

# AGENDA

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**Meeting:** Strategic Planning Committee  
**Place:** Council Chamber - Monkton Park, Chippenham  
**Date:** Thursday 20 June 2019  
**Time:** 2.30 pm

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Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email [roger.bishton@wiltshire.gov.uk](mailto:roger.bishton@wiltshire.gov.uk)

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## Membership:

Cllr Fleur de Rhé-Philippe MBE  
(Chairman)  
Cllr Derek Brown OBE (Vice-  
Chairman)  
Cllr Ernie Clark  
Cllr Andrew Davis  
Cllr Stewart Dobson

Cllr Sarah Gibson  
Cllr Christopher Newbury  
Cllr James Sheppard  
Cllr Tony Trotman  
Cllr Fred Westmoreland  
Vacancy vice Cllr David Jenkins  
(resigned)

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## Substitutes:

Cllr Ian Blair-Pilling  
Cllr Clare Cape  
Cllr Christopher Devine  
Cllr David Halik  
Cllr Russell Hawker  
Cllr Ruth Hopkinson

Cllr Chris Hurst  
Cllr Nick Murry  
Cllr Stewart Palmen  
Cllr Stuart Wheeler  
Cllr Graham Wright

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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 **Declarations of Interest**

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

3 **Chairman's Announcements**

To receive any announcements through the Chair.

4 **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 10.20am 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 **Thursday 13 June 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 **Monday 17 June 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.

- 5      **18/02955/FUL - Land at Marsh Farm, Coped Hall, Royal Wootton Bassett, Swindon, Wiltshire SN4 8ER - Class C2 66 Bed Care Home with Associated Car Park and Landscaping and Upgraded Access from Hook Road** (*Pages 5 - 50*)

A report by the Case Officer is attached.

- 6      **19/02481/FUL - From land at Northacre Industrial Estate to border with Mendip DC at ST 82843 50780 - Installation of an underground grid connection** (*Pages 51 - 62*)

A report by the Case Officer is attached.

- 7      **Date of Next Meeting**

To note that the next meeting is due to be held on Wednesday 17 July 2019, starting at 10.30am at County Hall, Trowbridge.

- 8      **Urgent Items**

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

## **Part II**

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

**None**

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>20<sup>th</sup> June 2019</b>
<b>Application Number</b>	<b>18/02955/FUL</b>
<b>Site Address</b>	<b>Land at Marsh Farm, Coped Hall, Royal Wootton Bassett, Swindon, Wiltshire SN4 8ER</b>
<b>Proposal</b>	<b>Class C2 66 Bed Care Home with Associated Car Park and Landscaping and Upgraded Access from Hook Road</b>
<b>Applicant</b>	<b>Leda Properties Limited &amp; Ideal Care Homes</b>
<b>Town/Parish Council</b>	<b>Lydiard Tregoze</b>
<b>Division</b>	<b>Royal Wootton Bassett East</b>
<b>Grid Ref</b>	<b>407568 183792</b>
<b>Type of application</b>	<b>Full Planning</b>
<b>Case Officer</b>	<b>Lee Burman</b>

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

The application has been called in for committee determination by the Division Member, Councillor Groom to consider the impact of the proposed care home in terms of the scale of development; Environmental Impact; Impact to the character, appearance and visual amenity of the locality; highways Impact; and establishment of a precedent for further development in the adjacent locality.

The application is reported to the Strategic Committee as it relates to the same site and similar proposals previously considered and refused by the Committee and subsequently dismissed at appeal.

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

To consider the application against the provisions of the development plan and relevant material circumstances and recommend approval subject to conditions.

### **2. Report Summary**

Eleven representations of objection and one general comment have been received. Royal Wootton Bassett Town Council and Lydiard Tregoze Parish Council object to the application.

### **3. Site Description**

The application site lies adjacent to and immediately north of the Malmesbury Road/B4041 stretching westward from the Coped Hall Roundabout and adjacent to the Hook Road/A3102 to the north, adjacent to existing properties fronting that road. Further to the north running in an east west direction is the M4 motorway. The application site area is 0.55 hectares. The land is presently in agricultural use and generally has gentle contours and a level topography. There is varied landscaping around the site's perimeter, with hedges demarcating the existing field pattern and some mature trees. The application site boundary

partially extends around the adjacent Hook Road in one location to the east providing the site access point.

The site is outside of the defined settlement framework boundary for the town of Royal Wootton Bassett and is therefore defined as being within the open countryside in terms of the development plan. The application site is not subject to any international (e.g. European), national or regional designations but is within proximity of a listed building and a known location of archaeological interest and potential.

To the southwest, across the B4042, are residential properties of relatively modern character, whilst to the east, across the A3102, are agricultural fields. To the west is an area that has been recently developed to accommodate a new 'sports hub' comprising a range of facilities for rugby, cricket, football and tennis. Along the A3102 frontage directly to the north of the site there is a single residential property and the Marsh Farm Hotel. Further residential properties extend northward to the village of Hook.

The Coped Hall roundabout to the south west of the site is a key gateway into Royal Wootton Bassett from Swindon and the M4 and is the focus for a range of commercial activities including a car sales garage (now consented for change of use to an Aldi superstore), public house, Travis Perkins builders merchants and a Rapid Hire tool and plant hire centre.

#### 4. Planning History

13/07291/SCR	Screening Opinion as to Whether an Environmental Impact Assessment is Required in Respect of Proposed Mixed-Use Development.  EIA not Required.
14/08060/OUT	Mixed Development of upto 320 Dwellings, Community Hub Comprising of 500sqm of A1/A2/A3/A4/A5/D1 & D2 Uses, Public Open Space, Landscaping, Extension to Approved Sports Hub & Access.  Refused and dismissed at appeal
16/06995/FUL	Hybrid Application for a 2,469 m <sup>2</sup> (GIA) supermarket with access and landscaping (detail) and Class C2 care home of up to 3,000 m <sup>2</sup> (outline).  Refused and Dismissed at appeal.

#### 5. The Proposal

The development proposed is for a three storey Class C2 66 Bed Care Home with Associated Car Park and Landscaping and Upgraded Access from Hook Road. The application is made in full detail.

The application is supported by full plans and the following statements:-

- Landscape and Visual Impact Assessment
- Arboricultural Report
- Ecology Report
- Feasibility Report
- Needs Assessment
- Transport Statement & Travel Plan

Flood Risk Assessment  
Design and Access Statement  
Planning Statement

## **6. Planning Policy**

### National Policy

National Planning Policy Framework (NPPF) (Feb 2019) and Sections 6, 11 & 12; paras 2, 8, 11, 12, 38, 47, 61, 108, 109, 127, 128, 130, 163, 170, 175, 180, 190, 192, 193, 194, 196 are of particular relevance but this is not an exclusive and/or exhaustive listing and further para references of relevance are made within the report.

National Planning Policy Guidance (NPPG)

### Development Plan

Adopted Wiltshire Core Strategy (January 2015)

The policies within the Core Strategy that are of particular relevance to the consideration of this proposal are listed below.

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 3: Infrastructure requirements
- Core Policy 19: Spatial Strategy for the Royal Wootton Bassett and Cricklade Community Area.
- Core Policy 41: Sustainable construction and low carbon energy
- Core Policy 43: Providing affordable homes
- Core Policy 45: Meeting Wiltshire's housing needs
- Core Policy 46: Meeting the needs of Wiltshire's vulnerable and older people
- Core Policy 50: Biodiversity
- Core Policy 51: Landscape
- Core Policy 52: Green Infrastructure
- Core Policy 55: Air Quality
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 58 Ensuring the conservation of the historic environment.
- Core Policy 60: Sustainable transport
- Core Policy 61: Transport and new development
- Core Policy 62: Development impacts on the transport network
- Core Policy 67: Flood Risk
- Core Policy 68: Water Resources

Saved policies of the North Wiltshire Local Plan 2011

- H4 Residential outside framework boundary
- NE14 Trees
- NE18 Noise and pollution

Emerging Development Plan

- Wiltshire Housing Site Allocations Development Plan Document
- Lydiard Tregoze Neighbourhood Plan

Other considerations

- Royal Wootton Bassett Neighbourhood Plan
- Community Infrastructure Levy

## 7. Consultations

**Wiltshire Council Affordable Housing Team** – No objection and no contributions required.

**Wiltshire Council Adult Care** – No objections and no comment to make on the needs assessment.

**Wiltshire Council Spatial Planning Team** - No objections

**Wiltshire Council Highways** – no objections subject to conditions

**Wiltshire Council Drainage** – No objections subject to conditions

**Wiltshire Council Archaeology** – No objections subject to condition

**Wiltshire Council Urban Design Officer** – Support

**Wiltshire Council Ecology** – support subject to conditions

**Wiltshire Council Public Protection** – No objection subject to conditions

**Wiltshire Council Trees Officer** – No objection subject to condition.

**Wiltshire Council Landscape Advisor** – Objection - it is considered that the LVIA submitted has under-estimated the adverse effects of the proposed development and has not shown an adequate mitigation strategy. The proposed development is in the countryside and is of a scale and massing which is incompatible with the character and appearance of the local area. The proposed development is too large for the small and restricted site, and will result in an incongruous development form which neither conserves nor enhances the character and appearance of the area, and falls foul of Core policies 51 and 57. The application is therefore unacceptable and should be refused.

**Wiltshire Council Waste** – no objections subject to provision for waste disposal – contributions sought.

**Highways England** – No Objections

**Wessex Water** – No objections and defer surface water drainage considerations to the Lead Local Flood Authority (Wiltshire Council). The Council should be satisfied that foul drainage provision is adequate.

**Lydiard Tregoze Parish Council** – Object. Previously submitted objections remain relevant. Development is out of character and scale with the locality; will result in coalescence; inadequate parking and access arrangements; inappropriate countryside location poorly related to services and facilities; Highways hazard would arise and there is no requirement for care home provision in the locality.

**Royal Wootton Bassett Town Council** – Object. The Committee considered the out of town location for the care home is unsuitable given its lack of proximity to local amenities and services. The Carterwood Report analysis for the supply of beds in 5 miles and 3 miles 'market' catchment area takes in the urban area of West Swindon. M4 is considered to be a psychographic barrier and therefore the operator may struggle to recruit staff whilst also finding it difficult to achieve full occupancy. The Council believes the report should be recast excluding the urban area of Swindon.



The Town Council has also made previous submissions during earlier consultation raising the following concerns:

- Sustainability of the care home
- Highway concerns
- The land was not identified in the Neighbourhood Plan as a suitable development site
- Serious drainage concerns
- The proposed development falls outside the settlement boundary
- The development represents further coalescence with Hook and therefore West Swindon.

## 8. Publicity

The application was advertised by site notice, press notice, neighbour notifications, notification to the parish and town councils in the locality and the local ward member.

The application has been the subject of three periods of consultation in respect of initial submissions, revised submissions aimed at addressing concerns raised during the first consultation and a final period of consultation in respect of the submitted needs assessment. The summary below and in section 7 is the cumulative position following all three periods of consultation. All representations are available for viewing on the Council's website.

- Harm to the landscape – character, appearance and visual amenity of the locality
- No need for the development, existing provision is sufficient
- Inadequate access and creation of a highways hazard
- Precedent for further development
- Increased flood risk and inadequate drainage
- Poor Quality Design/does not reflect character and appearance of the area
- Need assessment is generic and does not accurately show the position in Royal Wootton Bassett
- Proposal was dismissed at appeal for harm to the character and appearance of the locality
- Inadequate consultation
- Inadequate medical facilities in the locality
- Refer to and reiterate all previous comments made on earlier applications dismissed at appeal ***Officer comment: summary of representations received from previous report to committee is copied in full as follows for ease of reference and transparency but it should be noted this summary related to a hybrid application for a combined supermarket and care home proposal:-***

Second report to Committee summary of representations:-

*The revised scheme proposals were subject to a further period of consultation with all consultees notified and all persons have previously submitted representations also notified. 21 further representations were submitted and the issues raised can be summarised as follows:-*

- *Previous objections submitted remain unchanged by the scheme revisions;*
- *No requirement for additional retail, there are vacant premises in and adjacent the town that are better located;*
- *Retail unit will undermine the vitality and viability of the town centre, impacting on small business;*
- *Submitted assessment does not take account of recent store closures in the town;*

- *The retail unit is not accessible by foot or bus and with the parking will generate car borne journeys;*
- *Site entrance on Hook Road is dangerous and will result in a highway hazard;*
- *Inadequate space available for proposed and required highways works;*
- *Proposed parking provision for the care home is inadequate, Green Transport Plan inadequate;*
- *Surface water drainage submission inadequate and inaccurate;*
- *The site is subject to flooding and inappropriate for the proposed development;*
- *Coped hall and local roads are heavily congested already and this will be worsened;*
- *Contrary to the policies of the Wiltshire Core Strategy being outside the framework boundary of the town;*
- *Inadequate consultation;*
- *Too many proposed accesses on the local roads adjacent the congested Coped Hall Roundabout;*
- *Inadequate local services to meet the needs of the elderly person at a proposed care home e.g. Local GPs;*
- *No requirement for care home;*
- *Will set a precedent for further development in this locality resulting in coalescence with Swindon and Hook;*
- *Strong local objection to the scheme proposals.*

*First report to Committee summary of representations:-*

*The application was advertised by press notice, site notice, neighbour notification letters, notification to local organisations and publication of the Council's weekly list and application details to the Council's website.*

*318 representations of objection and 70 representations raising comments were made. Objections included a petition of 52 signatories which raised objection jointly to this application and 14/08060/OUT. Matters addressed in the submissions can be summarised as follows:-*

- *Further housing development unjustified/unnecessary with the housing target for the area met;*
- *The retail element is out of town development, outside of defined retail frontages and harmful to the town centre; and will draw trade and activity away from the town centre;*
- *Empty/Vacant supermarket facility within the town centre which is a more appropriate location;*
- *Development is outside the settlement framework boundary;*
- *Hook village does not require further development and the character of the village would be lost if development proposed is permitted;*
- *No requirement for elderly persons accommodation – needs are met;*
- *Site unsuitable for elderly persons accommodation;*
- *Flooding risks and history of flooding in this locality;*
- *Existing highway network heavily congested and further development will worsen this situation;*
- *Application site address incorrect;*
- *Local services and facilities e.g. Education, dentists and GP surgeries over capacity and cannot serve additional population;*
- *Local infrastructure e.g. drainage, electricity, water supply over capacity and unable to serve additional population;*
- *Application site unsustainable and poorly served by public transport and remote for existing residential areas;*

- *Supporting information including retail assessment is inadequate with adequate convenience floorspace provided in the town centre already and the shortage being in comparison floorspace;*
- *Inaccurate baseline figures include in supporting documentation e.g. population;*
- *Over development of the site;*
- *Development will result in light pollution and this is not assessed;*
- *Inadequate detail re: foul sewerage provision;*
- *Coalescence with Swindon and urban sprawl of Royal Wotton Bassett is opposed;*
- *Access proposal inadequate and do not provide for safe pedestrian access, Pedestrian and cycle provision accessibility in the locality currently unsafe (local accidents referenced) and this will be worsened;*
- *Existing routes to school are not safe and will be worsened, currently all children are driven to school;*
- *Harm to landscape and visual amenity of the locality;*
- *Air & noise pollution will increase;*
- *Travel Plan will not be effective and people will still gavel by car;*
- *Jobs created will be low value employment and this is not a significant benefit*  
*Dorset & Wiltshire Fire Authority – Objects as contrary to WCS CP3 & CP57 due to lack of provision for Fire Service infrastructure. The Fire Authority considers that their objection can be overcome by the use of a condition requiring the submission, agreement and provision of necessary infrastructure.*  
*3 letters of support submitted identifying a need for shops and consequently residents have to out commute for shopping needs.*

## **9. Planning Considerations**

### **9.1 Principle of development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that “determination must be made in accordance with the plan unless material considerations indicate otherwise”. Paras 2, 11, 196 & 210 of the NPPF reiterate and confirm this requirement. This is the starting point for determination from a policy point of view. The Wiltshire Core Strategy Adopted January 2015 forms the local component of the current development plan.

