

AGENDA

Meeting: Northern Area Planning Committee
Place: Council Chamber - Wiltshire Council Offices, Monkton Park,
Chippenham SN15 1ER
Date: Wednesday 6 March 2019
Time: 3.00 pm

Please direct any enquiries on this Agenda to Craig Player, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713191 or email craig.player@wiltshire.gov.uk

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Membership:

Cllr Tony Trotman (Chairman)	Cllr Mollie Groom
Cllr Peter Hutton (Vice-Chairman)	Cllr Chris Hurst
Cllr Chuck Berry	Cllr Toby Sturgis
Cllr Christine Crisp	Cllr Brian Mathew
Cllr Gavin Grant	Cllr Ashley O'Neill
Cllr Howard Greenman	

Substitutes:

Cllr Ben Anderson	Cllr Jacqui Lay
Cllr Bill Douglas	Cllr Melody Thompson
Cllr Ruth Hopkinson	Cllr Nick Murry
Cllr Bob Jones MBE	Cllr Philip Whalley

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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 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 30th January 2019.

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 27th February 2019 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 1st March 2019. 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 11 - 12*)

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 **18.02180.FUL - Land East of the A429, Malmesbury Bypass, Malmesbury** (*Pages 13 - 32*)

7b **18.06980.FUL - Land At Malmesbury Garden Centre, Crudwell Road, Malmesbury** (*Pages 33 - 64*)

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

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

NORTHERN AREA PLANNING COMMITTEE

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 30 JANUARY 2019 AT COUNCIL CHAMBER - WILTSHIRE COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Peter Hutton (Vice-Chairman), Cllr Chuck Berry, Cllr Christine Crisp, Cllr Gavin Grant, Cllr Howard Greenman, Cllr Chris Hurst, Cllr Toby Sturgis, Cllr Brian Mathew, Cllr Ashley O'Neill and Cllr Ben Anderson (Substitute)

Also Present:

Cllr Jacqui Lay

1 Apologies

Cllr Mollie Groom was substituted by Cllr Ben Anderson.

2 Minutes of the Previous Meeting

The minutes of the meeting held on 28th November 2018 were presented.

Resolved:

To approve as a true and correct record and sign the minutes.

3 Declarations of Interest

There were no declarations of interest.

4 Chairman's Announcements

There were no Chairman's announcements.

5 Public Participation

The Committee noted the rules on public participation.

6 **Planning Appeals and Updates**

The Committee noted the contents of the appeals update.

7 **Planning Applications**

The Committee considered the following application:

8 **17/09618/FUL - Braydon Lane Garage, Chelworth Industrial Estate, SN6 6HE**

Public participation

Ben Pearce, the agent, spoke in support to the application.

Sue Smart, local resident, spoke in objection to the application.

Cllr Chris Hodgson, Cricklade Town Council, spoke in objection to the application.

The Planning Officer, Lee Burman, introduced a report which recommended granting planning permission, subject to conditions, for the use of land for the storage of vehicles (retrospective).

Key issues highlighted included: principle of development/development plan policy compliance including the made neighbourhood plan for Cricklade, highways impact, drainage impact, ecological impact, impact on the character, and appearance of the locality including heritage assets and impact on neighbour amenity.

Members of the Committee then had the opportunity to ask technical questions of the officer which focused on: the retrospective nature of the application and whether access to site can be restricted or lorries rerouted.

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

Cllr Jacqui Lay, speaking on behalf of the Division Member, spoke regarding the application with the main points focusing on the possibility for traffic issues to be addressed through conditions or other measures ; the impact on nearby homes and the possibility of a different lorry route that did not cut through Cricklade.

At the start of the debate a proposal was moved by Cllr Peter Hutton, seconded by Cllr Toby Sturgis to grant planning permission as detailed in the report.

During the debate the main points raised were: highways impact; the retrospective nature of the application; drainage impact; impact on neighbour amenity; clarification over Condition 3 and the extent and scope of the vehicle storage permitted; traffic issues; what the vehicles in storage will be used for and the Town Council's role in addressing traffic issues in their locality.

Resolved

That planning permission is approved subject to conditions in accordance with the officer recommendation:

(1) Within 3 months of the date of this decision or within the first planting season thereafter the replanting works proposed to mitigate the impact of the development shall be implemented in accordance with J&BH/RPP-01/18.03.18. 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.

(2) The development shall be retained in accordance with the drawings

**J&BH/RPP-01/18.03.18
Block Plan LDC 2093_02A
Location Plan LDC 2093_01A**

Received 06/04/2018

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

(3) No more than 30 no. vehicles can be stored on the site (as indicated in red on Location Plan) at any time.

REASON: In the interests of the appearance of the site and the amenities of the area and for the avoidance of doubt and in the interests of proper planning.

(4) The development hereby permitted shall not be brought into use until a plan showing the precise location of any areas of open storage and specifying a maximum height of open storage within such area(s) has been submitted to and approved in writing by the Local Planning Authority. No materials, goods, plants, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored on the site outside the approved storage area, or above the height agreed as part of this condition.

REASON: In the interests of the appearance of the site and the amenities of the area.

(5) The parking area hereby permitted shall not be first brought into use 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 any identified water course maintenance requirements in the offsite downstream system and all required third party approvals, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained without increasing flood risk to others

(6) No external lighting shall be installed on site until a scheme of external lighting, including the measures to be taken to minimise sky glow, glare and light trespass, has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall be designed so as to meet the criteria for Environmental Zone E2 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. The approved scheme shall be implemented in full before the development is first brought into use and shall be maintained in effective working order at all times thereafter.

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

(7) Within 3 months of the date of this decision the mitigation measures as set out in the recommendations given in the Ecological Management Plan (Tree Parts Limited Dated 29/03/2018) shall be implemented. The development thereafter shall be permanently retained as such.

REASON: In the interests of the ecology of the site

INFORMATIVES:

Any discharge of storm water to an ordinary water course will require a separate application (LDC) to and approval of the LLFA as well as that of the riparian owner.

If the development generates foul effluent discharge it will either need a full formal discharge licence from the EA or if under their set limit then need to follow the EA guidelines.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will

be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

This decision does not purport to allow any additional signage or advertisements on the building or extensions where separate consent would be required under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The Institute of Lighting Professionals “Guidance Notes for the Reduction of Obtrusive Light” can be found free online on the following website.
www.theilp.org.uk/

9 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 3.50 pm)

The Officer who has produced these minutes is Craig Player of Democratic Services, direct line 01225 713191, e-mail craig.player@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Wiltshire Council
Northern Area Planning Committee
6th March 2019

Planning Appeals Received between 18/01/2019 and 22/02/2019

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
17/12320/LBC	Baynards Ash Farm Brinkworth Road Royal Wootton Bassett SN4 8DT	ROYAL WOOTTON BASSETT	Proposed single storey rear extension	DEL	Written Representations	Refuse	14/02/2019	No
17/12403/FUL	Land at Kent End Back Street Ashton Keynes SN6 6PF	ASHTON KEYNES	Erection of two bedroom holiday cottage with mostly natural stone elevations and a natural slate roof above	NAPC	Written Representations	Refuse	28/01/2019	No
18/04983/FUL	The Gables, Main Road Corston, SN16 0HD	ST PAUL MALMESBURY WITHOUT	Removal of modern conservatory, erection of single storey extension to provide open plan kitchen/dining area and boot room.	DEL	Written Representations	Refuse	14/02/2019	No
18/05396/FUL	66 Pauls Croft Cricklade, Swindon Wiltshire, SN6 6AL	CRICKLADE	New Dwelling & Access	DEL	Written Representations	Refuse	28/01/2019	No
18/05394/LBC	The Gables, Main Road Corston, SN16 0HD	ST PAUL MALMESBURY WITHOUT	Removal of modern conservatory, erection of single storey extension to provide open plan kitchen/dining area and boot room.	DEL	Written Representations	Refuse	14/02/2019	No
18/07370/PNCOU	Bupton Barn Near Bushton, Wiltshire SN11 8SZ	CLYFFE PYPARD	Notification for Prior Approval under Class Q - Conversion of Agricultural Barn to Provide 1no. Dwelling (Use Class C3) and for Associated Operational Development	DEL	Written Representations	Refuse	23/01/2019	No
18/09885/PNCOU	No Parish Farm Braydon, Swindon Wiltshire, SN5 0AG	PURTON	Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development.	DEL	Written Representations	Refuse	23/01/2019	No
18/10396/FUL	40 Bristol Road Chippenham SN15 1NR	CHIPPENHAM	Two storey side extension & single storey replacement rear extension together with internal layout and landscaping alterations	DEL	House Holder Appeal	Refuse	21/02/2019	No

Planning Appeals Decided between 18/01/2019 and 22/02/2019

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/12512/FUL	Street Farm The Street, Oaksey SN16 9TQ	OAKSEY	Conversion of the existing barn to a single residential dwelling, and alterations and extensions to the existing house together with associated works including garage and new access from Cargill Place	DEL	Written Reps	Refuse	Dismissed	05/02/2019	None
18/03185/FUL	The Barns at Mays Farm, 25 The Street Hullavington Wiltshire, SN14 6DP	HULLAVINGTON	Erection of 2 new dwellings	NAPC	Written Reps	Approve with Conditions	Allowed with Conditions	22/01/2019	Appellant Applied for Costs – DECISION PENDING
18/07370/PNCOU	Bupton Barn Near Bushton Wiltshire, SN11 8SZ	CLYFFE PYPARD	Notification for Prior Approval under Class Q - Conversion of Agricultural Barn to Provide 1no. Dwelling (Use Class C3) and for Associated Operational Development	DEL	Written Reps	Refuse	Withdrawn	12/02/2019	

REPORT TO THE NORTH AREA PLANNING COMMITTEE

Date of Meeting	6th March 2019
Application Number	18/02180/FUL
Site Address	Land East of the A429, Malmesbury Bypass, Malmesbury
Proposal	Erection of a New Lidl Store and Associated Works Including Car Parking and Landscaping on Land East of the A429, Malmesbury, Wiltshire
Applicant	Lidl UK GmbH
Town/Parish Council	St Paul Malmesbury Without
Division	Sherston
Grid Ref	393674 186904
Type of application	Full Planning
Case Officer	Lee Burman

Reason for the application being considered by Committee

The application was called in for determination by Councillor Thomson in the event of a recommendation to approve given the significant level of public interest in the proposal.

However the Head of Development Management has resolved in accordance with the scheme of delegation to report the application to the committee in any event. The reasons for this decision being the mixed nature of the large scale public consultation response received; and the concurrent submission of a further application for a superstore (Aldi) at Malmesbury, which is also reported for committee determination on this agenda. Allowing both applications to be considered at the same meeting ensures transparency in decision making and enables them to be considered in context.

1. Purpose of Report

To consider the development proposal in the context of the development plan and national guidance and to consider the recommendation that the application be refused.

2. Report Summary

St Paul Malmesbury Without Parish and Malmesbury Town Councils both object to the application.

189 letters of objection from members of the public and interested parties have been received.

359 representations of support from members of the public received. *(It should be noted that a proportion of these representations support the development of a Lidl but raise concerns or objection in respect of the proposed location).*

99 representations from members of the public and interested parties making comments in respect of the proposed development and location received.

Planning Issues raised for consideration by the proposal are:-

Principle of Development

Impact on the character, appearance and visual amenity of the locality including trees

Impact to Heritage Assets including archaeology

Highways Impact and parking

Drainage & Flood Risk

Impact on Ecology

Noise

S106 Matters

3. Site Description

The site is located in the open countryside outside of the defined limits of development for Malmesbury and outside of any other defined settlement boundary.

Immediately to the west and north-west of the site is the A429 with Waitrose supermarket and the Town of Malmesbury beyond. The area to the west of this location falls within the defined settlement boundary for Malmesbury and the defined Conservation Area for the town. To the south west lies the road junction of Priory roundabout with mixed type and scale of residential properties beyond at Burton Hill, and extending further south-east along the B4042 towards Cowbridge.

The land is in agricultural use and is relatively flat, sloping gently down in a north east direction within the red line application boundary before falling away more steeply towards the River Avon located further to the north east of the site. Adjacent agricultural land rises in height to the south towards Burton Hill and Cams Hill, while agricultural land also abuts the site to the east, extending along the river valley at broadly similar levels to the site.

To the north and north east the site is bordered with a mature field boundary featuring hedgerow and mature trees. To the west a line of trees extends along the edge of the A429. To the south the site has an open boundary with the larger field area.

The application site is subject to a range of known constraints in addition to those referenced above. The site is adjacent the Malmesbury Conservation Area. The Council has multiple records of surface water flooding in this location. The site is within a Groundwater Vulnerability Zone and a Water Source Protection Zone. The site is classified as Grade 3 Agricultural Land. The location is one of known archaeological potential with Historic Sites and Monuments Records in the immediate vicinity.

4. Planning History

None directly relevant to the scheme proposals.

5. The Proposal

The proposed development involves the erection of a 1,794 sq m A1 retail food store with ancillary works for access, parking, planting and landscaping. The food store operator is within the discount sector and the range of goods sold would extend beyond foodstuffs to include comparison goods albeit as an ancillary part of the offer and available as part of the

discount operation, so when sold the goods are no longer available i.e. not a permanent part of the offer.

6. Planning Policy

The proposed development by virtue of its limited scale, known site constraints and the likely assessed impacts of development individually and cumulatively is not considered to constitute EIA development for the purposes of Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Wiltshire Core Strategy (WCS) (Adopted January 2015)

CP1 Settlement Strategy
CP2 Delivery Strategy
CP3 Infrastructure Requirements
CP13 Spatial Strategy for Malmesbury Community Area
CP38 Retail & Leisure
CP50 Biodiversity and Geodiversity
CP51 Landscape
CP55 Air Quality
CP57 Ensuring High Quality Design and Place Shaping
CP58 Ensuring the Conservation of the Historic Environment
CP60 Sustainable Transport
CP61 Transport and Development
CP62 Development Impacts on the Transport network
CP65 Movement of Goods
CP67 Flood Risk
CP68 Water Resources

Saved Policies of the North Wiltshire Local Plan 2011

NE18 Noise and Development
NE14 Trees and New Development

Malmesbury Neighbourhood Plan (MNP) (Made February 2015)

Policy 10 & Task 3.1, 3.2, 3.3
Policy 13 Task 6.1 Task 6.4
Tasks 8.1, 8.3, 8.4, 8.5, 8.9, 8.12, 8.15, 8.16, 8.17, 8.18, 8.19, 8.20, 8.25

National Planning Policy Framework (Feb 2019)

Paragraphs 2, 7, 8, 10, 11, 12, 14, 38, 47, 85, 86, 89, 90, 91, 92, 108, 109, 110, 111, 117, 118, 124, 127, 131, 155, 163, 165, 170, 175, 180, 189, 190, 192, 193, 196, 197

Planning Policy Guidance (in particular but not exclusively) - Ensuring the vitality of town centres & Consultation Requirements

The Town and Country Planning (Consultation) (England) Direction 2009: Given the scale of the proposed development referral to the Secretary of State is not required.

