbatim above and given careful attention, along with the public representations on this matter. The Historic England advice sets out that the consented scheme may also have appeared as a similar mass to the as built scheme. Your officers have applied appropriate weight to the statutory duties in their assessment of all the material considerations. It is for the decision maker to apply appropriate weight and officers in relation to this have applied great weight to the conservation of the various heritage assets and had regard to the importance of the Grade II\* listing status of Gifford Hall in its balanced assessment.

It is your officers' view that no additional harm of any substance is caused by the proposed changes to the rows/arrays, whether to the conservation area, any listed building, or landscape and visual impact more broadly. It is in this context that the recommendation for approval is given.

#### 9.10 Public responses

A great deal of weight has been placed on the perceived "overbuild" by the developers at this site. The level of development is as per what was considered by the western area planning committee in 2014. Members of the public have set out an overdevelopment of some 67% based on the number of rows increasing from 93 on the approved plans compared to the 155 rows as built in 2014.

The number of rows at the site has increased by circa 67%. However the overall height of each array has reduced by circa 24% and the width of the PV arrays has reduced from 5.95m to 3.33 meters; some 44%. The total number of solar panels has been calculated for both the consented scheme and the "as built" scheme. The consented scheme allowed for circa 50,000 solar panels, whereas the as built scheme resulted in circa 43,500 solar panels. This is a reduction of approximately 13%.

It has been suggested that the change in number of rows of panels was a matter which was missed by the LPA in determining the 2014 application. This is not the case. The report at the time noted that the rows were closer together than the original permission; however it was also noted that the arrays were reduced in height and width and as such the scheme was broadly comparable in this regard. Furthermore the change was illustrated to the

committee in the presentation that included photos of the rows and the fences in situ. As noted in the current report, the height of arrays and gaps between rows were (and are) broadly consistent with other solar PV parks within western Wiltshire and known by the Council.

The perceived overbuild has become a far more notable feature of the public objections in this application and so the matter has been given further consideration and been reported in greater detail on this occasion in order to address the public response. The as built arrangement has resulted in additional rows, but less solar panels, and arrays of less height and width. However, the principle of consistency in decision-making does not prevent additional reasons being given in respect of a later decision compared with an earlier one. Hence, any alteration to the proposals as to the rows/arrays compared with the 2012 permission would constitute a material consideration which should be taken into account in determining this application, notwithstanding that the impact of such change did not form part of any reason for refusal of the 2014 application. Simply because the other changes set out in the 2014 submission, such as additional rows of less height and width, did not form part of the reasons for refusal previously does not bind the Council to not objecting at this point. Nor does the Court of Appeal decision in relation to the 2012 approval bind the Council to any particular layout. Such alterations, as set out in this application, are a matter of planning judgement and need to be afforded appropriate weight by the decision maker.

It is considered that the consented scheme and as built scheme are broadly comparable in terms of the planning impacts. It is considered that with the change to the perimeter fencing that has been made, the scheme has a spacing, character and appearance that is comparable to other solar developments within western Wiltshire.

The comments made by the developers as part of their submissions including planning judgements and it is for the decision maker to note these as a material consideration and reach their own planning judgement in light of all material considerations. It is similar to considering public responses to the consultation process. The public responses and the developer comments are not determinative to the application, but need to be considered when making a planning assessment and afforded appropriate weight by the decision maker.

It has been suggested that this application should be determined differently to other applications because of its retrospective nature and the breaches in conditions that has occurred etc. However this is not a reasonable approach. The planning system as part of effective enforcement of planning controls allows for a number of mechanisms to deal with such situations including planning applications that seek to regularise a situation and negotiation and discussion. Retrospective planning applications are allowed under section 73A of the 1990 Town and Country Planning Act. Paragraph: 012 Reference ID: 17b-012-20140306 of the PPG sets out that a retrospective application “must be considered in the normal way”.

#### 9.11 Conditions

It is necessary to consider the original conditions imposed on the basis that the Council would, if it approved this application, create a fresh permission. The original conditions have therefore been revisited and omitted and amended as appropriate to the stage reached at the time of writing. The development has been completed save for the outstanding drainage works at paragraph 3.6 of the applicant’s drainage memo.

### **10. Conclusion**

Officers submit that the solar installation would make a significant and highly valued

contribution towards the provision of renewable energy targets in Wiltshire. Although the site is located within the open countryside it has to be acknowledged that to provide the scale of renewable energy necessary to meet climate change targets that this type of development needs to be located in rural and semi-rural areas.

The more significant level of public response to this variation application compared to the original application is noted. However planning permission for the installation of solar photovoltaic (PV) arrays and frames covering the same 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access was granted in June 2013 and that is a very significant material consideration. The development has been virtually completed and this application seeks to make relatively minor alterations to the original approval. It is assessed that the alterations would not result in any significant material harm in planning terms above and beyond the extant approval when considered singularly or cumulatively with more recent large- scale solar PV schemes in the vicinity; and as such, it is recommended favorably.