The Wiltshire Housing Site Allocations DPD and the Lydiard Millicent Neighbourhood Plan have not reached an advanced stage of preparation at the time of writing such that significant weight could be afforded to the documents. The Sites Allocation DPD does not address care provision. The Royal Wootton Bassett Neighbourhood Plan (Made April 2018) does not cover the application site area but the plan boundary lies in close proximity.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in determining planning applications affecting a Listed Building to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The statutory duty here is reflected in Section 12 of the NPPF and Core Policy CP58 of the WCS. Heritage Asset issues are addressed further below.

The Wiltshire Core Strategy was formally adopted by the Council on 20th January 2015. In accordance with the NPPF it sets out what is sustainable development in the context of Wiltshire. It retains a number of saved policies from the former Districts’ Local Plans (e.g. North Wiltshire Local Plan 2011). It forms part of the statutory development plan for Wiltshire.

WCS core policy CP19 does not identify requirements or priorities for provision for accommodation for the elderly or those in need of care in this respect. The Council's Adult Care Team has not commented in respect of demand and similarly has not identified objection or no demand or the adequacy of existing provision in this locality. It is well established at Wiltshire and National level however that the UK is experiencing an ageing population and requirements in this respect are increasing on an on-going basis and seriously impacting non-public sector service provision requirements. Furthermore the applicant has undertaken detailed assessments of demand based both on population characteristics in the Royal Wootton Bassett town and locality and in terms of the existing available care home provision in the locality. The needs assessment is based upon an analysis of the population profile and projections in the Royal Wootton Bassett locale and so is specific to the locality and the need arising within the town and surrounding area. The assessment identifies a requirement for over 1000+ bed spaces with occupancy at existing facilities in the town in excess of 95%. Effectively existing provision is wholly occupied. The submissions have been the subject of full consultation and no evidence to dispute or contradict the findings has been made available. The Council's Adult Care Team has raised no objections in respect of these submissions and their findings which do also include review and consideration of the Council's own Wiltshire Health and Wellbeing Joint Strategic Needs Assessment for older people 2017/18. The assessments submitted are considered to be robust and sound, clearly identifying a need for provision consistent with the Council's own assessment. In this context provision by the private sector must be welcomed in principle and to suggest that there is no requirement is not considered to be a justifiable and defensible basis for refusal of the application. In this context WCS Core Policy CP46 and supporting paras 6.53 – 6.55 clearly identifies and confirms this position and that there will be a need to make a wide range of forms of provision to meet this identified need.

CP46 does allow for specialist provision for the elderly to come forward outside of the limits of defined settlements. In this context it is important to note that whilst outside the defined boundary of the settlement the site and proposal is very closely related to the boundary sitting on the outskirts of the town. In this context it is considered that services and facilities are reasonably accessible. This matter is addressed in further detail in the "Highways/Access" section below. The scale of development proposed is considered proportionate to the scale of the town. Environmental and Landscape considerations are addressed below.

The applicant has confirmed that there is a contract agreed by an operator / care home provider which is considered to be a clear expression of demand. The operator in this instance is also co-applicant for the proposal and in submissions has confirmed that the development will be implemented at the very earliest opportunity. Officers are aware of several previous instances of permission for care homes not being implemented due to a lack of demand and subsequently applications for residential development coming forward on these sites. One such instance of this has occurred at Brynards Hill/Lower Woodshaw in Royal Wootton Bassett. This scheme did not come forward and has not been implemented with a revised housing consent approved and currently being built out. In part the justification for the revised scheme at that site was a lack of a provider/demand for the care home. This is considered to be addressed by the confirmed operator for the facility herein proposed; the evidence submitted as to the contractual arrangements with the landowner whereby the operator is bound to purchase the site upon the grant of consent for the care home proposal, and the new detailed evidence submitted demonstrating the significant level of need in this locality. It should also be noted that the applicant is a national care home provider who has developed proposals in Wiltshire successfully already e.g. Devizes and who is advancing other proposals at the moment including at Chippenham. They have also provided information as to care home delivery elsewhere in the South of England confirming a track

record of delivery of such proposals/planning permissions once consent has been granted. In this context officers are convinced that this proposal will come forward.

Furthermore the applicant has reviewed the details available for the care home proposal and subsequent residential application at Brynards Hill/lower Woodshaw from the perspective of a care home provider. They identify that the proposed care home in that instance was for a 39 bed scheme. They identify that this scale of development of care homes has not be considered viable by almost all care home developers/operators for some time, with all new care homes being built for no less than 60 older people. Additionally the permitted scheme in that instance was not supported by a care home operator, instead being advanced by a housebuilder and had not been based on a detailed needs assessment. In each respect the position is in contrast to the current application proposals.

It should at this point also be noted that there are other scheme benefits in terms of job creation and the economic benefits arising from construction which also weigh in favour of the scheme proposals.

It is a material consideration of significant weight that the application site and adjoining land have been the subject of recent applications which were refused and subsequently dismissed at appeal. There are however several relevant material differences between those refused proposals and the current application.

Firstly the previous application was a hybrid Outline and Full application with the care home element of that scheme only proposed in Outline. The current care home application is in full detail and the submissions provide greater clarity as to the design of the structure and layout of the site and therefore the impact on the character, appearance and visual amenity of the locality. This is addressed in further detail below.

Secondly, the previous application included a retail food store as part of the proposals and related to a large area of land with an additional point of access. The current application is solely for a care home with a single point of access.

Finally the application is supported by significantly greater amount of supporting information in terms of needs assessment and demand for care home provision than was previously the case. As noted above this assessment is comprehensive demonstrating a significant level of need.

On this basis it is considered that there are material considerations that indicate a different decision than that previously reached by the Committee and at appeal is justifiable.

Further to this it is important to consider the findings of the Inspector who heard the appeal against the refusal of the retail food store/care home hybrid application 16/06995/FUL. (*A copy of his decision letter is attached as an appendix to this report*) The application was refused on the basis of harm to the character, appearance and visual amenity of the locality and the Inspector concluded that there was harm in this respect that was not outweighed by the benefits of development when taking into account all material considerations. However, a close reading of the Inspector's decision makes it clear that the significant harm to visual amenity arose to a large extent from the positioning, scale, design and layout of the retail element of the scheme proposals. The Inspector had information before him regarding other retail consents in the locality which informed the weighting attached to the benefits of development in his judgement. With respect to the care home element of the proposals the Inspector does identify that the proposal was broadly in accordance with the Council's policies in particular CP46 and that the harm arising through impact to the character, appearance and visual amenity of the locality was relatively limited. This is addressed in further detail in the "Character, Appearance & Visual Amenity of the Locality" section below.

The inspector was not however fully convinced as to the benefits of development in terms of the need for the development having been demonstrably established. As noted above it is considered that the evidence of need has now been comprehensively addressed and established. In this respect and alongside the now available full detail as to the design and layout of the care home it is again considered that there are changed circumstances that would justify an alternate decision to that reached at appeal and by the Committee.

The matter of a grant of consent creating a precedent for further development in this location outside the framework boundary to the north of the Malmesbury Road has been raised. It is important to remember the statutory requirement contained in national planning legislation that all applications must be considered on their own merits and in this context a previous grant of permission for development in the same locality is not in and of itself determinative. Such matters are capable of being material considerations in the decision making process but will not alone be sufficient to warrant a further grant of permission. The position in respect of the sports club and the previous application and appeal proposals is instructive in this respect. Whilst officers and the Inspector identified that the sports club had changed the character of the locality this in itself did not justify further grants of consent for further development. Similarly the dismissal at appeal of the previous proposal whilst a material consideration of significant weight is not in and of itself sufficient reason alone to justify further refusal of permission without reference to any changed material circumstances and considerations since the decision was reached. As noted above it is considered that there are demonstrably changed material considerations relevant to the determination of this application since the appeal decision was reached.

In summary it is considered that the proposed development is acceptable in principle and in accord with the development plan subject to site specific impact considerations which are addressed further below.

## **9.2 Highways & Access**

It is important to note that the Council did not refuse the previous application on this site on highways grounds and no objections from highway officers were raised in respect of the proposed access to and from Hook Road subject to conditions. That remains the case and there are no material changes to the proposed access arrangement to and from Hook Road. Furthermore the Inspector in the recent appeal considered submissions in this respect and raised no concerns and did not dismiss the appeal on the basis of harm to the highway network and inadequate access and / or parking arrangements.

Officers are aware that there are significant concerns locally as to the impact of the proposals in highways terms and especially in the context of the existing traffic conditions on Hook Road. However, the application is informed by a full Transport Statement. Officers and a planning inspector have considered these proposals and arrangements and no objections or harm have been raised or identified. It is not considered that there is a justifiable and sound objection in this respect that would justify refusal on these grounds.

It is also recognised that concerns have been raised in the past that this is not an ideal location for a care home being some distance on foot from the Town Centre; separated by a major road from the town and situated on a key busy highways junction for the town. The site is however served by public transport with links to the town centre. The walking distance is some 925 metres/0.58 miles which is not considered to be wholly unrealistic or indeed remote. There is a pedestrian island on the Malmesbury Road immediately adjacent the site that allows for crossing of the road. It is not considered that there are available and deliverable alternate sites that are significantly better related to the town centre as has been demonstrated on multiple occasions in respect of the retail proposals advanced in recent years and through the preparation of the Neighbourhood Plan and the Site Allocations DPD.

Again it is also important to note here that the Inspector did not reach an adverse conclusion as to the location and dismiss the appeal in this context. Furthermore the applicant as a well-established care home operator is content that the location meets their requirements and has identified that other national care home operators have also approached them in respect of this site should they not wish to proceed. Those approaches have been declined. Finally it should be reiterated that WCS CP46 envisages circumstances where provision will come forward in these locations.

On this basis it is considered that the proposal would not conflict with CP61 of the WCS or the relevant provisions of the NPPF and that consent should not be refused on this basis as such a decision could not be defensibly justified.

### **9.3 Drainage**

As with the highway matters discussed above, it is again important to note that the Council did not refuse the previous application on drainage grounds and that the Council's drainage officers raised no objections in this regard. Whilst local concerns in respect of this matter are noted it must be borne in mind that the previous application proposals for a significantly greater scale of development were the subject of a detailed and thorough analysis including a full Flood Risk Assessment. It was concluded that the development could be accommodated within the site without causing increased flood risk elsewhere and without being at risk of flooding itself.

In this respect it is essential to note that this was a matter of significant interest and consideration at appeal. The Inspector hearing the appeal received extensive submissions from interested third parties with detailed local knowledge of surface water drainage arrangements – in particular the Jubilee lake facility. The Inspector was wholly satisfied that the matters had been thoroughly considered and the much larger scheme proposals were satisfactory addressed in respect of drainage matters. There has been no significant change in circumstances of material relevance to drainage matters in respect of this site and development since the appeal was heard in September and December 2018.

The current application is informed again by a Flood Risk Assessment. This has been subject of additions and revisions following initial consultation. The scheme proposals include provision of surface water drainage which in summary includes on site attenuation with a swale within the care home site and an attenuation pond on adjacent land with flow control device to the highway drain flowing to Jubilee Lake. The proposals are consistent with those put before the Inspector hearing the previous appeal and who assessed that a reduced scale of development could readily be addressed by the same proposals subject to necessary conditions. The Councils' drainage officers have reviewed and considered the revised FRA submission and proposals and are satisfied that the scheme can be suitably drained without increased risk elsewhere or on site subject to the use of conditions.

On this basis it is not considered that there is a sound and defensible reason for refusing the application and the proposals accord with WCS CP67 and the relevant provisions of the NPPF.

### **9.4 Character, Appearance & Visual Amenity of the Locality**

As noted above the current application is in the same location as an earlier hybrid (Outline & Full) planning application for a Lidl supermarket and a care home. App ref no 16/06995/FUL refers. This was refused by the Committee due to the harm caused to the character appearance and visual amenity of the locality. That decision was subject to an appeal alongside an application for large scale residential development on the adjoining land (14/0860/OUT refers). The appeals were heard together and both were dismissed. As is also

noted above there are material differences between the current application and that refused at appeal, namely the exclusion of the supermarket element of the proposals; detailed need assessments submitted in support of the care home; a clearly defined operator for the proposed facility; and the full detailed plans submissions in relation to the care home, which was previously in outline only.

