

AGENDA

Meeting: Strategic Planning Committee
Online Meeting: [Access the online meeting here](#)
Date: Wednesday 27 May 2020
Time: 10.30 am

Please direct any enquiries on this Agenda to Kieran Elliott of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.
This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

During the Covid-19 emergency situation the Committee is operating under revised procedures including in relation to public participation, as attached to this agenda.

The meeting will be available to view live via a Skype Broadcast Link as shown above. A public guide on how to access the meeting is included below.

[Public guidance for accessing meetings online is available here](#)

Membership:

Cllr Fleur de Rhé-Philippe MBE (Chairman)	Cllr Sarah Gibson
Cllr Derek Brown OBE (Vice-Chairman)	Cllr Carole King
Cllr Andrew Bryant	Cllr Christopher Newbury
Cllr Ernie Clark	Cllr Tony Trotman
Cllr Andrew Davis	Cllr Fred Westmoreland
Cllr Stewart Dobson	

Substitutes:

Cllr Ian Blair-Pilling	Cllr Chris Hurst
Cllr Clare Cape	Cllr Nick Murry
Cllr Christopher Devine	Cllr Stewart Palmen
Cllr David Halik	Cllr Stuart Wheeler
Cllr Russell Hawker	Cllr Graham Wright
Cllr Ruth Hopkinson	

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 20*)

To approve and sign as a correct record the minutes of the meeting held on 13 May 2020.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation** (*Pages 21 - 24*)

During the ongoing Covid-19 situation the Council is operating revised procedures to permit remote attendance of meetings. The procedure for the Strategic Planning Committee including public participation is attached.

[Access the online meeting here](#)

[Public guidance for accessing meetings online is available here](#)

Statements

Members of the public who wish to submit a statement in support of or in objection to an application on this agenda should submit it to the officer named on this agenda **no later than 5pm on 21 May 2020**.

Those statements in accordance with the Constitution will be included in an agenda supplement. Those statements must:

- State whom the statement is from (including if representing another person or organisation)
- State clearly whether the statement is in objection to or support of the application
- If read aloud, be readable in approximately 3 minutes

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 19 May 2020 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 21 May 2020. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

6 Planning Appeals and Updates (Pages 25 - 26)

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

7 Planning Applications

To consider and determine the following planning applications.

7a 19/11569/OUT: Land south of Filands, Malmesbury (Pages 27 - 84)

Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development, including the construction of up to 71 dwellings, the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure.

7b 20/02387/OUT: Land at Pound Farm, South View, Lyneham, Wiltshire (Pages 85 - 172)

Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development of up to 50 dwellings and provision of land for D2 use; including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure.

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

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Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 13 MAY 2020 AT ONLINE MEETING.

Present:

Cllr Fleur de Rhé-Philippe MBE (Chairman), Cllr Derek Brown OBE (Vice-Chairman), Cllr Andrew Bryant, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Stewart Dobson, Cllr Sarah Gibson, Cllr Carole King, Cllr Christopher Newbury, Cllr Tony Trotman and Cllr Fred Westmoreland

Also Present:

Cllr Ben Anderson, Cllr Richard Britton, Cllr Tony Jackson, Cllr Brian Mathew and Cllr Toby Sturgis

10 **Apologies**

There were no apologies for the meeting.

11 **Minutes of the Previous Meeting**

The Committee considered the minutes of the last meeting, as detailed on pages 5-14 of the agenda.

The Chairman moved that the minutes be approved and signed as a true and correct record. Councillor Derek Brown seconded the motion.

Members were asked if there were any objections to the motion, there being none, it was:

Resolved:

To approve and sign as a correct record the minutes of the previous meeting held on 15 January 2020.

12 **Declarations of Interest**

There were no declarations of interest made at the meeting.

13 **Chairman's Announcements**

It was noted that as this was the first meeting of the committee to be held remotely. If any technical issues were experienced during the course of the meeting there may be a need to adjourn or reschedule.

14 **Meeting Procedure and Public Participation**

At the beginning of the meeting the Chairman confirmed with each Member of the Committee that they could see and hear all relevant materials.

The [procedure](#) for the meeting was set out on Pages 15-18 of the agenda.

For the benefit of those listening the Chairman summarised how each planning application to be determined would be debated.

15 **19/07824/WCM: Land to the north of the Rudloe Water Treatment Works, Bath Road, Rudloe Firs, Corsham, Wiltshire, SN13 0PG**

Public Statements

Dr David W Lynn & Mr Philip E Green - objection

Robert & Jo Pegg - objection

Sue & Mark Maidment - objection

Matthew Hawker - support

Nicholas Johnston - support

Christopher Bean - support

The Committee received a presentation from Mike Wilmott, Head of Development Management, which set out the main issues in respect of the application. The purpose of the report was to assess the merits of the proposal against the policies of the development plan and other material considerations, and to consider the recommendation that the application was approved subject to conditions.

The application proposed the construction of a new inclined mine entrance from the surface into the existing permitted mine workings, and the construction of ancillary surface facilities including a new cutting shed/workshop, block storage area, alterations to existing vehicular access and landscaping.

The application was scheduled to be considered by the Strategic Planning Committee at its meeting on 23 March 2020. However, the 23 March meeting was cancelled due to the Covid-19 situation. Immediately prior to the 23 March meeting four further third party 'late' representations were received. These were all objections, although raising no new issues to those already set out in the 'Representations' section of the report and addressed in the 'Planning Issues' section.

Key points included the location of the existing water treatment works which used the double gated access from the A4. The previous operators had permission for access on to Bradford Rd, which was granted in 2016. The proposals would see a reduced transport time, shorter distance, enabling a safer and more efficient mining operation. Other key issues included the landscaping and acoustic mitigation to be included, operation hours at the site, the site adjoining but not being within an AONB, site traffic and other highways concerns.

The Chairman invited Members to ask any technical questions of the Officer. It was confirmed if the application were approved, the existing permission for an entrance on Bradford Road would be rescinded, that the entrance and signage were in line with requests from Highways officers, that the land was currently for agricultural use and therefore the site itself contained no red kite nesting and that there were conditions on number of vehicle movements in and out of the site. Details were also sought on the location of residential properties and screening of the site and in relation to the AONB. The AONB had been consulted and had not responded. It was confirmed a detailed acoustic survey report had been received and mitigation measures included in the application.

The Chairman then asked the Democratic Services Officer, Kieran Elliott, to read out the public statements which had been submitted in accordance with the procedure as detailed above. All of the statements submitted within the deadline were also available in the previously uploaded agenda supplement [online](#) along with the presentation to the meeting.

The Local Member, Councillor Brian Mathew, was then able to address the Committee, he spoke in objection to the application, noting the large amount of correspondence received by Members on this matter. He noted the petition with 503 signatures against the development and strongly supported the local community in opposing it, noting issues of highways, natural habitat, and amenity

The Head of Development Management then responded to the points raised by statements, noting screening of the site, measures to mitigate acoustic impacts, the lack of objection from Highways officers, and lack of public access to the site.

The Chairman then moved a motion to approve the application in line with the officer's recommendations. This was seconded by Councillor Derek Brown.

A debate followed where it was noted that the acoustic fencing was 2m high and would mitigate noise issues. The permitted hours of operation for stone cutting were considered, and alternatives suggested, as some Members felt that 07:00 was too early. It was felt that hours of operation of the stone cutting facility should be restricted to 08:00 – 17:30 Monday to Friday and 08:00 – 13:00 on Saturdays.

An emphasis was given to appropriate road signage display on the A4 to provide ample warning of the entrance. The option for a reduced speed limit was also discussed. The lack of objection from the AONB was noted.

The Chairman as having moved the motion and Councillor Brown having seconded the motion, both agreed to the amendment to include the revised permitted hours for stone cutting to be included.

Before the Chairman proceeded to the vote, she asked each Member to confirm that they had been able to hear and where possible see all relevant materials.

The Democratic Services Officer, then asked each Member in turn to vote.

When each Member had voted, the Democratic Services Officer announced the decision as follows:

Resolved:

That, subject to the applicant first entering into a legal agreement to prevent planning permission no. 15/00712/WCM from being further implemented the Head of Development Management be given delegated authority to grant planning permission, 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 for a limited period, expiring on 21 February 2042 or at such time as extraction of stone from the underground stone mine permitted by planning permission no. N/98/01945/WCM ceases (whichever is the earlier). At such time the site shall be restored within a period of 12 months in accordance with the details shown on drawing no. ST16481-022C (Landscape Restoration Plan) dated 26/02/2020.**

REASON: To secure what is applied for in the interests of amenity, and for the avoidance of doubt.

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

- No. ST16481-018B (Site Location Plan) dated 27/11/2019**
- No. ST16481-011D (Site Layout with Preferred Adit Layout) dated 27/11/2019**
- No. ST16481-012B (Typical Support Details) dated 08/08/2019**
- No. ST16481-016A (Office Building) dated 08/08/19**
- No. ST16481-017B (Workshop / Processing Building) originally dated 08/08/2019**
- No. ST16481-023D (Softworks Plan) dated 29/02/2019**
- No. ST16481-039 (Acoustic Fencing) dated 18/02/2020**
- No. ST16481-019C (Drainage Layout) dated 21/11/2019**
- No. ST16481-025D (Landscape Restoration Plan) dated 26/02/2020**
- No. ST16481-022C (Vehicle Autotracking (inc. HGV on-site weighting bay)) dated 17/12/2019**

- **No. J32-3384-PS-001D (Access (inc. signage)) dated 20/12/2019**

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

- 4) The development hereby permitted shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:**
 - i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;**
 - ii. A description of management responsibilities;**
 - iii. A description of the construction programme;**
 - iv. Site working hours and a named person for residents / interested parties to contact;**
 - v. Detailed Site logistics arrangements;**
 - vi. Details regarding parking, deliveries, and storage;**
 - vii. Details regarding dust and noise mitigation;**
 - viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and**
 - ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.**

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0700 to 1730 hrs Monday to Friday, 0700 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The CEMP shall be implemented at all times during the construction phase as approved.

REASON: In order to safeguard the amenities of the area in which the development is located.

- 5) The development hereby permitted shall be constructed and operated at all times strictly in accordance with the Construction and Operational Dust Control Measures, the Dust Emissions Response Measures, and the Monitoring and Recording measures set out in the Dust Suppression Scheme by Wardell Armstrong dated August 2019.**

REASON: In the interests of amenity.

- 6) The acoustic fencing forming part of the development hereby permitted shall in its entirety be installed prior to the mine entrance or workshop-**

processing building becoming first operational. The acoustic fencing shall in its entirety be constructed in accordance with the specification set out on the Acoustic Fencing drawing (no. ST16481-039). The acoustic fencing in its entirety shall be retained and maintained for the life of the development.

The Workshop-Processing Building forming part of the development hereby approved shall be constructed using materials that achieve 46dB Rw; the details of these materials shall be first submitted to and approved in writing by the local planning authority. The Workshop-Processing Building shall be retained and maintained with these materials for the life of the development. Duration the operation of any machinery inside the Workshop-Processing Building (other than forklift trucks, teleporters or other similar mobile vehicles), the building's doors and windows shall be kept completely shut.

No machinery (other than forklift trucks, teleporters, delivery lorries and other similar mobile vehicles) shall be operated on open parts of the site.

At all times the site shall be operated in accordance with the best working practice measures set out in the Noise Assessment by Wardell Armstrong dated January 2020.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 7) All soft landscaping comprised in the approved details of landscaping (drawing no. ST16481-023D (Softworks Plan) dated 29/02/2020) shall be carried out in the first planting and seeding season following the development becoming first operational or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

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

- 8) No external lighting shall be installed until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Professionals in their publication "Guidance Notes for the Reduction of Obtrusive Light

GN01:2020", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

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

- 9) The development hereby permitted shall be constructed and operated at all times in accordance with the Discussion and Recommendations of the Preliminary Ecological Appraisal Report by Wardell Armstrong dated April 2019, and the Assessment of Effects set out in the Bat Ecological Impact Assessment by Wardell Armstrong dated August 2019.**

REASON: To safeguard wildlife.

- 10) No development hereby permitted shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access road), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.**

REASON: The application contained insufficient information to enable this matter to be fully 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.

- 11) No development hereby permitted shall commence on site until details of the works for the disposal of sewerage including, if relevant, the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No operation shall first commence until the approved sewerage details have been fully implemented in accordance with the approved plans.**

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

12) No part of the development hereby permitted shall be first brought into use until the access, turning areas and parking spaces relevant to the part have been completed and the existing lay-by on the A4 has been removed, in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

13) No part of the development hereby permitted shall be first brought into use until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

14) During its operational phase the total number of HGV vehicle movements associated with the development hereby permitted shall not exceed the following limits -

12 movements (6 'in' and 6 'out') per day, Monday to Saturday.

No HGV movements shall take place outside the hours of operation stated in condition no. 16 of this planning permission.

REASON: In the interests of highway safety and residential amenity.

15) From the date that any part of the development hereby permitted becomes first operational, a written record showing all HGV vehicles movements in and out of the site shall be kept by the operator, and that record shall be made available to the Mineral and Waste Planning Authority at all reasonable times. The written record shall contain the vehicles' registrations and operating company's identity and time/date of the movement.

REASON: In the interests of amenity and to ensure the limits on HGV movements set by this planning permission are not exceeded.

16) Other than for the purposes of essential maintenance and pre-shift inspection of the mine, the development hereby permitted (with the exception of the operation of machinery within the Workshop-Processing Building) shall only operate between 07:00 and 18:30 from Mondays to Fridays and between 07:00 and 13:00 on Saturdays. Machinery within the Workshop-Processing building shall only operate between 08:00 and 17:30 from Mondays to Fridays and between 08:00 and 13:00 on Saturdays. Essential maintenance and pre-shift inspection of the mine shall be permitted for one hour only prior to or after these specified times.

The site shall not operate at any time on Sundays and Bank or Public Holidays.

REASON:

To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

17) Wheel cleaning of all goods vehicles and machinery leaving the site shall be carried out for the duration of all operations (including construction operations) at the site.

REASON: To ensure that mud and earth deposits are not brought onto the public highway in the interests of highway safety.

18) No gates shall be installed across the vehicular access to the site other than where this access enters the working yard area.

REASON: In the interests of highway safety.

19) No stone originating from sites other than the existing underground workings at Hartham Park Quarry / Hartham Mine shall be brought and/or stored or processed at the site.

REASON: In the interests of highway safety and amenity.

20) No stockpile of stone within the storage yard / stacking area shall exceed 3m in height.

REASON: To safeguard the visual amenities of the area.

21) Tunnel and shaft construction using penetrative methods shall not be carried out.

REASON: To ensure that the proposal does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and 'The Environment Agency's approach to groundwater protection'.

22) There shall be no de-watering of the site or interruptions to ground or surface water flows.

REASON: To ensure that the proposed development does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and 'The Environment Agency's approach to groundwater protection'.

23)The development hereby permitted shall not commence until such time as a scheme has been submitted to, and approved in writing by the local planning authority, providing details of:

- **the storage of materials;**
- **the storage of chemicals;**
- **the storage of oil;**
- **the storage of hazardous materials;**
- **the proposed method of working;**
- **the proposed phasing of development;**
- **the proposed maintenance and after-care of the site;**
- **proposed scheme for monitoring; and;**
- **wastewater management.**

24)The scheme shall, where necessary, be supported by detailed calculations and include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme.