Furthermore this is a resubmission of an earlier variation application in 2014. This was refused by the western area planning committee due to issues with the fencing and proposal for CCTV. The metal fencing has been removed and replaced by deer proof fencing, akin to that approved on the original scheme. The CCTV proposals have been omitted. Therefore all the reasons for refusal have been addressed by this revised submission. Further alterations beyond this have been made to resolve additional concerns raised by the Parish Council and to reflect the as built scheme.

Given the established planning history, and the applicant's addressing of the reasons for refusal of the previous application, it is not considered that there are any sound reasons for refusal of this application.

**RECOMMENDATION:** Approve subject to conditions.

1.

The development hereby approved shall be discontinued and the land restored to its former condition on or before 31 December 2039 in accordance with the hereby approved Decommissioning Plan approved under W/12/02072/FUL; unless before that date planning permission has been sought and granted for the retention of these structures for an extended period of time.

REASON: In the interests of amenity and the circumstances of the use; and in the interests of consistency with W/12/02072/FUL.

2.

In the event that the development ceases to be operational for the generation of energy before the end of the period defined in condition 2 then all associated development on, under or above the application site shall be removed from the site and the land returned to its former condition in accordance with the hereby approved Decommissioning Plan approved under W/12/02072/FUL, within six months of the cessation of the generation of energy from the site.

REASON: In the interests of amenity and the circumstances of the use; and in the interests of consistency with W/12/02072/FUL.

3.

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the hereby approved plans:



1295/2575 (Revision V5) - Location Plan by aardvark, dated 20 Feb 14;  
001-9-5575 SHT 1 of 1 - Substation general arrangement by Ormazabal, dated 23/01/14;  
B2281200-L-14 Rev 3 - Landscape Mitigation Plan by Jacobs, dated 03/11/2017;  
HESR FRAME 3 Version 1 by Power Electronics, dated 13/06/2013;  
Sheet 1 - Track detail 1 by prosolia, dated 04/14;  
150641- Detail Doors Locks by prosolia, dated 10/12;  
DXX70 - Detail Fibergate GRP by prosolia, dated 02/14;  
JG16-350/XSEC2D/01 Rev 0 - Cross Section by Jacobs, dated Nov 16;  
JG16-350/Topo3D/01 Rev D - As built Plan by Jacobs, dated Nov 17;  
Proposed fence design V1 by Lightsource, dated 25.07.17;  
B2281200-JAC-SKT-D-00001 Rev 1.0 by Jacobs, dated Aug 17 (within Jacobs Memorandum dated 28 November 2017);

Drawing: 1295/2576 (Revision V2) - Existing Site Plan;  
Drawing: 1285/2580 (Revision V1) – Topographic Survey;  
Drawing: 1295/2559 (Revision V3) – Footpath Site Plan; and  
Drawing: 1295/2585 (Revision V1) – Indicative interpretation board specification details;

REASON: To define the terms of this permission.

4.

The development shall be maintained in accordance with the hereby approved Landscape and Ecological Enhancement Plan – Addendum dated 29 August 2017; and the Landscape and Ecological Enhancement Plan dated October 2013 approved under the discharge of conditions against W/12/02072/FUL.