As noted above in the consultation section the application submissions have been subject to revision. In particular the applicant team has worked on the detailed design and layout of the proposals in direct response to initial concerns raised by the Council's Urban Design Officer and cognisant of the concerns raised in respect of 16/06995/FUL. The revised submissions have addressed in full those concerns and no objection is now raised by the urban Design Officer. However, it remains the case that the Council's Landscape advisor identifies harm to the character, appearance and visual amenity of the locality. This is on the basis that the proposal will result in the development of open agricultural land on the periphery of the town of a large scale (3 storeys) building with a resultant urbanising effect out of character with the locality. It should however be noted that the site does not fall within or lie adjacent to a designated landscape and does not conflict with national guidance and WCS policies in this respect. In this context there is conflict with WCS core policies CP51 and CP57 and para 170 of the NPPF but this is in effect the harm that arises from all development that takes place on open undeveloped land outside of existing settlements. It is therefore necessary to consider what if any benefits arise from development and what if any specific policies of the plan are met by the proposals. This balancing judgement is undertaken below in the conclusion.

It is important here to also note the findings of the Inspector considering the previous appeal. The conclusions there identify that the principle harm from the application to the character and appearance of the locality arose from the Lidl supermarket and its relationship to and impact upon the visual amenity of the locality especially when viewed from the Malmesbury Road. The relationship was assessed to be prominent and stark with a large scale development introduced to an open landscape resulting in loss of views to the open countryside beyond within no significant mitigation. With respect to the care home element of the proposals the Inspector identified that the locality was already somewhat urban in character referencing here the impact of the Sports Club development adjacent to the site. Following this finding the Inspector at para 38 of his decision letter identifies that:-

*The context is consequently already predominantly urban and whilst the view would undoubtedly change from fields to that of a care home, with a supermarket building behind, with appropriate landscaping and building design and location, this need not be harmful to the wider landscape or the experience of travellers along Hook Road.*

With specific reference to the care home at paras 83 – 92 the Inspector balances the impact of development on the locality against other material considerations as defined by development plan policy, in particular the need for the development. It is in this context that the Inspector finds against the proposals in that the evidence of need was not at the time fully established in his opinion. Paras 86 and 87 are of relevance here. Furthermore the Inspector goes on to consider and give weight to the Council's submissions that there was no established operator with interest confirmed in delivering the proposal. In these respects the Inspector was not convinced of the benefits of development and so found there were insufficient material considerations to outweigh the harm to the character and appearance of the locality. In so doing he again indicated that this harm could be addressed and mitigated and indicated that if the need for development and its delivery could be confirmed then a different conclusion may be reached. Para 92 refers:-

*This part of Appeal B is in outline and the proposed site layout indicates a large area between the proposed care home and the road/roundabout. There is consequently no*



*reason to doubt that the care home element of appeal B could not be implemented in a way that made a positive contribution to the townscape of this area through sensitive design and landscaping that respected the character and setting of the settlement. I consider this element of the proposal to be in accordance with CP 57.*

Here it is important to note that the applicant has made additional and revised submissions to the site layout including boundary treatment details. As noted above the Council's urban design officer raised initial concerns including in this respect. The revised submissions sought to address this matter and the urban design and case officers' assessment of the submissions is that these do address and mitigate impacts sufficiently. As noted the landscape advisor considers the scale of development in the context of the site character to be harmful irrespective of these additional and revised proposals.

### **9.5 Heritage Assets**

The site is located adjacent to the Grade II listed Marsh Farm and is a locality of known Archaeological Potential. In the latter respect the site has been the subject of full assessment and the Council's Archaeologist raises no objections subject to conditions. This position is not changed by the more detailed proposal now before the Council.

With respect to the potential impact to the listed building this relates to the potential for harm to arise from impacts to the setting of the heritage asset. The matter has been subject of previous assessment under the 2016 application and appeal and neither officers, the committee nor the Inspector found that harm arose. However, the more detailed proposals now before the Council require that this matter be revisited however.

It is important to note that the site circumstances and the significance and value of the designated heritage asset remain as previously assessed in that the historic, aesthetic and interpretative values of the asset have been changed and eroded over time by changed circumstances and use of the property. The building has changed from a farmhouse to a hotel and the related farm land which formed part of its setting has been divorced from the building. The setting has been further changed and eroded by the development of the sports club on adjacent land which has significantly altered the farmland character of the locality and setting to the listed building. It is also again important to note here that the application before the Council is for a much smaller scale of development not now including the supermarket element of the previous scheme. The care home proposal is to the south of the listed building with structures and mature vegetation located in the immediate vicinity thereby reducing, to a certain degree, the inter visibility between the two structures. There will however be a loss of open land and a greater urbanised character to the land in the immediate vicinity of the heritage asset and in this context it is considered that there is less than substantial harm at the lower end of the scale. As such there is conflict with WCS CP57 & CP58. It is necessary to consider what if any material considerations would indicate that a decision otherwise than in accord with the development plan should be reached. The NPPF at paras 190 – 196 identifies guidance as to this specific situation requiring Local Planning Authorities to consider whether or not there are any public benefits from development that may outweigh the identified harm. The NPPF is a material consideration of significant weight and is capable of being a material consideration that would support a decision otherwise than in accord with the development plan.

In this instance it is considered that there are public benefits arising from the development proposal which are of sufficient weight as to outweigh the limited harm identified to the historic environment. In this respect the provision of specialist housing for the elderly and those suffering from dementia in the context of a clearly identified need for such provision in this specific locality is considered to be a public benefit of sufficient weight to outweigh the limited harm identified in and of itself. Taken together with the other benefits of development

including the boost to the economy from construction and provision of employment opportunities at the care home the benefits are considered to demonstrably outweigh the harm identified.

## **9.6 Other Matters**

### **S106/Planning Obligation**

The Council's Affordable Housing Team have identified that the type of facility (C2 Care Home) does not generate a requirement for affordable housing provision under WCS core policy CP43.

In respect of waste collection the applicant formally confirmed during the previous appeal process that waste collection would be through private contractor arrangements and there would be no requirements for Council provided services. As such no financial contribution to waste collection is considered necessary in this instance.

## **10. Conclusion**

The application proposals for a 66 bed 3 storey care home in full detail, supported by a complete needs assessment and with a fully identified care home operator committed to delivery of the facility are considered to be materially different from the scheme previously considered by committee and refused at appeal under application reference number 16/06995/FUL.

It is considered that whilst outside the limits of development this is not in and of itself a reason for refusal given the provisions of WCS Core Policy CP46 which allows for development in these circumstances where there is a clearly identified need. The applicant has made detailed submissions assessing both existing care home provision in the locality and a population based needs assessment of demand for care provision in the Royal Wootton Bassett locality. The assessments are considered to be robust, consistent with the Council's own assessment and strategy for elderly person care and are not contradicted by any detailed submissions demonstrably concluding that there is no need or demand.

The development proposal will result in some harm to the character, appearance and visual amenity of the locality and less than substantial harm at the lower end of the scale to the setting of a designated heritage asset. In this context there is conflict with the provisions of the development plan in respect of WCS Core policies CP51, CP57 & CP58.

With respect to the harm to heritage assets and the statutory requirements in this regard as identified above it is considered that the benefits of development in terms of securing housing provision for the elderly and vulnerable persons of Wiltshire and the Royal Wootton Bassett locality alongside the other economic benefits of development through construction and employment demonstrably outweigh the harm identified. In this context the policy requirements of the NPPF at para 190 – 196 are met and provide a material consideration of sufficient weight to indicate that a decision otherwise than in accord with the development plan can be reached.

As noted the proposals accord with the provision of CP46 and in providing facilities for the vulnerable and elderly members of the Wiltshire Community are considered to secure a significant positive benefit. On balance it is considered that the proposals do not result in such conflict with the development plan that a determination of refusal should be reached. The proposals as noted result in significant benefits and the delivery of these benefits is considered to be confirmed by the applicant including a care home operator with a proven track record of delivery in Wiltshire.

As such and in accordance with paragraph 12 of the NPPF it is considered that permission should be forthcoming.

## **RECOMMENDATION**

### **Approve subject to the following conditions**

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

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

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

Site Location Plan 183799/AP01 (26.03.2018)  
Amended Site Layout Drawing No.183799/AP02D (received 16.08.18)  
Proposed Ground Floor Plan Drawing No.183799/ AP03 (26.03.2018)  
Proposed First Floor Plan Drawing No. 183799/ AP04 (26.03.2018)  
Proposed Second Floor Plan Drawing No. 183799/APO5 (26.03.2018)  
Proposed Roof Plan Drawing No. 183799/AP06 (26.03.2018)  
Amended Elevations Drawing No. SN4 8AY-A-05B (received 16.08.18)  
Amended Site Access Arrangements Drawing No.1801-69/SK02 Rev B (received 16.08.18)  
Amended Perspective Representation (received 16.08.18)  
Amended Indicative Planting Proposals (received 16.08.18)  
Initial Materials Palette (received 16.08.18)  
Detail of Metal Railing Boundary Treatment (received 16.08.18).

Flood Risk Assessment V3 (Received 27.08.18)  
Transport Statement (Received 16.08.18)  
Design and Access Statement 183799 (Received 16.08.18)

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

3. Each unit of the residential care home hereby permitted shall be occupied only by:

- persons of state pensionable age; or
- persons living as part of a single household with such a person or persons; or
- persons who were living as part of a single household with such a person or persons who have since died.

REASON: The units of the residential home/sheltered accommodation have been designed for occupation by persons who satisfy the above criteria and are unsuitable for family housing.

4. 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, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision limiting the maximum flow rate from the site via the highways culvert to that referenced in the submitted Flood Risk Assessment By Pinnacle C160504 V5 Dated 17 august 2018 and Received 27 August 2018.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

5. No development shall commence on site until a fully detailed scheme for the disposal of foul sewage from the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall accord with the Foul Drainage Strategy as illustrated in Drawing No. C160504-V5 submitted within the Flood Risk Assessment & Drainage Strategy documentation prepared by Pinnacle Consultancy dated 17 August and received on 27 August 2018'

REASON: To ensure that proper provision is made for the sewerage of the site and that the does not increase the risk of sewer flooding to downstream property.

6. The development hereby permitted shall not be occupied until the approved sewage disposal & surface water drainage works proposed have been completed in accordance with the submitted and approved details. This shall include the thorough cleansing, cleaning and removal of all materials and potential blockages from the existing piped drainage/culvert proposed for use as part of the Surface Water Drainage network/system prior to the first occupation of the dwellings hereby approved. The applicant shall notify the Council including Drainage and Highways Maintenance Teams of commencement and completion of the drainage clearance and cleaning works. The works shall be subject to assessment and approval by the Council.

REASON: To ensure that the development is provided with a satisfactory means of drainage.

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

REASON: In the interests of residential amenity

8. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;
- ii. Dust suppression covering earth works and spoil heap storage
- iii. The cutting or other processing of building materials on site;
- iv. Wheel washing and vehicle wash down facilities;
- v. The transportation and storage of waste and building materials;
- vi. The recycling of waste materials (if any)
- vii. The loading and unloading of equipment and materials
- viii. The location and use of generators and temporary site accommodation

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring

amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

9. The development will be carried out in strict accordance with the recommendations given in Section 6 of the Ecological Appraisal Report by Aspect Ecology dated February 2018.

REASON: In the interests of Protected Species and Habitat.

10. Prior to commencement of development, a Landscape and Ecological Management Plan shall be prepared and submitted to the local planning authority for approval. Details within the LEMP shall include, but not necessarily be limited to, the following:

- a) Full specification of habitats to be created, including locally native species of local provenance and locally characteristic species
- b) Description and evaluation of features to be managed; including location shown on a site map
- f) Prescriptions for management actions;
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward
- h) Details of the body or organisation responsible for implementation of the plan;
- i) Ongoing monitoring and remedial measures.

The development site shall be managed and maintained in accordance with the measures set out in the approved plan in perpetuity unless otherwise agreed in writing with the local planning authority.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

11. No development shall commence within the development area 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.

12. No development shall commence on site until details of the materials to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: 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.

13. No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in

writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

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

14. 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. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports 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.

15. 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

16. The development shall be carried out as specified in the approved Arboricultural Note (Impact Assessment) dated February 2018 and shall be supervised by an arboricultural consultant, if required.

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

17. 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.

18. Prior to first use the access to Hook Road shall have been provided, as detailed on plan number SK02/B including alterations to the kerb lines to achieve visibility.

REASON: In the interests of safe and convenient access to the development.

19. Prior to first use the access to Hook Road shall be provided with visibility with nothing to exceed the height of 600mm above carriageway level between the carriageway edge, and a line drawn from a point 2.4 metres back along the centre line of the access from the carriageway edge, to points on the nearside carriageway edge 120 metres to the north and 70 metres to the south-west. The visibility splays will be retained in perpetuity thereafter.

REASON: In the interests of highway safety.

20. Prior to first occupation of the development hereby the Hook Road kerb lines adjacent to the access position shall have been altered, and the existing highway footway between the access and the Malmesbury Road north side bus stop shall have been reconstructed to a new width of 2 metres, in accordance with details to be first submitted to and approved by the Local Planning Authority. The highway works shall be carried out in accordance with the details approved.

REASON: In the interests of highway safety.

21. The development hereby permitted shall not be brought into use a full Travel Plan based on the submitted Framework Travel Plan has been submitted to and approved by the Local Planning Authority. No part of the development shall be brought into use prior to implementation of the Full Travel Plan, (or implementation of those parts capable of being implemented prior to first use). Those parts identified for implementation after first use shall be implemented in accordance with the timetable contained therein, and shall continue to be implemented as long as any part of the development is occupied.

REASON: In the interests of reducing the amount of private car movements to and from the development.

22. Prior to first use the parking and turning areas including the cycle parking facility shall have been provided and shall thereafter be maintained and kept available for the parking and turning of vehicles.

REASON: In the interests of safe and convenient operation of the development.

23. Prior to development above first course level details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels 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.

24. No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from mechanical extraction and ventilation plant. The approved scheme shall be implemented in full before use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with:

BS4142:2014 (or any subsequent version) and demonstrate that the rating noise level is at least 5dB below the background noise level.

25. 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/ E3 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012.

This will include a lux plot demonstrating that a level of 0.5 lux or less can be achieved at the edges of all ecologically sensitive areas such as hedgerows and tree canopies (based on assumed tree height and canopy spread at maturity).

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.

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/](http://www.theilp.org.uk/)

REASON: In the interests of Protected Species and Habitat, residential and visual amenity.

**INFORMATIVES TO APPLICANT:**

The applicant should be aware that the highway works will require completion of a Section 278 Agreement to secure the works.

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

The applicant should note that 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.

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

The applicant should note that under the terms of the Wildlife and Countryside Act



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

The 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.