REASON: To ensure that the proposed development does not harm the water environment in line with paragraph 170 of the National Planning Policy Framework and 'The Environment Agency's approach to groundwater protection'.

INFORMATIVE:

This planning permission does not change in anyway the standalone planning permission no. N/98/1945 relating to Hartham Park Quarry. It follows that N/98/1945 must continue to be implemented in accordance with its planning conditions, including those relating to the method of working and phasing.

16 **19/11524/DP3: Wiltshire Council Depot, Furnax Lane, Warminster, BA12 8PE**

Public Participation

Harriet James – objection

The Chairman confirmed once again for the record that all members could hear and where possible see all relevant materials.

The Committee received a presentation from Mike Wilmott, Head of Development Management, which set out the main issues in respect of the application. The purpose of the report was to assess the merits of the proposal against the policies of the development plan and other material considerations, and to consider the recommendation that the application be approved subject to conditions.

The application proposed the Redevelopment of the existing highway depot. To create a 4000T salt store, with 8 vehicle bays and welfare facilities and external storage areas.

It was also stated that this was a Wiltshire Council application to which there had been written letters of objection from the public consultation. Therefore, the application had been brought to the Planning Committee for determination in the interests of transparency.

This application was originally scheduled to be considered at the March meeting of the committee, which was cancelled due to the covid-19 situation.

The site entrance from Furnax Lane was within the employment area of an industrial estate. Proposed plans for buildings and landscaping were included in the presentation. A Landscape plan was included which would replace some of the trees that had been removed at a separate time. It was stated it was a Council strategy to concentrate the facilities for gritting across the council's area, to bring storage of salt up to modern standards and reduce pollution through run off at other sites.

The Chairman invited Members to ask any technical questions of the Officer, where it was clarified that the removal of trees on the site was unrelated to the consideration of this planning application by members.

The Chairman stated that a representation which had been received after the deadline would be included in the statements to be read out, because it had been previously submitted for the last meeting which had been cancelled. However, as it was over the 3 minutes allowed, the officer would only be able to read what was possible in the allocated time.

The Chairman then asked the Democratic Services Officer, Kieran Elliott, to read out the public statements which had been submitted in accordance with the procedure as detailed above. All of the statements submitted within the deadline were also available in the previously uploaded agenda supplement [online](#) along with the presentation to the meeting.

In response, the Head of Development Manager noted that the work to cut down the trees which was referenced was a matter to be taken up with The Forestry Commission. The trees on the site had not been protected by a Tree Preservation Order.

The Chairman moved the motion of approval with conditions, in line with the Officer recommendation. This was seconded by Councillor Derek Brown.

A debate followed where some Members felt the extent of tree removal which had occurred was too severe, although this was unrelated to the consideration of the planning application. It was noted that the Landscape Scheme included did list the requirements for planting with heights and species of trees required and approved by the councils ecologist.

For the vote each Member was asked to confirm that they had been able to hear and where possible see all relevant materials.

The Democratic Services Officer, asked each Member in turn to vote.

When each Member had voted, the Democratic Services Officer announced the decision as follows.

Resolved:

To grant permission to application 19/11524/DP3: Wiltshire Council Depot, Furnax Lane, Warminster, subject to conditions:

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

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

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

Location Plan; Site Plan (Existing Services); Proposed Site Plan; Proposed Site Sections; Proposed Landscape Section; Proposed External Lighting Plan; Proposed Salt Store Roof Plan – 0201 Rev 7; Indicative Proposed Drainage Layout Plan; Proposed Welfare Floor Plans; Proposed External Lighting Illumination levels plan; Proposed Soft Landscaping Plan; Proposed outline plant schedule; Proposed Vehicle Bay floorplan; Flood Risk Assessment; Tree Report; Design and Access Statement and Ecological Assessment – all received on 2 December 2019 and;

Salt Store Details 03 – Timber Cladding – Rev P5; Proposed Salt Store North East and South West Elevations – Rev P5; Proposed Salt Store North West and South East Elevations – Rev P4; Proposed Salt Store Floor Plan – Rev P5; Proposed Elevations – Vehicle Bay and Welfare – Rev P4; Proposed Roof Plan – Vehicle Bay and Welfare – Rev P5 - All received 9 March 2020

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

3. 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.

4. The proposed development shall be carried out in strict accordance with section 8 of the Ethos Ecological Assessment dated December 2019 and shall be maintained as such at all times thereafter in perpetuity.

REASON: In the interests of protecting protected species

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

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

6. The development hereby permitted shall not be first occupied until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

17 **19/09862/VAR: Tricky's Paddock, Brickworth Road, Whiteparish, Wiltshire, SP5 2QG**

Public Participation

Peter Claydon - Objection

Dr Roger M Sherwin - Objection

Simon & Hilary Parsons - Objection

Keith Smith - Support

James Gammell - Support

Whiteparish Parish Council – objection

The Chairman confirmed once again for the record that all members could hear and where possible see all relevant materials.

The Committee received a presentation from Mike Wilmott, Head of Development Management, which set out the main issues in respect of the application. The purpose of the report was to assess the merits of the proposal

against the policies of the development plan and other material considerations, and to consider the recommendation that the application be approved subject to conditions.

The application proposed the Variation of Condition 3 of Planning Approval 18/09609/VAR to allow an additional pitch and changes to the existing pitch and to include for each pitch a static mobile home, a family dayroom and tourer for a family member with associated treatment plant.

The application was originally scheduled to be heard on the 25 March 2020 meeting of the Strategic Planning Committee, which was subsequently cancelled due to the covid-19 situation.

The location of the existing one pitch site in relation to the A27 and A36 was shown. The proposal was to extend this to include a second pitch with two new single-storey day rooms, one for each pitch, and a treatment plant.

The existing pitch had a personal permission attached to it, for the applicant Mr James Gammell. The second pitch would be occupied by the applicant's son and dependents. The Applicant would benefit by having his son close by due to his reported medical condition, for which evidence had been provided.

Details of relevant planning policies were provided. It was also confirmed the council did not have a 5-year land supply for Gypsy and Traveller sites and this was a material consideration. Previous appeal decisions were noted.

The Chairman invited Members to ask any technical questions of the Officer where it was clarified that what was currently permitted on the site. In response to queries around the permitted use being exceeded this was stated to be an enforcement matter, and acknowledged that the current situation did make enforcement more difficult. Details were sought on the level of unmet need for Gypsy and Traveller sites.

The Chairman then asked the Democratic Services Officer, Kieran Elliott, to read out the public statements which had been submitted in accordance with the procedure as detailed above. All of the statements submitted within the deadline were also available in the previously uploaded agenda supplement [online](#) along with the presentation to the meeting.

The Local Member, Councillor Richard Britton, was then invited to address the Committee, where he spoke in objection to the application. He noted that the site had been subject to requests for enforcement of existing conditions, detailed past history of the site, the unsuitability of the site for residential use particularly in the context of the local landscaping, which would be increased if the application were approved.

The Officer then responded to points raised by statements. He provided details of the change in the existing permission by the Committee when ownership was transferred, that Highways considered the impact of the application to be

acceptable, and the need to address the personal circumstances of the application along with the ongoing lack of a 5-year land supply.

The Chairman moved the motion of approval with conditions, in line with the Officer recommendation. This was seconded by Councillor Derek Brown.

A debate followed where the history of the site was discussed, including the initial permissions in 2008. Although the site had been allowed to be occupied for specific personal reasons, Members debated the suitability of the extended site for residential occupancy, and the increase of that occupancy proposed. The visual impact of the site was noted.

For the vote each Member was asked to confirm that they had been able to hear and where possible see all relevant materials.

The Democratic Services Officer, then asked each Member in turn to vote. The motion of approval was not passed. The Chairman therefore invited alternative motions.

A motion was moved by Councillor Fred Westmoreland, seconded by Councillor Tony Trotman, to refuse the application for the reasons set out below, including impact on character and appearance of the landscape. It was stated in relation to personal circumstances that it was felt the existing restrictions on the site remained appropriate.

The Democratic Services Officer, then asked each Member in turn to vote.

When each Member had voted, the Democratic Services Officer announced the decision as follows.

Resolved:

To refuse the application for the following reasons:

It is considered the original harm to the surrounding landscape (which was previously outweighed in part by the personal circumstances of former occupier Mr Clarke at the time) has since been mitigated to a significant extent so that the impact of the authorised use of the site for a single gypsy and traveller pitch no longer results in an undue adverse impact on the surrounding landscape, however the current application would result in an increase in the number of pitches from one to two, with a new pitch becoming established to the immediate west of the existing and a consequent increase (doubling) of the number of caravans, permanent structures and associated vehicles, paraphernalia etc. in an area of the site that has little screening within the wider landscape and would be visible from the main Brickworth Road (A27) to the north.

Whilst new planting around the additional pitch and extended site area is shown on the submitted proposed plans, this would likely take a number of years to establish and mature sufficiently to provide a meaningful and

appropriate level of screening in order to sufficiently mitigate the adverse visual impact of the additional pitch within the character of the surrounding landscape.

In this respect it is considered the development would be likely to result in undue and detrimental visual impacts on the character of the surrounding Special Landscape Area and is consequently considered to conflict with policies CP47 (criteria vi and viii); CP51 (criteria ii and vi); and CP57 (criteria i) of the Wiltshire Core Strategy, and saved policy C6 of the Salisbury District Local Plan, which together are the relevant policies in the adopted development plan for the area. These adverse impacts and consequent conflicts with the development plan are considered to outweigh the personal circumstances put forward as part of the application, and the acknowledged shortfall of pitches in the South Wiltshire Housing Market Area at the time of this decision.

18 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 1.50 pm)

The Officer who has produced these minutes is Lisa Moore of Democratic Services, direct line 01722 434560, e-mail lisa.moore@wiltshire.gov.uk

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

This document is not part of the Constitution

Remote Planning Committee Meeting Procedure and Public Participation

Background

1. The standard procedure for all planning committee meetings is included at paragraph 8 of Protocol 4 to the Constitution.
2. As a result of Government guidance on social distancing and other restrictions on public gatherings during the Covid-19 emergency standard operation of planning committees cannot proceed.
3. *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* (the Regulations) provide for remote attendance at local authority meetings by elected Members to enable the continued operation of committees during Covid-19 restrictions.
4. This document sets out the alternative procedure that will apply for Planning Committee meetings that are held remotely in accordance with the Regulations. These provisions will apply for the period permitted under the Coronavirus Act 2020 and the Regulations and apply notwithstanding any prohibition or other restrictions contained within the Council's Constitution relating to attendance and participation at meetings. This procedure will be kept under review and may be varied by the Monitoring Officer in consultation with the Chief Executive Officers and Group Leaders at any time.

Pre-meeting

6. All who have made representations on an application to be determined by the relevant Planning Committee will be contacted by Wiltshire Council and provided with the following details:
 - Date and time of the committee meeting;
 - A link to the agenda for the meeting;
 - A link from which they will be able to view the meeting as it occurs
7. Those who have made representations will be advised that they may contact the Democratic Services Officer for the meeting, as listed with the agenda, and provide a statement that they would like to be read out at the meeting.
8. Any such statements must:
 - State whom the statement is from (including if representing another person or organisation)
 - State clearly whether the statement is in objection to or support of the application
 - If read aloud, be readable in approximately 3 minutes
 - Be provided no later than 5pm two working days before the meeting.

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9. All statements will be included in an agenda supplement published before the meeting. Longer representations should be provided to the Planning Officer listed for the application.

Agenda Order

10. Applications will be determined in the order they appear on the agenda unless the Chairman, with the agreement of the Committee, considers there are reasons for changing the order.
11. Officers will seek to ensure that applications which are likely to attract significant viewership or interest appear earlier in the agenda.
12. If the order is changed, this will be announced at the start of the meeting.

Meeting Procedure

13. In the interests of fairness, consistency and transparency, the procedure below must be followed at each meeting. Members of the public should note that it is not permissible during meetings to communicate with members debating the proposal by any means as this may give the appearance of bias. Any participation in the meeting should be as set out below.
14. For each application the Planning Officer will introduce the application and the key issues involved, as well as the reasoning behind the recommendation as set out in their report. They will also set out any representations, amended plans or material considerations which have been received or come to light in the period between the publication of the agenda and the committee meeting, including those contained within any agenda supplement.
15. Committee Members may then ask the officer to clarify any points/ask technical questions.
16. Statements in opposition to the application will then be read out by the Democratic Services Officer. Up to three statements of up to three minutes each may be read.
17. Statements in support of the application will then be read out by the Democratic Services Officer. Up to three statements of up to three minutes each may be read.
18. Statements from any statutory consultees, except for parish councils, of up to three minutes in length may then be read out by the Democratic Services Officer, whether in support or in objection to the application.
19. A statement from the parish council for the area in which the applications sits, if provided, will then be read out by the Democratic Services Officer for a length of up to four minutes. This must be the formal view of the parish council not an individual representation. If the application is on the edge of several parishes which are directly affected, the Chairman may allow the reading out of statements from other parishes, to a maximum of three in total, for up to four minutes each. Individual members of a parish council may send statements to be read out, whether in agreement or

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disagreement with the formal view of the parish council, but would need to use a public statement slot.

20. The Unitary Division Member for the application, or nominated substitute, if present, will then be invited to make a representation. The Chairman may allow a neighbouring or any other Member of the Council to make a representation at this time if they consider it appropriate. Non-committee members should give prior notification if they wish to speak.
21. The Planning Officer will then have an opportunity to respond to comments or provide clarification of any points raised by the public or Members.
22. The Committee will then debate the application. The first Member to speak will be expected to move a proposal for deliberation. The rules of debate as detailed in Part 4 of the Constitution will apply, except where these are inconsistent with the Regulations and the Wiltshire Council Temporary Protocol on Remote Meeting Procedures in which case the latter will apply.
23. When speaking, each Member must introduce themselves for the benefit of anyone listening who may or may not have access to video.
24. At the beginning of each item each Member of the Committee will confirm that they are able to see or hear all relevant information. This will also be confirmed immediately prior to any vote.
25. For each vote, the Democratic Services Officer will call each Member of the Committee in turn to indicate their vote. This will not count as a recorded vote for the purposes of the minutes, which would need to be specifically requested by three members of the committee.

General Public Participation

26. In the case of all public speaking categories, as stated above, those who wish to have a statement read out at the meeting must contact the Democratic Services Officer for the meeting no later than 5pm two working days prior to the committee meeting.
27. Statements will be read out by the Democratic Services Officer in order of submission, with any further statements received beyond the three to be read out in objection or support to be included in the agenda supplement. Exceptionally, the Chairman may direct statements to be read in a different order, for instance if the first three statements submitted were all from the same organisation or household, or repetitive, in order to ensure the broadest inclusion of views.
28. While the Chairman of a committee has discretion over the timings and number of statements to be read out in the case of controversial or large-scale applications, in the interests of natural justice any increase should be applied equally between those speaking for and against the application.
29. No contributions from the public will be accepted outside the public statement slots detailed above.

Questions and Petitions

30. Submitted questions and petitions on non-determined planning applications are excluded from the usual Council procedures at Part 4 of the Constitution. This means that any questions or petitions in relation to an agenda item at a meeting will be logged by Planning Officers as a representation and addressed in their introduction of the item.