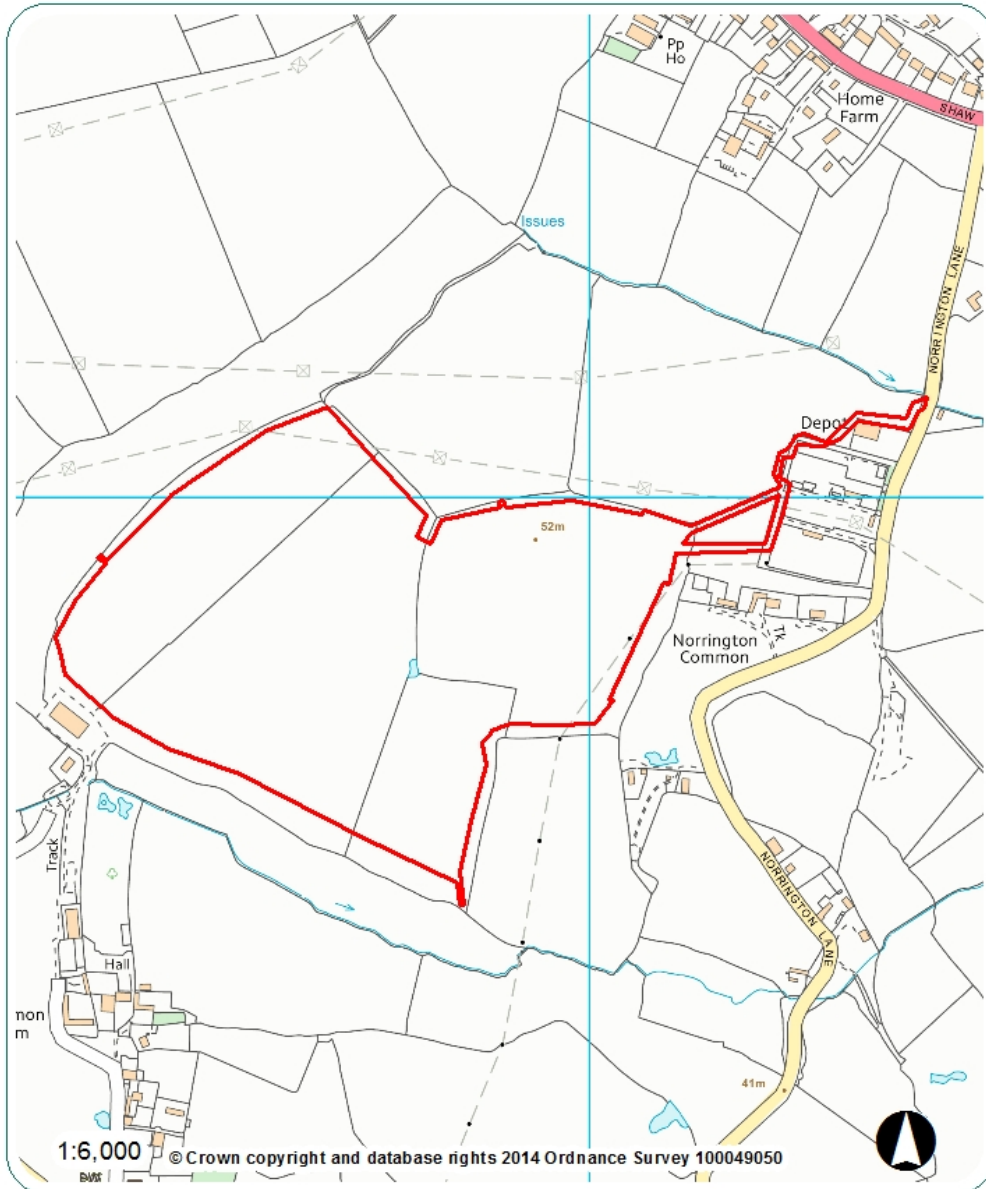
REASON: To ensure a satisfactory landscaped setting for the development, the protection of existing important landscape features; the protection and enhancement of biodiversity interests and in the interests of consistency with W/12/02072/FUL.

5.

Within 4 months of the grant of this approval the drainage works identified at paragraph 3.6 of the “As Built Surface Water Drainage System” Memorandum by Jacobs, dated 28 November 2017 and detailed on drawing reference B2281200-JAC-SKT-D-00001 Rev 1.0 by Jacobs, dated Aug 17 at Appendix C shall have been carried out as hereby approved. The surface water drainage system shall be maintained through the lifetime of the development as per the provisions of this document.

REASON: To minimise flood risk by ensuring the satisfactory management of surface water from the site through its lifetime; and in the interests of consistency with W/12/02072/FUL.

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## REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No.2

<b>Date of Meeting</b>	11 January 2018
<b>Application Number</b>	17/06733/FUL
<b>Site Address</b>	The Meadow, Crockerton BA12 7DU
<b>Proposal</b>	Change of use of existing buildings and part of site to a nursery school, to include proposed works to existing buildings.
<b>Applicant</b>	Mrs D Pirie
<b>Town/Parish Council</b>	LONGBRIDGE DEVERILL
<b>Electoral Division</b>	WARMINSTER WITHOUT – Cllr. Fleur De Rhe-Philippe
<b>Grid Ref</b>	386 141
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Steven Vellance

### **Reason for the application being considered by Committee:-**

Councillor Fleur De Rhe-Philippe has requested that if officers are minded to approve this application, it should be reported to the Planning Committee for the consideration of the following:

The environmental, highway impacts and car parking

#### **1. Purpose of Report**

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

#### **2. Report Summary**

The main issues to consider for this application are:

The principle of the development; access and highway safety and parking impacts; ecological impacts; drainage matters and neighbouring amenity impacts.

In summary form, Longbridge Deverill Parish Council object, whereas, the Council's highway authority, ecologist, drainage engineer, education childcare team and Wessex Water are either supportive or do not raise any objections. No neighbour objections/representations have been received.

**3. Site Description** - The application site relates to a 0.3 hectare parcel of land used for equestrian stabling and agricultural land located in the open countryside accessed off the A350 about 200m to the south east of Crockerton, 600m to the north of Longbridge Deverill and 1.8km south of Warminster. The site is occupied by a single storey timber clad 80sq.m stable building and a 40 sq.m barn; which are 3.5 metres in height which are accessed / served by an existing vehicular access on the eastern side of the A350. The applicant also owns circa 1.5hecatres of land around the stabling which is known as Hayden Meadow and would remain in agricultural use.

The inserts below illustrate the application site parameters as well as additional land within the applicant's ownership. The site photograph shows the access off the A350 and stable building.