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.

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

There are ordinary watercourses within or in close proximity to your site. If you intend to obstruct the flow in the watercourse (permanently or temporarily, including culverting) you will require prior Land Drainage Consent from Wiltshire Council as the Lead Local Flood Authority. You are advised to contact the Drainage Team to discuss their requirements:- <http://www.wiltshire.gov.uk/communityandliving/civilemergencies/drainage/drainageordinarywatercourseconsent.htm>

Sustainable Construction Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced. Pollution Prevention During Construction Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/government/collections/pollution-preventionguidance-ppg> Waste Management Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction. If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a

suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>.

**Background Documents Used in the Preparation of this Report:**

Wiltshire Health and Wellbeing Joint Strategic Needs Assessment  
for older people 2017/18

Application Documentation

Site history documentation including Inspector's decision 16/06995/FUL & N/14/08060/OUT

NPPF Feb 2019

WCS Jan 2015

Royal Wootton Bassett Neighbourhood Plan Made 2018



# The Planning Inspectorate

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Wiltshire Council  
Planning Appeals  
Monkton Park Office  
Chippenham  
Wiltshire  
SN5 1ER

Your Ref:  
Our Ref: APP/Y3940/W/17/3187915  
Further appeal references at foot of letter

28 January 2019

Dear Sir/Madam,

Town and Country Planning Act 1990  
Appeals by Leda Properties Limited, Leda Properties Ltd And Lidl GmbH UK  
Site Addresses: Land North of Malmesbury Road, Royal Wootton Bassett, SN4 8AY and Land at Marsh Farm, Royal Wootton Bassett, Wiltshire, SN4 8ER

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

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The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

**Holly Dutton**  
Holly Dutton

*Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>*

Linked cases: APP/Y3940/W/17/3179795



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## Appeal Decisions

Inquiry Held on 17 September and 3-6 December 2018

Site visit made on 6 December 2018

**by Melvyn Middleton BA(Econ) DipTP Dip Mgmt MRTPI**

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

**Decision date: 28<sup>th</sup> January 2019**

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### **Appeal A Ref: APP/Y3940/W/17/3187915**

#### **Land at Marsh Farm, Royal Wootton Bassett, Wiltshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Leda Properties Ltd against the decision of Wiltshire Council.
  - The application Ref 14/08060/OUT, dated 14 August 2014, was refused by notice dated 26 April 2017.
  - The development proposed was comprehensive mixed development of up to 320 dwellings, a community hub comprising up to 500 square metres of A1/A2/A3/A4/A5/D1 and D2 uses, public open space, landscape work, extension to approved sports 'hub' and access.
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### **Appeal B Ref: APP/Y3940/W/17/3179795**

#### **Land at Marsh Farm, Royal Wootton Bassett, Wiltshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Leda Properties Ltd and Lidl GMBH UK against the decision of Wiltshire Council.
  - The application Ref 16/06995/FUL, dated 18 July 2016, was refused by notice dated 26 April 2017.
  - The development proposed is a hybrid application for a 2,469 square metres supermarket with access and landscaping (detail), and a Class C2 care home of up to 3,000 square metres (outline).
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### **Decisions**

1. Appeal A. The appeal is dismissed.
2. Appeal B. The appeal is dismissed.

### **Procedural Matters**

3. As well as on an accompanied site visit on 6 December 2018, I visited the appeal sites and their locality, Royal Wootton Bassett town centre and the surrounding countryside, unaccompanied on 17 and 18 September and 2 December 2018.
4. These two appeals concern development on land to the north of Royal Wootton Bassett, to the rear of properties fronting the west side of Hook Road and between the B4042 Malmesbury Road and the M4 motorway. The proposed development would wrap around the recently constructed Gerard Buxton Sports Ground to the west, apart from along the latter's frontage to Malmesbury Road.

5. Appeal A covers an area of 21.2 ha, Appeal B only 2.8 ha within the south-eastern corner of the larger application site. Appeal B occupies a slightly larger area within the Appeal A site than that of an earlier application at the same location within the area covered by Appeal A. That application had a larger food store and car park but no care home. In early 2017 the application to which Appeal B relates was amended to exclude a reference to the provision of 33 senior living units.
6. The applications for Appeal A and the care home element of Appeal B are in outline with all matters, except the means of access, reserved for subsequent approval. The part of Appeal B that contains the supermarket, its access, car park and associated landscaping has been submitted as a full planning application.
7. The proposals were accompanied by Planning Statements and Design and Access Statements, as well as reports into a variety of other relevant matters. These include an Illustrative Master Plan and an Indicative Site Layout (for the outline application) as well as a number of background reports providing information about the sites in the context of the proposed development. They provide information on the possible site layouts, including the general disposition of buildings across the sites.
8. However, other than in the context of the site accesses and the details of the proposed supermarket and its car park/landscaping areas, they are no more than illustrations of one way in which the buildings, whose scale, appearance and location are reserved matters, could be sited within the site. There are detailed plans and elevations for the element of Appeal B that is a full application and a layout indicating in detail how the care home element of the development could be implemented.
9. The site's access proposals are shown on drawings ref: TA3, TA4, TA6 and AP14A within the Axis Transport Assessment Addendum of July 2016. They involve the construction of conventional road junctions with Malmesbury and Hook Roads and improvements to Malmesbury Road and its junction with Hook Road. The Highway Authority supports this aspect of the proposal and in the absence of fundamental objections I do not discuss this matter any further.
10. Whilst the appeal was being processed, in October 2017, the Appellant submitted a revised Illustrative Master Plan with much more extensive landscaping and less built development, in the northern part of the site close to the M4, than was shown on that submitted with the application. It also indicated that it wished to reduce the proposed maximum number of dwellings permitted from 320 to 219.
11. Consultation on the revised proposals was delayed until the summer of 2018 and representations were received against them. I issued a note about the potential ramifications of these changes on 14 September 2018 (Document 1). At the opening of the Inquiry, on 17 September 2018, the Council and others objected to the consideration of the revised notional proposals because of alleged inadequate consultation among other reasons. After hearing submissions and considering the matter, I concluded that as the application was in outline and for up to 320 dwellings and a lower number was now being proposed with notionally enhanced landscaping, in principle the number of dwellings being considered could be reduced and the notional layout amended.

12. Agreeing with and being concerned about the inadequacy of the consultation, I adjourned the Inquiry on 4 September to enable more comprehensive public consultation to take place. Subsequently, in October 2018, the Appellant decided to submit a further revised Illustrative Master Plan and another Indicative Site Layout, but not dissimilar to those presented to the Inquiry in September. The Council undertook a comprehensive consultation on these further revised proposals before the Inquiry reopened on 4 December 2018. I have had regard to these latest notional plans and the reduction in maximum housing numbers to 219 when considering Appeal A, as well as to the further representations made thereon.
13. Issues concerning conformity with Development Plan (DP) policies, sustainability and impact upon the landscape and local services affect both of the appeals, although the overall natures of the proposals clearly differ. I have therefore dealt with them together where there are common matters, using the same reasoning to justify the decision in each case where appropriate but distinguishing between them where individual site considerations or the nature of the proposals dictate.
14. Although there are distinct elements to both proposals, neither of the main parties considered it appropriate for me to issue split decisions in either case. I have therefore given no further consideration to these outcomes.
15. One of the reasons used to refuse the planning applications referred to the Appellants' failure to meet the identified and necessary supporting services and infrastructure requirements generated by the developments.
16. The Appellants, with regard to both appeals, submitted signed and sealed Deeds made under Section 106 of the Town and Country Planning Act 1990 to the Inquiry. That relating to Appeal A is signed by itself and Wiltshire Council. That relating to Appeal B is signed by itself, Wiltshire Council, LNT Care Developments Ltd and Lidl GMBH UK. The Inquiry was told that the latter two organisations had legal interests in the development of that site for a care home and a supermarket respectively.
17. In the Agreement that relates to Appeal A, the Appellant agrees that if planning permission is granted, it will provide at least 40% of the total number of dwellings, to be constructed as a part of the development, as affordable housing and subject to various restrictions as to their nature and use. Additionally, it would carry out highway, open space and play area works, set up a management company to manage the open space and play area and make financial contributions towards the expansion of a primary school.
18. In the Agreement that relates to Appeal B, the Appellants and other signatories agree, if planning permission is granted, to carry out highway works and to provide and implement a Commercial Waste Management and Collection Plan and a Management Scheme.
19. Where appropriate, I discuss the details of the matters proposed in the Agreements, in the context of my decision, in the body of my reasoning. The Agreements include a clause that says that the covenants and obligations shall not apply or be enforceable if I state in the decision letter that such obligations are unnecessary or otherwise fail to meet the relevant statutory tests. Nevertheless, I am satisfied that the measures, as set out, comply with the provisions of paragraph 204 of the National Planning Policy Framework (NPPF),



are necessary to make the development acceptable in planning terms and meet the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

20. With regard to appeal A, on the Master Plan Diagram and the Indicative Site Layout, land in the north-western corner of the site is indicated as sports pitches accessed directly through the adjacent sports ground. Whilst the possibility of this land being made available as an extension to the Gerard Buxton Sports Ground was discussed, there is no evidence to confirm that such provision would actually be made and by whom.

### **Main Issues**

21. The site is outside of the settlement boundary and within the open countryside, in circumstances where it is agreed that there is a five year supply of deliverable housing sites within the North and West Wiltshire Housing Market Area (the relevant area). It is also agreed that the most important Development Plan (DP) policies for determining the appeals are not out of date.
22. In such circumstances the presumption in Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the DP unless material considerations indicate otherwise. I therefore consider the main issues to be

Whether the proposals are in accordance with the DP when read as a whole and if not;

Whether the harm to the DP, with particular reference to the self-containment of Royal Wootton Bassett, the loss of open countryside and any harm to the character and appearance of the locality, together with any other harm attributable to the development, is outweighed by the benefits of the proposal.

### **Reasons**

#### ***Planning Policy that is relevant to both appeals***

23. The DP now consists of *the Wiltshire Core Strategy* (CS), which was adopted in 2015 and the saved policies of the North Wiltshire Local Plan (LP) 2011. The CS makes provision for development within the District until 2026, the LP made provision until 2011. Eleven CS policies are agreed to be relevant to the determination of these appeals and 3 LP policies. All of the LP policies are relevant to both appeals but only six of the CS policies are thus so.
24. The Wiltshire Housing Site Allocations Development Plan Document (DPD) is currently being examined. However there are a significant number of objections to this plan that await resolution and I was consequently not referred to any of its policies.
25. The Royal Wootton Bassett Neighbourhood Plan (NP) was made in 2018. Whilst adjacent to the NP's area, the appeal site is outside of it. Although this NP is clearly a material consideration for both appeals, it is not a part of the DP for the appeal site. That area sits within the Lydiard Tregoze NP area. However this NP has only reached the area designation stage and so its weight is very limited.



26. LP Policies NE14 Trees and NE18 Noise and pollution are policies that require the retention of ecology wherever possible and the absence of harm to public health. Compliance with them and CS Policy 3 Infrastructure requirements is a requirement of all development and compliance does not add weight in favour of a particular proposal. The Council considers the requirements of these policies to have now been met.
27. Core Policy (CP) 51 Landscape seeks to ensure that development protects, conserves and where possible enhances landscape character. It requires any negative impacts to be mitigated through sensitive design and landscape measures. Proposals should be informed by and sympathetic to the distinctive character areas, identified in the relevant Landscape Character Assessments. The policy requires nine aspects of landscape character to be conserved and where possible enhanced. These include the locally distinctive pattern and character of natural features and settlements and their landscape settings as well as their separate identity.
28. Both the North Wiltshire (2004) and the Wiltshire (2005) Landscape character Assessments cover the appeal site. Hedgerows are a key characteristic and a positive landscape feature within the area. Their loss is recognised, as is the urbanisation of the area, particularly in proximity to the large settlements. Three of the broad landscape management objectives, repairing, replanting and extending the hedgerow network, limiting further uncontrolled spreading of settlements and maintaining the separation of settlements, stem from these.
29. The character of the site is that of an agricultural landscape with pastoral fields surrounded by hedgerows. It forms a part of the landscape setting of RWB. However this component of the landscape setting has been seriously eroded by development. To the south of the appeal sites, beyond Malmesbury Road and the Framework Boundary is residential development, which is a part of the built up area of RWB.
30. Immediately to the east is the Marsh Farm Hotel and other dwellings and businesses fronting Hook Road. Although there is abundant vegetation within the properties, more so to the Hook Road frontage than that to the appeal site, this development nevertheless has an urban form and a presence and this ribbon development effectively extends the town's built form northwards from the Coped Hall roundabout towards the M4.
31. To the west is the Gerard Buxton Sports Ground, which like the appeal site fronts the B4042 Malmesbury Road. This is a multi-purpose recreational complex with a large communal building at its heart and extensive surfaced car parking, as well as a number of all-weather pitches. Much of the site's boundary and a number of the pitches are enclosed by high weldmesh fencing, some of which are erected on elevated, made-up ground. There is also extensive use of flood-lighting. Consequently, although a sports venue, this complex has a somewhat urban character and along with other development to the south-west of Malmesbury Road, a notable impact on the current character and appearance of the north-western edge of RWB.
32. To the south-west of this recreational complex, across Malmesbury Road, is the relocated RWB Rugby club, with a communal building, high fencing and flood lighting close to the road. Between it and the Framework boundary, which is now the edge of continuous built development within RWB, is another building complex occupied by a day nursery, whilst north-west of the Rugby club and

- again fronting Malmesbury Road there is further sporadic development, including a tennis complex, before the M4 motorway is crossed.
33. As a result, the transition between the town's edge, as currently defined by the Framework Boundary and the open countryside, is now somewhat blurred along Malmesbury Road. The strong edge to RWB along the A and B roads to its north, highlighted as recently as 2004<sup>1</sup> and referred to by the Council, has been destroyed in the intervening years by development permitted by itself through the planning system.
  34. The site is largely contained by the adjacent development and it is not a prominent feature in the wider landscape. The only points at which the site is noticeably visible are from Malmesbury Road, from Hook Road immediately north of the roundabout and at the motorway bridge and its approaches, all close to the site and from the public footpath west of Hook and north of the M4 motorway. Although a greater distance away, being elevated, it facilitates extensive views over the appeal site towards Malmesbury Road and the official edge of RWB.
  35. There is much common ground between the main parties as to the impact the development would have on the local landscape. The Landscape Statement of Common Ground records that the site has a low to medium landscape value. It goes on to agree that the development of the site would cause localised significant landscape effects and that overall they would be moderate adverse. To construct a large housing estate and a number of commercial enterprises on a greenfield site in the countryside could hardly do and be anything else.
  36. Using Guidelines for Landscape and Visual Impact Assessment 3's box 5.1 criteria, the parties conclude and agree that the site is of low to medium landscape value overall. They also agree on what are the most susceptible visual receptors and that overall Appeal A would result in significant landscape effects and Appeal B moderate to moderate/minor effects. I agree with the conclusion in respect of Appeal A and consider that the overall landscape effect of Appeal B could be moderate if appropriate landscaping were to be implemented (see para. 96).
  37. The visual receptors include the views of residents at the Marsh Farm hotel, who would view a housing estate rather than pastoral fields. However these are private views and there is no argument advanced that the development would appear overbearing when viewed from hotel rooms or other living space west of Hook Road. Any potential privacy issues could be overcome by appropriate landscaping at the site's boundary and within the area beyond, which is indicated as a green buffer on the Masterplan.
  38. The views of the site from Hook Road, immediately north of the Coped Hall Roundabout, have a backdrop of the rear of the residential development immediately south of Malmesbury Road and/or the elevated weldmesh fencing on the boundary of the sports ground, depending upon the aspect. The context is consequently already predominantly urban and whilst the view would undoubtedly change from fields to that of a care home, with a supermarket building behind, with appropriate landscaping and building design and location, this need not be harmful to the wider landscape or the experience of travellers along Hook Road.