7. Consultations

The applicant team has made multiple submissions in part seeking to respond to representations made and consultation responses received following consideration of the initial application documentation. Consequently there have been two formal consultations

undertaken and consultees have received and commented upon multiple submissions. As such the following summary of consultee advice and responses is the position following consideration of all documentation submitted.

Wiltshire Council Spatial Planning – Site lies outside the defined settlement boundary where development is not supported. There appear to be no compelling reasons to set aside this policy approach. Sequential test is addressed. Impact to the vitality and viability of the town centre requires comprehensive assessment (defer to GVA advice). Policy 10 of the MNP has been partly addressed by the consent for and opening of Waitrose. Proposals conflict with WCS CP2.

Wiltshire Council Economic Development & Regeneration – no objections.

GVA (Council's Retail advisors) – The requirements of national guidance and WCS CP38 in respect of the sequential test and assessment of impact to town centre vitality and viability have been addressed. There are no more sequentially preferable sites available and this site in retail terms is marginally sequentially preferable to the Aldi site at the Malmesbury Garden Centre. The proposal both individually and cumulatively with the Aldi store will not result in harm to the vitality and viability of the town centre of such significance as to justify refusal on this basis.

Wiltshire Council Highways - No objection subject to conditions and planning obligation to secure highways works and traffic regulation order.

Wiltshire Council Landscape Officer – Objection. The proposed development will result in a harmful urban intrusion into rural countryside, east of the A429 Malmesbury Bypass and the sterilisation of small area of adjoining farmland and countryside to the west and south of the application site. The proposal conflicts with CP51 and CP57 of the WCS and saved policy NE14 of the North Wiltshire Local Plan.

Wiltshire Council Tree Officer – Concerns raised as to the clarity and accuracy of the submitted supporting information in terms of impacts of development to various trees and their root protection zones. Documentation and in particular the arboricultural method statement requires further revisions to comprehensively address matters in a manner consistent with the other application submission details.

Wiltshire Council Conservation Officer – Objection. The resulting alterations to the landscape and character of the area from these proposals would harm the setting of designated heritage assets (Conservation Area) individually and cumulatively and would be contrary to policies 192, 193, 196, 197 and 200 in the NPPF, Historic England's The Setting of Heritage Assets Good Practice Advice in Planning: Note 3 (2nd Ed Dec 2017) and the BS7913.

County Archaeologist – No objection and no conditions required.

Wiltshire Council Ecology – No objection subject to conditions

Wiltshire Council Public Protection – No objection subject to conditions

Wiltshire Council Drainage – No objection subject to conditions

Wiltshire Council Waste & Recycling – No comment as this will be a commercial waste collection arrangement.

Wiltshire Council Rights of Way Team – No objections.

Wessex Water – No objections but identifies issues with securing connections to foul and surface water drainage infrastructure. Consents from Wessex Water and Wiltshire Council as both Highways Authority and Lead Local Flood Authority will be required.

St Paul Malmesbury Without Parish Council- Object to development in this location in principle, outside of the defined settlement and within the open countryside. Retain concerns regarding the proposed access arrangements and impact to the local highway network of the vehicular movements generated.

Malmesbury Town Council – Supports the principle of a Lidl Store within Malmesbury but objects to the development in the proposed location. Significant concerns are raised as to the principle of permitting development in this location outside the defined settlement boundary and implications for future development beyond the A429 in the open countryside. Concerns are raised as to the landscape impact of development in this location. Similarly in terms of the Highways impact of traffic and vehicular movements generated and the proposed access arrangements. The Town Council consider that the impact to the town centre is material and requires mitigation through S106 contributions. The Town Council considers that the proposals conflict with Policy 10 of the neighbourhood plan.

Natural England – No objection

8. Publicity

The application has been advertised by site notice, press notice, neighbour notification letters and consultation with local organisations. As noted above the application has been subject to two periods of formal public consultation.

The consultation response can be summarised as follows:-

- Support (unqualified)
- Support the principle of a discount superstore in the town to address out commuting and improve choice and affordability but object to this proposed location as harmful to the character and appearance of the locality (landscape and conservation area/character of the town), poor accessibility and setting a precedent for development beyond the A429 and outside the town.
- Object to the principle of the development proposal as unnecessary and harmful to the town centre.
- Object to both the principle of the development as unnecessary and harmful to the town centre and to this location being harmful to the character and appearance of the locality (landscape and conservation area/character of the town), poor accessibility and setting a precedent for development beyond the A429 and outside the town

In addition detailed representations have also been submitted on behalf of both Waitrose and the Co-operative society objecting to the proposals. Objections centre on impact to the vitality and viability of the town centre and critique of the scope and accuracy of the retail impact assessment submitted with the application; highways hazard and inadequate access arrangements with negative impact to vehicular movements at the Waitrose store; and site specific harm and related policy and development plan conflicts.

9. Planning Considerations

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current

time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLTP) 2011 (adopted June 2006); and The Malmesbury Neighbourhood Plan (MNP) (Made Feb 2015).

9.1 Principle of Development

The application site is located outside of the defined settlement boundary of Malmesbury within the open countryside and is not allocated for any form of development. The site is an out of town location for retail purposes. Policies CP1 CP2 and CP13 of the WCS seek to direct new development in market towns such as Malmesbury to locations within the settlement where additional development is anticipated and supported within the limits of development. Retail development in accordance with national guidance and WCS CP38 is directed to town centres in the first instance. The sequential test is then applied where no town centre sites are available, with edge of centre and then out of centre being the order of preference. Locations as close and well related to town centres as possible are generally sought. National guidance and case law does require that retailers adopt some degree of flexibility as to their operations in order to give full consideration to town centre sites that are potentially available but which may be constrained (as to scale, for example). CP38 does not resist proposals for development outside of town centres in principle. It requires the sequential test to be demonstrably met and for development to be located on the most central site available. It also requires that proposals be supported by a retail impact assessment in accordance with guidance and best practice which demonstrates that the proposal will not harm the vitality and viability of any nearby centres. Subject to meeting these requirements and all other relevant policies of the WCS the proposal could be acceptable in principle.

At this stage it should be noted that there is an application also before the Council for another discount retail foodstore at Malmesbury to be operated by Aldi. Application reference number 18/06980/FUL applies and the proposal is reported on this agenda.

The applicant (Lidl) has submitted a Retail Impact Assessment (RIA) supported by a Counsel's opinion as to the sequential test in the context of the Aldi scheme proposal at Malmesbury Garden Centre and compliance or conflict with CP62 in respect of access to and from the A429 (primary road network). The Council commissioned GVA to review the submitted RIA; Counsel's opinion and to consider the individual and cumulative impact to the town centre of both the Lidl and Aldi schemes. Following initial review of the assessment clarifications were sought and received. The advice received from GVA is that the assessment in terms of town centre impact and sequential test are appropriate following clarifications. In respect of the Lidl scheme the site location is sequentially preferable to the Aldi site in terms of accessibility to the town centre, but the actual number of linked trips could be small. There are no other more sequentially preferable sites available.

Importantly the advice goes on to identify that the impact of the Lidl store to the vitality and viability of the town centre, both individually and cumulatively with the Aldi store is not so significant as to warrant and justify refusal on that basis. The Council's advisors have also reviewed and considered the submissions made by interested parties including the Co-op and Waitrose in arriving at this conclusion. Importantly GVA were also the council's advisors when the Waitrose and Sainsbury's proposals were submitted and considered. This included consideration of the related retail impact assessments the conclusions of which can be considered in the context of the Waitrose development having taken place and the RIAs including household surveys of retail expenditure patterns.

It is also important to note here the very significant level of public representation and submission of important local organisations including the Parish and the Town Council. This

confirms that there is some degree of retail expenditure leakage from the town to other centres, in particular Cirencester and this entails unsustainable transport movements. It is also clear from the public consultation responses that there is a significant level of support for the provision of a discount supermarket operator at Malmesbury, although this support is not unanimous and is in part qualified by objection to the proposed open countryside location east of the A429 outside of the town.

It should also be noted that GVA referenced the possibility of S106 contributions to further offset any impacts to the Town Centre. This is also reflected in the consultation response of the Town Council and the policies of the MNP. S106 matters are addressed further below but in short it is not considered that financial contributions required by S106 would in this instance meet the statutory test set out in the regulations on the use of planning obligations and CIL. No quantified level of financial contribution has been identified. No specific proposals are advanced or identified by any party as to how the contributions would be utilised in the town centre. There is no detailed evidence to demonstrate how such contributions would mitigate impacts to the town centre. The advice of GVA identifies that there is no justified basis for refusal on the grounds of harm to the vitality and viability of the town centre. In these circumstances it is unclear how contributions could be considered necessary as a consequence of and related in scale and kind to the development proposed.

The Town and Country Planning (Consultation) (England) Direction 2009 requires Local Planning Authorities to consult with the Secretary of State in respect of new and extended retail development proposals in out of centre locations subject to certain criteria. These criteria are not met in this instance and so consultation is not necessary in respect of this application.

On this basis the development proposal are considered to conflict with the development strategy defined by core policies CP1, CP2 and CP13 but some level of support for the principle of development is provided under CP38 and Policy 10 MNP. It is therefore necessary to consider the proposals against the other policies of the development plan and relevant aspects of national guidance and weigh all considerations in the balance, which is undertaken in the conclusion below.

9.2 Impact on the Character, Appearance and Visual Amenity of the Locality Including Trees

As noted above the application site is within the open countryside abutting the A429 and in a visually prominent location on the access to the town in local views and from localised public and private vantage points. The site features mature field boundaries including a number of mature trees. The site is in agricultural use and lies on elevated land above the A429 adjacent to the A429 but with rising land to the east / north east. Abutting the northern field boundary the site drops to the Avon River and valley at a lower level with land levels dropping off in this direction.

The site forms part of the open countryside location at the entrance to the town beyond what has become a recognisable feature of the landscape and well defined visual boundary to the town – the A429 – especially so in the context of recent development to the west adjacent to the town including the Waitrose store on the opposite side of the A429. Also relevant to the context is the Malmesbury Conservation Area designation, the boundary of which abuts the western edge of the A429. In NPPF terms, the application site and immediate countryside areas is not a “valued” landscape in the context of the definition established by the NPPF, but the NPPF still requires local planning authorities to recognise the intrinsic character and beauty of the countryside when making planning decisions.

The proposals would result in an urbanisation of the land in question changing it from open agricultural pastoral land, prominent in localised views, to a significant large extended urban

area that harmfully breaches the well-established boundary of the A429, taking urban development into open countryside with new built form characteristic of a town centre location. The extensive parking arrangement with associated external lighting, and the site layout extending into the open field at an irregular obtuse angle increases the impact in this context and sterilises at least a part of the existing agricultural field in terms of a realistic and viable future agricultural use. Likewise the position of the development site located hard up against the existing northern field boundary results in the need for unnecessary tree removals and does not demonstrate that existing landscape features have been suitably incorporated into the development proposal, despite a clear opportunity to do so.

The applicant has sought to address the Council's concerns in these respects with various additional submissions including revised proposal to incorporate a green roof into the design of the building (it is not clear what form of planting is proposed for the green roof), the first for Lidl in the UK. In addition the applicant has proposed additional landscaping on a roughly triangular area of land to the north west of the proposed access and building that has been sterilised by the proposed layout and positioning of the development in the field. This is not a part of the application site red line boundary area or within the control of the applicant. The applicant has suggested this could be controlled and delivered by S106 agreement. The council has also received submissions from the landowner to confirm that they are willing to enter into such an agreement albeit subject to certain conditions. The applicant has also made it clear they have no intention of promoting the wider field / adjacent land for development and would enter into the agreement to address this again subject to conditions. The Council's landscape and conservation officers have reviewed and considered these submissions in full. Built Heritage and Conservation aspects are addressed below.

The Council's Landscape Officer raised objection during the first consultation in respect of these submissions with particular reference to the 'in principle' position that the site is outside of the defined settlement boundary, within the open countryside and unallocated for development. Objection was raised as to the harm resulting from the urbanisation of the open countryside through the introduction of significant built form in a location that is visually prominent in localised views and which forms a part of the setting and gateway to the town. Concerns were also raised in respect of the form and layout of the development accentuating this impact and sterilising substantial parts of the related agricultural land. Whilst the revised and additional proposals were welcomed as an improvement, Officers considered that the harm caused was not sufficiently mitigated and that the in principle objection to the introduction of significant built form in this location was not addressed by these provisions. The proposal will harm the intrinsic character and beauty of the countryside.

On this basis it is considered that there is conflict with WCS policies CP51 & CP57 (i, ii & iv & vi); MNP Policy 13 and the supporting aims and objectives set in Tasks 8.1, 8.4 & 8.5 of Vol II of the plan (Design Guide); and para 170 (b) of the NPPF and potentially NWLP (saved policy) NE14; as officers consider that development could be pulled further back from the northern boundary, allowing more vegetation to be retained and successfully incorporated for screening purposes etc.

It should also be noted that the Council's Tree officer has given full consideration to the scheme submissions and various additional submissions in seeking to respond to the results of this initial consultation. Officers identified a range of concerns as to the impact of the proposal on existing trees adjoining the northern boundary adjacent the river valley and the road verge, and also in respect of the proposed planting and landscaping arrangements. Concerns were also identified as to the consistency of information across the various submissions and clarifications and amendments were sought in these respects. This position and process has continued throughout the determination of the application with the applicant's consultants raising concerns and disputing the need for the requested revisions

and consistency of application documentation. This remains the case albeit it is considered that the currently outstanding matters are readily capable of resolution and so no formal objection or recommendation for refusal is advanced on the basis of harmful impact to important or protected trees by the trees officer.