The site is not at risk of flooding and is zoned as Flood Zone 1 – land which has the lowest probability of flooding (quantified as less than 0.1%). Apart from glimpsed views of the stable from the access off the A350, the site is well screen by a well-established treed boundary which is partly illustrated below:



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

W/04/01868/FUL - Replacement stable (old stable to be demolished) Approved - 11.11.2004

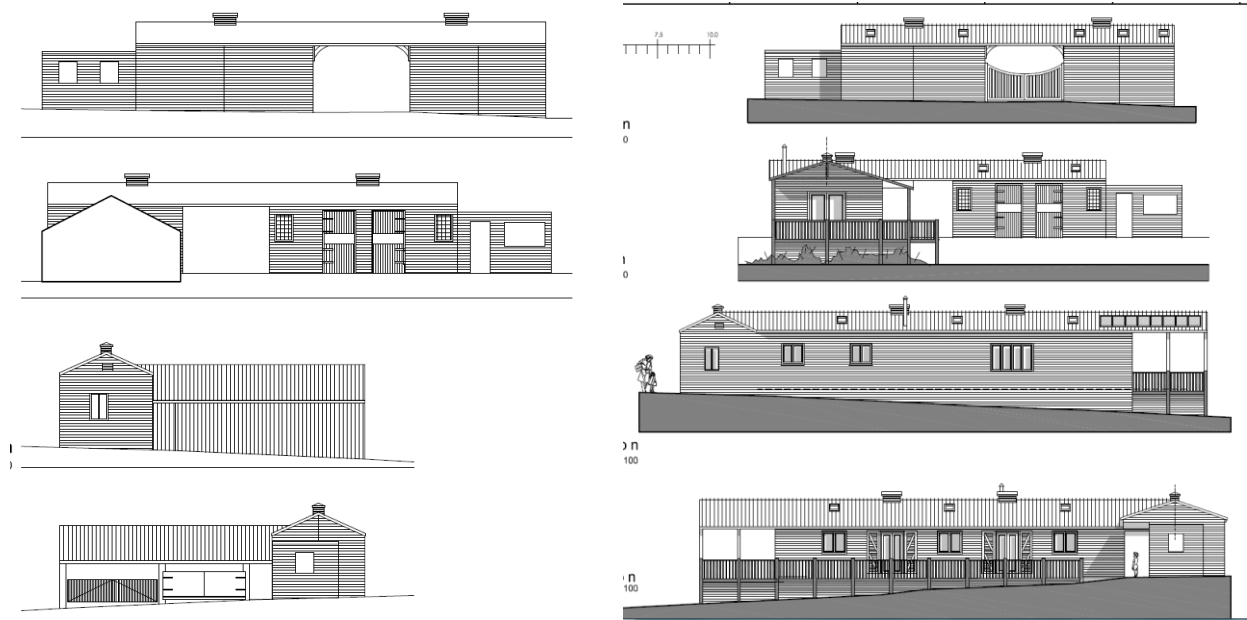
#### **5. The Proposal**

This application seeks full detailed planning permission for the change of use, extension and alteration of the existing stabling and site from equestrian use to a D1 nursery school (The D1 is a reference to the Use Class under Town and Country Planning Legislation, being non-residential institutions including nurseries). Under this application the applicant proposes to retain part of the existing stable building demolish the existing 40sq.m barn and extend onto the rear by some 25 sq.m.

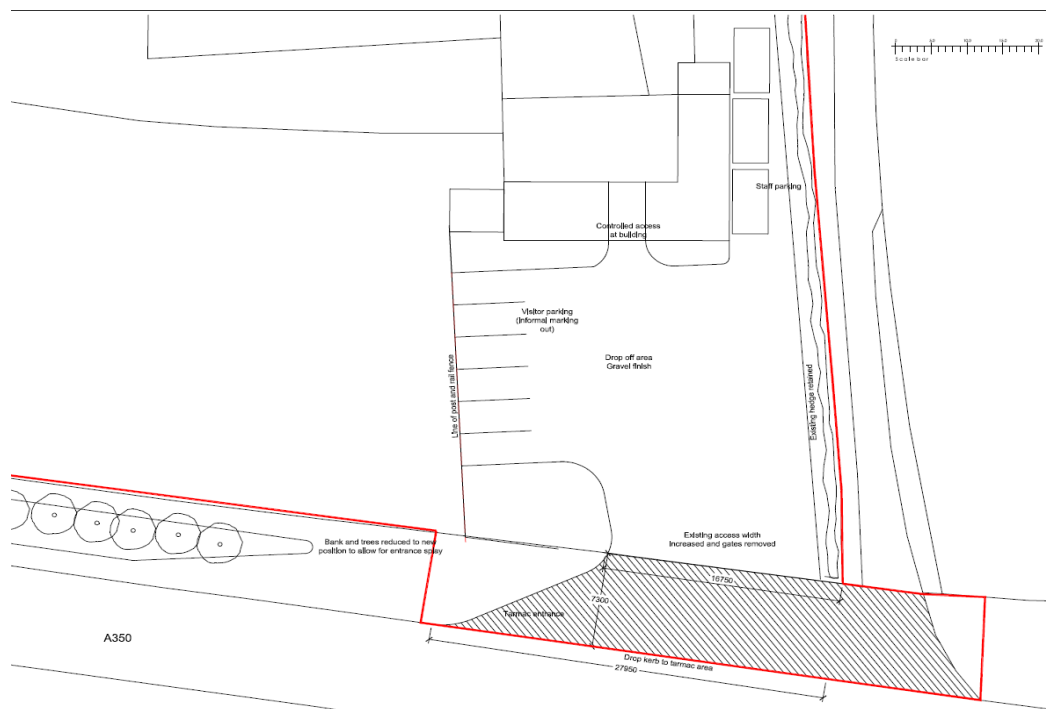
The proposed nursery would extend to some 85 sq.m and would be designed to accommodate 24 places with 3 full time employees and 1 part time member of staff. The business hours are proposed to be 8am-6pm Monday-Friday with no Saturday, Sunday or Bank Holiday hours of opening. As set out within the applicant's planning statement, the proposed nursery at the