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<sup>1</sup> North Wiltshire Landscape Character Assessment

39. There is a gappy hedge along the northern side of Malmesbury Road that already filters northerly views over the appeal site to the open countryside beyond, particularly in summer. The development would clearly obliterate these views as open fields would be replaced by buildings and car parking for the most part. However, given the surrounding urban context, development here need not be harmful. Nevertheless, CP 57 requires the retention and enhancement of existing important landscaping and natural features.
40. The hedge on the northern side of Malmesbury Road is such a landscape feature. The main access to the site will be located within this road frontage. The carriageway and pavement construction, along with the required visibility splays, will inevitably require the removal of some of the hedge. Whilst this can be replaced to avoid conflict with the access requirements, much of the tree planting shown on the detailed plans accompanying the full application for the supermarket and its car park could not be implemented without impairing future visibility. I return to this later (paras. 97 and 98).
41. Being an outline application, it should be possible to set the buildings on the Appeal A site sufficiently far back to enable an acceptable landscaping scheme to be implemented. As well as a replanted hedge this could include other planting and physical features to appropriately filter the views of the built environment in this part of the site from Malmesbury Road.
42. Beyond Marsh Farm Cottage, Hook Road crosses the M4. This stretch of the Road is elevated and there are commanding views when travelling southwards over the appeal site. The Appellant asserts that the northern edge of the residential development, as now indicated on the proposed Masterplan and Indicative Site Layout diagrams, would be adequately screened by the notionally proposed landscaping. I do not share this optimism. Two areas of woodland planting are suggested, one a belt immediately south of the M4 and the other a block adjacent to the north-eastern corner of the sports ground. The majority of the proposed northern boundary to the housing is shown to be screened by a new/ improved hedgerow with some tree planting within it.
43. Whilst the proposed woodland planting, adjacent to the motorway, would eventually assist in screening the development from walkers using the public footpath west of Hook, it would do nothing to screen the development from the motorway bridge and its approaches. The notional layouts are intended to demonstrate how this site could satisfactorily accommodate 219 dwellings and as currently suggested, residential development would extend for some distance northwards from Marsh Farm Cottage itself, the last building off Hook Road before the motorway.
44. A hedge with some trees is unlikely to adequately screen this urban encroachment into the countryside from the elevated bridge and its approaches. Additionally, once established there is no guarantee that future residents would maintain the hedge to heights and thicknesses that screened the development from this part of Hook Road at all, let alone satisfactorily.
45. The Appellant amended the Appeal A proposal, reducing the maximum number of dwellings permitted from 320 to 219, because of the concerns about the potential impact of the development on the views from the north and the likely impact of the proposal on the perceived separation between Hook and RWB. Both the Indicative Site Layout and the Masterplan diagrams have each gone through numerous iterations and three public consultations with an expressed

purpose of demonstrating that the development could be appropriately screened when viewed from the north. The layout was further amended following the adjournment of the Inquiry.

46. In such circumstances it is difficult to confidently conclude that the Appellant could design a proposal for 219 dwellings that could be satisfactorily accommodated on the site without any long term adverse effects on the perceived separation of Hook and RWB or the visual impact of the proposal on users of the motorway bridge and its approaches.
47. The footpath to the north of the motorway is at a more elevated level than the appeal site and motorway bridge. At the present time there are views of the edge of RWB across the appeal site. The urban edge would be brought much closer to these receptors by the appeal development. Given the distance between the motorway and the suggested edge of the development and the topography, it would be many years and certainly more than the ten to fifteen years suggested by the Appellant, before the development edge was appropriately screened from receptors walking along this footpath, by the suggested planting adjacent to the motorway.
48. The evidence, demonstrated through the indicative drawings, suggests that the Appellant's assertion that the visual benefits arising from the suggested planting in the northern part of the site would be a benefit weighing in favour of granting planning permission for appeal A, even in the long term, are dubious. At best and with a different approach to the landscaping and development in the northern part of the site there would be moderate visual harm for many years.
49. Policy CP51 requires development to protect, conserve and where possible enhance landscape character and not to have a harmful impact upon it. Any negative impacts should be mitigated as far as possible through sensitive design and landscape measures. The Appeal A proposal would restore, enhance and extend the distinctive hedgerows, albeit in an urban rather than a rural environment. However, this proposal has not demonstrated that the separate identity of the settlements, the landscape setting of RWB and the transition between man-made and natural landscapes at the urban fringe are being enhanced through sensitive design, landscape mitigation and enhancement measures. Additionally Mr J Smith, on behalf of the Appellant, accepted in cross examination that there would be moderate character harm despite the suggested mitigation. In their current form the proposals are not in accord with CP 51.
50. In the overall circumstances, I give moderate weight to this harm in as much as it affects Appeal A. I return to the impact of Appeal B on Malmesbury Road and the wider countryside landscape in circumstances where Appeal A is dismissed later in my decision (paras. 100-102).

## **Appeal A**

### *Additional Planning Policy*

51. CP 1 sets out the settlement strategy. It recognises that Market Towns, of which Royal Wootton Bassett (RWB) is one, have the ability to support sustainable patterns of development and the potential for significant development. However, as well as seeking to sustain and enhance their

services and facilities, the policy also promotes better levels of self-containment and viable sustainable communities.

52. In line with CP 1, CP 2 sets out the delivery strategy for Wiltshire. It seeks the provision of at least 42,000 new homes between 2006 and 2026, of which 24,740 are proposed for the North and West Wiltshire Housing Market Area, in which RWB is situated. The policy requires these dwellings to be delivered in a sustainable way that limits the need for development on greenfield sites. The policy points out that other than in the circumstances as permitted by CP 44, Rural exception sites, residential development will not be permitted outside of the limits of development as defined on the policies map. These are being updated in the Housing Sites DPD. The policy also identifies a number of strategically important sites, with dwelling and/or employment targets. A number are smaller than the appeal site and its proposals. The policy also points out that sites for development, in line with the Area Strategies, are to be identified through neighbourhood planning.
53. CP 19 sets out the Spatial Strategy for the RWB and Cricklade Community area, within which the appeal sites are situated. Approximately 1455 new homes are to be provided, of which about 1070 should be at RWB. Whilst land is identified for employment development at RWB, none is identified for residential development because the target number has already been exceeded by planning permissions and completions.
54. The supporting text points out that the town currently performs a dormitory role for Swindon and seeks to attract employment development to help reduce out-commuting. The policy also requires the development issues listed in paragraph 5.102 to be addressed. These include phasing non-strategic growth throughout the plan period in accordance with CPs 1 and 2 and the delivery of homes in a balanced manner. The need for employment development as well as housing through mixed development is stressed.
55. The Appellant does not effectively address the consequence of the housing element of the proposal on self-containment and the figure advanced by the Council in Mr A Smith's evidence (526) is an estimation of the increased population rather than that element of it which would be economically active and likely to be requiring work.
56. The Council provided supplementary information on self-containment at my request to the Inquiry<sup>2</sup>. This shows the settlement's self-containment<sup>3</sup> declining from 30% in 2001 to 27% in 2011. Using the 2011 economic activity rate for RWB, about 380 of the residents of the reduced housing development at the appeal site would require work<sup>4</sup>.
57. This compares to the 100 employment opportunities likely to be provided in the commercial and care home elements of the proposal estimated by the Council and not disputed by the Appellant at the Inquiry. Assuming that all of the economically active population is working, on balance this represents an outflow of about 74%. The outflow<sup>5</sup> from RWB as a whole in 2001 was about 30% and by 2011 it had declined to about 25%.

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<sup>2</sup> Carolyn Gibson, Supplementary Proof of Evidence

<sup>3</sup> Persons resident and working in RWB/Employed residents x100%

<sup>4</sup> In reality the number could be higher than this if the age structure of the new development is similar to others of its type and it has overall a younger population than is found in more established residential areas

<sup>5</sup> Employed residents-jobs in RWB/Employed residents x 100%



58. The appeal development as proposed would lead to a disproportionate increase in out-commuting from RWB, which would become less self-contained rather than more so, as advanced by the CS. This would be in breach of the settlement and delivery strategies for the County and the Community Area, running contrary to a key element of the CS's vision for Wiltshire, more self-contained Market towns. It is contrary to CP 1 and CP 19.
59. Although the housing targets in CP 2 and CP 19 are minima they are being met and the Council has demonstrated that it has a five year supply of housing land. CP 2 requires development to be delivered in a sustainable manner. The proposal would not contribute to the further development of RWB in a sustainable manner and is therefore contrary to CP 2. The CS's relevant spatial policies are supported by Section 9 of the NPPF, which requires the planning system to actively manage patterns of growth in a sustainable way, particularly by reducing the need to travel. I therefore give substantial weight to the proposal's conflict with CPs 1, 2 and 19.
60. LP Policy H4 only permits new dwellings in the countryside, outside of the Framework Boundaries as defined on the proposals map, in circumstances where the dwelling is a replacement dwelling or is to meet the essential needs of agriculture, forestry or a rural based enterprise. Appeal A does not meet these criteria but given that the LP expired in 2011 and the review of the Framework boundaries has not yet concluded, full weight cannot be given to this conflict.
61. Furthermore, by protecting the totality of the countryside from development, as opposed to protecting valued landscapes (NPPF paragraph 170), Policy H4 is not fully consistent with the NPPF. Nevertheless, the Framework does recognise the overall intrinsic character and beauty of the countryside and the Cawrey judgement<sup>6</sup> confirms that the loss of undesignated countryside is capable of being harmful and attracting weight in the planning balance. Additionally, there is nothing in the NPPF to suggest that the use of Framework Boundaries is inappropriate. In my judgement Policy H4 is consequently not out of date and is capable of attracting moderate weight, depending upon the circumstances of the case.
62. The site's extensive northern boundary is open and adjacent to the M4. The motorway is partly at grade but mostly in a shallow cutting adjacent to the appeal site. Despite the quasi urban development, to the east and west, the site itself is open and essentially rural in character, as is the land to the north beyond the motorway and west of the village of Hook. The appeal site is undoubtedly a part of the countryside, the character of which both H4 and the NPPF seek to recognise, protect, and enhance.
63. However, although outside of the Framework Boundary, this is not a designated landscape of any kind and its loss would not seriously impact on the wider countryside landscape. Consequently, its loss should attract less than the moderate weight discussed above in the consideration of Policy H4.
64. Whilst Policy CP 57 requires development to be of a high quality, local context and high quality can be achieved and respected through design. A detailed proposal for this site need not be contrary to Policy CP 57. A detailed scheme could enhance and respond positively to local distinctiveness. It could also

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<sup>6</sup> Cawrey Limited v SoS and Hinckley and Bosworth BC [2016] EWHC 1198

- respect the amenity of surrounding properties and create a sense of place that respected the traditional townscape of RWB.
65. However, the proposal also includes a community hub of up to 500 sq.m containing a mixture of retail, leisure and community uses. According to Mr Hughes' evidence this is meant to sit alongside of the food store. However, the appeal drawings for Appeal B clearly demonstrate that it would not. To reach the food store from the community hub, wherever it was located, pedestrians would have to cross the store's service yard/access and/or its car park. Furthermore the store's entrance would be located at the opposite end of the building to any pedestrian access from the community hub. This would not represent the high standard of design required by CP 57. Nor would it contribute to the achievement of a strong sense of place, also required by this policy. These DP aspirations are clearly supported by paras. 91, 92, 127 and 130 of the NPPF.
66. CP 43 requires 40% of the houses provided on sites of five or more dwellings to be affordable housing. The provision of this has now been secured through one of the Section 106 Agreements. Up to 83 affordable units could be delivered by the development. There is no up-to-date information before the Inquiry on affordable housing need in Wiltshire let alone in RWB and its hinterland. The CS was expected to deliver some 13,000 affordable homes over the plan period. To what extent this is being achieved or is still relevant twelve years into the plan period is open to question.
67. At a national level there is an acute shortage of this type of accommodation and there is no evidence before me to suggest that the situation in Wiltshire is any different. In these circumstances, the contribution that the proposed affordable housing would make, towards meeting the unspecified affordable housing needs, deserves at least significant weight.
68. I have found that the proposal is contrary to the CS's development strategy, in particular CPs 1, 2 and 19, to which I give substantial weight. It is also contrary to CP 51 to which I attach moderate weight and LP Policy H4 to which I attach less than moderate weight. Cumulatively this amounts to serious harm to the DP, against which the significant weight attached to the compliance with CP 43 falls far short of overturning. I conclude that the proposal is contrary to the DP when read as a whole.