Wiltshire Council
Strategic Planning Committee
27th May 2020

Planning Appeals Received between 01/11/2019 and 15/05/2020 relating to Decisions made at Strategic Committee

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overtturn at Cttee
18/11739/FUL	The Paddock Hook, Swindon Wiltshire, SN4 8EA	LYDIARD TREGOZ	Change of use of land to a residential caravan site consisting of 4 no. pitches each containing 1 no. mobile home, 1 no. touring caravan, 1 no. semi-detached utility building, car parking, access and childrens play area.	SPC	Hearing	Approve with Conditions	24/02/2020	Yes

Planning Appeals Decided between 01/11/2019 and 15/05/2020 relating to Decisions made at Strategic Committee

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
18/03524/FUL	Land to the Rear of The Paddock Heath Lane Startley, Chippenham Wiltshire, SN15 5HH	GREAT SOMERFORD	Change of Use of Land to a Private Gypsy and Traveller Caravan Site Consisting of Three Pitches Each of Which Would Contain One Mobile Home, One Utility Dayroom and One Touring Caravan and Associated Works	SPC	Hearing	Refuse	Allowed with Conditions	27/02/2020	Appellant applied for Costs - REFUSED

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REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	27.05.2020
Application Number	19/11569/OUT
Site Address	Land south of Filands, Malmesbury
Proposal	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development, including the construction of up to 71 dwellings, the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure
Applicant	Gleeson Homes
Town/Parish Council	MALMESBURY
Electoral Division	Malmesbury - Cllr Gavin Grant
Grid Ref	393564 188647
Type of application	Outline Planning
Case Officer	Nicole Gillett

Reason for the application being considered by Committee

Councillor Grant has requested the proposal be put before committee to examine; Nonconformity with the Malmesbury Neighbourhood Plan, the visual impact of development and the proposals' impact on local infrastructure.

1. PURPOSE OF REPORT

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved subject to conditions and prior completion of a S106.

2. REPORT SUMMARY

The key issues in considering the application are as follows:

- Principle of the Development
- Deliverability
- Character and appearance
- Impact on Residential Amenity
- Highway Impacts
- Sustainability
- Drainage / Flood Risk
- Ecology
- S106 contributions (Affordable Housing, Education, Public Open Space, Waste, Public Art)

Malmesbury Town Council raise objection to the proposed development. 18 letters of objection and 1 support letter have been received.

3. PROPOSAL

The application is for the outline planning permission for residential development with all matters reserved except for access. The proposals include the construction of up to 71 dwellings (40% affordable), the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure.

The application is a resubmission of a previous application for the same scheme (16/07288/OUT). Following refusal in 2016 the applicants subsequently appealed but withdrew the appeal in 2017

EIA

The proposal is for 71 dwellings covering 3.63 hectares. The proposal is not;

(i) development that includes more than 1 hectare of urban development which is not dwellinghouse development; or

(ii) development that includes more than 150 dwellings; or

(iii) development that exceeds 5 hectares. greater than 5 hectares or consist of 1 hectare on non dwelling housing development.

The proposal would not therefore fall within any of the criteria set out within Schedule 2, subsection 10(b) of The Town and Country Planning Environmental Impact Assessment Regulations 2017. As such, an Environmental Impact Assessment is not required in this case.

4. SITE CONTEXT

The site is mostly open agricultural fields, with a drainage ditch running within the eastern extent. It is enclosed by hedgerows along northern and eastern boundaries. To the west of the application site is a detached two storey dwelling. Further to the west is a development of 180 residential dwellings, known as Filands View. The land directly to the south of the application site was identified and permitted for the creation of a primary school, as part of the approval for Filands View.

The geo-environmental desk study has highlighted the potential for contamination in the northeast corner of the site. The southern section of the site has areas with records of surface water flooding. The site is an area of archaeological potential as evidenced by previous archaeological work done within the site in 2014 and in the adjacent development area in 2015.

A public right of way (MALM 8) runs alongside the ditch in the eastern extent of the site, running from the B4014 footway to Reeds Farm estate to the south. A significant Oak tree is located within the rear garden of the detached dwelling to the west, this tree is protected by Tree Preservation Order (LPA ref: N/10/00010/ND), and adjoining the connection point within the site between the current proposal and Filands View.

The site is located outside of the framework boundary for Malmesbury and is not allocated within the Malmesbury Neighbourhood Plan (MNP) for residential development. The land has an agricultural land classification of 3.

5. PLANNING POLICIES

Wiltshire Core Strategy

- Core Policy 1: Settlement strategy
- Core Policy 2: Delivery strategy
- Core Policy 3: Infrastructure requirements
- Core Policy 13: Malmesbury Community Area
- Core Policy 43: Providing affordable homes
- Core Policy 45: Meeting Wiltshire's housing needs
- Core Policy 50: Biodiversity and geodiversity
- Core Policy 51: Landscape
- 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 63: Transport strategies
- Core Policy 67: Flood Risk

The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted 25 February 2020.

Wiltshire Council Waste Core Strategy 2009

WCS6 – Waste Reduction and Auditing

Malmesbury Neighbourhood Plan

1.1.6 & 1.1.7 – Objectives and Policies

- Policy 1 – Backbridge Farm Allocation
- Policy 2 – Burton Hill Allocation
- Policy 4 – Local Need Assessment
- Policy 5 – Assessment Against Approved Consents

Policy 6 – Burnham House Allocation

Policy 12 – Primary School Expansion and Timing of Development

Policy 13 – Development in Accordance with MNP Volume II

Saved policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006).

H4: Residential Development in the open countryside

NE14 Trees and the control of new development

NE18 Noise and Pollution

CF3 Provisions of Open Space

National Planning Policy Framework 2019

Paragraphs; 2, 8, 11, 12, 14, 38, 47, 73, 74, 76, 108, 109, 110, 127, 163, 165, 170, 175, 190, 192, 196 and 197.

Supplementary Planning Guidance and Other Relevant Documentation

- Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – Minimum residential parking standards.
- Local Transport Plan 2011-2026 Cycling Strategy (March 2015) – Appendix 4
- Open Space provision in New Housing Developments – A Guide
- Wiltshire Council Waste Collection Guidance for New Development
- Wiltshire Housing Land Supply Statement April 2018 (published August 2019)
- Wiltshire CIL Charging Schedule May 2015
- Wiltshire Planning Obligations SPD May 2015

Emerging Policy

The Local Plan Review: Consultation on the Pre-Submission version is due in 2020. Due to the early stage in the process the Plan carries negligible weight.

6. CONSULTATION RESPONSES

Wiltshire Council Spatial Planning: The proposal is not in accordance with the development plan. The conflicts with planning policy are not limited as the applicant asserts and the material considerations require careful consideration. The Council is not able to demonstrate a 5-year land supply and the tilted balance is triggered (planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits). It is for the decision maker to weigh in the balance the conflict with the policies of the development plan together with all other material considerations.

Wiltshire Council Highways: No objection, but require some improvements and S106 contributions, matters which are fully outlined in their response.

Wiltshire Council Archaeology: Support, subject to conditions. An archaeological condition is required to be attached to any grant of consent to enable a programme of archaeological mitigation across the proposed development site.

Wessex Water: Confirmed that sewers can be adopted by agreement with Wessex Water and surface water discharge rates will be subject to the approval of the Lead Local Flood Authority.

Wiltshire Council Landscape: No objection, subject to conditions.

Wiltshire Council Education department: Require the following contributions, which can be secured via a S106.

Early years - £17,522 per place (£122,654 in total). * (Please refer to caveats available online as the cost multiplier quoted is to be updated very shortly).

Primary Schools £18,758 (but please see note * above), per place: 19 x £18,758 = £356,402 (subject to indexation).

Secondary Schools £22,940 (but please see note * above), per place: 13 x £22,940 = £298,220 (subject to indexation).

Wiltshire Council Urban Design: Support, subject to future design.

Wiltshire Council Open Spaces: No objection, subject to contributions. The leisure requirement should be provided as an off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.

Wiltshire Council Drainage: Support, subject to conditions.

Wiltshire PROW Officer: No objection, subject to MALM8 being upgraded to 2m where it crosses the site.

Wiltshire Council Public Protection: No objection, subject to conditions.

Wiltshire Council Tree Officer: No objection, subject to an arboriculture method statement condition.

Wiltshire Council Ecology: Support, subject to conditions.

Wiltshire Council Waste: No objection subject to contribution of £6,461.00 and a condition that does not allow commencement of development until details concerning how waste collections will function.

Wiltshire Council Conservation: Concluded that the proposal will result in no significant impacts on the wider setting of the Abbey and Conservation Area.

Malmesbury Town Council: Objected on the following grounds;

- Contrary to neighbourhood plan
- Harm localism
- Overdevelopment
- Harm to character and culture
- There is no demand for further housing above that already planned.
- There are no compelling other benefits.
- Disagree with applicant comments that the full complement of housing allocated in the Malmesbury Neighbourhood Plan has not yet been delivered. The Town Council believe the plan is in force until 2026. Thus the time to say whether its allocations have been delivered or not is 2026 not now.

7. REPRESENTATIONS

During the public consultation period 19 consultation responses were received from individuals; the Malmesbury and Saint Paul Without Residents Association (MSPWRA); Malmesbury Civic Trust and Wiltshire Swifts. 18 of these responses were in objection to the proposed development and 1 was in support.

One letter stated support for new housing, but conditions should require an emergency service building.

The 18 consultation responses in objection to the development can be summarised as follows:

- Contrary to the Malmesbury Neighbourhood Plan (MNP)
- The infrastructure effects of the MNP have yet to be assessed
- No need for additional housing to meet targets in Malmesbury
- Impact to infrastructure schools, doctors, leisure facilities etc
- Impact to highway safety and traffic
- Insufficient bus stops and street lighting
- Overdevelopment of Malmesbury
- Impact to Flood Risk
- Harm to visual amenities of the surrounding area
- Poor living environment provided
- Overdevelopment of the site
- Impact to Historic Abbey
- No material change since previous should be refused
- The Town and Parish views are supported
- The community and the revised MNP should allocate sites not developers
- Approving would harm localism
- Swift boxes should be used
- No one wants the homes
- What is the future of Filands School Site

- Piecemeal development should be refused
- Holistic schemes should take precedence over commercial gain

8. ASSESSMENT

8.1 Principle of Development

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

Core Policy 1 of the Wiltshire Core Strategy (Settlement Strategy) identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Within this Policy Malmesbury is identified as a Market Town, which are defined as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities. Market Towns have the potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self-containment and viable sustainable communities.

Core Policy 2 of the Wiltshire Core Strategy states that in line with Core Policy 1, the delivery strategy seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178ha of new employment land and at least 42,000 homes, with a minimum housing requirement for the North and West Wiltshire HMA (which contains Malmesbury) of 24,740 dwellings for the plan period. Core Policy 2 also states that sites for development in line with the Area Strategies will be

identified through subsequent Site Allocations DPDs and by supporting communities to identify sites through neighbourhood planning.

Core Policy 13 of the Wiltshire Core Strategy relates to the Malmesbury Community Area and states that over the plan period (2006 to 2026), approximately 1,395 new homes will be provided of which about 885 should occur at Malmesbury. The latest housing land statement, published August 2019, shows that at 1 April 2018: of the 885 homes requirement for Malmesbury 758 homes had been completed and there were 331 homes committed and deliverable by 2026. As such, Malmesbury is set to exceed the requirement by circa 23%.

The Malmesbury Neighbourhood Plan became part of the development plan on 25th February 2015 and is now more than 5 years old. The MNP does not allocate the proposed site for development. The table on page 10 of the MNP outlines the 885-dwelling requirement for Malmesbury Town for the WCS Plan Period 2006-2026. It then states that there have been 483 completions between 2006-14 with 219 further sites with planning approvals (including 180 dwellings at Filands Phase 1 adjoining the site to the west). Therefore, 183 dwellings were required to be identified to meet the minimum requirements of the Core Strategy.

In order to achieve delivery of the required 183 dwellings, three housing allocations are made within Policies 1, 2 & 6, which respectively allocate the following:

Policy 1 – Backbridge Farm – 170 dwellings (application 16/06401/FUL submitted, pending decision)

Policy 2 – Burton Hill – 50 dwellings (16/11603/OUT approved 59 dwellings - 19/07095/REM submitted, pending determination)

Policy 6 – Burnham House – 50 dwellings (approved 14/08832/FUL)

Given the progress with the allocated sites, it is considered that the MNP follows a planned approach to residential development in Malmesbury and has already met the minimum requirements of the Wiltshire Core Strategy.

The applicant has stated in paragraph 6.35 of their statement that there are no policies within the MNP that resist development outside of the settlement boundary, which includes the application site. However, the MNP forms part of the Development Plan, but should not be read in isolation from the Core Strategy. Core Policy 2 of the Wiltshire Core Strategy states that other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25, development will not be permitted outside the limits of development, as defined on the policies map. The MNP also allocates land for residential development and supports limited infill development within the defined boundary of the town and thereby includes policies that define where new residential development is and is not acceptable.

The site falls outside of the limits of development for Malmesbury and does not comply with any of the exception policies listed under paragraph 4.25 of the WCS. Similarly, as it lies beyond the limits of development, it does not comply with saved policy H4 of the North Wiltshire Local Plan as it does not meet the exceptions set out in that policy also.

The proposed development seeks to provide 71 residential units on land which is outside of the settlement boundary for Malmesbury and has not been allocated for residential development under the MNP. Therefore, the development is considered to be contrary to Core Policies 1, 2, & 13 of the WCS and the policies of the MNP.

8.2 Material Considerations relevant to the principle of development

The Core Strategy was adopted in January 2015 and is now more than 5 years old. Both the Courts and Planning Practice Guidance make it clear that the policies of a development plan do not become out-of-date automatically after passage of 5 years. However, the NPPF makes it clear that housing land supply must now be assessed against Local Housing Need for the whole of Wiltshire, rather than the previous Housing Market Areas, as per para 73 of the NPPF.

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5

years' worth of housing land supply. The NPPF makes it clear that where this cannot be demonstrated, relevant policies for the supply of housing (which in this case would include CP1, CP2 and CP13 in relation to limits of development) cannot be considered up to date, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the position of the Planning Inspector who considered an appeal at Purton Road.

Following the Purton Road appeal decision, it has become apparent Wiltshire has 4.62 years of housing land supply. In these circumstances, NPPF Paragraph 11d advises that policies which are most important for determining the application should not be considered up to date. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The proposal is within an area covered by a Neighbourhood Plan. Paragraph 14 of the Framework applies in situations where paragraph 11d is triggered because a proposal conflicts with a Neighbourhood Plan. In these circumstances paragraph 14 advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided 4 criteria apply. These are examined below.

NPPF paragraph 14 states;

“in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three-year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years."

As the Malmesbury Neighbourhood plan is five years old it fails criteria a). The MNP satisfies criteria B-D as the MNP has allocated a sufficient number of homes to meet its requirement, the local planning authority can demonstrate more than 3 years of land supply and housing delivery is above 45% for the last three years.

As criteria a) is failed the policies relating to housing in the MNP are considered out of date and therefore it for the decision maker to assess the weight of the MNP in decision making.

It can be seen therefore that Core Policies 1, 2 & 13, saved Policy H4 and the housing policies of the MNP are all important for determining the application and under the provisions of the NPPF are all to be considered out of date.

As noted above, it is acknowledged that recent planning approvals and commitments in Malmesbury mean that the indicative housing requirements for Malmesbury (up to 2026) have been met. However, it is important to consider that housing supply, consistent with the NPPF, is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. Whilst the fact that the indicative requirements have been met in this community area is a consideration, given the circumstances of this application, including the scale of development proposed and the identification of Malmesbury as a market town in the settlement hierarchy, it is not considered that this can be determinative in this instance.

Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that:

(i) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37).

(ii) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).

The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period of 1 April 2018 – 31 March 2023 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise. In this regard, it is pertinent to note that when the Council previously had a shortfall in housing land supply in this housing market area in 2016, the Inspectorate allowed an appeal for 60 dwellings outside but adjacent to the limits of development at Bradford on Avon, where the Inspector found that the negative impacts of doing so (conflict with development plan policy, change to character and appearance of area) would not be so harmful as to significantly and demonstrably outweigh the benefits of boosting land supply and providing affordable housing. Like Malmesbury, Bradford on Avon is designated as a market town in the settlement hierarchy of the WCS. (Application 14/07689/OUT – copy attached as an appendix to this agenda)

Appeal and court decisions confirm that ultimately it will be up to the decision maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date'. Therefore, consideration of the weight which can be provided to the above policies is considered in the balancing exercise at the end of this report.

Deliverability

The NPPF requires sites to be included in the council's five-year supply to be deliverable. The definition of deliverable is set out in NPPF glossary as follows:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”

The applicant has provided a deliverability statement that outlines, if permitted, the site would be exchanged to a developer in November 2020 with a reserved matters application being submitted and approved by December 2021. The applicant anticipates work on site commencing on March 2022 with first occupation in December 2022. The applicant states the site is likely to be completed by March 2024, and even within a year's slippage to March 2025, the document states the site will deliver within five years.

Further, the applicant considers the site will be delivered quickly for the following reasons;

- Single family landowner, multiple parties should not slow down disposal

- There are no technical constraints on site (e.g. contamination or remediation)
- The size of the site makes the site attractive to both medium sized house builders and the larger PLCs
- The provision of 40% affordable will accelerate delivery on site as it will allow higher absorption given there is an identified need for affordable homes
- There is already market interest in the purchase of the site if planning permission is to be granted.
- The size of the scheme lends itself to a relatively short build out period.

The applicant states they believe the site is viable based on their current understanding of the S106 contributions, conditions, and site constraints. The applicant confirms when the site is marketed, the full costs associated with the permission will be known and reflected in the land price ultimately agreed. Further, there are no abnormal infrastructure costs or large land requirements (resulting in constrained land) associated.

The applicant has agreed to shorter commencement conditions, which state reserved matters will be submitted within one year from the date of outline consent and work on site will commence one year from reserved matters approval. Consequently, there is further assurance the site can come forward within the five-year period. This is relevant and of material importance in accordance with the NPPF. The document demonstrates the applicant's intention to deliver the site quickly, and this is a material consideration of substantial weight in the context of the current housing land supply position.

8.3 Heritage assets

The Council's archaeologist has reviewed the proposal and noted that most of this proposed development site has already been subject to archaeological evaluation done within the site in 2014 and in the adjacent development area in 2015. The Archaeologist recommends, if permission is granted, a condition be used to secure a programme of archaeological mitigation across the proposed development site.

The proposed development would be sufficiently distanced from the Grade I Listed Malmesbury Abbey to ensure no harm to its setting would occur. The Conservation

Officer concluded that the proposal will result in no significant impacts on the wider setting of the Abbey and Conservation Area. Any views of the Abbey from site are limited and the development would not obscure any important views of the abbey. The proposal is therefore in accordance with CP58, as there is no harm to the heritage assets.

8.4 Character and appearance

The application is in outline with all matters reserved, therefore, the final appearance and impact on visual amenity cannot be fully determined until reserved matters stage.

However, Volume II of the MNP provides a number of design principles which the illustrative layout needs to be considered against, to ensure the proposed development would be brought forward in a manner which complies with Core Policy 57 of the WCS and Volume II of the MNP.

The Council's Urban Design Officer has reviewed the illustrative masterplan and raises no objections to the development, subject to detailed design. The final compliance with Volume II of the MNP will need to be considered at reserved matters stage.

The application has been submitted with an LVIA to consider the impacts to the wider visual receptors from outside the site. The LVIA concludes that there would be some harm from the public right of way MALM8. However, this harm would be negated by the public open space which would separate the right of way from built form within the site. However, once again, it must be considered that limited harm would also occur to the views from the public right of way and adjacent road. Further, the report concludes that the impacts to the Cotswold AONB to the east would be negligible, given the topography, vegetation and built form, between it and the site and this is considered to be an acceptable conclusion, given that the AONB is set 1.4kms to the west with the Filands View and Dyson Expansion between it and the application site.

The loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. There would be adverse visual effects, particularly for nearby residents. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on

landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. At this stage the proposal is considered to comply with CP51 and CP57 as the effects of the scheme can be mitigated through appropriate landscaping and urban design can be examined at reserved matters stage. Further, the management of the public open space could be controlled by a Landscape Management Plan via a S106 agreement.

8.5 Impact on Neighbour Amenity

The main considerations would be the impact to the adjoining dwelling to the west, Braemore, and the dwellings on the eastern edge of the Filands View development. Whilst the impacts to residential amenity will require further consideration at reserved matters stage, the illustrative layout shows how 71 units could be provided within the site without resulting in significant harm to residential amenity through a loss of light, loss of outlook or sense of dominance. The final impacts to privacy would be determined once the location of habitable rooms windows is known.

Likewise, the level of residential amenity afforded to future occupiers would be considered at reserved matters stage. However, the illustrative layout raises no concerns that an acceptable living environment for future occupiers could not be achieved.

A construction management plan has been requested by the Environmental Health Officer and has been conditioned as part of this permission to ensure amenities are safeguarded during construction.

8.6 Highways Impacts

Representations received raised concerns with highway safety and traffic. The Highways Officer has not raised an objection in these respects. However, the Highways Officer has requested several improvements to ensure the proposal supports walking and cycling.

The proposed development seeks the creation of a new access into the site from the highway of the B4014. The proposed layout would provide a ghost priority right hand turn

lane junction with associated footways. The Highways Officer has reviewed the proposed access arrangement and considers them to be a safe access into the site.

The Highways Officer has also requested that the development should secure an upgrading of the whole site frontage from the site entrance in an easterly direction to the roundabout of the B4014/ A429, to a width of 3m. This would entail an upgrading of the surface, slight widening and improvements to wearing course. The developer has agreed to this by way of condition and would enter into a S278 agreement with the Local Highway Authority to pay for and undertake these works.

The Highways Officer has also requested S106 contributions towards a Rights of Way conversion order to convert Malms8 to a shared use path where it crosses the site. The Council use this contribution to convert the PROW to a shared use path where it crosses the site. The developer has agreed to the contribution and will be secured by way of S106. Further, the developer will upgrade the PROW where it crosses the site by providing the details through a condition attached to this permission.

Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if the cumulative impact on capacity would be severe, or a highway danger created. The Highways Officer has not raised an objection on highway safety grounds. The developer has agreed to the various contributions and improvement works. It is not considered a highway safety refusal would be warranted on this basis.

8.7 Transport Sustainability

Core Policy 60 of the WCS states that the council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

It is acknowledged that the site is located outside of framework boundary for Malmesbury. However, the site adjoins the Filands View site which provides 170 residential dwellings in

close proximity to the application site. In the determination of this appeal the Local Planning Authority concluded that the Filands View site was a suitable and accessible location for residential development. Whilst the application site is set further east along the B4104, the site is within close proximity to Filands View, alongside Dyson (as the major employer in the town) and Waitrose (as the major supermarket). Therefore, the Council would not consider the location of the site to be so remote from employment and services as to make it substantially worse than the adjoining Filands View site, where no objection was raised on sustainable transport grounds and found acceptable by the inspector.

8.8 Flooding and Drainage

Core Policy 67 of the Wiltshire Core Strategy states that all new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable.

The Drainage Officer does not object to the proposal and recommends a condition to provide detail regarding surface water drainage. The drainage system at this point is acknowledged to have capacity issues and has historically flooded during times of adverse weather. As this is an existing capacity issue, it would not be for this development to improve capacity at this location, only to ensure the development would not make this issue worse. Therefore, the proposal would not make the capacity issue at Powell Rise any worse than the existing and the submitted details have demonstrated compliance with Core Policy 67 of the WCS, subject to final details secured by way of a pre-commencement condition.

8.9 Ecology

The Council's Ecologist was consulted on the proposal and raises no objection to the development.

The site is comprised predominately of species-poor grassland of limited ecological value, however boundary features including species-rich hedgerows, a ditch and mature trees are all of local value. Short sections would be lost and the general network would be fragmented by proposed access. Although the scheme is in outline, it is clear that the ecological value of these features would also be degraded by the proximity of roads, buildings, residential gardens and parking. These will all lead to some negative, permanent ecological effects of the development; however these are relatively minor in the context of existing approved developments. The development has the potential to create some ecologically valuable habitats on the margins of the site, particularly associated with SUDS and landscaping in the east of the site.

The site supports an assemblage of foraging bats typical of agricultural land in this part of the county; the value of the site would be degraded for these populations through habitat degradation and artificial lighting, however there would also be some beneficial effects through the SUDS and landscaping in darker areas of the site.

A low population of grass snake is present on the site; however this is unlikely to be significantly affected by the proposals subject to some precautionary construction measures, due to the relatively limited area of suitable habitat within the site and mobile nature of this species.

Local populations of birds, hedgehogs, invertebrates and brown hare would be affected by the proposals; however, these would all be relatively minor effects and there may be some benefits for some of these species through SUDS and landscaping proposals. Therefore, subject to conditions relating to a construction environment management plan, landscaping and drainage, the development is considered to comply with Core Policy 50 of the WCS.

8.10 Other matters

The Environmental Health Officer requests conditions to secure low energy vehicle infrastructure such as electric car charging points. The applicant has agreed to this suggested condition.

The Council's Environmental Health Officer has noted that the site appears to be predominantly free from former uses of a potentially contaminative nature, however one polygon of unknown filled ground is identified which may be of significance to the proposed development. Therefore, they have requested that a condition be attached to any approval to ensure the submission of site investigation and any remedial work, prior to the commencement of development.

The Council's Environmental Health Officer requested a condition to ensure future dwellings meet internal and external noise standards. However, it is considered this is a matter covered by other legislation in terms of insulation from building regulations and statutory nuisance under Environmental Health legislation.

9. S106 contributions

Wiltshire Council has a Planning Obligations Supplementary Planning Document. This should be read in conjunction with the WCS (primarily Core Policy 3) and the Wiltshire CIL charging schedule. This SPD identifies the planning obligations that will be sought by the council for development that generates a need for new infrastructure and should be a material consideration in planning applications.

In addition to this, Wiltshire Council has adopted CIL. This would be calculated at Reserved Matters stage.

The Council is also mindful of the tests for s106 legal agreements that are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Any requests that do not meet the above tests will not be actively sought by the Council.

Recreation Provision

The Open Spaces Officer stated the leisure requirement should be provided as an off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Early Years / Education Provision

There are currently 3 nurseries and 4 childminders within a two-mile safe walking route of this proposed development. This provision is operating at high capacity. The Local Authority has a duty to provide sufficient childcare for working parents under Section 6 of the Childcare Act 2006.

Therefore, any increase in population as a result of this development will require additional childcare provision. The council therefore require £17,522 per place (£122,654 in total). * (Please refer to caveats available online as the cost multiplier quoted is to be updated very shortly).

Primary Schools that would serve the area are at capacity and will be for the foreseeable future. Consequently, the council require a full developer contribution based upon the current cost multiplier of £18,758 (but please see note * above), per place: $19 \times £18,758 = £356,402$ (subject to indexation).

Secondary Schools have no capacity based on the housing applications already approved/registered. Therefore, the council requires a full developer contribution towards the 13 places that this development generates a need for. Using the current cost multiplier of £22,940 (but please see note * above), per place: $13 \times £22,940 = £298,220$ (subject to indexation).

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 40% on-site affordable housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within the 40% Affordable Housing Zone, which the site is within. There is therefore a requirement to provide 28 affordable units within a scheme of 71 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing in the Malmsbury Community Area.

The Affordable Housing Officer advised to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (17 units) being for Affordable Rented housing, and 40% of the units (11 units) being provided for shared ownership

The application proposes the minimum 40% affordable housing with the mix indicative and subject to negotiation. The mechanism for delivery of affordable housing is set out in Core Policy 43 where it states that it will be subject to an appropriate legal agreement. Such a legal agreement is considered to meet the CIL tests.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Waste and Recycling

The submitted Waste and Recycling audit by Terence O'Rourke 2019, states the collection of recycling and waste from residents will be undertaken by the local authority. The Waste and Recycling Management Team require the cost of the provision of waste and recycling containers for each residential unit to be absorbed by the applicant / developer. The current cost is £91 per dwelling which is indexed linked. The total sum for 71 dwellings would be therefore £6,461. Core Policy 3 listed waste management services such as recycling and collection facilities as priority theme 1 infrastructure and the cost to the Council is a direct impact of the development. It is therefore a reasonable request to

make that the developer bears these costs. The Council contends that this request meets the tests set out under 122 and 123 of the CIL regulations.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

10. The Planning Balance and Conclusion

As stated above, in the determination of planning applications the first issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS and MNP). If it does not then the issue arises as to whether material considerations, including relevant policies in the NPPF, mean that the development can be regarded as sustainable and that permission should be granted despite conflict with these policies. Ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out of date' and attract reduced weight, and the NPPF guidance intended to boost housing land supply where the development can be judged sustainable.

Importantly, paragraphs 11d and 14 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and the weight given to such policies is not dictated by the NPPF and, as noted above, will vary according to circumstances on a case by case basis. It is also important to consider the extent to which the land available for housing in Wiltshire falls short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. In this regard and since the refusal of the last application the Council has continued to promote development in the housing market area at sustainable locations. Nevertheless, since the last refusal paragraph 14 has been added to NPPF, providing clarification on weight to be assigned to Neighbourhood Plans when they became part of the development plan two years or less before the date on which the decision is made. Further, the housing land supply calculation has now changed from housing market areas to county wide, which has altered the figure. In their decision on the Purton Road appeal the Inspector noted that the shortfall is modest (para 21).

In the assessment of the previous application in 2016 it was considered that the degree of conflict with the at the time up to date Neighbourhood Plan, despite a 4.25-year housing land supply in the HMA, was afforded considerable weight, which outweighed any benefits of the proposal. Further, at the time the 4.25-year housing land supply figure was anticipated to improve as an Inspector noted in 2016 the figure should be *“viewed in the light of more recent evidence about the Council’s performance and in particular the evidence of recent planning permissions of 700 units which had been granted in the Melksham area. Those permissions are likely to make a substantial contribution both to the current monitoring year’s annualised requirement and the overall supply.”* However, the context for this resubmitted application is materially different, as paragraph 14 criteria a) of Framework requires the Neighbourhood Plan to have become part of the development plan two years or less before the date on which the decision is made for its housing related policies to be considered up to date and for conflict with the Neighbourhood Plan to be considered to significantly and demonstrably outweigh any benefits. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Therefore, of key consideration are the benefits and harms associated to the development and the level of weight which may be attributed to them in the planning balance. The applicant has highlighted the following economic, social and environmental benefits from the scheme:

Noted by the applicant;

- 28 affordable housing units
- 71 new dwellings
- Homes to match increasing employment provision and increase self-containment, contributing to reducing travel demand and addressing climate change issues.
- Additional open space and biodiversity gain
- Construction activity

- Increase in Council tax receipts
- Deliverable within five years

In summary the Council considers the benefits as follows:

Provision of Affordable Housing

Additional affordable homes in Wiltshire is afforded considerable weight.