Meadow site would aim “to provide children with a natural, wholesome learning experience where they will learn about the importance of sustaining our environment, growing and harvesting their own food and caring for the animals that live on the land”.

The new extension would be designed in complimentary building materials through using timber cladding under a corrugated sheet roof. The inserts below illustrate the existing (left) and proposed elevations (right).



The existing access would be widened to 16.7m and a stretch of unprotected western boundary trees would be removed to improve visibility following advice provided by the highway authority to safely accommodate additional vehicular traffic movements generated by the proposed nursery. Seven parking spaces would be provided on site.



## **6. Local Planning Policy**

Wiltshire Core Strategy (WCS): CP1 – Settlement Strategy; CP2 - Delivery Strategy; CP3 – Infrastructure Requirements; CP31 – Warminster Community Area; CP48 - Supporting Rural Life; CP50 - Biodiversity and Geodiversity; CP51 - Landscape; CP57 - Ensuring High Quality Design and Place Shaping.

Wiltshire Local Transport Plan 2011- 2026 – Car Parking Strategy  
Cranborne Chase and West Wiltshire Downs (CC&WWD) AONB Management Plan.

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations.

## **7. Summary of Consultation Responses**

**Longbridge Deverill Parish Council:** Object on the basis of the following: Concerns are raised over the number of vehicles accessing and leaving the site via very busy and fast A350 main road. The proposed turning space and parking within the site for dropping off and picking up children is very limited and this may lead to vehicles waiting and/or parking on the main A350 road. There is no access to the site by foot.

**Wiltshire Council Highways Officer:** No objections subject to a planning condition requiring the visibility improvement works, tree removal and on-site parking are completed prior to the nursery being brought into use. The site is served off the primary highway route A350. There is an established paired access arrangement serving existing equestrian use on the site, alongside a separate adjoining land use. The access to the application site is currently gated, and of insufficient width to allow two vehicles to pass. It is however noted that there is no personal injury accident record associated with the use of the existing access.

Following the negotiated and necessary improvements now being put forward as part of the application, the 24 childcare place nursery would not result in highway concerns. It is important to secure sufficient space in and out of the site for vehicles to enter/park/emerge without any prospect of vehicles having to wait on the A350. It is recognised that the applicant proposes to widen the access and permanently remove the gates which will achieve that end. The applicant also proposes to improve junction visibility and formalise improved on-site car parking/picking up/setting down and alterations to kerbing over the access frontage with the A350.

The proposed maximum number of children that would attend this proposed nursery is acceptable.

**Wiltshire Council Childcare Co-ordinator:** Supportive.

**Wiltshire Council Ecologist:** No objections subject to conditions. The proposed scale and nature of the development means there would be limited impact on the Special Area of Conservation. The application is supported by an ecology report which recommends ecological enhancement measures for bats and birds. These are supported and should be conditioned. No external lighting should be installed on site without prior approval from the LPA.

**Wiltshire Council Drainage Officer:** Supportive subject to conditions. The site is in flood zone 1 and is not an area at risk of flooding. Conditions are necessary to secure acceptable surface water and foul water discharge/treatment.

**Wessex Water:** No objections but advised that the site lies within a non sewered area and new water supply connections would need to be made.

**Cranborne Chase and West Wiltshire AONB Partnership:** No comments.



## 8. Publicity

The application was publicised via individual neighbour notifications and a site notice. Following the public notification exercise, no neighbour or third party responses were received.

**9. Planning Considerations** - Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

**9.1 Principle of Development** - As reported within section 7 of this report, the Council's Childcare Co-ordinator fully supports the application and positively welcomes the extra child care spaces that the scheme would provide. The childcare officer reports that following Central Government's introduction of 30 hours of free nursery entitlement for three and four year olds for working parents (from September 2017), there is a substantial and consequential increased demand placed on childcare facilities (when compared against the former 15 hour provision). It is anticipated that the extra allocation of nursery hours will increase the demand for nursery provision across the County and place a strain on current places. This proposed development would offer additional options to families living within the Warminster Community Area and its immediate environs.