#### *Material considerations*

69. Furthermore, the RWB NP, which also seeks to improve the town's self-containment, was prevented from allocating further land for residential development, within the Framework Boundary, by the Independent Examiner. He concluded, in the context of the Neighbourhood Area having already met its indicative housing land requirement for the plan period (until 2026), that a site off Maple Drive proposed for 110 dwellings should be deleted because it would "*not contribute to the achievement of sustainable development*".
70. Likewise the appeal proposal, which is twice the size of that removed by the Examiner and although allegedly contributing towards meeting the development needs of RWB, is outside of the limits of development and across a classified road from the rest of the urban area. Because of its imbalance of homes and jobs, it too would not contribute towards the achievement of sustainable development. The proposal would be contrary to the RWB NP.

71. I was referred to an appeal at Shurnhold<sup>7</sup> in 2016. At paragraph 16 the Inspector was confronted with a similar situation re the indicative housing target at Melksham having recently been met. In determining an appeal for a similar sized housing development to that now before me at RWB, she found that in allowing a further 263 dwellings, the CS provision would be considerably exceeded. To this extent she agreed that allowing the appeal could cause some prejudice to the plan-led process within the Community Area even though overall it would not prejudice the spatial strategy of the adopted CS.
72. I agree with this finding. As at Melksham, the additional dwellings provided by the appeal proposal alone at RWB would result in the delivery of housing more than 20% greater than that envisaged in CP 19 and the RWB NP. Distortions of this magnitude, even when the DP target is a minima and particularly when housing development is clearly not, through related employment generation, meeting other objectives of the plan, can only serve to undermine public confidence in the DP process. In these circumstances I attach significant weight to the proposal's failure to comply with the strategy advanced in the RWB NP.
73. The proposal would provide 136 market houses. The NPPF urges local planning authorities to boost the supply of housing. However, Wiltshire, through its DPs and planning permissions appears to be maintaining a five year supply of housing land within the HMA and has already met its housing targets at RWB. Although there is a national housing crisis, an oversupply in a relatively isolated location such as RWB and without complementary jobs to provide employment for the new residents, would hardly contribute to the resolution of England's housing crisis in a sustainable way. I therefore give the proposal's potential contribution to the supply of market housing no more than minor weight.
74. The Appellant refers to the benefits arising from the retail/commercial development and the care home. However these developments are independent of the housing proposal, being the subject of a separate application and appeal that could be allowed irrespective of the outcome of Appeal A. The jobs that they would provide would not be capable of providing employment for even half of the expected economically active residents of the houses that would be provided. Although CPs 38 and 43 support the retail and care home developments I consequently give these considerations minimal weight in the context of Appeal A.
75. The Council considers RWB to be a sustainable location for development because of its services and facilities. The Appellant adds to this by asserting that the appeal site is in turn situated in a wholly sustainable and accessible position and goes on to claim that this contributes to a conclusion that substantial weight should be given to these benefits of the proposal.
76. However, overall the proposal would result in additional out-commuting to work on a daily basis from RWB and given that the site is about 1km from RWB town centre, walking is unlikely to be the way that most people, residing within the development, would chose to use when visiting it. Guidelines for Providing Journeys on Foot<sup>8</sup> advises that an acceptable pedestrian journey is 1 km and a desirable distance is 500 m. Manual for Streets<sup>9</sup> in discussing walking

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<sup>7</sup> Appeal ref: 3132915, Land to the west of A365, Shurnhold, Melksham, Wiltshire

<sup>8</sup> Institution of Highways and Transportation, 2,000.

<sup>9</sup> Department for Transport, Department for Communities and Local Government, 2007



- neighbourhoods considers that there should be a range of facilities within 800 m. Planning for Walking (PFW)<sup>10</sup> reaches the same conclusion.
77. Nevertheless if the retail proposals were implemented then there would be some facilities within the neighbourhood and a consequent reduction in the need to travel for that purpose. There is also a regular bus service to RWB town centre and to Swindon, a short walk from the site entrance. In this context I give moderate weight to the accessibility benefits of the proposal.
78. The proposal would create construction jobs, which would provide temporary employment and additional expenditure at the town's shops and businesses. Additional local expenditure would also be generated by the new residents. However the evidence suggests that RWB town centre is overtrading and some of the expenditure generated by the development would be spent at the supermarket and other businesses within the appeal site if Appeal B is allowed, as well as in Swindon. In such circumstances I give no more than moderate weight to these benefits.
79. Land in the north-western part of the site, adjacent to the M4 motorway is shown on the Masterplan as sports pitches accessed directly through the Gerard Buxton Sports Association's grounds. To what extent these are to be laid out by the developer and made available for public use, either directly or indirectly through the sports association is far from clear. There are no clauses in the S106 Agreement referring to this. As the land is not suggested for any other use, if the sports association wanted to expand into this area, then it could presumably buy the land at market value and do so irrespective of the outcome of the appeal. In the absence of an agreement to dedicate the land and/or provide sports pitches I give the provision of sports pitches no weight.
80. The additional Council Tax would be used to provide services for the site's residents and attracts no weight.
81. Although some of the above material conditions do weigh in favour of the appeal proposal, the combined weight falls far short of a justification for departing from the presumption in Section 38(6) of the Planning and Compulsory Purchase Act 2004 that applications for planning permission should be determined in accordance with the DP unless material considerations indicate otherwise. I therefore conclude that Appeal A should be dismissed.

### ***Appeal B***

82. The care home element of this appeal is in outline, with everything except its access a reserved matter. The retail unit, together with its access and car parking comprise the full application element of this appeal. Although these proposals are locationally separate and have been the subjects of separate planning applications recently, the Appellants indicated at the Inquiry that they did not wish me to consider a split decision.

### *Care home*

83. CP 46 Meeting the needs of Wiltshire's vulnerable older people supports the provision of specialist accommodation to meet the needs of Wiltshire's older people. Such accommodation is to be provided in sustainable locations where

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<sup>10</sup> Chartered Institute of Highways and Transportation, 2,000

- there is an identified need and normally within Principal Settlements and Market Towns where there is good access to services and facilities.
84. The proposed care home would provide specialist accommodation for older people and RWB is a Market Town. However the appeal site is outside of the limits of development and within the open countryside. Nevertheless the policy says that in exceptional circumstances the provision of specialist accommodation outside but adjacent to the Market Towns will be considered.
  85. The Council, whilst suggesting that there is no identified need for the proposal has not suggested that there are appropriate sites available within RWB's Framework Boundary. It therefore seems to me that in the right circumstances the appeal site could be an appropriate location for a care home.
  86. The policy requires a genuine and evidenced need to be justified. Until the Inquiry the only locally based evidence was provided by the Council and that pointed out that a site that had planning permission for a care home within RWB had been given planning permission for residential development because the applicant had demonstrated that there was no demand for a new care home at RWB at this point in time.
  87. Apart from referring to the UK's ageing population and corresponding increasing requirements on an on-going basis for care facilities, accompanied by a reference to the underfunding of the public sector in this context, the Appellants were silent, despite concluding that substantial weight should be attached to the benefit of a care home.
  88. At the Inquiry I was told that a full planning application for a care home on the Appeal B site was now before the Council. A provider (LNT) had an option to purchase the site and was to be and now is a party to the Section 106 Agreement accompanying this appeal. The Council maintains that an option and a planning obligation do not demonstrate a need for a facility. Whilst this is correct, it seems strange that a detailed planning application is now before the Council, in advance of the determination of this appeal, if LNT do not have serious intentions.
  89. Despite evidence from the Council that it has been asking the Appellants, since 2016, to demonstrate that there is a definite operator for the care home, there is no actual confirmation of this or analysis that justifies the need for one at the present time in circumstances that clearly meet criterion viii of CP 46. Although there is a letter of support for Appeal B from Lidl, the likely occupier of the retail unit, there is no complementary letter from LNT or any other potential operator supporting the need for the care home.
  90. In such circumstances, whilst I consider the evidence sufficient to justify granting planning permission for a stand-alone scheme, which would not be implemented if there was not a genuine demand for a care home in this location; the evidence does not support the Appellant's contention that substantial weight in favour of allowing both appeals should be given to the fact that a care home is a part of Appeal B.
  91. Although about a kilometre away, the facilities in RWB town centre are accessible by a regular bus service from the site. The scale and type of facility is appropriate for a location adjacent to a settlement such as RWB. The policy requires environmental and landscaping considerations not to be compromised.

I discussed the effect of development on this part of the site in paragraphs 38-40. The site already has an urban context, adjacent to a busy roundabout and there is built development on the other corners, as well as to the north along Hook Road and south along Malmesbury Road.

92. This part of Appeal B is in outline and the proposed site layout indicates a large area between the proposed care home and the road/roundabout. There is consequently no reason to doubt that the care home element of appeal B could not be implemented in a way that made a positive contribution to the townscape of this area through sensitive design and landscaping that respected the character and setting of the settlement. I consider this element of the proposal to be in accordance with CP 57.

#### Supermarket

93. The Appellant undertook a retail impact assessment and a sequential test to assess the proposal's impact on RWB town centre. Following the grant of planning permission to convert a car showroom into a supermarket on a nearby site, the results were reassessed. The parties still agree, in the context of the available retail evidence, that there would not be significant adverse impact on the vitality and viability of RWB town centre if the proposal was implemented. They also agree that there is no sequentially preferable site for a food store within RWB. The proposal therefore meets the requirements of CP 38.
94. CS paragraph 5.102 points out that RWB loses main food shopping trips to neighbouring towns but that there is no quantitative need for additional convenience retail floorspace. However, it does suggest that additional floorspace may be appropriate, to address qualitative need and improve the retention of convenience trade, if a suitable site is identified, pointing out that there is limited capacity for up to 400 sq.m within the town itself. The qualitative shortfall was portrayed as being at the discount end of the market.
95. Since the CS was adopted the Coop has replaced Morrisons within the town centre and I was told at the Inquiry that Aldi are to occupy the former car showroom. Both of these operators compete in the discount convenience market. In such circumstances the need for additional qualitative floorspace may not be as pressing as it formally was. Nevertheless, the reassessment of the retail impact assessment still suggests that the appeal proposal is supported by CP 38 and is acceptable in principle.
96. The Appellant accepted that there would be moderate character harm as a result of the implementation of the proposals despite the suggested mitigation (para. 49). I also considered that there would be a loss of countryside as a result of the introduction of built development and that this should be given moderate weight against the proposal (para 38).
97. Whilst I found harm to the character and appearance of the landscape along Malmesbury Road because of the need to remove the hedgerow, I found in the case of Appeal A that much of this harm could be overcome through mitigation when detailed proposals come forward for the site.
98. That is not the case with regard to the part of Appeal B that is a full application. The position of the building is fixed as is that of the car park unless spaces are to be lost. The building would be as close as 5 metres to the new pavement along Malmesbury Road and parts of the car park about 3 metres.

There is no landscaping proposed on any of the building's elevations and little within the extensive area of car parking. The building is somewhat utilitarian with largely solid walls.

99. No doubt influenced by the sporting and other developments further along Malmesbury Road, when I visited the site in dry conditions, there was pedestrian activity along Malmesbury Road. The construction of a care home and supermarket on the appeal site would be likely to increase the number of potential pedestrian visual receptors.
100. Without further mitigation to filter the views of the building and its car park from Malmesbury Road, for which in its current proposed position there is insufficient space, the building would appear somewhat bland and dominating in the street scene. Additionally, it and the car park would do nothing to create a strong sense of place by drawing on the local context or being complementary to the locality. In its current form the proposed landscaping is not in accord with CP 57 and the proposed mitigation would neither conserve nor enhance the landscape character. It is contrary to CP 51.
101. The proposed car park extends to the site's northern boundary. Without appropriate mitigation, it and the building's service area and north-eastern elevation would be clearly seen from vantage points to the north of the site, as well as from Marsh Farm Hotel and the Gerard Buxton sports complex.
102. Were Appeal A not to be allowed, then there would be no screening of the site whatsoever from the north. This would clearly not protect, conserve or enhance the landscape character. Indeed it would clearly have a further harmful impact on the landscape, contrary to CP 51. Additionally, the proposal would not mitigate the potential harm as far as possible through sensitive design and landscape measures. A further requirement of CP 51.
103. At para. 130 the NPPF says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Whether as a stand-alone development or as a part of a comprehensive scheme that also involved the Appeal A development (see paras. 64 and 65) as well as the care home, the full application has not seized the opportunities to satisfactorily mitigate the harm that this development would have on the agrarian landscape or to create an appropriate sense of place.
104. It is therefore contrary to CPs 51 and 57 to which I attach significant weight. The support provided by CPs 38 and 46 could be used to justify any scheme that satisfied the CS design and landscape policies. Any urgency for further convenience retail facilities within RWB has not been established. On the evidence before me I consider the harm to design and landscape that I have identified outweighs any harm resulting from a delay to the implementation of additional elderly care and retail facilities at RWB.
105. The proposal is contrary to the DP when read as a whole. The other material considerations, to which I have been referred and which I have discussed above, do not outweigh the harm to the DP and indicate that planning permission should be granted. For the reasons discussed above I therefore find that Appeal B should be dismissed.

***Other considerations***

106. I was also referred to a number of other appeal and High Court decisions that are relevant to one or both appeals. I have had regard to them in formulating my decision. However, apart from the Cawrey judgement and the Shurnhold appeal, referred to above, the respective cases were not so similar to these appeal proposals for them to further influence the outcome of these appeals.