Provision of open Market Housing

Given the current lack of a 5-year land supply position in Wiltshire it is considered 71 dwellings is afforded considerable weight.

Homes to match demand

Given the current 5-year land supply position in Wiltshire it is considered 71 dwellings is afforded considerable weight.

Additional open space

The field is already used by residents using the PROW as open space to walk dogs and enjoy the countryside. There is a requirement to provide public open space on major housing developments and this would be secured via a s106 agreement. It is not therefore a benefit of the scheme but rather mitigation against the impacts of the development i.e. to provide recreation space for the occupants of the development.

Net biodiversity gain

The outline application does not contain the specific details of how biodiversity is increased on the site and is required by CP50 and the NPPF. Therefore, this is given limited weight.

Creation of construction jobs

In the context of housing construction 71 dwellings is a small development and therefore, will not generate substantial amounts of construction jobs over a long period of time. There will be a short-term gain. Limited positive weight is given to this point.

Council tax

Limited positive weight is given to this

Deliverability

Given the modest shortfall in housing land supply, the deliverability statement indicating likely occupation in December 2022 and conditions on the permission stating reserved matters to be submitted within one year and commencement one year from reserved matters approval. The sites ability to contribute to the modest shortfall relatively quickly is given considerable weight.

Harm

The site is acceptable in terms of ecology, transport and flooding, and no other site constraints are identified that make this site unsuitable for development. As examined above, it is considered there are no site-specific harms arising from the proposal other than the loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. However, as noted in the previous applications report, any negative impacts would be mitigated as far as possible through sensitive design and landscape measures. Consequently, the only harm identified is conflict with Core Policies 1, 2, & 13 of the WCS and the policies of the MNP.

Given the conflict with the policies of the development plan, the key test is whether the adverse impacts of granting permission significantly and demonstrably outweigh the benefits. The latest housing land supply position shows a modest shortfall that will in part be met by this development and an affordable housing need in the Malmesbury which will be directly addressed by this development. Although there is some harm identified to landscape these harms are considered limited and can be mitigated. There are no other site-specific harms. Conditions placed upon this permission and Section 106 contributions ensure the scheme is fully mitigated to ensure infrastructure is in place to support the development.

On balance, it is considered that the adverse impacts identified do not significantly and demonstrably outweigh the benefits that the development would provide. Accordingly, it is recommended that planning permission be granted, subject to the prior completion of a

Section 106 legal agreement

RECOMMENDATION:

It is recommended that authority be delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and subject to the prior completion of a S106 legal agreement covering the areas outlined below in the Heads of Terms, within six months of the date of the resolution of this Committee.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to **REFUSE** planning permission for the following reason:

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

Heads of Terms for Section 106 legal agreement to secure the following:

- 40% Affordable Housing 60% of the units (17 units) being for Affordable Rented housing, and 40% of the units (11 units) being provided for shared ownership.
- £6,000 000 for a Right of Way conversion order to convert Malms8 to a shared use path where it crosses the site.
- Off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.
- Open space and landscape management provision

- £6,461.00 Waste Contribution

Education (subject to indexation);

- Early years - £17,522 per place: £122,654
- Primary Schools £18,758 per place: £356,402
- Secondary Schools £22,940 per place: £298,220

CONDITIONS

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

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

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

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

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

REASON: The application was made for outline planning permission and is granted to

comply with the provisions of Section 92 of the Town and Country Planning Act 1990

and Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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

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

4. The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

Boundary Plan BMD.15.019.DR.001.P2 received 4th December 2019

Illustrative Masterplan BMD.15.019.DR.002.P2 4th December 2019

Proposed Site Access Arrangement with Share Use Footway drawing I

TB11080-GA-014 received 26th March 2020

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

5. Notwithstanding the details set out in the description of development, the development hereby approved shall comprise no more than 71 dwellings.

REASON: The maximum number of dwellings is required to be stated in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

6. No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads and footpaths), in relation to existing ground 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 details.

REASON: To ensure the finished levels are acceptable in the interests of visual amenity.

7. The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local

Planning Authority. The content of the LEMP shall include, but not necessarily be limited

to, the following information:

- a) Description and evaluation of features to be managed;
- b) Landscape and ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including long term objectives to ensure management in perpetuity on land outlined in red on boundary plan 15.019.DR.001.P2;
- d) Appropriate management options for achieving aims and objectives as set out in points a)-c) above;
- e) Prescriptions for management actions for the site outlined in red on 15.019.DR.001.P2
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures which shall include measurable targets;
- i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery.

The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. A report shall be submitted to the local planning authority annually detailing the works undertaken and performance against the targets set.

The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed in writing 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 and priority species.

8. No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity and tree protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialists ecologists need to be present on site to oversee works
- f) Responsible persons and lines of communication
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority every three months from the start of the development until the completion of the final planting.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

- 9. Prior to the submission of the first reserved matters application a written programme of archaeological investigation including a timeframe for onsite work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority. The programme shall be carried out in accordance with the approved timeframe.

REASON: To enable the investigation of the presence of heritage assets at the site,

incorporation of any mitigation measures and recording of any matters of archaeological interest.

10. All soft landscaping comprised in the approved details of landscaping, as required by the reserved matters applications and details required by conditions within this decision notice shall be carried out in the first planting and seeding season within or following the completion of each phase, 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.

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

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

j) drainage arrangements during the construction works;

k) vehicle routing for construction vehicles.

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The

development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: 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.

12. No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and

extent of any contamination (including asbestos) on the site, whether or not it originates

on the site. The investigation and risk assessment must be undertaken by competent

persons and a written report of the findings submitted to and approved in writing by the

Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant

linkages;

- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation

is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out .

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.

REASON: Development proposals will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

14. No part of the development hereby permitted shall be occupied until the ghost priority right hand turn lane junction, footways, 3M cycleway across site frontage and secondary access has been completed in accordance with the details shown on the approved plans.(drawing ITB11080-GA-014).The visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 0.6 above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

15. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

16. By the occupation of the 10th dwelling a Residential Travel Plan will be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

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

17. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

18. No development shall commence on site until full details of a cycleway/shared use path' across the whole site frontage from the site entrance in an easterly direction to the roundabout of the B4014/ A429, have been submitted to and approved in writing by the Local Planning Authority. The footway improvement scheme shall provide a 3m width and shall upgrade the existing surface. The scheme shall be provided in accordance with the details approved in writing by the Local Planning Authority. .

REASON: In the interests of highway safety.

19. No development shall commence on site until full details of the route and design of the up-graded MALMS8 (where it crosses the site) has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the route of the PROW is maintained as part of the development.

20. No development shall commence on site until a scheme for the discharge of surface water from the site /phase, including SuDS (sustainable drainage systems) and all third-party approvals, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority and the sewerage undertaker. Scheme details shall include any required off-site capacity improvements needed to allow the site/phase to be served, and to include a programme allowing sufficient time for the delivery of any required improvements.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy and to ensure that the development can be adequately drained without increasing flood risk to others.

21. Prior to the installation of any lighting a 'Lighting Design Strategy for Biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy will cover both construction and operation phase and shall:

1. Identify those features/ routes that are important to light sensitive/ nocturnal species such as bats, badgers and hedgehog and to be retained within dark corridors.
2. Show full details of proposed construction and operational lighting, including lux plots to show there is no lighting impact to the features/ routes identified. Lux plots should be presented on a scaled site drawing and the light levels must be shown at ground level and at 2m above the ground (horseshoe bats fly typically within this range). The light levels should also be shown as "from new", not as normally calculated levels after some months or years of use.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other lighting be installed without prior consent from the local planning authority.

REASON: As required by Core Policy 50 to ensure the long-term functioning of wildlife corridors and Core Policy 52 the retention and green infrastructure.

22. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation

to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:

- A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;
- A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
- A schedule of tree works conforming to British Standard 3998: 2010;
- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure;
- A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- Details of all other activities, which have implications for trees on or adjacent to the site. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

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 order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

INFORMATIVE

The provision of the (1) right hand turn lane (2) upgraded Malmesbury 8 'footpath improvement scheme', shared use path, crossing point and carriageway widening will be subject to a S278 Agreement under the Highways Act 1980. Full construction details will be required to be approved. Please note that until detailed drawings are provided the extent and specification of the works cannot be finally agreed.

INFORMATIVE: The applicant is advised to contact Wessex Water directly regarding sewers adoption.

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Appeal Decision

Site visit made on 15 March 2016

by Michael Boniface MSc MRTPI

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

Decision date: 24 March 2016

Appeal Ref: APP/Y3940/W/15/3141340

Land to the North of Holt Road and Cemetery Lane, Bradford on Avon, 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 Spitfire Homes Ltd against the decision of Wiltshire Council.
 - The application Ref 14/07689/OUT, dated 8 August 2014, was refused by notice dated 23 September 2015.
 - The development proposed is the erection of up to 60 dwellings (including affordable housing), up to 3000sqm of B1 employment floor space, informal and formal public open space, allotments, access, drainage, landscaping, engineering (ground levelling) and other associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 60 dwellings (including affordable housing), up to 3000sqm of B1 employment floor space, informal and formal public open space, allotments, access, drainage, landscaping, engineering (ground levelling) and other associated works at Land to the North of Holt Road and Cemetery Lane, Bradford on Avon, Wiltshire in accordance with the terms of the application, Ref 14/07689/OUT, dated 8 August 2014, subject to the conditions contained in the attached Schedule.

Preliminary Matters

2. The application is submitted in outline form with access to be considered. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. I have determined the appeal on this basis.
3. It is common ground between the parties that the Council cannot currently demonstrate a deliverable five year housing land supply in accordance with paragraph 47 of the National Planning Policy Framework (the Framework). Under these circumstances, relevant policies for the supply of housing should not be considered up to date¹ and housing applications should be considered in the context of the presumption in favour of sustainable development. For decision taking this means granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a

¹ Paragraph 49 of the Framework

whole; or specific policies of the Framework indicate development should be restricted². I have considered the appeal on this basis.

Main Issue

4. The main issue is whether the development would accord with the delivery strategy set out within the development plan.

Reasons

5. Core Policy 1 of the Wiltshire Core Strategy (CS) (January 2015) sets out the settlement strategy for the area, directing most new development to the most sustainable locations within the district. Core Policy 7 reaffirms that development in the Bradford on Avon Community Area should be in accordance with this strategy. Bradford on Avon is defined as a Market Town, the second tier within the strategy, which is said to have the ability to support sustainable patterns of living through its current levels of facilities, services and employment opportunities.
6. Core Policy 2 of the CS sets out a delivery strategy for the 42,000 homes to be delivered during the plan period and indicates provision of 595 dwellings at Bradford on Avon. Whilst strategic allocations are made within the CS, other housing sites are to be allocated through a Site Allocations Development Plan Document (DPD). The site is located outside of the settlement boundary for the town where the policy is clear that proposals will not be permitted, except in specified circumstances, none of which apply to the residential element of the appeal proposal. The limits of development may only be altered through the Site Allocations DPD and Neighbourhood Plans, both of which are at the early stages of production and carry little weight at this time.
7. The appeal proposal would be in conflict with Core Policy 2. Whilst this is so, the Council accept that this is a relevant policy for the supply of housing, specifically seeking to restrict housing development. As such, the policy must be considered out of date for the reasons set out above and it is necessary to balance other considerations against this conflict with the development plan.
8. The site is located outside the settlement boundary for the town but close to it. It also stands adjacent to a strategic allocation site which has been granted planning permission for 138 dwellings and 1.1ha of employment provision, which was under construction at the time of my visit. The Council's Housing Land Supply Statement for 2015, which will be used to inform the emerging Site Allocations DPD, identifies an indicative requirement for an additional 64 dwellings in Bradford on Avon.
9. In light of this recognised need, the lack of a deliverable five year housing land supply and in the context of the Framework's objective to boost significantly the supply of housing, the contribution that would be made by this development attracts significant weight. There is also an identified need for affordable housing in the locality and 40% of the proposed dwellings would be secured for this purpose. I attach this matter significant weight.
10. This is particularly so given that the Site Allocations DPD has been delayed and may be some way off adoption. Sustainable development, for which there is a need, should not be delayed by the plan making process. The Council suggest

² Paragraph 14 of the Framework

that time should be allowed to establish the effects of development already permitted on the town but this would result in an unacceptable delay in the provision of necessary housing, in conflict with the above objectives.

Furthermore, given the support within the CS for development at Bradford on Avon I do not consider the proposal would undermine the plan making process, nor should it affect public confidence in the system.

11. There are a number of other potential benefits arising from the proposed development identified by the appellant. These include the provision of new public open space, the potential for an improved gateway to the town (subject to design at Reserved Matters stage), ecological enhancement in line with the measures set out in the submitted Ecological Appraisal Review and Protected Species Report (5 August 2014) and economic benefits such as the New Homes Bonus that would be paid to the Council. These matters also weigh in favour of the development.
12. The Council do not raise an objection to the proposed employment provision, noting that the CS specifically seeks such provision to rebalance the level of housing and employment in the area and reduce out commuting. Core Policy 34 of the CS is generally supportive of employment provision including, when outside a Market Town, where it would be adjacent to the settlement and seek to retain or expand businesses currently located within or adjacent to the settlement. The appellant provides details of an agreement with Anthony Best Dynamics (ABD) to take on the employment space as part of the ongoing expansion of the business in the town. The Council consider the proposal to accord with this policy and I have no reason to take a different view. The resulting stimulus to economic development is a matter that weighs in favour of the proposal.
13. I have had regard to concerns that the development would harm the character and appearance of the area. Clearly development of a site that is currently undeveloped countryside will significantly alter its appearance but the site is well located in relation to the existing built form of the settlement, including the adjacent strategic allocation site. Some Greenfield sites will need to be developed to meet the areas housing needs and the Council have identified no physical features of other merit which elevates the site above that of any other land on the edge of the settlement. The Council's Urban Design Officer notes the potential benefits of the scheme in improving the gateway into the town and I see no reason why this could not be achieved at the Reserved Matters stage. On this basis, I attach the harm to the character of the area very limited weight.
14. I note that the area is a destination for tourism but that does not alter my conclusions in other respects, particularly with regard to the need for housing. There is no evidence before me to suggest that tourism would be harmed by the proposed development.
15. An Air Quality Management Area (AQMA) is in place in the town. It is recognised by both parties that the development would be likely to increase car journeys and congestion to and within the town. This will inevitably increase pollution but the increase in traffic would be modest according to the submitted Transport Assessment (July 2014) and the growth is anticipated within the CS. The Council collects money through its Community Infrastructure Levy (CIL)

- charge to mitigate the impacts of development on air quality and overall, this matter would have only limited impact.
16. The site is sustainably located on the edge of the town with good access to its services and facilities, as well as public transport. A site specific Travel Plan is also proposed to promote sustainable modes of travel. There is no reason to believe that future occupants would become reliant on the use of private cars, or that the small increase in car journeys anticipated would adversely impact on highway safety or capacity. There are a number of highway improvements proposed as part of the development which the Council accept will mitigate the impact of the development. I concur with this view.
 17. The site is agricultural land classified as grade 3a, representing Best and Most Versatile Land (BMVL). Paragraph 112 of the Framework requires that the economic and other benefits of such land be taken into account before significant development of agricultural land is allowed. Poorer quality land should be used in preference to higher quality. It is common ground between the parties that the development would not be significant in this context. Nevertheless, the loss of BMVL is a negative factor of limited weight that must be weighed in the balance.
 18. The Council conclude that the development would have no adverse impact on heritage assets and I have no reason to disagree. This is subject to the imposition of a condition requiring an archaeological watching brief.
 19. The site is located in Flood Zone 1 (lowest risk) as defined by the Environment Agency and a detailed Flood Risk Assessment and Drainage report (July 2014) accompanies the application, concluding that the development will not be at risk of flooding or cause flooding elsewhere. Furthermore, appropriate drainage techniques can be employed, including potential for the use of Sustainable urban Drainages Systems (SuDS).
 20. As set out above, there is a range of ecological enhancement expected to arise from the development and no significant harm has been identified, subject to appropriate mitigation being secured by condition.