9.1.1 It is fully appreciated that although the site is located outside of defined settlement limits, it is well serviced and in close proximity to several villages and Warminster. Officers are furthermore fully aware of the pressing need to deliver more childcare nursery school facilities locally and with the Council's childcare co-ordinator's support, this is given significant weight. The demand that is being placed on existing nursery establishments is likely to increase when the projected number of houses the Warminster Community Area will deliver in the plan period are considered (CP2, CP3 and CP31 all refer).

9.1.2 The proposed nursery would re-use an existing serviced site access located off the main A350 highway. The vast majority of the applicant's landholding would remain as agricultural land which would be used as part of the childcare education and nurturing plans. The application's site plan confirms that the surrounding open meadow land would not be developed. Instead, the aim of the nursery would be to offer children the opportunity to have an outdoor learning environment. The nursery building would re-use and extend the existing stable structure and retain its modest stable aesthetic constructed from natural timber cladding with a corrugated sheet roof.

9.1.3 WCS CP48 is of material consideration in that it positively aims to support the rural economy and the re-use of existing buildings with non-residential development in particular supported so long as the development proposals do not lead to insensitive or damaging new uses. The following criteria are relevant to note and weigh up as part of the planning balance:

*"Criterion i) requires that the building(s) is / are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building".*

9.1.4 The subject stable building is a structurally sound which was constructed following the approval of application W/04/01868/FUL and would be modestly and sympathetically altered and extended. A relatively small sized barn would be removed as part of the development proposals to accommodate the additional 25sq.m of nursery floorspace, which is considered proportionate and acceptable in principle. The applicant intends to upgrade the existing structure by using complimentary materials which would sit well within its rural environment.

9.1.5 *Criterion ii) requires that the use would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.*

In response to this policy requirement, officers are satisfied that the proposed development would not harm the character or appearance of the landscape, nor impact on neighbouring amenity.

9.1.6 *Criterion iii) requires that the building can be served by adequate access and infrastructure.* This aspect is discussed in more detail within paragraph 9.2 with officers considering that the development would not introduce any highways concerns or substantive grounds for refusal.

9.1.7 *Criterion iv) requires that the site has reasonable access to local services.* This is considered to apply for the Meadow Nursery site which would benefit from an improved access off the A350 and its siting close to Warminster and several villages.

9.1.8 *Criterion v) discusses buildings that are heritage assets, which is not applicable to this particular site or application.*

9.1.9 On the basis of the above, the principle of the proposal is accepted by officers. However the following chapters appraise the highway safety, ecology and land drainage matters and neighbouring impacts.

**9.2 Access and Parking Considerations** – Seven dedicated on-site car parking spaces would be provided to service the needs of members of staff, visitors and the parents of infants. Policy CP64 of the Wiltshire Core Strategy refers to the Council’s adopted Car Parking Strategy which sets out the ‘maximum’ parking standards for staff, visitors and parents for primary schools, as detailed below:

Use class	Land use	Standard
Education Centres	Staff	2 per 3 staff
	Visitors	1 per 7 staff
	Parent – Infants	1 per 12 pupils
	Parents – Primary	1 per 20 pupils

Wiltshire Council Maximum Parking Standards relating to primary schools

9.2.1 Based on the above maximum standards, the proposed 24 space nursery would generate a maximum parking need for 2 car parking spaces for the parents of infants, 0.5 a space for visitors. In addition to the above, and in recognising of the location of the site and the importance attached to avoiding cars waiting on the A250, officers consider it is appropriate to over provide for on-site car parking with 3 car parking spaces – 1 for each full-time member of staff. After liaising with the Council’s highway team, your officers advise that the proposed parking provision is acceptable and that the development would not result in any additional adverse impacts. A planning condition is recommended to limit the number of nursery places so that the establishment does not generate additional traffic generation and parking demand beyond that which has been appraised under this application. Any future plan to expand the number of nursery places would require separate planning permission and would need to be subject to a separate highway and parking assessment.

9.2.2 Whilst officers acknowledge the highway and pedestrian safety concerns which have been raised by the Parish Council, members are advised that the Council’s highway officer is satisfied that the development is acceptable in highway terms.

9.2.3 The applicant proposes to widen the existing access to accommodate additional vehicular movements that the use would generate. The entrance area to the site would have a designated drop off zone and designated visitor car parking spaces. Staff car parking would be provided adjacent to the nursery building separate from visitor and parent parking. The lack of a pavement and the concerns raised by the Parish Council whilst noted and understood, it is not considered strong enough justification to warrant a refusal decision. Through acknowledging the type of facility being proposed, officers do not consider it would be appropriate to encourage infants with or without chaperones to walk along the A350 – even if there was a pavement. The Council’s highway officer is satisfied that with the proposed visibility improvements at the access and securing the parking provision and drop off facility no objections are raised. The Head of Highways also reports that there have been no personal injury accidents at this location and the proposed development is acceptable in highway safety terms.



**9.3 Ecology** – After reviewing the applicant’s ecology assessments, the Council’s ecologist is satisfied that the development would accord with CP50 and through the use of planning conditions the development could deliver ecology betterment in terms of incorporating bat and bird enhancement measures.

**9.4 Drainage** - The Council’s drainage officer also raises no objections. Planning conditions are recommended to address surface water and foul water drainage treatment.