*M Middleton*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Sasha White of Counsel	Instructed by Carter Jonas
He called	
Jeremy N Smith BSc, Dip LA, CMLI	SLR
Arfon Hughes BSc, MRTPI	Mango Planning and Development Ltd
Huw Mellor BA, MRTPI	Carter Jonas

### FOR THE COUNCIL:

Martin Carter	Instructed by Mr I R Gibbons of Wiltshire Council
He called	
Will Harley BSc, CMLI	WH Landscape Consultancy Ltd
Carolyn Gibson BA	Wiltshire Council
Alex Smith MA, MRTPI	Geraint John Planning

### INTERESTED PERSONS:

Anne Henshaw	Wiltshire CPRE
Cllr Mollie Groom	Wiltshire Councillor
Cllr SR Walls	Town Councillor
Christopher Warrall	Former Town Councillor
Dr John Eastgate	Local resident

### DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Inspector's pre Inquiry note about the Appellant's proposed revisions to the proposal (14-09-18)
- 2 Appellant's opening submissions (18-09-18)
- 3 Appellant's explanation and justification for the revisions to the outline scheme (Appeal A) (18-09-18)
- 4 Correspondance between the Appellant and PINS about revisions to the outline proposal (Appeal) (12-17 & 01-18)
- 5 Council's submissions on the proposed revisions to the outline scheme (Appeal A) (18-09-18)
- 6 Consultation on amended outline proposals and responses (Appeal A) (09-18)
- 7 Appellant's opening submissions (03-12-18)
- 8 Council's opening submissions (03-12-18)
- 9 Statement submitted by Anne Henshaw on behalf of Wiltshire CPRE
- 10 3 statements from Cllr Molly Groom
- 11 Statement from Cllr S R Walls
- 12 Statement from Christopher Warrall
- 13 Statement from Dr John Eastgate
- 14 Statement from Cllr Jacqui Ley
- 15 Statement from Royal Wootton Bassett Town Council
- 16 Letter from Lidl UK (05-12-18)
- 17 Wiltshire Housing Sites Allocations Plan, Topic Paper 1. Settlement Boundary Review Methodology, submitted by the Appellant

- 18 Appeal ref: 3140016 Madley Road, Clehonger, Herefordshire, submitted by the Council
- 19 High Court Nos: CO/6434/2016 & CO/113/2017, R v The Council of the London Borough of Hackney and GHL (Eagle Wharf Road) Ltd
- 20 Queen's Bench Division ref: 1982 43 P. & C.R. 233, Bernard Wheatcroft Ltd v Secretary of State for the Environment
- 21 Closing submissions of the Local Planning Authority
- 22 Closing submissions of the Appellants
- 23 Draft conditions
- 24 Final agreed conditions
- 25 Section 106 Agreement Appeal A
- 26 Section 106 Agreement Appeal B

#### PLANS SUBMITTED TO THE INQUIRY

- A Drawing no: 173684 AP11F, Proposed Masterplan Diagram revision (01-10-18)
- B Drawing no: 173684 AP13J, Indicative Site Layout revision (01-10-18)
- C Viewpoints to be visited on site visit

#### PHOTOS SUBMITTED TO THE INQUIRY

8 photographs of the surface water outfall sewer south of Malmesbury Road entering Thunder Brook upstream of Jubilee Lake, submitted by Christopher Warrall

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18/02955/FUL  
Land at Marsh Farm  
Coped Hall  
Royal Wootton Bassett  
Swindon  
Wiltshire  
SN4 8ER



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## REPORT FOR STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	20 June 2019
<b>Application Number</b>	19/02481/FUL
<b>Site Address</b>	From land at Northacre Industrial Estate to border with Mendip DC at ST 82843 50780
<b>Proposal</b>	Installation of an underground grid connection
<b>Applicant</b>	Northacre Renewable Energy Ltd
<b>Town/Parish Council</b>	DILTON MARSH & WESTBURY
<b>Electoral Division</b>	Ethandune (Cllr Jerry Wickham) & Westbury West (Cllr Russell Hawker)
<b>Grid Ref</b>	382833 150850
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Andrew Guest

### Reason for application being considered by Committee

The application is before the Committee in view of a 'call in' request by the Westbury West Division Member, Cllr Russel Hawker. The reasons for the call-in are in view of the scale of the development, the visual impact upon the surrounding area, the design of the development and the environmental / highway impact. Specifically Cllr Hawker states the following –

*This is very highly controversial and is part of the planned waste to energy (gasification) power plant proposal at Northacre I.E., Westbury. The debate needs to occur at committee regardless of whether the officer recommendation is to permit or not.*

#### 1. Purpose of Report

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

#### 2. Report Summary

This is a full application to install an 'underground grid connection'. This would comprise a cable (and related ducting), placed in a trench measuring approximately 1.45m deep and 0.52 wide (to be back-filled and restored after construction) running between the site of the permitted renewable energy facility at Northacre Industrial Estate, Westbury (where electricity will be generated c/o an Advanced Thermal Treatment facility) and the local distribution network substation at Rodden Lane, Frome. The total length of the cable would

be approximately 10.61km. A temporary construction works site compound would be provided to the south of Brook Farm, Westbury.

As the application site straddles the Wiltshire / Somerset border, planning applications have been made to both Wiltshire Council and Mendip District Council for those separate parts of the proposed development in each local planning authority area. Approximately 4km of the connection would be in Wiltshire.

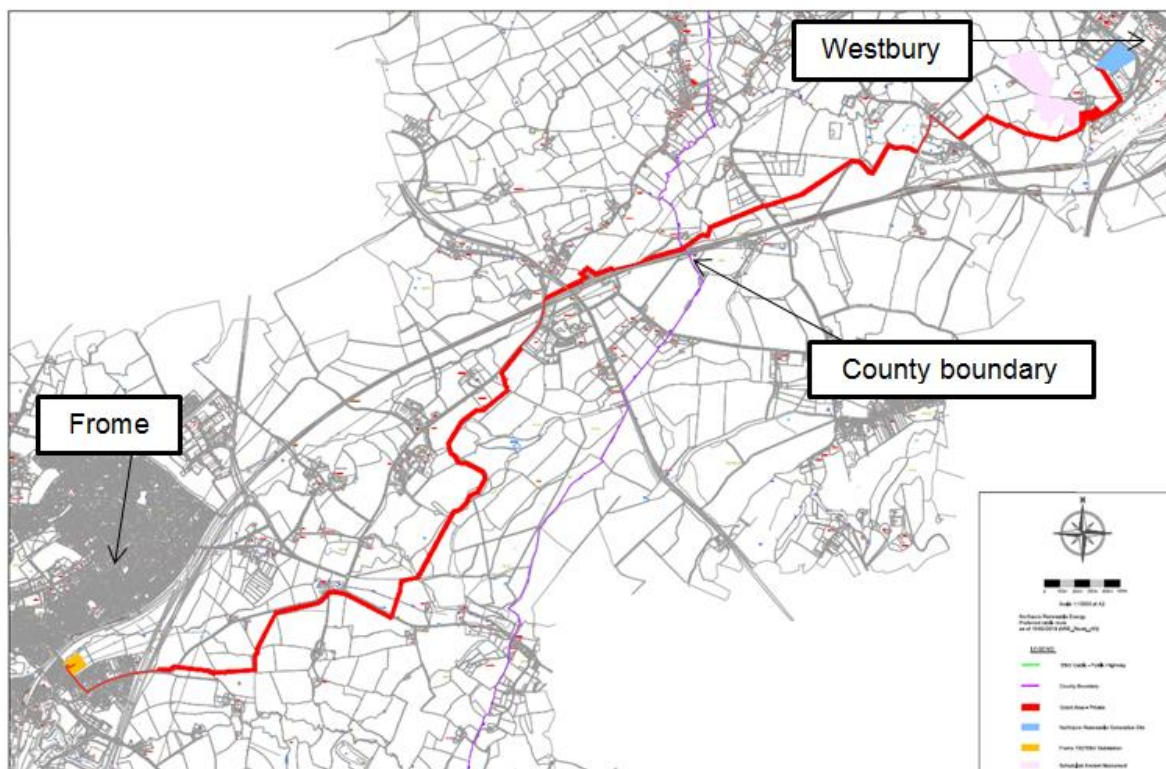
Within Wiltshire the site lies within the parishes of Westbury and Dilton Marsh. Dilton Marsh Parish Council objects; Westbury Town Council objects.

Representations have been received from 52 interested parties (52 objections; 0 supports).

The application is recommended for approval, subject to conditions.

### 3. Site Description

The application site comprises a relatively narrow strip of land (mainly c. 25m wide) which runs between the applicant's facility at Northacre Industrial Estate, Westbury to Southern Electric Power Distribution's (SEPD) substation at Rodden Lane, Frome. The site widens to provide a construction works site compound at Brook Farm, Westbury.



*Application Site*

Within Wiltshire the actual route for the cable would initially pass through the applicant's land holding at Brook Farm, alongside Brook Lane (c. 0.5km). It would then head generally westwards, passing under Brook Drove and Biss Brook, and then through mainly farmland, before reaching Fairwood Road, close to Cuckoo's Rest Caravan Park (c. 0.9km). The route then follows Fairwood Road to the north until its junction with an unnamed lane (footpath

DMAR6), by 'Fairwood' (c. 0.2km); here the route turns to the south-west to follow the line of the lane (for c. 0.2km). It then continues to the west through farm and equestrian land to a further un-named lane (bridleway DMAR42), south of Stourton Bushes (c. 1.3km). Passing under the bridleway, the route then continues generally westward through further farmland before crossing the county border, just to the south of Tennis Court Farm (c. 0.6 km).

In policy terms, for the larger part the application site lies within the 'countryside'. Land north-east of Brook Farm is designated as an 'Allocated Employment Area'. To the west of Brook Farm, and outside of the application site, is a Scheduled Monument ('Mediaeval settlement and associated field systems of Brook Farm'). Brook Farmhouse and Tennis Court Farmhouse are listed buildings (grade II). Small sections of the site lie within Flood Zones 2 and/or 3. There are no particular ecological designations within the site.

#### **4. Relevant planning history**

14/12003/WCM – Advanced thermal treatment (ATT) facility – approved 23/09/15

*This planning permission has not been built out but remains extant.*

18/03816/WCM – Revision of layout and design on ATT permitted under 14/12003/WCM – refused 18/07/18; appeal (local inquiry) - due to be heard September 2019

18/09473/WCM – Revision of layout and design of ATT permitted under 14/12003/WCM – resolution to approve 23/01/19; still awaiting decision on 'call-in' by Secretary of State

#### **5. Proposal**

This is a full application to install an 'underground grid connection'. This would comprise a cable (and related ducting), placed in a trench measuring approximately 1.45m deep and 0.52 wide (to be back-filled and restored after construction) running between the site of the permitted renewable energy facility at Northacre Industrial Estate, Westbury (where electricity will be generated c/o an ATT) and the local distribution network substation at Rodden Lane, Frome.

The application agent describes the proposal and the method of installation in the supporting statement as follows –

- 3.2 *The boundary between Wiltshire and Mendip is shown on the OS base map used for the applications as a purple line. Within Wiltshire is 3,475m of cable in private land and 505m in highways land. Within Mendip there is 5,410m in private land and 1,220m in highways land.*
- 3.3 *The application area is shown, where it crosses private land as a red line of 25m width which reflects the agreements with those landowners and the cable installation has the flexibility to route within that 25m width to avoid any very specific locational constraints .... . In several places where the route crosses established tracks, the wayleave is less. On the public highway sections the red line is simply reflecting the width of the trench that will be dug and it is a more established but constrained area for installation of cables.*
- 3.4 *In establishing the route, agreement was sought from the landowners to minimise the length as far as possible but also to route the cable to the edges of fields minimising any disruption to farming during the installation process. Occasional manhole covers*

*will be installed to provide maintenance and repair access and these will be sited away from areas that could be disturbed by farming activities. Similarly, the route has the flexibility within the wayleave to avoid the removal of any substantial trees or bend around any specifically identified features.*

- 3.5 Where a stream or field ditch is to be crossed, rather than impact the flow, even for the very short period needed to install the ducting, the cable will be drilled under the stream. This has the advantage of not causing any water related issues or disturbing any habitats and species it may support.*
- 3.6 Although the area which is enclosed by these planning applications technically exceeds 1ha, a formal flood risk assessment has not been deemed necessary due to the very temporary nature of the works and the fact they will be fully reinstated after the ducting and cable is put in place. Therefore, although there are areas potentially identified on the EA's flood risk map within the red line of the application, installing the grid connection and re-instating the ground immediately afterwards causes no increase in flood risk.*
- 3.7 To install the cable, an excavator uses a bucket to dig a trench approximately 0.52m wide and 1.45m deep. Soils are carefully separated into subsoil and topsoil when removed. Ducting is laid in the trench on a suitable bed material. The ducting is covered back in and the soils re-instated in the correct sequence. The cable is pulled through the ducting in sections and jointed. Once this has been completed the line of the trench in each section is re-seeded.*
- 3.8 Where the connection crosses a hedge, a section 1m wide will be removed, unless greater required for access. The ecological work described in detail in the ecological assessment will form part of these operations. Once installation is complete the hedge will be replanted in agreement with the farmer if they require. As noted above the cable will be installed under water courses by drilling beneath them. The methodology for installation in the public highway will be agreed with the appropriate authority as part of securing the appropriate consents.*
- 3.9 The degree of disturbance associated with the cable duct trenching and installation along the cable route across the farmland is very small and similar to a farmer installing land drains, where trenches are dug, filled with gravel and pipes and then re-covered. Temporary compounds established as permitted development, moving along the route, will be used to manage the equipment digging and installing the grid connection with such compounds being secured overnight and at weekends.*
- 3.10 It is intended that installation will be normal working hours Monday to Friday, but additional working may be required particularly in the highway to meet other requirements. The Construction Environmental Management Plan, prepared by the grid connection installer DNOC from their extensive experience of these type of works addresses this in more detail. ..."*

As the application site straddles the Wiltshire / Somerset border, planning applications have been made to both Wiltshire Council and Mendip District Council for those separate parts of the proposed development in each local planning authority area.

The application is accompanied by the supporting statement referred to above and an Archaeological Desk-based Assessment, an Ecological Appraisal, and a Construction Environmental Management Plan.