Other matters

21. The site is split into two parts, intersected by Cemetery Lane. The proposed housing and employment would be located to the south of Cemetery Lane and outside of the Green Belt. The remaining part of the site falls within the Green Belt. This part of the development is said to involve public open space, land re-contouring for SuDS, ecological enhancements and allotments.
22. The Council accept that these works are not inappropriate development for the purposes of the Framework, being exempt under paragraphs 89 and 90 as provision of appropriate facilities for outdoor sport and recreation that would preserve the openness of the Green Belt and would not conflict with its purposes, as well as engineering operations. The application is submitted in outline form with all matters reserved except access and so detailed consideration is not possible at this stage. However, I see no reason why such facilities could not be provided without harm to the openness or purposes of the Green Belt. Therefore, I have no reason to take a different view to the Council. Any proposed buildings would be a matter for consideration at the

Reserved Matters stage when considering the wider layout of the two parts of the site.

23. The site is located within the consultation zone of the Bath and Bradford on Avon Bat Special Area of Conservation (SAC). The Council has undertaken a Habitat Regulations Assessment (2 September 2015) and this has been endorsed by Natural England³. This concludes that the development would not have a significant adverse effect on the SAC, either alone or in combination with other development, subject to appropriate conditions and planning obligations to mitigate its effects. I concur with the conclusions of the assessment and adopt this position.

Planning Obligations and CIL

24. A number of concerns have been raised regarding the impact of the development on local infrastructure. The Council has adopted a CIL Tariff in order to facilitate a strategic approach to infrastructure improvement and mitigation necessitated by development in its area. This would be payable by the developer in respect of the appeal proposal.
25. In addition, a Unilateral Undertaking has been submitted to deal with site specific obligations necessary as a result of the development. This includes the provision of 40% affordable housing; off-site highway works to facilitate safe access to the site; and the provision of open space and appropriate management. The Undertaking also sets out the requirement for the employment land to be transferred to Anthony Best Dynamics in accordance with the discussion above. All of these obligations are directly related to and necessary as a result of the development proposed. I am satisfied that they accord with the tests of paragraph 204 of the Framework. I have, therefore, taken them into account in reaching my decision.
26. The Council is satisfied that the CIL receipts and individual planning obligations, taken together, would mitigate the impact of the development on local infrastructure. I have seen no evidence that leads me to disagree.

Conclusion and Conditions

27. Although the development would be in conflict with Core Policy 2 of the CS, I have found this policy to be out of date. Having considered the range of social, economic and environmental benefits arising from the scheme I am satisfied that these outweigh the conflict with the development plan in this instance. Furthermore, the proposal constitutes sustainable development for the purposes of the Framework. Although some negative impacts would result, they would not be so harmful as to significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
28. In light of the above, and having considered all other matters, the appeal is allowed.
29. The Council have proposed a number of conditions in the event that planning permission is granted. These are contained within the Statement of Common Ground and the appellant has not raised any objection to them.

³ Letter dated 25 August 2015

30. I have attached the standard conditions for outline planning permission relating to the reserved matters and commencement of development. It is also necessary to specify the approved plans in the interests of clarity and proper planning.
31. I have not found it necessary to secure details or samples of the proposed external materials or boundary treatments and means of enclosure as these would be more appropriately dealt with as part of the reserved matters.
32. A scheme of phasing is required to ensure that off-site highway works are carried out at the appropriate point, to minimise disruption and to allow for ecological mitigation during development. However, it is not necessary to refer specifically to landscaping given that this is a reserved matter. This is also the case for any landscape retention requirements, which would be better considered along with the detailed landscaping proposals and is not necessary to make the development acceptable at this stage.
33. A Landscape and Ecological Management Plan is necessary however, to ensure that ecology is considered at an early stage and measures are designed into the detailed scheme proposals. A Construction Environmental Management Plan is necessary for the same reason. Conditions 8-11 deal with external lighting, hedgerow works and bat impact mitigation and these are all necessary for ecological reasons, particularly having regard to the SAC.
34. Details of the proposed foul and surface water drainage scheme are required to avoid flooding and ensure that the site is suitably drained. Any storage of oils, fuels or chemicals must be suitably protected to avoid water pollution. A scheme of contamination investigation and, if necessary, remediation is necessary given the previous use of the site and the sensitive residential use proposed.
35. It is necessary to restrict noise levels on the site and the permissible hours of construction and deliveries so as to protect neighbours' living conditions, noting their close proximity to the site. It is necessary to secure the provision of the internal roadways and footpaths, along with turning and parking facilities to ensure appropriate access and highway safety. Cycle storage and changing facilities must be provided at the employment premises and a Travel Plan is to be secured for both the employment and residential elements of the scheme to promote sustainable modes of travel. A Construction Traffic Management Plan is needed to minimise the impact of the development of nearby residents.
36. Conditions are proposed in relation to energy efficiency and sustainable construction, referring to the Code for Sustainable Homes and BREEAM. These certifications have since been replaced by the National Technical Standards and I do not consider that a condition referring to them would be sufficiently enforceable so as to meet the tests for conditions set out in Planning Practice Guidance (PPG). This is notwithstanding reference made in another recent appeal decision⁴. Whilst this is so, and mindful of Policy CP41 of the CS, a scheme of measures should be submitted for approval in the interests of sustainable development and to reduce energy wastage.
37. Waste minimisation and management plans are required in the interests of sustainable development. Finally, an archaeological mitigation condition is

⁴ APP/Y3940/W/15/3124783

necessary to ensure that any unexpected remains of heritage interest are identified.

38. I have altered the wording of the proposed conditions as necessary to improve their precision and ensure compliance with PPG.

Michael Boniface

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 101 and 016 Rev.B.
- 5) No development shall commence on site until a programme of phasing for the development (including off-site highway improvement works) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Before any development takes place, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:
 - a) Full specification of habitats to be created and enhanced, including locally native species of local provenance and locally characteristic species, and other biodiversity enhancements including the installation of a wide range of different types of bat and bird boxes, creation of log piles and hibernacula for reptiles and amphibians;
 - b) Description and evaluation of features to be managed; including locations shown on a site map;
 - c) Landscape and ecological trends and constraints on site that might influence management;
 - d) Aims and objectives of management;
 - e) Appropriate management options for achieving aims and objectives, including the consideration of livestock grazing as a management tool for the Public Open Space (POS) in the northern part of the site;
 - f) A simple summary annual work programme (e.g. a spreadsheet);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures, including, but not limited to, the monitoring of bat commuting routes across Holt Road along the double tree-line wildlife corridor to Cemetery Lane and the POS to the north annually for 5 years following completion;
 - i) Timeframe for reviewing the plan;
 - j) Details of how the aims and objectives of the LEMP will be communicated to the occupiers of the development; and

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the

developer with the management body or bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. The LEMP shall be implemented in full in accordance with the approved details.

- 7) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'biodiversity protection zones', including retained trees and hedgerows, and bat mitigation features, particularly for the bat crossing points over Holt Road;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including tree and hedgerow protection; a precautionary approach to vegetation and site clearance to take account of the likely presence of reptiles, amphibians, hedgehogs and roosting bats (a re-inspection and dawn survey of trees with potential for roosting bats before felling); a check for nesting birds and a resurvey of the site for new badger setts; measures to minimise impact to foraging badgers;
 - d) The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of the Ecological Clerk of Works (ECoW);
 - h) Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;
 - i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works, particularly of the bat mitigation features for the bat crossing points over Holt Road and identified retained commuting routes; and
 - j) Dust suppression measures.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. A report prepared by the Ecological Clerk of Works certifying that the required mitigation and compensation measures identified in the CEMP have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Local Planning Authority for approval within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of the Ecological Clerk of Works following that approval.

- 8) No development shall take place until an external lighting design strategy for biodiversity and amenity has been submitted to and approved in writing by the local planning authority. The strategy shall include but not necessarily be limited to:
- a) Identify those areas/features on site that are particularly sensitive for Greater and Lesser horseshoe bats and that are likely to cause disturbance along important commuting routes, including all hedgerows;
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including Lux plots), so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places, including all public, private domestic and private commercial external lighting, and including dark commuting routes for bats over Holt Road up to 10 metres either side of "Kingston Wood" (the woodland block to the south of Holt Road) where the majority of bat crossing points are located and along the 'Pedestrian/Cycle route and Wildlife Corridor' as shown on the General Arrangement drawing no.13189 (L) 005 Rev E dated 11.05.15;
 - c) Specify luminaires, heights and positions of fittings, direction and other features, e.g. cowls, louvres or baffles;
 - d) Details of how the strategy will achieve Environmental Zone Category E2 levels or less, complying with guidance issued by the Institute of Lighting Engineers;
 - e) Details of when street lighting will be turned off at night; and
 - f) Specific designs for the lighting of pedestrian crossings over Holt Road, along Cemetery Lane and along the 'Pedestrian/Cycle route and Wildlife Corridor', as mentioned above; and
 - g) Ensure effective implementation of the lighting strategy through the design of the site layout.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- 9) Before any development, including off-site highway works, takes place, a 'Hedgerow Translocation and Semi-Mature Tree Planting Method Statement', including the use of live willow fencing during hedgerow establishment for a minimum of 2-years, Tree Pit details, 5-year hedgerow maintenance, the protection of retained mature tree T26 and the employment of an Ecological Clerk of Works to supervise the works, shall be submitted for the Holt Road highway improvement (road widening) for approval by the local planning authority. The approved method statement and all required remedial mitigation measures recommended by the ECoW shall be implemented in full.
- 10) Before any development takes place, and notwithstanding the submitted Bat Mitigation and Enhancements Plan drawing number eg15660.01B dated 2015, an amended Bat Mitigation and Enhancement Plan shall be submitted to the Local Planning Authority for approval. This shall include specific details of all required mitigation measures for bats associated with the development, including dark commuting corridors, a double tree-

line along the “dark commuting corridor for bats” shown in purple on the current plan (i.e. semi-mature trees planted on either side of the cycleway/footpath/road), semi-mature tree planting and habitat restoration, creation and enhancements. The approved plan shall be adhered to and used to inform the landscaping details for reserved matters.

- 11) No hedgerow or tree removal will be undertaken on the site until advanced planting works are completed in accordance the details to be approved by the local planning authority.
- 12) No development shall commence on site until the final scheme for the discharge of foul water from the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.
- 13) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
- 14) Any facilities above ground for the storage of oils, fuels or chemicals shall be sited on an impervious base and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge into the bund. The associated development shall not be first occupied until such facilities have been constructed and completed in strict accordance with plans approved by the Local Planning Authority.
- 15) No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:
 - Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.
 - Step (ii) If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed

site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

- 16) All fixed plant and machinery shall be so sited and designed in order to achieve a Rating Level of - 5dB below the lowest measured background noise level, determined at the nearest noise sensitive receptor. Measurements and assessment shall be carried out in accordance with BS4142:1997.
- 17) The working hours during the construction phase shall be limited to:
Monday - Friday: 0800 - 1800
Saturdays: 0830 - 1300
Sundays/Public Holidays: None
- 18) Vehicle deliveries during the construction phase shall be limited to:-
Monday - Friday: 0800 - 1800
Saturdays: 0900 - 1300
Sundays/Public Holidays: None
- 19) Notwithstanding the details submitted, no development shall commence on each phase of the site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. No part of development shall be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture that serve that part of the development have all been constructed and laid out in accordance with the approved details, unless an alternative programming arrangement is agreed in the approved details.
- 20) The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

- 21) The employment development hereby approved shall not be first brought into use until that part of the service road which provides access to it has been constructed, and all parking and manoeuvring spaces have been completed in accordance with any relevant reserved matters approved plans. The parking and manoeuvring spaces shall only be used for the purpose of parking and manoeuvring at all times.
- 22) No employment development shall commence on site until details of secure covered cycle parking and changing and shower facilities have been submitted to and approved in writing by the Local Planning Authority. The spaces, and changing and showering facilities, shall be made available for use prior to the first occupation of the development hereby permitted and shall be retained for use at all times thereafter.
- 23) No building shall be occupied on the respective parts of the site (employment/residential) until a Green Travel Plan for the respective part of the site has been submitted to and approved in writing by the Local Planning Authority. The Residential Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The Employment Travel Plan shall identify measures that are disincentives for employee travel as single car occupants. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results. The travel plans shall each have a minimum period of operation of 6 years from the date of first occupation of the respective land uses.
- 24) Before the development hereby permitted is commenced, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The Plan shall identify what routes are to be used by construction lorries and vans to serve the site, how the construction traffic will avoid adding to congestion in Bradford on Avon and Holt, what arrangements will be put in place to ensure exiting lorries and vans do not cause mud and other deleterious materials being deposited on the local roads.
- 25) No development shall take place until a scheme of energy efficiency measures and sustainable construction techniques for both the residential and commercial elements of the scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 26) No development shall commence on the residential development until a Residential Waste Minimisation and Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Residential Waste Minimisation and Waste Management Plan shall include details of the volume and type of waste to be generated; re-use of materials and proposals for on and off site recycling; storage of re-cycling and waste collection facilities; proposals for and implementation of waste reduction; and proposals for the review and updating of the Residential Waste Management Plan.
- 27) No development shall commence on the employment development until a Employment Waste Minimisation and Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Employment Waste Minimisation and Waste Management Plan shall

include details of the volume and type of waste to be generated; re-use of materials and proposals for on and off site recycling; storage of re-cycling and waste collection facilities; proposals for and implementation of waste reduction; and proposals for the review and updating of the Employment Waste Management Plan.

- 28) No development shall commence until a scheme of archaeological mitigation including details of an Archaeological Watching Brief have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	27 May 2020
Application Number	20/02387/OUT
Site Address	Land at Pound Farm, South View, Lyneham, Wiltshire
Proposal	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development of up to 50 dwellings and provision of land for D2 use; including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure
Applicant	Gleeson Strategic Land
Town/Parish Council	LYNEHAM AND BRADENSTOKE
Electoral Division	Lyneham - Councillor Allison Bucknell
Grid Ref	402116 179390
Type of application	Outline Planning
Case Officer	Nicole Gillett

Reason for the application being considered by Committee

Councillor Bucknell has requested the proposal be put before committee to examine;

- Evidence of need
- Community Engagement
- Sustainability
- Public Amenity/Design
- Access to the site / Road Safety

The application is before the Strategic Planning Committee as the number of dwellings proposed could make a meaningful contribution to help address the current shortfall in the Council's 5 year housing land supply.

1.0 PURPOSE OF REPORT

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

application be approved subject to conditions and completion of a S106 within 6 months of the date of the resolution; or in the event that the applicant declines to enter into the agreement to refuse for the reason identified below.