**9.5 Impact on the Surrounding Area and Neighbouring Amenity** - The site location is rural by its very nature and in recognition of Core Policy 51 *“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”*.

9.5.1 The scheme aims to achieve the stated policy requirements by utilising in the main the existing footprint of the stable building and propose a modest, sympathetic extension to be constructed in complimentary materials. In this particular case, the immediate and surrounding landscape would not be detrimentally affected. Officers acknowledge that the site is located within the Cranborne Chase and West Wiltshire Downs AONB, however, the development proposals are considered complimentary to the safeguarding policies enshrined with the AONB Management Plan and the proposed development would represent an acceptable re-use of an existing developed site.

9.5.2 WCS CP57 requires new development to have regard to the compatibility of adjoining buildings and uses and to avoid harmful impacts through the loss of privacy, amenity, overshadowing and pollution (e.g. Light intrusion and noise). In terms of appraising neighbouring impacts, the proposed development would be sited approximately 100 metres to the east of the nearest neighbouring residential property, which is considered to be a significant distance to ensure there is no substantive detriment to amenity and privacy. In terms of lighting, the installation of any exterior lighting would be controlled via a planning condition, as recommended by the Council’s ecologist.

9.5.3 On the basis of the above, officers are satisfied that the proposed use would not result in harm to neighbouring amenities or detrimental harm to the character of the area.

**10. Conclusion (The Planning Balance)** – Officers conclude that this proposed development accords with the relevant WCS Policies and that the design and use is appropriate and acceptable in terms of the surrounding context. The scheme would provide a needed and valuable nursery facility to support local families.

**RECOMMENDATION:** Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing 10203-P01 Rev B - Existing Location Plan received on 03.11.2017; Drawing 10203-P02 Existing Elevations received on 03.08.2017; Drawing 10203-P03 Existing floor Plans received on 03.08.2017; Drawing 10203-P04 Rev B Proposed Block Plan received on 03.11.2017; Drawing 10203-P05 Proposed elevations received on 03.08.2017; Drawing 10203-P06 Proposed floor Plan received on 03.08.2017; Drawing 10203-P07 Existing site plan received on 03.08.2017; Drawing 10203-P08 Proposed Site (Land Identification) Plan received on 26.09.2017

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

3. The development hereby approved shall not be brought into use (in relation to the conversion and extension to the stable building) until a scheme for the discharge of foul water has been submitted to, approved in writing by the Local Planning Authority, and completed.

REASON: To ensure that the development can be adequately drained.

NOTE: If the applicant proposes to use an existing system, the applicant is hereby required to confirm that it is adequate and has the necessary capacity to accommodate the proposed increased use.

4. The development hereby approved shall not be brought into use (in relation to the conversion and extension to the stable building) until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 and location of top ground water level to ensure that the base of any soakaway is at least 1m of unsaturated soil above the agreed top water level of ground water taking into account seasonal variations, has been submitted to, approved in writing by the Local Planning Authority, and completed.

REASON: To ensure that the development can be adequately drained.

5. No part of the development hereby approved shall be brought into use until the access, drop off area and parking spaces have been completed in accordance with the details shown on the approved plans. Thereafter, the areas shall be maintained for those purposes at all times for the lifetime of the development.

REASON: In the interests of highway safety.

6. No part of the development hereby approved (in relation to the conversion and extension to the stable building) shall commence until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

7. No part of the development hereby approved (in relation to the conversion and extension to the stable building) shall be brought into use until the access has been widened, the existing gates have been permanently removed and the visibility improvement works along the western site boundary (as illustrated on plan drawing 10203-PO4 Rev B) have been completed to achieve improved visibility from a point measured 2.4m back into the access measured from the carriageway edge, to a point measured 210m to the nearside carriageway edge in a northerly direction. The visibility splay thus provided shall thereafter be maintained.

REASON: In the interests of highway safety.

8. The maximum number of children at the nursery shall be 24, as stated within the accompanying Design and Access Statement.

REASON: To define the terms of the permission and the interests of highway safety and because this permission is granted having regard to the particular circumstances advanced in support of the application.

9. The development shall be carried out in strict accordance with the measures stipulated in the Discussion and Conclusions section of the approved Extended Phase 1 Ecological Survey Report (produced by Stark Ecology Ltd and dated November, 2017) with respect of the need to time the works during the winter and outside of the nesting birds season (which is March to August inclusive).

REASON: To ensure appropriate mitigation for nesting birds, and to ensure compliance with wildlife legislation, Core Policy 50 of the Wiltshire Core Strategy and the NPPF.

10. No part of the development hereby approved (in relation to the conversion and extension to the stable building) shall commence until the exact details of the ecological enhancement and mitigation measures for bats and birds as recommended in the Discussion and Conclusions section of the approved Extended Phase 1 Ecological Survey Report have been submitted to and approved in writing by the Local Planning Authority. Details must include the number, specification and location of the features to be incorporated within the development and this shall also be shown on a site plan. Thereafter, the ecological enhancement measures for roosting bats and nesting birds shall be installed in accordance with the approved details and plan.