9.3 Impact to Heritage Assets including Archaeology

During the initial consultation exercise the Council's archaeologists identified that the application site was one of significant archaeological potential given important finds in the near vicinity following the Waitrose development. Archaeological Field investigation was sought. The applicant team responded to this request in full and made submissions which have been reviewed and assessed by the Council's Archaeologist who has now confirmed that the application site has no archaeological resource and as such no objection is now raised and no conditions are required in respect of further archaeological site works or recording.

As noted above the site is open countryside and does not incorporate any listed buildings and no works to such heritage assets are proposed or required. The application does however sit very close to the Malmesbury Conservation area, which is itself a designated heritage asset, whose boundary lies on the opposite side of the A429. The significance of the conservation area arises from the interpretive, historic, informative and communal value. It is considered to be of higher significance and value given the wide range of high value heritage assets within the town, a number of which are of national significance and grade 1 designation. The town has evolved over time and the conservation area as it abuts the A429 has in particular been subject to recent development including the Waitrose store that has altered the character and appearance of the locality and the conservation area, including the setting of the historic core of the town. This is however a part of the historic evolution of the town and a part of the value & significance in communal and interpretive terms. Whilst not directly a part of and within the designated conservation area the open agricultural land adjacent the A429 and the Priory roundabout is considered to be a part of the setting of the town and the conservation area. It marks the transition of the built form of the two to the related hinterland including open countryside and agricultural land. This is of significance in terms of the historic market town role of Malmesbury.

As identified previously in landscape terms the development results in harm to the character, appearance and visual amenity of the locality through the introduction of significant built form urbanising open agricultural land. The land and the change in character and form would be visually prominent given site circumstances and this impact is not mitigated sufficiently by the proposed use of a green roof and landscaping. The Council's Senior Conservation Officer has been consulted in respect of all the application submissions and does identify less than substantial harm to the setting of the Conservation Area/designated heritage asset and in this context conflict with national guidance in the NPPF and the development plan. It is therefore necessary to consider both whether or not this harm is outweighed by any public benefits; and whether or not any such public benefits could be achieved in a manner that does not result in, or results in less harm than is currently identified. This is part of the overall planning balance exercise and is addressed in the conclusion below.

9.4 Highways Impact and Parking

The site is located adjacent to, and proposed to be accessed from, the A429 which is effectively a bypass for Malmesbury and is a long straight road with good visibility and fast moving traffic including as it relates to the site. The site and proposed access is also in close proximity to the Priory Roundabout which is one of the principal junctions in the Malmesbury locality and on the local highway network providing one of the main access points to Malmesbury whilst also distributing traffic southward toward the M4 and Chippenham and

eastward to various settlements. The site and the proposed access are also in close proximity to the existing access / egress for the Waitrose superstore.

The applicant made initial submissions based on an access/egress with left turn exit only and central reservation within the A429 providing right turn access from the southerly direction. The layout would include crossing islands. The proposals were informed by a full Transport Assessment and a draft Travel Plan. The Counsel opinion mentioned above also addressed the issue of access to the Primary Road Network.

The initial submissions have been the subject of multiple detailed representations of objection including those referenced above from consultants representing Waitrose who identify a range of concerns and conflicts with the access arrangements in place for the supermarket.

The Council's Highways Officers raised initial objections both in respect of the principle of a new access to the primary road network under the provisions of WCS CP62 alongside concerns as to the highways impacts of the proposed access and impacts to traffic movements on the Priory roundabout alongside conflicting movements and inadequate access arrangements for pedestrians and cyclist. Concerns were also identified in terms of the internal layout for servicing and parking arrangements.

Various submissions have been made by the applicant team in response with subsequent review and comment by officers and third parties resulting in further submissions. In particular technical notes incorporating additional information alongside revised and additional proposals informed by a road safety audit prepared by the applicant's Transport consultants have been submitted. The cumulative final position as to the proposed access arrangements can be summarised as follows:-

- Access to the proposed Lidl site will be from a new service road by way of a new priority junction on the A429. The proposed junction is located at the point of the existing field access. As part of the design proposals for the new A429 access, a ghost island right turn lane will be provided on the A429. The proposed access will allow for all movements into and out of the site.
- Pedestrian and bicycle access will be provided from the A429. The pedestrian and cycle upgrades proposed as part of the scheme are as follows:
 - Shared use foot / cycleway introduced on the west side of the A429 extending the existing foot / cycleway from its current termination point on the B4014 High Street up to the Waitrose Access.
 - Staggered crossing arrangement over the A429 to the south of the Waitrose Access.
 - Shared use foot / cycleway introduced on the east side of the A429 connecting the new store to the proposed pedestrian crossing on the A429.
 - Footway introduced on the east side of the A429 between the proposed pedestrian crossing and the footway on the north side of the B4042. The existing footway currently terminates at the Priory Roundabout.
 - Shared use foot / cycleway introduced on either side of the service road with pedestrian access into the Lidl store via a link to be located approximately 30m from the junction onto the A429. This link will provide direct access to the store entrance.
- As part of the current scheme proposals it is proposed that the current speed limit location is retained in the current location. However, the applicant has also offered to

cover the cost of the Traffic Regulation Order process to relocate the 30mph limit 75m to the north, should Wiltshire Highways consider this is required.

- Alongside the site access proposals the applicant has offered further works should Wiltshire Highways consider these are required. These potential traffic calming measures that reflect discussions with Malmesbury Town Council at a local level on what measures they may wish to see on this section of the A429 with Malmesbury. The measures discussed and that the applicant is willing to fund are as follows:
 - Potential relocation of the 30mph speed limit change further north on the A429, this will assist the enforcement of the 30mph speed limit on approach to the Priory Roundabout;
 - Dragon teeth markings on the A429 to emphasis the speed limit change;
 - Introduction of high friction surface treatment in red and '30' on road roundel on the A429 northbound approximately 45m north of the Priory Roundabout; and
 - Introduction of high friction surface treatment in red and 'SLOW' on road markings on the A429 northbound approximately 65m north of the Priory Roundabout and southbound approximately 225m north of the roundabout.
- The scheme proposed provides 119 car parking spaces of which 7 will be for the mobility impaired and 8 for parent and child car parking. The scheme proposed provides 7 cycle stands (14 spaces) which are to be located under a covered shelter and are visible from the tills.
- Draft Travel Plan

The Council's Highway Officers have reviewed and assessed all submissions made by the applicant and have done so in the context of and having reviewed all representations submitted. As noted in the consultation summary section Officers raise no objection to the scheme proposals subject to conditions and a planning obligation to address traffic regulation order requirements and highways works. Also in the context that a Section 278 Highways Agreement for various highways works will also be necessary. Officers do not support the proposed extension of the 30 MPH speed restriction given highways conditions and the proposed junction arrangement but do however acknowledge significant local support for this provision. In the event of a positive approval subject to this requirement by the local planning authority, highway officers would support the provision and further TRO funded by the applicant and this would need to be addressed through the planning obligation. Officers also seek clarification as to the exact details of the proposed right hand visibility splay but it is considered that this could be readily addressed through minor additional information and is not a fundamental objection to the proposed arrangements. It is also noteworthy that the proposed splay is the maximum provision or the best level of visibility that could be provided for the road conditions and the proposed vehicular movements. Officers have sought an 'all movement junction' and as is set out above this is the basis of the latest proposed arrangements. Officers were not entirely clear in this respect given that the RSA identifies that a left hand turn (egress) junction would enhance driver experience and given the multiple plan submissions made, a number of which defer full and correct detail to other submissions thereby requiring multiple overlapping cross referencing. Following further analysis it is confirmed that the proposal is an all movement junction which accords with the Highways recommendation. As such no Highways objection is raised to the scheme proposals which therefore accord with the relevant requirements of the development plan and national guidance.

9.5 Drainage & Flood Risk

The position with respect to site drainage (foul and surface water) has been the subject of extensive discussion and submissions following the initial consultation exercise, particularly in respect of responses from the Council's Drainage Officers and Wessex Water. In short the immediate locality is one of known surface water drainage and flooding issues, groundwater flooding and water source protection constraint.

The application submissions included a Flood Risk Assessment (FRA) and Drainage Strategy which were subject to full review and assessment by the Council's drainage officers. An initial holding objection was raised and a range of concerns identified particularly focussing on the proposed strategy of provision of drainage infrastructure across third party land, the public highway and the adjacent water course. Wessex Water raised similar concerns in respect of the foul drainage provisions. However, it was identified that the strategy was broadly acceptable in terms of managing foul and drainage water requirements and achieving policy objectives in relation to climate change, albeit subject to the caveat that the proposals were not initially considered deliverable as no rights of connection existed.

As with the highways position the applicant team has sought to address and allay these concerns with a series of additional submissions including updated FRA and drainage strategy with commitments to secure necessary agreements for rights of access and connection and pumping station provisions. The final cumulative position as to the proposed drainage strategy arrangements can be summarised as follows:-

- Surface water will be discharged directly to the River Avon approximately 105m north of the site. Agreement has been obtained from the landowner to lay a new surface water drain within land north of the site (between the site and River Avon) to facilitate a new connection to the River Avon.
- Attenuation can be provided in the form of an underground attenuation tank located within the northern extent of the proposed car park. There is also potential to utilise permeable paving within the car park.
- Foul flows should be discharged to the 150mm public foul sewer located approximately 185m south of the site crossing Priory Roundabout. A pumped solution will be required.

Following review of the further submissions Officers made some further suggestions as to amendment of the drainage strategy regarding future proofing the foul and drainage provisions in the event of additional development proposals being advanced on the adjacent land. Officers did identify that matters could possibly be addressed via the use of conditions. Both the suggested revisions and the conditions were provided to the applicant team for comment, agreement and or action. The applicant team has responded to confirm that a number of agreements for the rights of access have been reached already, others involve highways land in the council's control and so are potentially deliverable, and that the proposals are those before the Council and there is no other development submitted for consideration at this stage and so it is inappropriate to plan for drainage provision on that basis. In the latter respect the applicant team comments that infrastructure will be capable of upgrading if necessary. As such the recommended conditions from the Drainage officer would be required in the event of an approval but no objection in respect of drainage matters is advanced and the proposals are considered to accord with relevant development plan policies and national guidance.

9.6 Impact on Ecology

The consideration of potential impacts in respect of ecology has been the subject of additional submissions following the outcome of the initial consultation exercise. The initial application submission included an ecological appraisal which was the subject of review and assessment by the Council's Ecologists and Natural England. Initial objection in respect of the submission was raised by the Council's Ecologist on the basis of inadequate survey information and/or unclear and incomplete survey detail in respect of a range of species including Bats, Badgers, Birds (Skylark) & Dormouse. Without these matters being addressed it was identified that Officers were not able to fully assess the impacts of development in accordance with national guidance and development plan policy (CP50).

In response to this position the applicant team provided an updated ecological appraisal which included additional information in respect of the above mentioned species alongside others and identified the following summary and recommendations:-

Designated Sites

- The nearest Natura 2000 site is North Meadow and Clattinger Farm SAC located approximately 9km north east of the site. It is considered unlikely that the development will have any negative direct or indirect impacts on the designated features of the site.
- Conygre Mead LNR, a broadleaved woodland and calcareous grassland is located 0.74km north west from the site. No impacts to the local nature reserve are predicted, if standard construction best practice guidelines are followed.
- There are five local wildlife sites (LWS) within 2km of the site. The closest is Bristol Avon River, located 100m from the site. No impacts to the local wildlife site are predicted if standard construction best practice guidelines are followed.

Habitats

- Improved grassland will be removed to facilitate the development however this habitat is considered common and widespread both locally and nationally.
- Trees and hedgerows to be retained within and adjacent to the site should be protected from direct impact and from severance or asphyxiation of the roots in accordance with BS5837: 2012 "Trees in Relation to Design, Demolition and Construction – Recommendations" (British Standard, 2012).
- There are opportunities to enhance the ecological value of the site. The incorporation of new native trees or shrubs within the proposed landscape buffer would provide suitable habitat for invertebrates, birds and foraging/commuting bats. Alternative options that could be considered include green walls or green roofs.

Protected & Notable Species

- It is likely no significant populations of reptiles are present with potential presence limited to low numbers in the field margins. It is recommended that habitat manipulation is completed of suitable boundary habitats.
- If tree T2 is to be removed to facilitate the development, in accordance with the BCT Guidelines, two emergence/ re-entry survey are recommended to determine whether the trees are used by bats at present.
- If tree T1 is to be removed, it must be felled using soft felling techniques.
- All boundary vegetation to be retained on site with a landscape buffer, where possible and subjected to a sensitive lighting plan for foraging and roosting bats;
- All vegetation clearance to be conducted outside of the breeding bird season (March-September inclusive). If this is not possible, all clearance must be supervised and subject to a nesting bird check;
- A check of the site for badgers should take place no more than three months prior to any development to allow time for a Natural England licence to be applied for to close any setts;
- All boundary hedgerow vegetation to be cleared should be first subjected to a dormouse nest check up to 48 prior to removal.
- A search by hand for hedgehogs is carried out immediately prior to removing any areas of

dense vegetation.

The Council's Ecologist has reviewed and assessed this updated appraisal and raises no objections subject to a range of conditions related to the recommendations made. Previous concerns and queries have been adequately addressed by the submissions. In this context it is considered that the requirements of national guidance and WCS CP50 are met.

9.7 Other Matters

Section 106

The application is not recommended for approval and so no S106 agreement has been prepared. In the event of a decision to approve an agreement would be necessary to address highways works and TRO requirements.

As noted above the Council's retail advisors (GVA) and the town council have made reference to securing financial contributions for enhancements to the town centre to mitigate retail impact. No specific quantum of contribution is identified. There is no methodology available for assessing and calculating an appropriate level of contribution that would link in scale and kind to the development proposed and the assessed impact to the town centre. It must also be noted in this context that GVA identify that the level of impact to the town centre is not such that it would justify refusal either individually or cumulatively in conjunction with the Aldi store proposal. Finally there are no detailed proposals and projects advanced in respect of town centre enhancement upon which the monies would be expended. The Neighbourhood Plan refers to some aspirations in this respect but there is little detail available as to specific projects that could be related in scale and kind to a quantum of contribution being sought. Also the rationale identified in the plan for those contributions is based upon a dramatic impact to the town centre arising from development, which as set out above is not the assessed position. As such it is not possible to assess the extent to which such contributions would mitigate the impact of development in any event. As such it is not considered that the requirement would meet the provisions of the national requirements in terms of S106 matters as referenced in the NPPF and PPG and including the CIL regulations, which require that contributions be directly related in scale and kind to the development proposed, necessary to make the development acceptable and directly related to the development. The Council's legal department concur with this assessment. Furthermore it is not considered that such requirements are expressly required and justified under the terms of CP3 and CP38 of the WCS.