2.0 REPORT SUMMARY

ISSUES

The main issues for consideration are:-

- Principle of the Development
- Deliverability
- Heritage Assets
- Character and Appearance
- Impact on Neighbour Amenities
- Flooding and Drainage
- Transport and Access
- Ecology
- Rights of Way
- Archaeology
- S106 contributions
- Other Matters

115 Representations were received. A total of 5 from; Lyneham and Bradenstoke Neighbourhood Development Plan Steering Group, CPRE, James Grey MP, Councillor Bucknell and Wiltshire Swifts. 100 letters of objection and 10 support letters have been received. Lyneham and Bradenstoke Parish Council raised objection to the proposed development.

3.0 PROPOSAL

The application is for outline planning permission for a residential development of up to 50 dwellings (of which 40% would be affordable) and provision of land for D2 use (assembly and leisure); including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure.

The application is identical to 19/08298/OUT.

EIA

The proposal is for 50 dwellings covering 3.9 hectares. The proposal is not;

(i) development that includes more than 1 hectare of urban development which is not dwellinghouse development; or

(ii) development that includes more than 150 dwellings; or

(iii) development that exceeds 5 hectares. greater than 5 hectares or consist of 1 hectare on non dwelling housing development.

The proposal would not therefore fall within any of the criteria set out within Schedule 2, subsection 10(b) of The Town and Country Planning Environmental Impact Assessment Regulations 2017. As such, an Environmental Impact Assessment is judged not to be required in this case.

4. SITE CONTEXT

The application site is located to the north east of Lyneham and to the south of the A3102 (South View). The site is outside but adjacent to the defined settlement framework boundary of Lyneham and therefore is in the open countryside. The site comprises two medium sized fields which are bounded by mature hedgerows with existing housing along the western edge. The site is criss-crossed by a network of footpaths, a small stream and overhead electricity cables. There are no ecological or landscape designations on the site. To the north and east of the site is the Old Rectory, a Grade II Listed Building on the A3102. Cowleaze Copse woodland lies just beyond the eastern edge of the site and Bailey's Hill Woodland, a County Wildlife Site, is within 500m.

5. PLANNING HISTORY

15/11047/SCR	Screening Opinion Request Relating to Proposed Residential Development of 111 Dwellings	No EIA required
15/12487/OUT	Outline Planning Application for up to 111 Dwellings, Vehicular Access, Public Open Space, Natural Children's Play Area, Landscape Planting, Pumping Station, Surface Water Attenuation & Associated Infrastructure (All Matters Reserved Except Means of Access	Refused

	Only in Relation to a New Point of Access into the Site)	
16/05959/OUT	Outline planning application for residential development of up to 60 dwellings; including the creation of new vehicular access, public open space, natural children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (all matters reserved except means of access only in relation to a new point of access into the site) (Resubmission of 15/12487/OUT)	Refused
APP/Y3940/W/16/3162581	Outline planning application for residential development of up to 60 dwellings; including the creation of new vehicular access, public open space, natural children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (all matters reserved except means of access only in relation to a new point of access into the site) (Resubmission of 15/12487/OUT)	Appeal Dismissed
19/08298/OUT	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development of up to 50 dwellings and provision of land for D2 use; including the creation of new vehicular access, public open space, landscape planting, pumping station, surface water attenuation and associated infrastructure	Refused – applicants have lodged an appeal

6 PLANNING POLICIES

Wiltshire Core Strategy

- Core Policy 1: Settlement strategy
- Core Policy 2: Delivery strategy
- Core Policy 3: Infrastructure requirements
- Core Policy 19: Spatial Strategy: Cricklade and Royal Wootton Bassett Community Area
- Core Policy 43: Providing affordable homes
- Core Policy 45: Meeting Wiltshire's housing needs
- Core Policy 50: Biodiversity and geodiversity
- Core Policy 51: Landscape
- 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 63: Transport strategies
- Core Policy 67: Flood Risk

The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted 25 February 2020.

Wiltshire Council Waste Core Strategy 2009

WCS6 – Waste Reduction and Auditing

Saved policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006).

H4: Residential Development in the open countryside

NE14 Trees and the control of new development

NE18 Noise and Pollution

CF3 Provisions of Open Space

National Planning Policy Framework 2019

Paragraphs; 2, 8, 11, 12, 14, 38, 47, 73, 74, 76, 108, 109, 110, 127, 163, 165, 170, 175, 190, 192, 196 and 197.

Sections 66(1) and 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Supplementary Planning Guidance and Other Relevant Documentation

- Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – Minimum residential parking standards.
- Local Transport Plan 2011-2026 Cycling Strategy (March 2015) – Appendix 4
- Open Space provision in New Housing Developments – A Guide
- Wiltshire Council Waste Collection Guidance for New Development
- Wiltshire Housing Land Supply Statement April 2018 (published August 2019)
- Wiltshire CIL Charging Schedule May 2015
- Wiltshire Planning Obligations SPD May 2015

Emerging Policy

The Local Plan Review: Consultation on the Pre-Submission version is due in 2020. Due to the early stage in the process the Plan carries negligible weight.

As noted by the Spatial Planning Officer, the Lyneham Neighbourhood Plan: A consultation plan (Regulation 14) is due to be published shortly, but at such an early stage it would carry insignificant weight as it has not sufficiently progressed.

7. CONSULTATION RESPONSES

Wiltshire Council Spatial Planning Officer: Conclude that the proposal is not in accordance with the development plan. Confirm that the Lyneham NP is not sufficiently progressed. Considers that conflicts with planning policy are not as limited as the applicant asserts and the material considerations require careful consideration. The Council is not able to demonstrate a 5-year land supply and the tilted balance is triggered (planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits). It is for the decision maker to weigh in the balance the conflict with the policies of the development plan together with all other material considerations.

Wiltshire Council Drainage Officer: No objection and requested a surface water drainage condition.

Wiltshire Council Urban Design Officer: General comments on the illustrative layout and design concepts. Recommended conditions, if improved, to; consult with community on Reserved Matters,

for Reserved Matters to be in accordance with the principles of the masterplan or a statement showing how each Reserved Matters complies with the Design and Access statement.

Wiltshire Council School Development Officer (Education):

There is no requirement for Early years contribution.

There is no spare capacity currently available at Lyneham Primary. There are no other primaries within the 2 miles statutory safe walking distance from the development site. The council therefore require a developer contribution towards the provision of the 14 places that this development requires.

Using the current* cost multiplier of £18,758 per place: $14 \times £18,758 = £262,612$ subject to indexation.

There is no spare capacity available at RWB Academy. Forecasts indicate that this pressure will continue for the next few years and so necessitates the provision of additional places at the school. The council therefore require a full developer contribution towards the 10 secondary places that this development generates a need for.

Using the current* capital cost multiplier: $10 \text{ places} \times £22,940 = £229,400$, subject to indexation.

*(It is important to note that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

Wiltshire Council Tree Officer: No objection.

Wiltshire Council Ecology Officer: As no major changes have taken place either in the physical attributes of the site or changes in available information regarding notable habitats or species in the wider local area, the previous Ecological Officer's response is applicable to this submission. The previous officer advised they were satisfied that observations on the previous application (15/12487/OUT, see memo dated 25/01/16) remain valid consequently it is recommended the same set of conditions are attached to any permission granted (see full response online) and no objection is raised.

Wiltshire Council Conservation Officer: As the proposal shows the same area for development as 19/08298/OUT, comments therefore remain as stated for the previous application.

The Conservation Officer's 19/08298/OUT comments: Although the spread of development has reduced since the last 2016 scheme was submitted, the Conservation Officer still feels that there is harm caused to the views to and from the listed building by bringing a road across the water course and filling field 2 with houses.

The Conservation Officer noted the Inspectors previous conclusion that the harm was less than substantial and at the lower end.

Wiltshire Council Landscape Officer: No objection in light of previous revisions and appeal decision.

Wiltshire Council Highways Officer: No objection, recommended conditions. Their comments are discussed at length in the highways section of this report.

Wiltshire Council Archaeologist: Evaluation carried out in relation to a previous development proposal indicated the presence of archaeological remains in the northern part of this site. The Officer recommended an Archaeological condition required to secure the implementation of an archaeological excavation in the northern part of the proposed development site.

Wiltshire Council Affordable Housing Officer: No objection to the proposed number of affordable units. The Officer stated to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership. The Officer outlined the indicative mix but stated this could be discussed further. The Officer provided advice regarding National Space Standards and stated the affordable dwellings will be required to be transferred to a Registered Provider, approved by the Council, or to the Council on a nil subsidy basis.

Wiltshire Council Public Art Officer: Requirement for a public art contribution. It is considered that this is covered by CIL/on-site installations.

Wiltshire Council Open Space and Leisure Officers: The Officer used the dwelling mix provided in the design and access statement to calculate the POS requirements for the 50 dwellings proposed.

The Officer confirmed a total of 3,120m² POs including 270m² equipped play is required. No play areas are currently included in the current proposals and there is mention of creating access to the adjacent play area; in this case the Officer requested an off-site contribution to upgrade the adjacent play area of £39,420.00 in lieu of providing the play on site. The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

The 50 dwellings would also generate a requirement for 1391.5m² sports pitches which equates to an off-site contribution of £13,915.

The Wiltshire Playing Pitch Strategy (adopted Feb 2017) has Ballards Ash (Rugby Ground) at RWB as the nearest beneficiary, it is the nearest Rugby Club to Lyneham and therefore is relevant to the development for the £13,915 off-site contribution.

Wiltshire Council Environmental Health Officer: No major concerns, however any fixed plant associated with the D2 use shall have to be noise assessed, which could be undertaken at reserved matters stage when D2 use building details are known.

Furthermore, a Construction Environmental Management Plan would need to be conditioned if approved.

The Officer reviewed the submitted Air Quality Assessment and found it sufficient to overcome the need for an AQA condition. Further, the Officers advised they would require a scheme of ULEV infrastructure e.g. EV charging secured via condition.

Wiltshire Public Rights of Way: No objection.

Lyneham and Bradenstoke Parish Council:

Object on the following grounds;

- Development outside of settlement boundary
- Unsustainable location
- Lack of infrastructure requirements
- Conflict with plan should be given significant weight despite out of date
- No identified need
- Loss of green field land
- Consultation should be put on hold due to COVID-19

- Applicant is attempting to burnt out the system

8. REPRESENTATIONS

Lyneham and Bradenstoke Neighbourhood Development Plan (NDP)

Steering Group (SG) object on the below grounds:

- No evidence of need for 50 houses in Lyneham
- Does not conform with Core Strategy being more than 10 on green fields outside village boundary
- Applicant tactics of multiple applications
- All decisions should be suspended during COVID-19

Cllr Bucknell: The Councillor raises concerns which fall into the following categories;

- Evidence of need
- Community Engagement
- Sustainability
- Public Amenity/Design
- Access to the site / Road Safety

James Gray MP: “I write on behalf of a number of my constituents... I share my constituents concerns and agree with the points they have made. This application has previously been rejected three times and it does not seem appropriate that it should be considered again during the current climate.”

Wiltshire Swifts: Objected and recommended the application should use swift boxes.

Campaign for Rural England: Objected on the below grounds;

- Housing design
- Opportunistic repeat
- Sustainability

Letters: There have been 100 letters of objection with 10 in support. The clear main issues highlighted by objectors were the lack of need for houses, lack of infrastructure, character and appearance and the need to build on greenfield land, and highway safety concerns.

Many objectors stated their previous concerns raised under the 2019 application still stand. Objectors comment decisions should be postponed during the COVID-19 epidemic. However, the proposal has received the same number of objections as previous. Therefore, it is considered people were able to comment and were not disadvantaged.

Housing Demand

Many objections highlighted that Lyneham had no additional housing need. It was considered that this was against planning policy and delivery strategy of the Wiltshire Core Strategy and would mean the loss of green fields and agricultural land.

Many responses highlighted that other brownfield sites existed in the area, homes remained unsold in the area and noted that there was a large number of empty normal and MoD houses in the village.

Several responses noted there was no requirement for affordable homes in the area as these had been met or will be met by other developments.

Highway Safety

Concerns were raised over highway safety and the proposed access to the north of site. Many commentators raised issues around congestion and the impact of the development on the transport network.

Character of the Village

The area is noted as being valued for recreation and the loss of green fields and agricultural land will have negative affect on the character village. It is was noted that Lyneham is village and should kept this way. Comments noted the village would become a town.

Lack of infrastructure

Representations expressed a lack of all infrastructure facilities, individuals mentioned; lack of workplaces, school places, doctors, dentists, shops and facilities for daily life.

Other matters raised

- Future intentions of the developer
- The site will not help the elderly
- Contrary to development plan
- Circumvents the core strategy
- No benefit to Lyneham
- Sole motivation of land owner is profits
- Questions intentions of old parish council
- Questions intentions of supporters
- Houses should be in towns
- Purton road was dismissed therefore this scheme should be
- NHP is on hold due to COVID19
- Poor community engagement
- Flooding
- Suspect community building will become housing
- Out of date policies do not mean it should be approved
- Need new traffic surveys
- Harm to ecosystem
- Incorrect information in submission
- Houses should have solar panels
- Garages should be wide
- Anti-social behaviour
- As its outline no guarantee of what will be built
- Is had not been established Wiltshire has a shortfall in its 5-year housing supply
- Developer uses loop holes
- Homes should be sustainable
- No benefit to military families
- Effect on air quality
- Waste of council money processing multiple applications
- The landowner has made accessing right of way difficult

10 support letters were received raising the below themes;

- Affordable homes of benefit
- The development will provide bungalows
- Need for houses

9. ASSESSMENT

9.1 Principle of the Development

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

This proposal is similar to a scheme previously refused by the Council (16/05959/OUT) and dismissed at appeal (copy of decision attached as an appendix to this agenda) but reduced by 10 dwellings and includes D2 use building. While every case has to be assessed on its merits, there are very clear parallels with the previous proposal in terms of the principle of development. The application is identical to 19/08298/OUT, which was refused on the below grounds;

1. *The site lies outside of the limits of development defined for the village in the Wiltshire Core Strategy. It has not been brought forward either through a Site Allocations DPD or a neighbourhood plan and does not fall within any of the proposed exceptions identified in CP2. Consequently, the development would conflict with Policies CP1 & CP2 of the Wiltshire Core Strategy (2015), as well as the principles set out within National Planning Policy Framework that planning should be genuinely plan-led (paragraph 15) and with paragraph 12 that states that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.*

2. *The proposed development would provide an unsustainable level of housing in a rural area and would not be in line with the objectives of the Wiltshire Core Strategy to promote self-containment by delivering development at sustainable settlements. The proposal is therefore contrary to policies CP1, CP2 and CP19 of the Wiltshire Core Strategy (2015), saved Policy H4 of the North Wiltshire Local Plan 2011, as well as the principles set out within National Planning Policy Framework (paragraph 9) which confirms that the planning system should play an active role in guiding development to sustainable locations.*

3. *The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.*

Core Policy 1 of the WCS identifies the most sustainable locations for growth within Wiltshire on the basis of a settlement hierarchy, with the focus on the Principal Settlements and Market Towns. Core Policies 1 and 19 set out that Lyneham is a large village in the Cricklade and Royal Wootton Bassett (C&RWB) Community Area. Large Villages are defined as settlements with a limited range of employment, services and facilities that can accommodate new development that is needed to help meet the housing needs of the settlement and to improve employment opportunities, services and facilities. The policy wording states that new residential development will be limited to small housing sites which should generally involve fewer than 10 dwellings i.e. not a major application.