## 6. Planning policy and guidance

### Wiltshire Core Strategy

Core Policy 32 – Spatial Strategy for Westbury Community Area  
Core Policy 50 – Biodiversity and Geodiversity  
Core Policy 51 – Landscape  
Core Policy 57 – Ensuring High Quality Design & Place Shaping  
Core Policy 58 – Ensuring the Conservation of the Historic Environment  
Core Policy 61 – Transport and Development

### National Planning Policy/Guidance

National Planning Policy Framework  
Planning Policy Guidance

## 7. Consultations

### **Dilton Marsh Parish Council:** Objection

*Environmental, Ecological and Archaeological Impact of the proposal would be contrary to Core Policies 58 and 50 in the following ways - the planned route runs around Brook Farm, which is adjacent to an ancient scheduled monument.*

### **Westbury Town Council:** Objection

*Contrary to Core Policy 50: Biodiversity and Geodiversity -  
The supporting evidence provided with this application do not adequately demonstrate plans to protect biodiversity along the proposed route, within our town boundaries.*

*Contra to Core Policy 58: Ensuring the conservation of the Historic Environment -  
The supporting evidence provided with this application does not adequately demonstrate plans to conserve the historic environment surrounding Brook Hall in Heywood Parish and those parts of the ground that fall within the Westbury Boundary. The applicant has failed to satisfy us that they have undertaken sufficient surveys of this area to identify anything of historical or archaeological interest. We note that Brook Hall in Heywood Parish is a listed building recorded at risk.*

### **Wiltshire Council Archaeology:** No objection, subject to condition

*The Wiltshire and Swindon Historic Environment Record shows that the proposed development has a high potential to impact archaeological remains at its eastern end which are likely to be associated with Romano-British activity, the medieval village of 'Broke' (just south of the scheduled area (Medieval settlement and associated field systems west of Brook Farm) and/or post-medieval mill and water meadows/industrial activity along the Brook. The rest of the route through Wiltshire impacts no known heritage assets within the route corridor.*

*The Desk Based Assessment submitted with the application has assessed the potential for archaeological remains to be impacted by the scheme and confirms this high potential. I have agreed in principle to a programme of archaeological excavation in the area of the medieval settlement and a programme of monitoring along the rest of the route to Fairwood House. Fine details of this programme of investigation will need to be discussed and incorporated into a Written Scheme of Investigation [condition].*

**Wiltshire Council Conservation:** No objection

*For the most part the route of the proposed cable avoids built heritage assets. It does run close to the listed Tennis Farmhouse and Brook Farmhouse. However, the cable will run underground and the application allows for the remediation of land affected. As the route is confined to the setting of these listed buildings therefore and will not have any direct impact on assets, the proposals can be considered to have no greater than a neutral impact on the historic built environment.*

**Wiltshire Council Drainage:** No objection

*This application relates to underground cable installation, the route of which involves work to/adj to watercourses – these will require separate applications under the Land Drainage Act to and approval of the relevant drainage authorities*

**Wiltshire Council Highways:** No objection, subject to informative

*The Applicant should be advised of the need to comply with all statutory requirements relating to the temporary closure/diversion of all public highways and rights of way necessitated by the proposed development.*

**Historic England:** No objection

*The proposed cable route passes just to the south of Brook Farm Deserted Medieval Village, a Designated Heritage Asset of the highest significance protected as a Scheduled Ancient Monument, known as Medieval settlement and associated field systems west of Brook Farm .....*

*The cable route does not pass through the scheduled area but it is acknowledged that the route may pass through archaeological remains associated with the scheduled site (Archaeological Desk based Assessment submitted with the application). Suitable archaeological mitigation has been agreed with Wiltshire Council Archaeological Advisors.*

**Natural England:** No objection

**Network Rail:** No objection

**Wessex Water:** No objection to that part of the application site within Wiltshire

## **8. Representations**

The planning application has been publicised by local advertisement, site notices and letters to neighbours. This has generated 52 representations (at 07/06/19), including from Andrew Murrison MP. Of these 52 are objections / expressions of concern; 0 are supports.

The objections / expressions of concern are summarised as follows:

- **Principle** – as related to ATT, the proposal is unacceptable in principle and/or determination should be delayed – it should have formed part of the ATT applications; ATT uses obsolete technology and the electricity produced would not be renewable; ATT still subject to outstanding appeal; ATT is waste disposal so at bottom of ‘waste hierarchy’; ATT will effect health of residents of Westbury; contrary to WC’s climate change principles – the electricity being carried would not be



renewable / low carbon; the need for such a long cable raises doubts as to the viability of the whole ATT facility. There are opportunities to connect to the Grid closer to Westbury; contrary to NPPF energy paragraphs; energy loss in view of length of cable; contrary to CP41;

- **Archaeology** – insufficient information to demonstrate no harmful effects; significance of archaeology between Northacre and Fairwood makes site unsuitable for this form of trenched development; contrary to CP58;
- **Ecology** – insufficient information to demonstrate no harmful effects; potential pollution of watercourses; cumulative impacts of crossing agricultural land, removing hedging, etc.; hedge removal will be greater than 1m in any single hedge; disturbance to roosting bats; contrary to CP50;
- **Highway safety** – additional traffic generation on polluted and congested network; congestion during construction;
- **Wessex Water infrastructure** – proposal interferes with WW’s future plans;
- **Railway infrastructure** – potential interference (electromagnetic) with operation of railway;
- **Land ownership** – application site conflicts with other party’s land;
- **Other matters** – potential for disturbance of anthrax at Brook Farm.

Andrew Murrison MP’s objection states the following:

*“I would like to object to this application since it is linked to an application for an incinerator/gasification plant at Westbury which I strongly oppose on the grounds of possible environmental impact, existing over provision of incinerators, the health precautionary principal, disruption to the lives of my constituents and the small amount of energy that would be generated”.*

## 9. Planning Issues

The main issues to be considered are the principle of the proposal, and then detailed matters including landscape impact, heritage impact, ecology impact, highway safety and residential amenity.

### 9.1 Principle

The purpose of the connection would be to distribute electricity which will be generated at the Northacre renewable energy facility. There is an extant planning permission for an ATT facility at the Northacre renewable energy facility meaning that the principle of the supply is established.

There is no specific Wiltshire Core Strategy policy relevant to this proposal. In these circumstances the National Planning Policy Framework (NPPF) advises that planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. On these ‘tests’, the NPPF does not provide a clear reason for refusing the development, and no adverse impacts are identified. It follows that the proposal should be considered acceptable, and sustainable, in terms of the NPPF as a matter of principle.

More generally, the proposal – to install an underground cable to enable the distribution of surplus electricity generated by a facility which already benefits from a planning permission – is a logical ‘next step’, and accords with the general aim of increasing renewable energy

sources in any event. The applicant's renewable energy facility at Northacre will generate 25.5 MW electricity per year of which approximately 4 MW will be used on the site and 2 MW by the adjacent Northacre Resource Recovery Centre. Additionally, private wire connections to local industry are being negotiated. The remainder (and the majority) would be distributed to the national grid via the proposed connection. When completed, the connection would be adopted by Southern Electric Power Distribution, and so provide reinforcement to the local distribution network serving the Westbury area and improve grid resilience locally. These are material considerations to be given significant weight.

## **9.2 Landscape impact**

When in operation the connection would not be visible, this in view of the cable being underground. Surface infrastructure would be very limited (inspection covers, etc.). It follows that there would be no long term landscape impacts associated with the proposal.

During the construction stage there would be equipment associated with the works visible in the landscape. However, as the works would be temporary, undertaken by a specialist and experienced contractor, and managed by a robust Construction Environmental Management Plan (CEMP), this impact would not amount to a sustainable reason for refusing planning permission. As explained in the application agent's statement (set out above), impact on landscape features, such as trees, hedges and waterways, would be very limited in view of the technology used in the construction and the designed-in flexibility to avoid these during the construction.

## **9.3 Heritage impact**

No designated heritage assets are located in the application site. However, the site passes through a wider landscape which is known to support archaeological remains relating to medieval and post-medieval settlement and land use. On this the Archaeological Desk-Based Assessment which accompanies the application states the following –

*“This assessment has established that within the section of the route that passes through Brook Farm and eastwards towards the Northacre Industrial Park, there are likely to be surviving buried archaeological remains associated with the adjacent Scheduled Monument of a deserted medieval settlement, manorial site, and mill. Groundworks for the cable route would result in the truncation and/or loss of such remains, thereby causing harm to their significance. Consultation with [the] Archaeological Advisor to Wiltshire Council, has indicated that a controlled strip map and sample archaeological excavation be carried out in specific places within the route through Brook Farm; and that an archaeological watching brief can accompany the construction groundworks for the remainder of the section between Northacre Industrial Park to Fairwood House.*

*This assessment has established that for the remainder of the route, there is relatively limited potential for surviving buried archaeological remains of such significance that could preclude development. ....”*

A written scheme of investigation is, therefore, recommended specifying investigation in these terms.

Brook Hall (grade I listed building) – referred to by Westbury Town Council – is c. 1.2km to the north of the Northacre Renewable Energy facility site, with the industrial estate in between. In these circumstances Brook Hall and its setting would not be harmed by development at the site. Brook Farm House and Tennis Court Farmhouse (grade II) are located closer to the site, but as they are of domestic scale with intimate settings, and

because the proposed development would not be visible during operation (being underground), no harm would be caused to these assets.

Accordingly, no objection is raised by the heritage consultees, subject to an archaeology condition for a written scheme of investigation.

#### **9.4 Ecology impact**

The application is accompanied by a Preliminary Ecological Appraisal. It identifies low risks of impacts arising for habitats, birds, bats, dormice, and great crested newts & reptiles. The risk is low because of the designed-in flexibility of the proposal (to, for example, divert the specific cable route around obstacles such as veteran trees) and the short-term duration of the construction works in any event. A condition is recommended requiring the development to be carried out in accordance with the recommendations of the Preliminary Ecological Appraisal.

No objection is raised by the Council's Drainage Engineer to the works in close proximity to watercourses.

#### **9.5 Residential amenity**

The application is accompanied by a Construction Environmental Management Plan (CEMP) which sets out a methodology for working to minimise any potential adverse environmental effects during construction. Notably in relation to working hours, these are proposed to be between 07:00 and 20:00 Mondays to Fridays (and outside these hours only if required by other authorities – for example, there is a short-section of single-track road that is likely to require a road closure, and therefore Highways may dictate that the work here is carried out at night).

Inevitably, and as with any construction operation, there may be some inconvenience and potentially some disturbance to residents in the locality. However, such inconvenience / disturbance would be short-lived and for the duration of the works only, and so would not amount to a sustainable reason for refusing planning permission. A condition is recommended requiring the works to be carried out in accordance with the CEMP. When operational, the development would not give rise to any amenity issues.

### **10. CONCLUSION**

The proposal is directly related to a scheme that already has the benefit of planning permission. As it is underground, there are no issues in terms of landscape impact, and the archaeological implications can be demonstrated to be satisfactorily mitigated. The proposal does not conflict with the development plan and there are no justifiable grounds for refusal of the application.

### **RECOMMENDATION**

**That the application be approved, subject to the following conditions -**

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

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

2 No development shall commence within the application site until:

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/or [DELETE as appropriate] the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

3 The development shall be carried out strictly in accordance with the specification (the 'Environmental Management System) set out in the Construction Environmental Management Plan (CEMP) by DNOC issued February 2019.

REASON: To safeguard amenity and the environment.

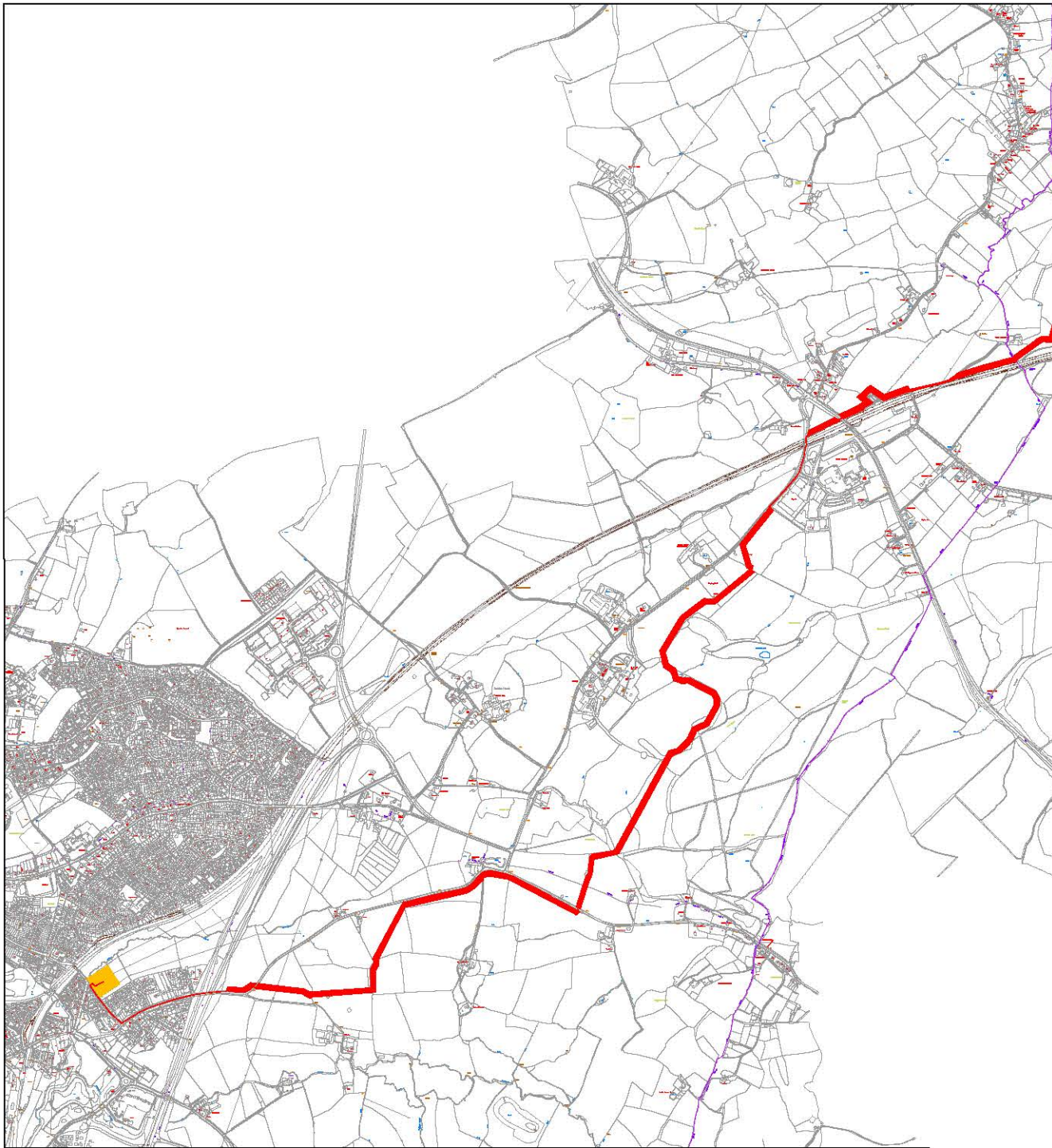
4 The development shall be carried out strictly in accordance with the recommendations of the Preliminary Ecological Appraisal by Wild Service dated 15/02/19.

REASON: To safeguard ecology.

5 Where the line of the approved cable crosses a hedgerow, no more than a 1m wide section of the hedgerow shall be removed; and within six months following completion of the works at any particular hedgerow, the removed section shall be re-planted with species compatible with the original hedgerow.

The re-planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any 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.

REASON: To ensure the protection of existing important landscape features.



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