Noise/Public Protection

The application is supported by a Noise Assessment, Service Delivery Management Plan and Geotechnical Site Investigations. The application proposals have also been amended to include provision for electrical vehicle charging points. Following initial consultations with Public Protection officers clarifications were sought as to the nature and timeframes for goods deliveries and waste servicing. Additional information has been provided and discussion between Public Protection Officers and the consultant advisors to the applicant team have taken place. Subject to use of conditions restricting delivery timeframes, which have been accepted by the applicant team, and following the submission in respect of the ground investigations and provision for ULEV charging Public Protection officers raise no objection and consider the proposals would not result in significant harm to air quality, residential amenity or the environment and so accord with relevant national guidance and the provisions of the development plan.

10. Conclusion – The Planning Balance

The site is not allocated for any form of development and lies outside of the defined limits of development for Malmesbury. The site is therefore in the open countryside where the development strategy of the adopted up to date development plan and national guidance is to restrict development not least of all to recognise the intrinsic character and beauty of the open countryside and to focus development within and direct it to the most sustainable locations. The site is one that is visually prominent from a range of localised vantage points and is close to the boundary of the Malmesbury Conservation on the opposite side of the A429. It is also adjacent to the main arterial route for traffic travelling past and to the town and one its principle access and distributor points - Priory Roundabout. Conflict with the development plan and national guidance is identified in respect of the relevant policies relating to these matters.

The proposed development is also one which is specifically directed to town centre locations as a first preference and subject to a sequential approach to location thereafter. The application site is the least sequentially preferable location for development. The applicant has submitted legal opinion to argue that the site is sequentially preferable to the competitor Aldi application at the Malmesbury Garden Centre. The Council's retail advisors are also of the opinion that the site is marginally sequentially preferable to a material extent in retail terms. In both respects significant reference is made to similar assessments and conclusions in respect of previous competing supermarket proposals in similar locations – Sainsbury's and Waitrose, which concluded in favour of Waitrose. It is officer's opinion that these submissions do not appear to fully weigh and account for material changes in circumstances that have occurred since the determination of those applications. In particular the substantial amount of development, especially residential development, that has taken place to the north of Malmesbury, planned development in that location, and related highways improvements in the vicinity of the Garden Centre site. In addition the evidence of the retail impact assessment as to relatively limited link trips between the town centre and the Waitrose store is of relevance. Taking such factors into account it is officer's view that the sequential difference between the sites is limited. The retail evidence and advice also concludes that there would not be a significant harmful impact to the vitality and viability of the town centre individually from Lidl or cumulatively with the Aldi store such that there is conflict with the provisions of national policy and the development plan. It must also be noted that the development plan does indicate some level of need for additional retail provision within Malmesbury albeit this was the position adopted as the Waitrose Store was permitted. This is however reflected in the findings of the retail impact assessment. The outcome of the consultation exercise identified substantial levels of out commuting to other centres for retail purposes supporting the findings of the retail impact assessment and the provisions of the plan. The public consultation response whilst mixed overall did identify significant levels of support for provision of a discount supermarket retail store, at least somewhere in Malmesbury.

With respect to other site specific matters the majority are considered by officers to raise no significant harmful impacts or conflict with the development plan and national policy that cannot be appropriately and satisfactorily mitigated via the use of conditions and a planning obligation (S106 agreement) and some minor amendments/additional submissions. Ecology, Drainage, Trees, Public Protection and Highways are all considered to be satisfactorily addressed in this way. With respect to Highways interested third parties remain in objection and raised concerns to the assessment undertaken including as to the in principle acceptability of an additional access to the primary road network and compliance with the development plan and in particular WCS CP62. Officers have given this matter extensive consideration and concluded that on balance it would not be defensible to object and refuse permission as a matter of principle and conflict with CP62 WCS. In doing so weight is given to the site specific circumstances in terms of available visibility and existing highway speed restrictions and the proposed package of transport measures including pedestrian and cycle access, all-purpose junction and travel plan. It is also material to consider that the Council

has agreed such accesses in other locations within Wiltshire where the material site circumstances indicated this was appropriate.

On this basis and on balance it is considered that the proposals are in conflict with the development plan. It is therefore necessary to weigh this as a material harm in the overall planning balance.

It is also necessary to consider the Heritage asset issues individually. In this context the Council's Conservation Officer identifies less than substantial harm to the setting of the Conservation Area both individually and cumulatively with other recent development in this immediate locality, and consequently conflict with the relevant provisions of the development plan and national policy. Given the material circumstances in that the site is close to but not within the conservation area; and some level of mitigation is proposed with landscaping and planting to the south and west it is considered that the harm is at the lower half of the scale. It is considered that the development delivers some public benefits and these are set out in more detail below but include enhanced retail provision and offer, reduce out-commuting and loss of retail expenditure to other areas, economic benefits from construction and additional employment. It is considered that in isolation the benefits of development are marginally greater than the harm caused. However, where harm is identified, even when less than substantial, it must still be given weight in the planning balance. It is then necessary to consider whether or not these benefits could be achieved in a way that reduces or obviates the harm that is identified. In this instance it is considered that there is an alternative approach in that there is an alternative development proposed in a location that provides the same benefits but does not result in the identified harm. Given the statutory requirement to preserve and where possible enhance designated heritage assets it is considered on balance that there is harm and therefore conflict with the development plan and national guidance which must also be weighed in the overall planning balance.

As such there is both identified harm arising in relation to the conflict with the development plan and national guidance in respect of the development strategy of the plan, the adverse impact on the character, appearance and visual amenity of the landscape and the setting of the conservation area and in this latter respect there is harm to a designated heritage asset and consequent conflict with statutory requirements. Overall, these objections amount to a significant level of harm. The benefits of development must be weighed against and in relation to this harm. Such benefits include the additional retail offer for the town, including in respect of discount retail provision resulting in social and economic benefits for residents. The proposal has separate economic benefits in respect of additional expenditure in the town and the reduction in the leakage of expenditure to other locations alongside tax revenues. The proposal would also result in additional employment opportunities which also have social and economic benefits. There would be economic benefits arising from the construction of the development. Finally the improved retail offer for the town would result in reduced out commuting to other locations for shopping purposes resulting in environmental benefits from reducing vehicular movements.

It is not considered that these benefits outweigh the harm that would be caused by the development proposed. The conflict with the development plan is a harm that should not be set aside lightly given statutory provisions in this respect, similarly in relation to designated heritage assets. Much of the benefit that arises from development is of limited scale and extent e.g. economic benefits from construction are temporary, whilst the numbers of jobs generated are limited in scale. Additionally, it is considered that the benefits of the development of a discount food store could be achieved in another location that would result in a lesser degree of harm.

On this basis and in accordance with the provisions of the development plan and taking account of government policies outlined in the NPPF, it is recommended that the application should be refused planning permission.

RECOMMENDATION

Refusal for the following reasons:-

1. The proposed development in the location identified would conflict with the development strategy of the development plan as defined by policies CP1, CP2 and CP13 of the Wiltshire Core Strategy (Jan 2015) and thereby conflict with paragraphs 2, 12 and 47 of the NPPF (Feb 2019).

2. The proposed development would result in harm to the character, appearance and visual amenity of the locality through the urbanisation of the landscape contrary to Wiltshire Core Strategy Policies CP51 and CP57 (i, ii, & iv);. Policy 13 as informed by aims and objectives tasks 8.1, 8.4 & 8.5 and Vol II (Design Guide) Malmesbury Neighbourhood Plan (Made Feb 2015); and NPPF para 170(b) (Feb 2019), while the proposed location of development precludes future viable agricultural use/s for adjoining farmland to the west and south, which would not represent an efficient use of land contrary to WCS, CP57 (vi).

3. The proposed development would result in less than substantial harm to a designated heritage asset (Setting of the Malmesbury Conservation Area) which is not outweighed by the public benefits of development. The proposals thereby conflict with Wiltshire Core Strategy CP57 (i & iv) and CP58; Malmesbury Neighbourhood Plan Policy 13 as informed by aims and objectives tasks 6.1, 8.1, 8.4 & 8.5 and Vol II (Design Guide); 192, 193, 196, 197 and 200 in the NPPF (Feb 2019), Historic England's The Setting of Heritage Assets Good Practice Advice in Planning: Note 3 (2nd Ed Dec 2017) and the BS7913.

Background Documents Used in the Preparation of this Report:

Application submissions (Initial and Revised/Additional)

Wiltshire Core Strategy Jan 2015

Malmesbury Neighbourhood Plan 2015

National Planning Policy Framework Feb 2019

Planning Practice Guidance

Application submissions 18/06980/FUL

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REPORT TO THE NORTH AREA PLANNING COMMITTEE

Date of Meeting	6th March 2019
Application Number	18/06980/FUL
Site Address	Land At Malmesbury Garden Centre, Crudwell Road Malmesbury SN16 9JL
Proposal	HYBRID PLANNING APPLICATION: Full Approval for the Demolition of Existing Buildings and the Erection of a Class A1 Foodstore (1,782 sq m Gross Internal Floor Area) with Associated Access, Car Parking and Landscaping. Outline Approval for a Replacement Garden Centre and/or Class B1/B2/B8 Employment Uses.
Applicant	ALDI Stores Ltd.
Town/Parish Council	St Paul Malmesbury Without
Division	Sherston
Grid Ref	393976 188360
Type of application	Hybrid Outline and Full Planning
Case Officer	Lee Burman

Reason for the application being considered by Committee

The Head of Development Management officer has resolved in accordance with the scheme of delegation to report the application to Committee. The reasons for this decision being the mixed nature of the large scale public consultation response received; and the concurrent submission of a further application for a superstore (Lidl) at Malmesbury, which is also reported for committee determination on this agenda. Allowing both applications to be considered at the same meeting ensures transparency in decision making and enables them to be considered in context.

1. Purpose of Report

To consider the development proposal in the context of the development plan and national guidance and the recommendation that the application be approved subject to the conditions recommended below and completion of a S106 agreement within 6 months of the date of this meeting. The S106 agreement is required to market the land for the B1 B2 B8 employment uses and restrict the use of the land to such uses for an appropriate period and tied to the marketing of the site.

In the event that the applicant declines to complete the S106 agreement within 6 months to refuse permission for the reasons set out below.

2. Report Summary

St Paul Malmesbury Without Parish council does not formally object but raises significant concerns and seeks revisions in respect of the proposed highways and access measures.

Malmesbury Town Council does not formally object to or support the proposals but makes comments as to a range of material considerations including highways and access measures, use of the remainder of the site, retail impact and S106 contributions, and Neighbourhood Plan compliance.

15 representations of objection and 14 general comments from interested parties and residents were received.

241 representations of support were received.

Planning Issues raised for consideration by the proposal are:-

Principle of development

Impact on the character, appearance and visual amenity of the locality Including trees

Impact on Heritage Assets including Archaeology

Highways impact and parking

Drainage & flood risk

Impact on ecology

Noise & residential amenity

Section 106 Matters

3. Site Description

The site is located on the north eastern fringes of Malmesbury outside of the defined settlement limits and to the east of the A429 and its junction with the B4014 leading into Malmesbury and Milbourne Lane which connects to the B4040 Charlton Road. The junction is in the form of Whychurch roundabout with access arrangements adjacent having been recently altered.

The site itself includes the existing garden centre with a range of ancillary structures, external storage and parking alongside undeveloped open land. The boundary to the north features dense mature vegetation as do other boundaries in the immediate vicinity of the site although the boundaries to the west adjacent to the roundabout and to the south and east are open or sparsely vegetated.

Immediately adjacent to the roundabout there are a number of detached residential properties. To the east and south is open countryside. To the west and south west lies open agricultural land with the town beyond and separated by the A429. The Charlton Estate lies to the North and North East of the site.

The site and locality is one of known archaeological and ecological potential and which has a history of drainage and flooding issues. The site is also within the setting of a designated heritage asset (the Charlton Estate).

4. Planning History

N/00/01968/OUT	Outline - Builders Merchants, Light Industrial & Warehouse Units (Use Classes B1 & B8) With Means Of Access - Refused
N/91/01908/SEC	Renewal Of Temporary Permission For Retention Of

	Building For Use In Connection with Garden Centre - Approved
N/90/00248/DOC	Discharge Of Condition 2 (N.88.3540.F) – Landscaping - Approved
N/89/01125/ADC	Erection Of 4 No Flag Poles 9 Metres High - Refused
N/88/03540/FUL	Alterations And Extension To Existing Garden Centre Nursery - Approved
N/91/00125/SEC	Renewal Of Temporary Permission For Retention Of Building For Use In Connection with Garden Centre - Approved
N/89/01241/ADC	Non-Illuminated Advert Sign - Approved
N/89/00544/FUL	Erection Of Temporary Building for Use In Connection With Garden Centre - Approved
N/98/02339/OUT	Outline - Erection Of Dwelling and Garage Dwelling And Garage - Withdrawn
N/96/00716/DOC	Discharge Of Condition 4 Of Permission N/92/0415/F - Details Of Landscaping Landscaping/Car Parking Detail - approved
N/96/01238/ADC	Advertisement Consent - 3 No Freestanding Signs 3 No Forecourt Signs - approved
N/96/01015/DOC	Discharge Of Condition No 5 Relating To N/92/0415/F - Details Of Car Parking And Access Car Parking And Access - Approved
N/98/01229/FUL	Polytunnels For Production & Sale Of Plants Polytunnels - Approved
N/88/00594/ADC	Advertisement Signboard - Refused
N/87/00612/DOC	Discharge Of Condition No.2 Requiring Details Of Vehicular Access Relating To Permission N.83.1789.F - Approved
N/92/00415/FUL	Extension To Existing Building to Form Coffee Shop/Restaurant Coffee Shop/Restaurant –Approved
N/01/02659/OUT	Outline - With Details Of Means Of Access, Demolition Of Existing Garden Centre And Erection Of Replacement Garden Centre And Builders Merchants Yard - Withdrawn
N/11/03555/SCR	Screening Opinion - Erection of a Foodstore & Employment Floorspace (B1 & B8 Use Classes) – EIA not Required
N/11/04092/OUT	Full Details For the Demolition of Existing Buildings & Construction of a Foodstore, Associated Customer Car Park, Petrol Filling Station & Associated Highway Works; Together With Outline Details for the Provision of a Builders Merchants & Premises for Employment Use (B1 & B2 Use Classes) - Refused
16/12196/PREAPP	The Erection of an Aldi Discount Foodstore of Approximately 1,800 sq m gross (1,254 sq m net), 147 Car Parking Spaces and Associated Landscape and Access Works
18/07084/SCR	Screening Opinion Request in Relation to Proposed Development Including Provision of Aldi Discount Food Store and the Provision for a Replacement Garden Centre and/or Employment Uses on the Remainder of the Site – EIA Not Required

5. The Proposal

The application submission is a hybrid seeking consent in outline with matters relating to layout, scale, appearance, and landscaping of this element of the proposal reserved in respect of B1, B2 & B8 Employment uses and/or replacement Garden centre; with full planning permission sought in respect of the Aldi foodstore alone.