REASON: To ensure appropriate compensation for nesting birds and enhancement for bats in accordance with Core Policy 50 of the Wiltshire Core Strategy and the NPPF.

11. No new external lighting shall be installed at the application site without prior written approval from the local planning authority. Any plans for new lighting must be submitted to the local planning authority for consideration and approval and must include details of mitigation measures to minimise the potential for impacts on foraging and commuting bats at the site. Thereafter, new lighting must be installed and operated in strict accordance with the approved lighting plan.

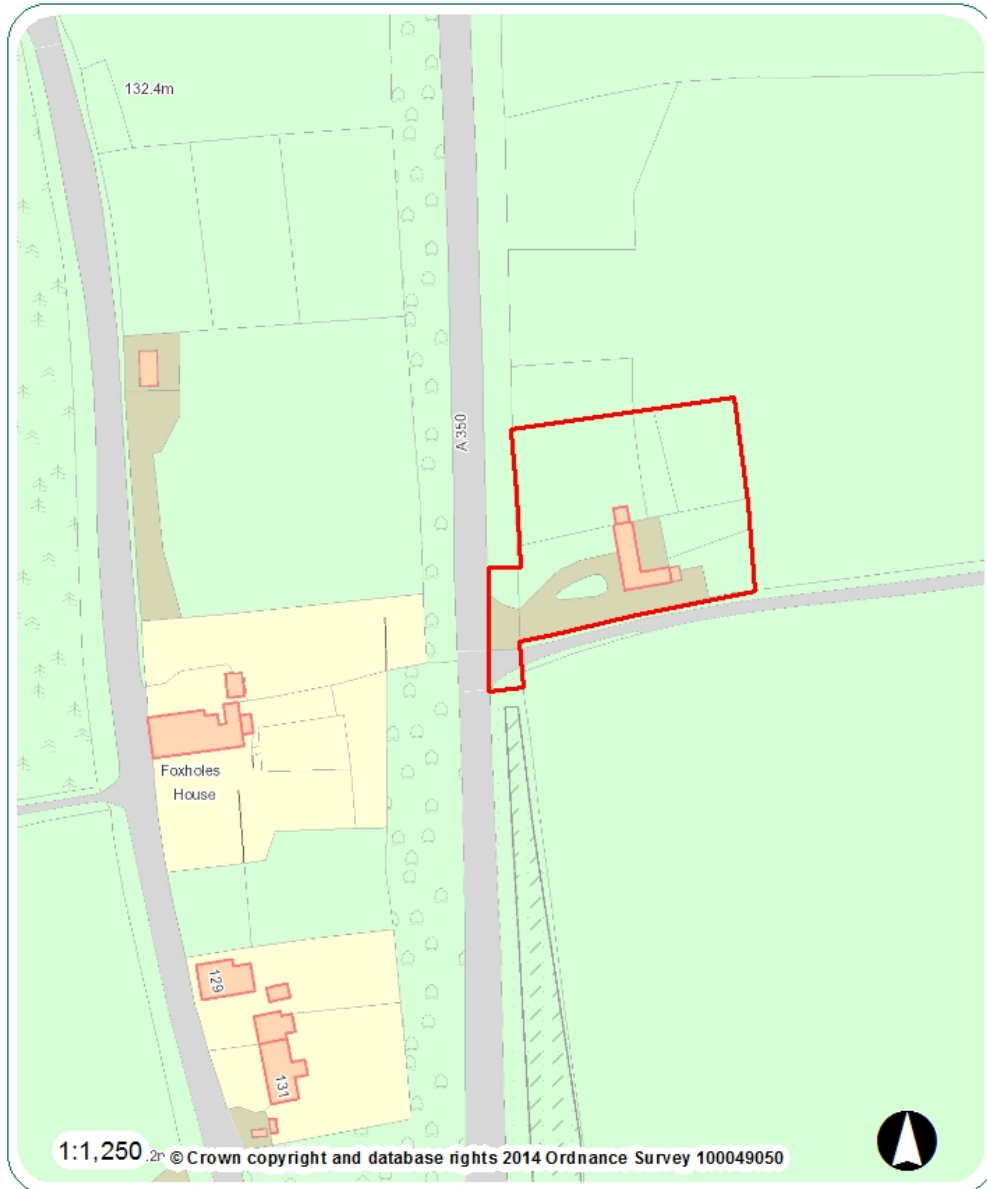
REASON: To ensure appropriate mitigation for bats, and to ensure compliance with wildlife legislation and Core Policy 50 of the Wiltshire Core Strategy.

12. Notwithstanding the provisions enshrined within The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification) the development hereby approved shall be used as a nursery school falling within use class D1 and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case and site location.

### **Informatives**

1. Pursuant to conditions 3 and 4, the surface water and foul water discharge treatment needs to satisfy Environment Agency guidelines. Non domestic supplies required for firefighting or commercial use would require a separate assessment with network modelling subject to design requirements. The applicant should make contact with Wessex Water to agree new water connections.



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