The full application relates to proposals for the demolition of existing buildings and structures on site and the erection of an A1 retail foodstore of 1,782 sq m gross internal floor area with associated access parking and landscaping works.

The outline element of the application seeks permission in principle for the replacement of the existing garden centre of up to 3,716 sq m (Gross External Area) and / or B1 B2 B8 employment uses of up to a combined floorspace of 3,252 sq m (Gross External Area).

6. Planning Policy

Screening opinions have been issued in the past in respect of similar development concluding that Environmental Impact Assessment (EIA) is not required. A further screening opinion request was submitted for the development now proposed and issued under reference 18/07084/SCR under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and again concluded that EIA was not required.

Wiltshire Core Strategy (WCS) (Adopted January 2015)

CP1 Settlement Strategy
CP2 Delivery Strategy
CP3 Infrastructure Requirements
CP13 Spatial Strategy for Malmesbury Community Area
CP34 Additional Employment Land
CP38 Retail & Leisure
CP50 Biodiversity and Geodiversity
CP51 Landscape
CP55 Air Quality
CP57 Ensuring High Quality Design and Place Shaping
CP58 Ensuring the Conservation of the Historic Environment
CP60 Sustainable Transport
CP61 Transport and Development
CP62 Development Impacts on the Transport network
CP65 Movement of Goods
CP67 Flood Risk
CP68 Water Resources

Saved Policies of the North Wiltshire Local Plan

NE18 Noise and Development
NE14 Trees and New Development
BD1 Employment Land

Malmesbury Neighbourhood Plan (Made February 2015)

Policy 10 & Task 3.1, 3.2, 3.3
Policy 13 Task 6.1 Task 6.4
Tasks 8.1, 8.3, 8.4, 8.5, 8.9, 8.12, 8.15, 8.16, 8.17, 8.18, 8.19, 8.20, 8.25

National Planning Policy Framework (February 2019)

2, 7, 8, 10, 11, 12, 14, 38, 47, 80, 83, 85, 86, 89, 90, 91, 92, 108, 109, 110, 111, 117, 118, 124, 127, 131, 155, 163, 165, 170, 175, 180, 189, 190, 192, 193, 196, 197

Planning Policy Guidance (in particular but not exclusively) - Ensuring the vitality of town centres & consultation Requirements

The Town and Country Planning (Consultation) (England) Direction 2009: Given the scale of the proposed development referral to the Secretary of State in the event of a resolution to approve is not considered to be required.

7. Consultations

The applicant team has made multiple submissions in part seeking to respond to representations made and consultation responses received following consideration of the initial application documentation. Consequently there have been two formal consultations undertaken and consultees have received and commented upon multiple submissions. As such the following summary of consultee advice and responses is the position following consideration of all documentation submitted.

Wiltshire Council Spatial Planning & Economic Development Teams – No objection
(Comments and policy assessment addressed in the body of the report)

GVA (Wiltshire Council Retail Advisors) – The application site is an out of centre location and in comparison to the proposed Lidl site is sequentially inferior in retail sequential test terms. This is subject to assessment as to the acceptability of the Lidl site in relation to other material considerations. There are no other more sequentially preferable sites beyond these two and the submitted assessments address matters appropriately.

With respect to the impact to Town Centre vitality and viability the submitted assessment appropriately considers the potential impact through trade diversion utilising the same base data as the Lidl assessment. The individual impact of the Aldi proposal and replacement garden centre (assuming like for like replacement as stated) subject to suitable controls is not significant and not to the extent that the proposal should be refused on this basis. This is also the assessed position in respect of the cumulative impact of both Aldi and Lidl stores (and garden centre), should permission be granted for both.

Wiltshire Council Highways – Objection on the basis of unsustainable location and development plan conflict but would not be minded to seek refusal solely on this basis given material considerations and additional information as to future site use now identified.

Wiltshire Council Ecologist – No objection subject to conditions

Wiltshire Council Drainage – No objections subject to conditions

Wiltshire Council Landscape Officer – No objection subject to conditions

Wiltshire Council Tree Officer – No objection subject to conditions

Wiltshire Council Urban Design Officer – No objections

County Archaeologist – No objection subject to conditions

Wiltshire Council Public Protection – No objection subject to conditions

Wiltshire Police Architectural Liaison Officer – No objections

Wessex Water – No objections but concerns raised as to the lack of drainage proposals and strategy available for the outline elements of the scheme proposals. As the foul drainage system proposed is a private system and connection to the Wessex Water infrastructure can be requisitioned under separate legislation no conditions or informatives are recommended in respect of the Full element of the application/Aldi foodstore proposal.

Environment Agency – No objections subject to conditions and informatives

Malmesbury St Paul Without Parish Council - No formal objection but raises significant concerns and seeks revisions in respect of the proposed highways and access measures.

Malmesbury Town Council - No formal objection to or support for the proposals but makes comments and raises concerns in respect highways and access measures, use of the remainder of the site, retail impact and S106 contributions, and Neighbourhood Plan compliance.

8. Publicity

The application has been advertised by site notice, press notice, neighbour notification letters and consultation with local organisations. As noted above the application has been subject to two periods of formal public consultation.

The consultation response is to a large extent supportive of the provision of a retail foodstore for a discount operator at this location. Little comment is submitted in respect of the other elements of the application proposals or material considerations raised in that context.

The consultation responses in respect of this and the Lidl application indicate a substantial level of local support for the provision of a discount foodstore operator at Malmesbury.

The limited objections that have been submitted can be summarised as follows:

- Harm to the vitality and viability of the town centre
- Harm to the character, appearance and visual amenity of the locality
- Harm to Highways and traffic flows
- Inadequate and unsafe pedestrian access
- No change in circumstances since the Sainsbury proposals was refused at this location
- Site poorly related to the town centre
- Lidl proposal is in a better more accessible location in accord with national and local policies
- Proposed bus stops poorly located and likely to conflict with peak hour traffic movements.
- Loss of employment land
- Harm to residential amenities for neighbours from light intrusion and noise
- Loss of trees
- Inadequate supporting information and detail particularly Outline elements of the submission
- Further retail stores unnecessary and object to loss of the garden centre
- Inappropriate parking layout.

It should also be noted that consultants representing Lidl, Waitrose and the Co-Operative Society made detailed submissions which are available in the public record for review. The

detailed submissions centre on harm to the vitality and viability of the town centre; unsustainable and inaccessible location poorly related to the town centre and sequentially less preferable than other locations; constrained access resulting in harm to and worsening of highways conditions and the free flow of traffic; conflict with national policies and the development plan including in respect of loss of employment land, inadequate supporting information and assessments including that of the Council's retail advisors, and lack of clarity as to the proposed development.

9. Planning Considerations

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); and The Malmesbury Neighbourhood Plan (MNP) (Made Feb 2015).

9.1 Principle of Development

The application site falls outside of the defined settlement and limits of development for Malmesbury. However, part of the site has been the subject of substantial development and usage for the Garden Centre. The site is also allocated for B1, B2 and B8 employment uses under the saved policy BD1 of the North Wiltshire Local Plan 2011. The site is therefore considered acceptable in principle for the development as proposed by the outline part of the application.

With respect to the Aldi foodstore this site is an out of centre location. The Council's retail advisors GVA consider the site to be sequentially inferior to that proposed by the Lidl application. Albeit their position is that the difference is marginal and that assessment against other material considerations as to site suitability for both is necessary. Furthermore, it is considered that there no other sequentially more preferable sites in Malmesbury beyond these two. Subject to the outcome of consideration as to the suitability of the Lidl proposal it is assessed that the Aldi site would fail the sequential test. As set out in the report to Committee in respect of the Lidl scheme it is considered that the proposed location for that store does result in material harm in a number of respects, particularly to the character and appearance of the countryside, and is not an appropriate location for the proposed development on that basis. In these circumstances, if the Lidl site is rejected, the Aldi site would not fail the sequential test.

As noted above the advice as to town centre vitality and viability impact from GVA follows review of the submitted retail impact assessment (RIA) and clarifications sought and received in respect of the proposed replacement garden centre. The applicant team assert that the submissions in terms of floorspace include the total area used as a garden centre but the proposal for replacement is that it shall be on a like for like basis. The retail advice is that on this basis and subject to controls the impact on the town centre of the Aldi proposal both individually and cumulative with Lidl would not be so significant as to warrant or justify refusal on this basis. Recommended controls include:-

Foodstore element:

- Retail floorspace to be contained within one single retail unit with no ability to subdivide;
- Limit placed on the amount of net sales area (1,315sq m net);

- No less than 80% of the sales area being used for convenience goods sales; and
- No more than 20% of the sales area being used for comparison goods sales.

Garden centre element:

- Up to the same amount of total indoor and outdoor retail floorspace as the existing garden centre;
- The same amount and split of floorspace within permanent buildings and outdoor/polytunnel areas;
- Limits on any floorspace devoted to café/restaurant areas; and
- The same range of goods to be sold as the existing garden centre.

GVA consistent with the Lidl advice also suggest that the identified impacts to the town centre be subject to mitigation through the use of Section 106 financial contributions for town centre enhancements. This is reflected again in the submission of local interested parties such as the Town Council and the requirements of MNP policy 10. Section 106 matters are addressed further below but in short it is not considered that financial contributions from a Section 106 agreement would in this instance meet the regulations on the use of planning obligations and CIL. No quantified level of financial contribution has been identified. No detailed and quantified proposals are advanced or identified by interested parties as to how the contributions would be utilised in the town centre. There is no detailed evidence to demonstrate how such contributions would mitigate impacts to the town centre. The advice of GVA identifies that there is no justified basis for refusal on the grounds of harm to the vitality and viability of the town centre. In these circumstances it is not clear how contributions could be considered necessary as a consequence of and related in scale and kind to the development proposed.

On the basis of these proposals it is considered that the new and replacement retail development would not be of such a scale of built floorspace as to require consultation with the Secretary of State under the provision of the consultation direction and PPG.

As is the case with the Lidl proposal, Policies CP1 CP2 and CP13 seek to direct new development to locations within the defined settlements and at market towns such as Malmesbury additional development is anticipated and supported within the limits of development. It is material to note here that the site is in part previously developed land and is allocated for substantial development in the adopted development plan. Retail development in accordance with national guidance and WCS CP38 is directed to town centres in the first instance. The sequential test is then applied where no town centre sites are available, with edge of centre and then out of centre sites being the order of preference. Locations as close and well related to town centres as possible are generally sought. National guidance and case law does require that retailers adopt some degree of flexibility as to their operations in order to give full consideration to town centre sites that are potentially available but which may be constrained as to scale for example. CP38 does not resist proposals for development outside of town centres in principle. It requires the sequential test to be demonstrably met and for development to be located on the most central site available. It also requires that proposals be supported by a retail impact assessment in accordance with guidance and best practice which demonstrates that the proposal will not harm the vitality and viability of any nearby centres. On the basis of the retail assessment undertaken and advice provided as referenced above it is not considered that the proposal conflict in principle with the provisions of WCS Core Policy 38 or Policy 10 of the MNP.

As with the Lidl application also reported on this agenda it is noteworthy that there is significant support from local residents for the provision of a discount food retailer in Malmesbury. With respect to this Aldi application the public response has been supportive

with limited objection received and with the support being expressed not caveated in respect of the proposed location, which is the case in respect of the Lidl proposal as it involves development of a greenfield site in the open countryside.

The proposals would however entail the loss of land allocated to B1, B2 and B8 uses to A1 retail use and in this respect it is considered there is conflict with Saved policy BD1 of the NWLP 2011. The applicant submits that the employment allocation is one of longstanding that has to date not been delivered due to the costs associated with the provision of access to the development. This appears to be a reference to internal access within the site rather than site access, which has been enhanced in recent years. No detailed evidence (eg as to site marketing) has been produced to demonstrate this to be the case. The applicant goes on to assert that the permission for the Aldi store will support and bring forward the delivery of the remaining land for employment purposes in accordance with NWLP BD1. However no clear methodology is proposed in this respect other than suggested use of conditions restricting the use of the land. It must also be noted that the initial application submissions included no proposals or details in respect of the layout of the remaining land. Additional information as to site layout and employment proposals was sought and submissions have now been made but information remains limited and no delivery mechanism is proposed. The restrictive condition could be subject to variation or removal proposals and so attracts limited weight in terms of delivering the allocated uses. To address this, a Section 106 agreement is considered necessary and it's provision and intended purpose are described below.

The Council's Spatial Planning and Economic Development Teams raised concerns regarding the initial submissions particularly in terms of the available details, supporting information and the loss of part of the employment allocation to retail use. Following additional submissions by the applicant team Officers have removed their initial objections, taking an on-balance view that there is sufficient evidence now available to set aside the conflict with WCS Core Policies 2 and 13 (NWLP policy BD1) that this land should be retained entirely for B1, B2 B8 use classes. This is in part based on the length of time that has elapsed without the land coming forward for employment uses and the fact that this has encompassed a number of economic cycles. It is noted that the proposals still incorporate a significant element of land for employment use and more detail is now available in relation to those proposals supporting the application. Officers are also mindful of the NPPF guidance and support for a flexible approach that enables sustainable growth and provides for business investment. It is however considered that this position is dependent upon delivering the employment land and measures to do so that can be given sufficient weight in the planning balance. In this context it is considered appropriate and necessary to address this through the use of a S106 agreement that restricts the use of the land in the outline application to B1, B2 and B8 (and replacement Garden Centre) uses for a reasonable period in part tied to a requirement to undertake marketing of the site for the specific allocated land uses. The applicant has agreed to this approach in principle. The details in this respect and including as to the marketing strategy are subject to further agreement with the Council but it is considered that this methodology does provide a greater degree of certainty as to delivery of the land and this can be given weight.

On this basis the development proposals are considered to conflict with the provision of CP1 CP2 and CP13 but some level of support for the principle of development is provided under CP38 and Policy 10 of the MNP, site circumstances and other material considerations including the delivery of the BD1 NWLP allocation. It is therefore necessary to consider the proposals against the other policies of the development plan and relevant aspects of national guidance and weigh all considerations in the balance, which is undertaken in the conclusion below.

9.2 Impact on the Character, Appearance and Visual Amenity of the Locality Including Trees

Initial concerns were raised by Landscape, Urban Design and Trees Officers alongside some interested parties as to the impact of development on the character, appearance and visual amenity of the locality. This was at least in part based on proposed impacts to trees on the northern boundary; lack of detail or supporting information in relation to site landscaping and site layout for employment and garden centre uses; potential signage and lighting of the site and the design features, including use of materials of the proposed retail building itself and its visual prominence in the immediate locality.

In response the applicant has submitted additional detail as to the proposed layout of the site with updated supporting information including a revised design and access statement. Revised proposals are advanced now as to site landscaping and boundary treatment and additional detail is available as to the treatment and protection of existing trees on site. Alterations to the design and use of materials in the Aldi foodstore building have also been submitted as have site layout revisions for the Aldi element of the scheme. Additional details and clarifications have been provided as to lighting and signage also. The revised and additional details have been the subject of consultation and review and consideration by officers. In all these respects officers raise no objection and in relation to several aspects now support the development proposals and welcome the submissions that have been made as positive contributions.

It is considered that the Council has sufficient information before it in support of the hybrid outline and full application to assess and determine the proposals in relation to their impact to the character and appearance of the locality. It is also material to note that the site is already partially developed and is also allocated for substantial built development in the employment uses classes. Such development as existing and proposed does and would have an impact on the character and appearance of the locality. However, the development proposal now before the Council is not considered to differ so significantly from this situation as to result in a level of impact that would be harmful and so significantly harmful as to warrant and justify refusal. On this basis it is considered that the proposals do not conflict with WCS CP51 & CP57 (I, ii & iv); MNP Policy 13 as informed by aims and objectives set out in Tasks 8.1, 8.4 & 8.5 and Vol II (Design Guide) ; and para 170 (b) of the NPPF.

9.3 Impact on Heritage Assets including Archaeology

The site is one of known archaeological potential and the development proposed entails intrusive groundworks in respect of previously undeveloped land. The initial application included limited details in relation to archaeological evaluation particularly with respect to the outline elements of the scheme. Consequently the Council's archaeologist raised concerns initially and sought submission of a field evaluation. The applicant team has undertaken that investigation and this has identified some Roman pottery shards in one pit that may have been dug for the extraction of clay, but found that most of the site had been levelled to the natural substrate in relatively recent times to provide storage for the garden centre. In the light of these findings, the Council's archaeologist has withdrawn their initial objection, subject to the imposition of a condition to enable a programme of archaeological mitigation.

Given the existing and proposed planting and landscaping arrangements; existing built form and degree of separation it is not considered that the development proposed will have a detrimental impact on the setting of nearby designated heritage assets with the impact being considered neutral.

On this basis it is not considered that the proposals result in conflict with Wiltshire Core Strategy CP57 (i & iv) and CP58; Malmesbury Neighbourhood Plan Policy 13 as informed by aims and objectives set out in Tasks 6.1 & 8.1 and Vol II (Design Guide); 192, 193, 196, 197 in the NPPF and does accord with the requirements of para 199 of the NPPF.

9.4 Highways Impact and Parking

As noted above the site is located adjacent to and proposed to be accessed from the A429 which is effectively a bypass for Malmesbury and is a long straight road with good visibility and fast moving traffic including as it relates to the locality of the site albeit the Whychurch Roundabout lies directly adjacent. The proposed site access remains as existing from the Whychurch Roundabout, which is one of the principle junctions in the Malmesbury locality and on the local highway network providing one of the main access points to Malmesbury whilst also distributing traffic southward toward the M4 and Chippenham and northward to Cheltenham with linkages eastward to various settlements. The development would be served by the existing access from the roundabout to the Garden Centre with an internal access road then providing access to the Aldi Store.

The initial proposals were supported by a full transport assessment that included proposals in respect of preparation and agreement of a travel plan. The Transport Assessment was subject of review and assessment by Highways Officers and full public consultation. Town and Parish Councils alongside interested parties and some local residents raised concerns as to the accessibility of the site by pedestrians, cyclists and public transport. This reflected the applicant's own findings in respect of the public consultation undertaken and referenced in the statement of community involvement.

Highways Officers in their initial consultation response raised objection and recommended refusal in part on the same basis as objections were raised on highway grounds to the previous Sainsbury's proposals in that the location was unsustainable and contrary to development plan policy. Also objection was raised on the basis of conflict with the neighbourhood plan in terms of requirements for parking provision to support the town centre. Concerns were also raised as to pedestrian accessibility, bus stop provision and inadequate information supporting the outline application proposals. No objection was raised however in respect of the impact of traffic movements to the local road network in recognition of the scope for linked journeys to and from work but also the recent highways works in the vicinity of the site. Officers also expressly did not support the introduction of speed limits, controlled crossings and/or access arrangements on the A429.

The applicant has made multiple submissions following the outcome of the initial consultation exercise with the aim of addressing and responding positively to matters raised and this includes in respect of highway matters. Additional information has been provided whilst additional proposals have been made as to provision of bus stops and pedestrian access. The revised proposals now include the introduction of three uncontrolled pedestrian crossings and a new footway link with widening of the existing footway to 2.0 m; and the inclusion of two new bus stops on the A429 both with raised kerb. The southbound stop will also include a footway link to the existing footway and relocation of existing signage. These sit alongside the previous submissions including the Travel Plan. The revised and additional submissions have been the subject of full consultation and review and assessment by officers.

The further consultation response of Highways Officers raises no objections and acknowledges that additional submissions have been made in response to the initial consultation advice. Minor amendment to the location of one of the bus stops was recommended. Previous in-principle objections as to the unsustainable location and policy conflict were maintained but Officers have made it clear that they would not recommend this

as a sole reason for refusal given the material considerations and site circumstances and so would defer to the planning officer's views in this respect.

In subsequent correspondence between the applicants and highway officers further minor amendments as to the position of one of the bus stops were made to address detailed comments arising from the consultation. Highways officers have further reconfirmed that the Highway authority would not support a reduction in the speed limit at the roundabout. The roundabout has been designed to accommodate the current speed limit; and would not support the introduction of a Pelican crossing on the A429. The A429 is a Primary Route and the LHA do not encourage light controlled/formal crossings on Primary Routes. There are informal crossing points in the vicinity which can be used to accommodate pedestrian movements.

It should be noted that the Town and Parish Councils maintain concerns as to the pedestrian access proposals and accessibility of the site. Similarly interested third parties including Lidl, Waitrose and the co-op have raised concerns in respect of accessibility.

Whilst the previous reason for refusal of the Sainsbury's application; consequent Highways Officers objections and the concerns of interested parties are noted it is not considered that the current application ought to be refused on this basis. Part of the site is already in use and so generates significant access requirements and movements. Furthermore, the site is the subject of an allocation for B1, B2 and B8 employment uses which will also generate significant vehicular movement and access requirements. The application proposals are now informed by additional proposals to enhance accessibility by and for pedestrians and public transport. It must also be borne in mind that there have been significant changes in material circumstances and considerations since the determination of the Sainsbury scheme. In particular large scale residential development has taken place and continues in the vicinity of the site and the MNP allocates further land for development in the area. Large scale investments in additional facilities at the Dyson property have also taken place. Significant works have also taken place in respect of the highway network in the immediate vicinity of the site. In this context the site is not considered to be as unsustainable as previously assessed. In these circumstances it is not considered that the conflict with the development strategy of the plan as defined in policies CP1, CP2 & CP13 as supported by CP61 is now so substantial given these material considerations that refusal on highway grounds could be justified. It is also material to note that there are benefits arising from development which are also material considerations that must be weighed in the planning balance. This is undertaken in the conclusion below.

9.5 Drainage & Flood Risk

The site and locality is one of known flooding from surface and ground water as well as being a water source protection zone. The initial application submissions were supported by a flood risk assessment and drainage strategy. Existing foul and surface water drainage facilities at the site and in the vicinity are constrained with access across third party land required to secure connection and provision. The submitted Geotechnical survey also identified that on site conditions were not suitable for SUDs infiltration. As noted previously initial submissions with respect to the proposed development forming the outline element of the scheme proposals were limited.

The application submissions were the subject of full consultation and review and assessment by the Council's Drainages Officers, Wessex Water and the Environment Agency. Wessex Water raised no objections and identified capacity in the network but identified that a series of consents were required and identified the position regarding third party land issues. Concern was raised as to the lack of information in respect of the outline scheme elements. The Environment Agency raised no objection but identified the need for

conditions in respect of possible contamination to water resources which are considered necessary and reasonable. The Council's drainage officers raised an initial holding objection on the basis of the proposed strategy and inadequate information demonstrating that it was achievable. Concerns were raised as to increased flood risk off-site in the Charlton Stream given local records and the proposal to discharge storm water to this watercourse. Rights of access and potential constraints imposed by third party land ownership were also identified. Officers queried the capacity of the foul network, and requirements in respect of an on-site pumping station. Concerns were raised in respect of separate drainage systems for the Aldi site and the development within the rest of the site.

The applicant resolved to address and respond to these concerns and submitted a revised and updated drainage strategy and flood risk assessment alongside and informed by additional detail in respect of the proposals forming the outline element of the application. The strategy largely remaining unaltered with surface water discharge to the Charlton Stream via an existing ditch and across third party land; with Foul drainage to a private system including pumping station, with a connection to a new main foul sewer in the road network via a formal requisition request to Wessex Water proposed. Both systems to be built to appropriate capacity but with scope for future upgrading. Appraised surface water run off rates proposed are in accordance with recommendations and requirements of the Council's Drainage officers. Wessex Water raised no further comment and has subsequently confirmed that they require no conditions in respect of the Aldi scheme and would consider standard conditions requiring submission and approval of details for the outline element appropriate.

The Council's Drainage officer reviewed and assessed the revised submissions and continued to raise concerns as to the comprehensiveness of the strategy and the assessed baseline position; also in respect of the use of multiple pumping stations and separate storm systems for parts of the site as well as issues as to requisite consents from the Highways Authority and Wessex Water.

Since that time the applicant's drainage consultants have revisited their strategy and provided further information including the whole site area and all development proposed. Officers have subsequently confirmed that the proposals now address all concerns and subject to the use of conditions no objection is raised. Wessex Water has also subsequently confirmed that it does not recommend Foul drainage conditions in respect of the Aldi element of the proposal given the proposed use of private system and a requisitioned connection to the wider network. Given the available information it is considered necessary to apply standard drainage conditions in respect of the outline element of the proposals. As such the proposals are considered to accord with WCS core policy CP67 and para 163 of the NPPF.

9.6 Impact on Ecology

The site features a number of mature trees to the northern and western boundaries potentially affected by the development proposed and lies on the fringes of Malmesbury with part of the site extending into the open countryside adjacent the Charlton Park Estate which features extensive mature woodland and has known ecological value. The initial application submission was supported by a preliminary ecological appraisal albeit this relied on survey work undertaken in 2011 and does also note that part of the site has been subject to grassland recolonization since that time. Earlier survey work identified a population of slow worms on site.

The submissions were the subject of full consultation and detailed review and consideration by the Council's Ecologists. Objection was raised at this stage in part due to the limited information available as to the proposals relating to the outline element of the scheme and

the absence of up to date base line survey information and no Ecological Mitigation and Enhancement Strategy despite the previously identified protected habitats and species on site. Additional information submissions and clarifications alongside greater detail as to development parameters and proposals of ecological mitigation were sought.

The applicant team made a range of submissions to address these matters including greater information and detail as to the proposed development addressed under the outline element of the application; and in this instance an Ecological Appraisal Addendum and Landscape Addendum. The submissions were informed by additional survey and assessment work on site and incorporated an ecological mitigation and enhancement strategy as requested which the applicant team proposed to be subject of conditions for implementation and compliance.

These submissions have been reviewed and considered by the Council's Ecologist and subject to further wider consultation. Officers conclude that there is now sufficient information to assess matters to a sufficient policy compliant standard. Having completed the assessment officers now raise no objection subject to the use of conditions to require compliance with the strategy advanced and to secure the provision and agreement of management plans and additional information. Management plans especially relating to construction phase are also sought by the Environment Agency and Public Protection officers and so a combined condition is proposed in this respect. As such the proposals are considered to accord with WCS core policy CP51 and para 175 of the NPPF.

9.7 Other Matters

Noise/Land contamination/Residential Amenity

The application was supported by a Noise Assessment and a Geotechnical Ground investigation and Assessment. The former recommended the use of conditions to limit and control noise levels and the latter found very limited presence of contamination (gas) and limited risks associated with development but recommended further work be undertaken. The submissions were the subject of full consultation and review and consideration by the Council's Public Protection Officers and the Environment Agency.

The Environment Agency recommended no objection subject to the use of conditions relating to construction and environmental management plan submission and agreement plus several informatives. The Council's Public Protection Officers raised no objections subject to various conditions and sought commitment to ULEV charging provision in the full application element of the scheme proposals. The applicant team's consultants handling contamination and noise matters made further submissions to the Officers and provided various clarifications as to the outcome of the survey and assessment to work undertaken. Subsequently officers maintained no objection and the continued need for conditions related to the control of noise.

Given the assessment work undertaken, advice of Public Protection officers, Use of conditions and existing site circumstances including the existing and allocated uses alongside the location and usage of the A429 it is not considered that the proposals would result in significant harm to existing residential amenity through noise. Similarly the detail submitted in respect of site lighting, use of conditions and existing site circumstances ensure that there would not be significant harmful impact to existing residential amenities through intrusive lighting. The Geotechnical Assessment has been reviewed and considered by officers and it is concluded that there is no significant risk of harm to the environment or residential amenity through disturbance. Sufficient information has been presented in this respect and no conditions requiring further investigation are required albeit the Environment Agency has sought consideration of potential pollution impacts during construction through the Construction Environmental Management Plan.

Section 106 Matters

As noted above it is proposed that the delivery of the saved NWLP employment allocation in policy BD1 as addressed in the outline element of the application be secured through the use of provisions contained in a S106 Planning Obligation. In particular to restrict the use of the land to the permitted and allocated purposes for a reasonable period tied to the marketing of the site and the outcome of that marketing. The approach to the marketing exercise to be developed in agreement with the council but to extend to a period of not less than 12 months and to be at a reasonable valuation reflecting the uses permitted/allocated and the costs associated with site development. The applicant has confirmed acceptance to enter into such an agreement.

The Council's retail advisors (GVA) and the Town Council have made reference to securing financial contributions for enhancements to the town centre to mitigate retail impact. No specific quantum of contribution is identified. There is no methodology available for assessing and calculating an appropriate level of contribution that would link in scale and kind to the development proposed and the assessed impact to the town centre. It must also be noted in this context that GVA identify that the level of impact to the town centre is not such that it would justify refusal either individually or cumulatively in conjunction with the Lidl store proposal. Finally there are no detailed proposals and projects advanced in respect of Town centre enhancement upon which the monies would be expended. The Neighbourhood Plan refers to some aspirations in this respect but there is little detail available as to specific projects that could be related in scale and kind to a quantum of contribution being sought. Also the rationale identified in the plan for those contributions is based upon a dramatic impact to the town centre arising from development which as set out above is not the assessed position. As such it is not possible to assess the extent to which such contributions would mitigate the impact of development in any event. In such circumstances it is not considered that such a requirement would meet the statutory provisions or national planning policy in respect of Section 106 matters, including the CIL regulations which require that contributions be directly related in scale and kind to the development proposed, necessary to make the development acceptable and directly related to the development. The Council's legal department concur with this assessment. Furthermore it is not considered that such requirements are justified under the terms of CP3 and CP38 of the WCS.

10. Conclusion – The Planning Balance

The site is located outside of the limits of development for the market town of Malmesbury. For the retail element of the proposal, the site is out of centre. The site is partially in use and previously developed for Garden Centre purposes and is the subject of allocation for employment uses B1, B2 and B8. The allocation is a saved policy from the NWLP 2011 and so the location has been advanced and considered appropriate for the purposes of development for some time. The development strategy of the plan seeks to direct significant development such as that proposed to a defined hierarchy of settlements as set out in WCS policies CP1, CP2 and supporting area framework policies such as CP13 applicable to the Malmesbury locality. Substantial development to enhance self-containment within the defined settlements at Market Towns such as Malmesbury is anticipated in the WCS. Outside of the defined settlements the countryside is protected for its own value subject to certain defined exceptions in accordance with the NPPF. This strategy for the scale and distribution of development should be considered in the context of the existing use of the site and its allocation for significant development in part proposed under the outline element of the Plan. The site is visually prominent in localised views, situated adjacent to the main arterial route for traffic travelling past and to the town and one of the town's principal access and distributor points.

The retail element of the proposed development is one which is specifically directed to town centre locations as a first preference and subject to a sequential approach to location thereafter. The application site, compared to the Lidl application is the least sequentially preferable location of the two for development. The Council's retail advisors are of the opinion that the Aldi site is marginally sequentially preferable to a material extent in retail terms to that of the Lidl store proposal. The Lidl application is supported by Legal opinion which also considers the Aldi Malmesbury Garden Centre location to be sequentially less preferable. In both respects significant reference is made to similar assessments and conclusions in respect of previous competing supermarket proposals in similar locations – Sainsbury's and Waitrose, which concluded in favour of Waitrose. It is officer's opinion that these submissions do not appear to fully consider and account for material changes in circumstances that have occurred since the determination of those applications. In particular the substantial amount of development, especially residential development, that has taken place to the north of Malmesbury, planned development in that location, and related highways improvements. In addition the evidence of the retail impact assessment as to relatively limited link trips between the town centre and the Waitrose store is of relevance. Taking such factors into account it is officer's view that the sequential difference between the sites is limited. It is also important to note that the retail advice from GVA makes it clear that the Lidl site is only sequentially preferable if it is found not to have any other site specific harmful impacts and/or policy conflicts. This is not the assessed position. The retail evidence and advice also concludes that there would not be a significant harmful impact to the vitality and viability of the town centre individually from Aldi or cumulatively with the Lidl store such that there is conflict with the provisions of national policy and the development plan. It must also be noted that the development plan does indicate some level of need for additional retail provision within Malmesbury albeit this was the position adopted as the Waitrose store was permitted. This is reflected in the findings of the retail impact assessment. The outcome of the consultation exercise identified substantial levels of out commuting to other centres for retail purposes supporting the findings of the retail impact assessment and the provisions of the plan. The public consultation response whilst mixed overall did identify significant levels of support for provision of a discount supermarket retail store, at least somewhere in Malmesbury.

With respect to site specific matters the majority on this site are considered by officers to raise no significant harmful impacts or conflict with the development plan and national policy that cannot be appropriately and satisfactorily mitigated via the use of conditions and a planning obligation (S106 agreement) and some minor amendments/additions information submissions. Ecology, Drainage, Trees and Public Protection are all considered to be satisfactorily addressed in this way. With respect to Highways officers reference is also made to the previous determination of the Sainsbury's proposal at this site. That application was previously refused in part on the grounds that the site was an unsustainable location with respect to accessibility and transportation considerations. Highways Officers do not however consider that the current application should be refused solely on these grounds. As noted above it is considered that there has been a change in material circumstances since the previous determination. Furthermore the proposals have been revised and augmented in terms of accessibility with proposals for improved access arrangements by Public Transport and for pedestrians. It must also be noted that there are benefits arising from development which are referred to below. On balance it is not considered that a refusal on the grounds of unsustainable location and poor accessibility could now be justified.

The proposals do involve the loss of a part of the land allocated for employment uses to retail and this is considered to conflict with saved policy BD1 of the NWLP 2011. As is noted above the applicant has made submissions seeking to justify this position and in this respect references the longstanding allocation not having been delivered due to site development costs being prohibitive. It is the applicant's position that the release of a part of the site for retail uses will assist with this and help deliver the employment land. However little evidence,

in the way of site marketing for example, demonstrating this to be the case has been submitted by the applicant. There is also little proposed in terms of delivering or seeking to deliver the employment land other than the use of restrictive conditions. This in and of itself is not considered sufficient to offset the harm arising from the conflict with Saved policy BD1 and further measures to support delivery should be agreed. In this context an agreed approach to marketing of the site alongside restrictive covenants on its use for an appropriate period secured through the use of a S106 planning obligation are considered necessary and appropriate. This approach would provide a greater degree of certainty that the remaining land would be used for the allocated purpose and limit the scope for this site becoming a de facto out of town retail centre. Such an approach can therefore be given greater weight than the proposed use of conditions. The Council's Legal department has confirmed that the approach is in accord with the NPPF, PPG and statutory provisions relating to planning obligations. It is also noteworthy that the council's Spatial Planning and Economic Development Teams do not raise objection identifying that there are material considerations that would justifying setting aside the conflict with saved policy BD1.

Overall it is considered that whilst there is some level of compliance with some elements of the development plan particularly in terms of elements of CP13 and para 5.73 & CP38 of the WCS; saved policy BD1 NWLP and Policy 10 of MNP there remains conflict with the development strategy contained in CP1, CP2 and other elements of CP13. On balance it is considered the proposals do conflict with the plan and it is therefore necessary to consider what, if any material considerations weigh in favour of the proposal and whether or not this is sufficient to justify a decision otherwise than in accord with the plan.

The conflict with up to date development plan is a harmful impact that should not be set aside lightly given the statutory requirements and national guidance in the NPPF requiring development to accord with the plan. In this instance however it must be noted that the conflict centres on the development strategy and the previously assessed unsustainability and inaccessibility of the site in relation to the town. In this context it is material to note that the site is allocated for development that will generate access requirements and trips by residents of the town and the surrounding area. Furthermore the site is partially developed and in active retail use as a Garden centre with café and this already generates trips and access requirements. The development proposals include replacement of the garden centre on a like for like basis and in this respect it is not considered that this part of the development would be materially less sustainable than at present. The proposals also include a substantial element that is in accord with the site allocations in the saved policy BD1 and so accords directly with the development plan. It is in respect of the retail element that concerns are raised but as noted CP38 and national guidance do allow for such development to take place in out of centre/town locations. CP13 para 5.73 identifies some level of support for additional retail as does Policy 10 of the MNP albeit partly affected by the development of the Waitrose store. Furthermore it is material to note that there has been significant change to the built form of Malmesbury with substantial residential taking place to the north of the town and with more development planned since the previous Sainsbury application was determined. Similarly enhancements to the road network have taken in place in the intervening period improving accessibility. Additionally the grant of consent subject to the proposed S106 agreement requiring marketing of the site for employment uses has potential to deliver the allocated employment uses whilst the applicant asserts that it will also unlock provision of the necessary site infrastructure that will enhance the attractiveness of the site to employers. Finally it should also be noted that the scheme proposals do include enhancements to the accessibility of the site through improved public transport and pedestrian facilities. These are material considerations that can be given significant weight and do indicate that it may be appropriate to set aside the conflict with elements of the development plan.

In addition to this it is also necessary to consider the other benefits of development and also weigh these in the balance. As with the Lidl proposal the Aldi element of the proposals will result in benefits including the additional retail offer for the town, including in respect of discount retail provision resulting in social and economic benefits for residents. In addition, the proposal has separate economic benefits in respect of additional expenditure in the town and the reduction in the leakage of expenditure to other locations, alongside tax revenues. The proposal would also result in additional employment opportunities which also have social and economic benefits. There would be limited economic benefits arising from the construction of the development. Finally the improved retail offer for the town would result in reduced out commuting to other locations for shopping purposes resulting in environmental benefits from reducing vehicular movements. The replacement garden centre will also result in limited economic benefits from construction as will the B1, B2 & B8 elements. In the latter respect these parts of the development have direct economic benefits through job creation and potentially supply chain sourcing of materials and goods. These parts of the proposals also result in increased local tax revenues and result in social benefits though enhanced employment opportunities for local residents.

It must also be noted that the proposals do not result in any site specific harmful impacts that are not capable of mitigation through the use of conditions – unlike the application for the Lidl store.

Overall, it is considered that the benefits do outweigh the relatively limited harm that has been identified and that subject to the completion of a S106 agreement and the recommended conditions consent should be granted.

RECOMMENDATION

Approval subject to the conditions listed below and the completion within 6 months of the date of the committee resolution of a S106 agreement to address use of the remaining land for B1, B2 and B8 purposes including marketing of the site and retention of land for these uses for a suitable period considered to be no less than 12 Months marketing on terms to be agreed with the council reflecting the allocated and proposed uses but not to be commercially disadvantageous.

In the event that the applicant declines to complete the S106 agreement within 6 months to refuse permission for the following reasons:-

1. The proposed development in the proposed location would conflict with the development strategy of the development plan as defined by policies CP1, CP2 and CP13 of the Wiltshire Core Strategy (Jan 2015); Saved Policy BD1 of the NWLP 2011 and thereby conflict with paragraphs 2, 12 and 47 of the NPPF.

Conditions

Outline

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

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

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

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

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

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

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

4. No part of the development shall be first brought into use until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area [and neighbouring amenities].

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

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. refuse and other storage units, signs, lighting etc);
- tree(s), of a size and species and in a location to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

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.

6. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

7. No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

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

8. No development above damp course level shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

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

10. The permitted replacement Garden Centre shall be on a like for like basis involving the same total of indoor floorspace as referenced on the application form (84.2 sq m), Polytunnels as permitted (254.6 m sq m) and outdoor retail floorspace as existing; with any cafe/restaurant also limited to the floorspace identified in the application form (97 sq m); and with the same mix and range of goods sold at present.

REASON: In the interests of the vitality and viability of the Town Centre.

FULL

10. 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.

11. The development hereby permitted shall not, at any time, be subdivided into a larger number of units and the net sales area shall be limited to 1,315sq m with no less than 80% of the sales area being used for convenience goods sales; and No more than 20% of the sales area being used for comparison goods sales.

REASON: To enable the Local Planning Authority to consider individually whether planning permission should be granted for additional units on the site and in the interests of the vitality and viability of the town centre.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class A1 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, other than a use within the same class(es), having regard to the circumstances of the case.

13. No development above ground floor slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

14. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details for the detailed part of submission for the Aldi store including the storm system being sized to take flows from the outline part of the application with assigned discharges for each of the future sites limiting total flow from whole site to 29 l/s, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development site as a whole can be adequately drained

15. The Aldi store part of development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

16. The development hereby permitted shall not be brought into use until details of the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority, and; the approved refuse storage has been completed and made available for use in accordance with the approved details. The approved refuse storage shall thereafter be maintained in accordance with the approved details.

REASON: In the interests of public health and safety.

17. The development hereby permitted shall not be brought into use until details of recycling facilities (including location and range of facilities) have been submitted to and approved in writing by the Local Planning Authority, and; the approved recycling facilities have been completed and made available for use in accordance with the approved details. The approved recycling storage shall thereafter be maintained in accordance with the approved details.

REASON: In the interests of public health and safety.

18. There shall be no customers/members of the public on the site outside the hours of (22:00pm) and (08:00am) from Mondays to Saturdays nor (17:00pm) to (10:00am) Sundays and Bank Holidays.

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.

19. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored outside any building on the site.

REASON: In the interests of the appearance of the site and the amenities of the area.

20. The development hereby approved shall not be brought into first operation until the Draft Travel Plan Entren 27 July 2018 has been submitted in Final form to and approved in writing by the Local Planning Authority. The Travel Plan shall include full details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

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

21. The development hereby permitted shall not be brought into use until a scheme to restrict shopping trolleys leaving the site has been submitted to and approved by the Local Planning Authority and; the approved scheme has been brought into operation. The approved scheme shall thereafter be maintained in operation in accordance with the approved details.

REASON: In the interests of the character, appearance and amenities of the area.

22. Notwithstanding the provisions of 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), no development within Part 7, Classes (a) (c) &

(d) shall take place on the building or within the curtilage of the building subject of this permission.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

OUTLINE AND FULL

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

Design and Access Statements Rev E
160389 1501 P5
160389-1500-P4
SK202 REV A
SK203 REVA
Received 01/02/2019

10632-0050 REV D
Drainage Strategy Craddy's
Received 08/02/2019

160389 1601 P1
160389 1403 P7
Topographical Survey
SK203 Swept Path analysis
160389 1400 P6
160389 1600 P1
160389 1600 P1
Tree Protection Plan
Archaeological Evaluation
Landscape Addendum
Ecological Addendum
11593/PO9
11593/PO8
Received 21/12/2018

160389 1402 P2
160389 1401 P3
B2340-MJA-P105-4756-B
160389 - 1100 P4
Received 27/07/2018

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

24. No part of the development shall be first brought into use until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area [and neighbouring amenities].

25. No intrusive groundworks shall commence within the site area indicated as Areas ABCD on plan ref 160389 1403 P7 until:

a. A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

b. The approved programme of archaeological work has been carried out in accordance with the approved details.

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

26. The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

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

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

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.

28. Prior to the commencement of any works on site, including site clearance, vegetation clearance, ground works, demolition and boundary treatment works, an Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to the local planning authority for approval in writing. This shall include the results of further survey of any boundary trees identified as having moderate or high suitability for roosting bats within and/or bordering both the full and outline areas of the application site. It shall also include, and be informed by, the results of a dedicated reptile survey of the whole hybrid application site and an updated badger survey; the results of the latter may need to be submitted to the LPA as an addendum if the EMES has already been submitted and approved by the LPA prior to the badger survey being undertaken. The surveys must be conducted by suitably experienced and qualified professional ecological consultants. Any mitigation and compensation necessary as a result of the findings of the aforementioned further surveys must also be

presented in the EMES and/or addendum. Specific details of all ecological avoidance, mitigation and compensation measures as well as ecological enhancements shall be clearly detailed within the EMES as well as being shown on a corresponding site plan. In addition to the wildflower, hedgerow and tree planting, ecological enhancement shall also include but not be limited to, the provision of nesting features for birds and roosting features for bats which should be installed on buildings and/or suitable trees. The development shall be carried out in strict accordance with the approved strategy.

REASON: To ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006); and to ensure full details of all ecological avoidance, mitigation and compensation measures as well as ecological enhancements, are provided and implemented in accordance with Paragraph 118 of the NPPF, Section 40 of the NERC Act (2006) and CP50 of the Wiltshire Core Strategy (Adopted January 2015) given that insufficient details were submitted prior to determination of the planning application.

29. Prior to the commencement of any works on site, including ground works, demolition, site clearance, vegetation clearance and boundary treatment works, a Landscape and Ecology Management Plan (LEMP) shall be submitted to the local planning authority for approval. The LEMP shall provide details of the proposed maintenance and management of the site; and details and corresponding plans of landscape planting. The development site shall be managed and maintained in accordance with the measures set out in the approved LEMP in perpetuity unless otherwise agreed in writing with the local planning authority.

REASON: To ensure the appropriate maintenance and management of habitats that provides a function for biodiversity.

30. Prior to the commencement of development works on site, a lighting strategy for biodiversity and site lighting plan that has been prepared with input by, and/or has been reviewed and verified by, the commissioned ecological consultancy shall be submitted to the local planning authority for approval in writing. The strategy shall illustrate the location, height and specification of proposed luminaires, together with a lux plot/lighting contour plan and details of mitigating fixtures to be used such as cowls, louvres or baffles. All lighting shall be installed in accordance with the approved lighting strategy and no other external lighting shall be installed without prior written consent from the local planning authority.

REASON: To minimise light spillage onto boundary habitats and features, sensitive areas for protected and priority species and adjacent habitats, and to maintain dark corridors for wildlife, particularly commuting and foraging bats, and due to insufficient details having been submitted prior to the determination of the planning application as the submitted Proposed External Lighting & Luxplot plan (Drawing no. B2340-MJA-P105-4756-B, 6 July 2018) covers only the Aldi store site (full application area).

31. Prior to the commencement of development works on site, including ground works, demolition, site clearance, vegetation clearance and boundary treatment works, an AIA and Tree Protection Plan for the area of the application site subject to the outline aspect of the application shall be submitted to the local planning authority for approval in writing. Thereafter development shall be carried out in strict accordance with the approved AIA and Tree Protection Plan.

REASON: To ensure appropriate retention and protection of trees at the site, and on account of the information submitted to the Council to date, namely the AIA and Tree Protection Plan (Bosky Trees, 31st October 2018), having only covered the full application area and not the outline application area.

32. The full and outline aspects of the development shall be undertaken in strict accordance with the recommendations and measures stipulated in Section 4 and 5 of the Preliminary Ecological Appraisal (Tyler Grange, 18 May), R03c_Ecology Addendum to Address Consultation Response (Tyler Grange), the Habitat Features Plan (11593/PO8), the Landscape and Ecology Strategy Plan (11593/PO9) and AIA and Tree Protection Plan (Bosky Trees, 31st October 2018). The development shall be carried out with liaison with, and supervision by, a suitably qualified and competent ecological consultant where applicable. The development shall also be carried out in strict accordance with the pending EMES, CEMP, LEMP, lighting strategy for biodiversity and AIA and Tree Protection Plan (the latter is with respect of the outline aspect of the application) once submitted to, and approved in writing by the local planning authority.

REASON: To ensure appropriate and adequate protection and mitigation for ecological receptors including protected and priority species and habitats is implemented in accordance with the NPPF and CP50 of the Wiltshire Core Strategy (Adopted January 2015), and to ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006).

33. The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- a) An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- b) A description of management responsibilities;
- c) A description of the construction programme;
- d) Site working hours and a named person for residents to contact;
- e) Detailed Site logistics arrangements;
- f) Details regarding parking, deliveries, and storage;
- g) Details regarding dust mitigation;
- h). Details of the duration of identified works that may affect amenity and measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- i) Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.
- j) Identification of biodiversity protection zones/buffer zones and tree root protection zones/areas;
- k) The location and timing of works that need to be scheduled and undertaken in such a way as to avoid/reduce potential harm to ecological receptors;
- l) Details of the times pre-construction and during construction when specialist ecologists need to be present on site to supervise specific elements of the works and details of the responsibilities of the ecologist/ ecological clerk of works (ECoW);and
- m) Location and types of protective fences, exclusion barriers and warning signs to be installed for the site clearance and construction periods.
- n) Pollution prevention measures

Development shall be carried out in full accordance with the approved CEMP. There shall be no burning on site at any time. Hours of construction shall be limited to 0730 to 1800hrs Monday to Friday, 0730 to 1300hrs Saturdays and no working on Sundays or Bank Holidays; with any 'one off' departures from this being agreed with the LPA prior to works commencing.

REASON: To protect local; amenity from adverse effects of noise, dust and odour

34. Prior to occupation a lighting scheme must be submitted for the approval of the Local Planning Authority in accordance with the Institute of Lighting Professional's Guidance notes for the reduction of obstructive light. The scheme must be designed by a suitably qualified person in accordance with the recommendations for environmental zone E2 in the ILP document "Guidance Notes for the Reduction of Obtrusive Light GN01:2011.

35. Before commencement of operation of the approved lighting scheme the applicant shall appoint a suitably qualified member of the institute of lighting professionals (ILP) to validate that the lighting scheme as installed conforms to the recommendations for environmental zone E2 in the ILP document "Guidance Notes for the Reduction of Obtrusive Light GN01:2011

REASON: To protect local amenity from adverse effects of light

36. Prior to the commencement of building works above ground of the relevant part of the development, full details of any internal and external plant equipment and trunking, including building services plant, ventilation and filtration equipment and commercial kitchen exhaust ducting / ventilation, shall be submitted to and approved in writing by the Local Planning Authority. All flues, ducting and other equipment shall be installed in accordance with the approved details prior to the use commencing on site and shall thereafter be maintained in accordance with the manufacturer's instructions.

REASON: To protect local; amenity from adverse effects of noise

37. Prior to commencement an assessment of the acoustic impact arising from the operation of all internally and externally located plant shall be undertaken in accordance with BS 4142: 2014 by a suitably qualified person. The assessment shall be submitted to the Local Planning Authority together with a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed plant shall be less than background. The scheme shall be submitted to and approved in writing by the Local Planning Authority. A post installation noise assessment shall be carried out to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To protect local amenity from adverse effects of noise

38. Hours of operation of any store must be limited to 0800 to 2200hrs and deliveries limited to 0700 to 2300 hrs Monday to Friday. Deliveries shall be limited to 0700 to 1300hrs on Saturdays and Sundays/Bank Holidays. Hours of operation on Sundays and Bank Holidays should be no more than 1000 to 1600hrs.

REASON: To protect local; amenity from adverse effects of noise

39. The development shall be carried out as specified in the approved Arboricultural Impact Assessment & Tree Protection Plan prepared by BOSKYTREES Arboricultural Consultancy dated 31st October 2018 and shall be supervised by an arboricultural consultant, if required.

REASON: To prevent trees on site from being damaged during construction works.

40. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

REASON: To prevent pollution of controlled waters.

INFORMATIVES:

1. The submitted CEMP must include safeguarding measures to deal with the following pollution risks: - the use of plant and machinery - wheel washing and vehicle wash-down and disposal of resultant dirty water - oils/chemicals and materials - the use and routing of heavy plant and vehicles - the location and form of work and storage areas

2. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

3. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

4. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

5. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6. The applicant should note that the costs of carrying out a programme of archaeological investigation will fall to the applicant or their successors in title. The Local Planning Authority cannot be held responsible for any costs incurred.

7. The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

8. This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) (England) Regulations, 2007 or under any Regulation revoking and re-enacting or amending those Regulations, including any such advertisements shown on the submitted plans.

9. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

10. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

11. The further approval of the Local Planning Authority in respect of those matters reserved by condition(s) [INSERT] of outline planning permission dated [INSERT] is required before development commences.

Background Documents Used in the Preparation of this Report:

Application submissions (Initial and Revised/Additional)

Wiltshire Core Strategy Jan 2015

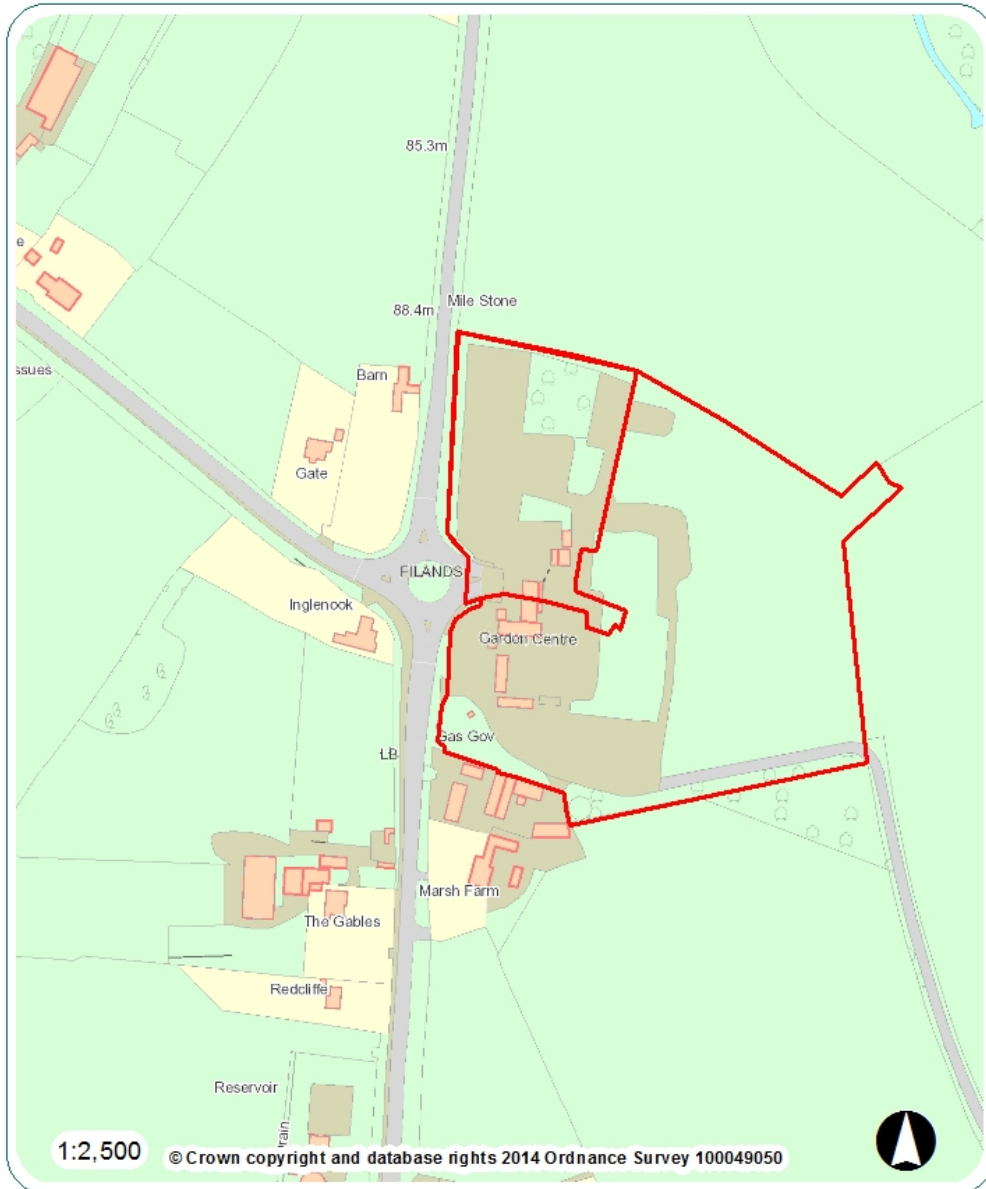
Malmesbury Neighbourhood Plan 2015

National Planning Policy Framework July 2018

Planning Practice Guidance

Application submissions 18/02180/FUL

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