Core Policy 2, the delivery strategy, identifies a minimum housing requirement for Wiltshire of 42,000 dwellings with 24,740 to be provided in the NWHMA in the plan period. The policy notes this will be delivered in a sustainable way including to limit the need for development on greenfield sites and that sites for development in line with the area strategies will be identified in forthcoming DPDs and Neighbourhood Plans. The policy confirms that there is a presumption in favour of sustainable development within the limits of development at each of the settlements in the tiers. Outside the limits of development, it confirms that development will not be permitted other than by other policies in the plan. The limits of development are set by the settlement boundaries established by the recently adopted Housing Sites Allocation Plan. The limits of development continue to exclude the site from the settlement. Whilst the

Lyneham Neighbourhood Plan has not significantly progressed the draft plan does not allocate the site.

The 60-dwelling application (16/05959/OUT) was refused in October 2016. The decision was appealed and dismissed after a 5-day public inquiry in July 2017. In Summary, at paragraph 79 the inspector concluded at that time that the Council could demonstrate a 5-year housing land supply; the Community Area was meeting its requirement and the proposed development was not in accordance with the settlement strategy. In 2019 the 50-dwelling scheme (19/08298/OUT) was refused as at that time it was considered that the Council could demonstrate a 5-year housing land supply, and therefore nothing had materially changed since the earlier dismissed appeal to justify a different outcome.

This scheme of 50 dwellings is still outside the settlement boundary. Core Policy 19 sets the spatial strategy for the Royal Wotton Bassett and Cricklade Community Area (RWBCCA) which amongst other matters identifies 1,445 homes to be built in the area of which some 385 would be provided in the rest of the community area outside Royal Wotton Bassett. The site is not identified in the Sites Plan or Neighbourhood Plan and does not fall within one of the exception policies as listed at paragraph 4.25 of the WCS. Regarding the indicative housing requirement for the remainder of the RWB&C CA, the oversupply was 281 dwellings as of April 2018 (2018 HLSS Appendix 6). Since then, additional permissions have been granted, for instance at Purton (Land at Restrop Road, 38 dwellings¹).

The services and facilities in Lyneham have not significantly changed. Therefore, the village is as sustainable as it was considered to be when the Inspector reached his conclusions in 2017 and during the 2019 refusal. This development would still lead to an increased reliance on the use of the private car to access daily services. Consequently, this is in conflict with the Core Strategy which is seeking to achieve a sustainable pattern of development. Whilst paragraph 103 of the NPPF states that decision makers should take account of the fact that that sustainable transport solutions will vary between urban and rural areas, it still emphasised that significant growth should be focused on locations that can be made more sustainable (e.g. nearby settlements such as Royal Wootton Bassett or Chippenham). The proposal would be considered significant growth and therefore should still be focused in higher order settlements as envisaged by the NPPF and Local Plan Policy.

¹ 16/10513/FUL, approved 22nd May 2019

9.1.1 Material Considerations relevant to the principle of development

The Core Strategy was adopted in January 2015 and is now more than five years old. Both the Courts and Planning Practice Guidance make it clear that the policies of a development plan do not become out of date automatically after passage of 5 years. However, the NPPF makes it clear that housing land supply must now be assessed against Local Housing Need for the whole of Wiltshire, rather than the previous Housing Market Areas, as per para 73 of the NPPF. Councillor Bucknell and several representations express there is no evidence of need for houses in Lyneham. However, it should be noted Local Housing Need is now assessed county wide.

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply. The NPPF makes it clear that where this cannot be demonstrated, the policies which are most important for determining the application (which in this case would include CP1, CP2 and CP19 in relation to limits of development) cannot be considered up to date, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the position of the Planning Inspector who considered an appeal at Purton Road.

Following the Purton Road appeal decision, it has become apparent that at present, Wiltshire has 4.62 years of housing land supply. In these circumstances, NPPF Paragraph 11d advises that policies which are most important for determining the application should not be considered up to date. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It can be seen therefore that Core Policies 1, 2 & 19, saved Policy H4 are all policies which are most important for determining the application and under the provisions of the NPPF are to be considered out of date.

As noted above, it is acknowledged that recent planning approvals and commitments in the Cricklade and Royal Wootton Bassett Community Area mean that the indicative housing requirements for the Cricklade and Royal Wootton Bassett Community Area (up to 2026) have

been met. However, it is important to consider that for the purposes of paragraph 73 and the presumption in favour of sustainable development set out in the NPPF, housing supply is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. Whilst the fact that the indicative requirements have been met in this community area is a consideration, given the circumstances of this particular application, as outlined below and in the planning balance, it is not considered that this can be determinative in this instance.

Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that:

(i) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37).

(ii) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).

The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period of 1 April 2018 – 31 March 2023 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise.

Appeal and court decisions confirm that ultimately it will be up to the decision maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date'. Therefore, consideration of the weight which can be provided to the above policies is considered in the balancing exercise at the end of this report.

Deliverability

The NPPF requires sites to be included in the council's five-year supply to be deliverable.

The definition of deliverable is set out in NPPF glossary as follows:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”*

The applicant has provided a deliverability statement that outlines, if permitted, the applicant anticipates work on site commencing on March 2022 with first occupation in December 2022. The applicant states the site is likely to be completed by March 2024, and even with a year's slippage to March 2025 the document states the site will deliver within five years.

The applicant states they believe the site is viable based on their current understanding of the S106 contributions, conditions, and site constraints. The applicant confirms when the site is marketed, the full costs associated with the permission will be known and reflected in the land price ultimately agreed. Further, there are no abnormal infrastructure costs or large land requirements (resulting in constrained land) associated.

The applicant has agreed to shorter commencement conditions, which state reserved matters will be submitted within one year from the date of outline consent and work on site will commence one year from reserved matters approval. Consequently, there is further assurance the site can come forward within the five-year period. This is relevant and of material importance in accordance with the NPPF as it requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply. The document demonstrates the applicant's intention to deliver the site quickly, and this is a material consideration of substantial weight in the context of the current housing land supply position.

9.2 Heritage assets

The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66).

Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 195 and 196 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. Core Policy 57 of the Core Strategy for Wiltshire requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

The Old Rectory is a Grade II listed building located to the north east of the application site. The significance of the Old Rectory is derived from: its aesthetic value, in terms of the appearance and architectural quality of the building; its communal value, in terms of its use as a rectory and its association with the village; in evidential value, identifying the historic associations with the parish church and Lyneham; and its historical value, as an illustrative remnant of Lyneham. The development would not directly impact on the building itself or indeed on its curtilage.

In respect of this heritage asset the inspector in the previous appeal concluded at paragraphs;

100 *“accept that there would be some harm to the setting of the listed building by development in the intervening space between the village and the asset. This does not however directly affect the asset or its curtilage and affects only a small proportion of the wider setting of the building and has a limited effect on the contribution the setting has to the significance of the asset, in terms of its effect on the associative relationship and physical separation between the village and the asset. I conclude that the harm would in the context of the Framework to be less than substantial and that this would be at the lower end of that harm. I give this harm considerable importance and weight.”*

102 *“The proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 60 new homes, there would be landscape*

enhancements to the village edge which would improve the character and appearance of the area, and the proposal proposes additional open space above the requirements of the development plan. These are significant public benefits of the scheme to which I give significant weight and in my view they outweigh the less than substantial harm that would arise from the development.”

Since this appeal was determined, there has been a reduced scale of development. It is acknowledged that by creating a level of harm the proposed development would be contrary to Core Policy 58 of the Wiltshire Core Strategy.

In accordance with paragraph 196 of the NPPF where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, the proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 50 new homes, land for a community building and the proposal proposes additional open space above the requirements of the development plan. In these circumstances, and given the Inspector’s findings on the previous scheme, it is considered that these are significant public benefits of the scheme which outweigh the less than substantial harm that would arise from the development.

Whilst the proposal may therefore not be in strict accordance with CP 58, as there is harm, the material considerations identified and the approach advised in paragraphs 195 and 196 of the NPPF, suggest the proposal is acceptable in heritage terms.

9.3 Character and appearance

The appeal decision for 60 dwellings was not dismissed on landscape grounds. In summary, at paragraph 84 the Inspector judged;

84 *“On this basis I conclude that whilst there would be a loss of open land, the end result would be a more coherent better assimilated and much improved village edge with enhanced landscaping. In my view this would be a positive benefit of the scheme and improve the landscape character and appearance of the area.”*

88 *“I am satisfied that the scheme does address the identity of the village, its transition between man-made and natural landscapes, the locally distinctive character of Lyneham and the landscape features of value in the area.”*

89 *“On balance and for the reasons given above I conclude that the proposal would not result in material harm to the character and appearance of the area. The proposal would therefore not conflict with policy CP51 of the WCS which seeks to protect and conserve landscape character and appearance.”*

The application is submitted in outline with only the access into the site being a matter for consideration at this stage. There has been illustrative material provided which gives an indication of one way in which the site could be developed but which is not determinative.

The site has no landscape designation. The Council's Landscape Officer has re-confirmed the advice provided on the previous application. It was previously noted that the site is visually contained in the wider landscape and that the potential visual impacts are limited to adjacent residential properties and the site, with the impact on wider views limited. The proposal would essentially move the village edge. However, the current hard edge can be softened by the proposal.

Considering the points raised by the Inspector and as per the previous 2019 decision, the loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. There would be adverse visual effects, particularly for nearby residents. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. The proposal is not considered to conflict with CP51 as the effects of the scheme can be mitigated through appropriate landscaping, as indicated by the previous Inspector. Further, the management of the public open space could be controlled by a Landscape Management Plan with contributions via a S106 agreement.

Councillor Bucknell raises concern with public amenity and design of the proposal and requested a condition, should permission be granted, to ensure no building is greater than two storeys and 6 bungalows are provided. The applicant agrees to these conditions.

9.4 Impact on Neighbour Amenity

The Inspector and the 2019 report raised no concerns regarding neighbour amenity. The application is for outline planning permission and therefore, layouts are only indicative at this stage. However, in principle, it is considered that the site could feasibly accommodate 50 dwellings in a layout that would not give rise to amenity issues between the new dwellings (the illustrative layout would suggest this to be the case). Furthermore, the site can accommodate this level of development without the new houses affecting the amenity of existing housing on the south and west edge of the site.

9.5 Flooding and Drainage

The Inspector did not dismiss the appeal on flooding or drainage grounds. The site is within Flood Zone 1, the lowest flood risk area, although the area is identified as at risk to surface water flooding. The applicant has confirmed that infiltration on the site is not possible and proposes attenuation basins to achieve the uplifts in storm water drainage and site run-offs required by Core Policy 67. Foul water drainage will be connected to a public sewer but is likely to require a pumping station.

The management of Foul Water is undertaken by Wessex Water and they have raised no objection. Wessex Water require the developer to contact them to agree details prior to works, an informative has been added in this respect.

The Council's drainage officer offered no objection and recommended a surface water drainage condition. The final design will in a large part dictate storm drainage plans. Therefore, the final details of the scheme can be conditioned to use SUDs and provide the additional information requested.

9.6 Transport and Access

Access to the site and the development proposed therein is a detailed matter for determination at this stage. The proposal includes a single point of vehicular access to the north of the site from the A3102 and pedestrian and cycle links to the existing developed area of Lyneham to the west including a significant link via Webbs Court.

Cllr Bucknell raises concern with the appraisal of journeys showing 16% of journeys would be local – this means that 84% of journeys would be outside of the village. The appeal decision for 60 dwellings noted the scheme will result in the increased need to travel by private car to services. The Inspector noted in the conclusion;

133 *“in doing so to grant permission would undermine the development plan and the sustainable pattern of development that it seeks to achieve across the County and would lead to additional travel patterns to meet future residents’ everyday needs for access to services and facilities.”*

The Council’s Highway Officer did not object to the proposal in 2016 on transport sustainability and having reviewed the application submissions maintains this view considering that it is possible the sustainable transport services could support 50 dwellings. However, if a significantly greater number of dwellings were proposed there would be considerable concern regarding transport sustainability. Despite the appeal conclusions the Council’s Highway Officer maintains no objection to this 50-dwelling scheme on transport sustainability grounds.

In terms of vehicular access the Highways team are satisfied that the priority junction is a suitable means of providing access to the development. The Inspector raised no adverse comments with regards to highway safety matters. A number of objectors have stated that traffic generation will be an ongoing issue and have highlighted safety issues on this stretch of road. The Highways team are satisfied that the traffic impact on the highway network is acceptable. The Highways team are also satisfied the access can operate satisfactorily to cater for the proposed level of development subject to the required visibility splays being achieved, and the position of the speed limit being adjusted eastwards so that the access is more within the 30 limit. The Highways Officer has recommended several conditions, which have been added to the recommendation.

Specific concerns have been raised by the representations and Councillor Bucknell regarding the traffic count on the A3102, pedestrian safety crossing the junction and formalised walking/cycling routes. The Highways Officer was asked to directly review these matters. The Highways Officer advised;

“The 2015 traffic data within the TA was growthed to 2019 to obtain baseline traffic figures, using a recognised methodology using TEMPro growth factors, these would give an indication of the traffic levels on the road and allow for further growth rates to be applied in order to anticipate traffic levels for future years to test, in this case 2022 and 2024. Therefore it is considered this is a robust assessment especially when the traffic figures have been interrogated by comparison with another 2019 traffic count observed from application 17/03292/OUT. The 2019 growthed figures have been shown to be not dissimilar to those observed and therefore will suffice in the assessment of the proposed development.

The access has been considered thoroughly in order to mitigate against any highway safety issues and through good design practices with regard to safety audits, the visibility splays shown are commensurate with the speeds on the roads and clearance of these splays will provide improved forward visibility on the main road for vehicles travelling in either direction. The relocation of the speed limit change will further improve the amenity in this location as it will reduce speeds on the main road and help to improve highway safety.

The indication of crossing points with dropped kerbs/tactile paving at the access and further off-site pedestrian improvements are noted within the drawings in the TA, these should be discussed further in order to achieve acceptable improvements at full application stage and I would request that the PROW team are consulted regarding LYNE4 and LYNE5, also LYNE57 and LYNE58, and any other affected PROW on or off-site. The site has an emergency access to the south onto Webbs Close which has also been indicated as a pedestrian and cycle link for the development, given that there are numerous opportunities to link through to PROW's and other access points there would be no concern over the footfall anticipated for the existing footways in this area and the levels of traffic experienced within this cul-de-sac would not highlight a concern for pedestrian or cyclist safety."

Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if the cumulative impact on highway capacity would be severe or highway safety is adversely affected. The Highways Officer has not raised an objection on highway safety grounds nor did the Inspector whom considered the previous appeal. Given these expert opinions, it is not considered a highway safety refusal would be warranted on this basis.

9.7 Public Rights of Way

The appeal decision for 60 dwellings was not dismissed on PROW grounds. In summary, at paragraph 88 the Inspector commented;

Paragraph 88 "there is a negative effect on Lyne 4 and a lesser but still negative effect on Lyne 5 however these can be mitigated, particularly in respect of Lyne 5 by appropriate landscaping which could be the subject of an appropriate condition."

There are a number of public rights of way (PROW) that pass through the site, in particular Lyne 4 and Lyne 5. The development of the site would affect Lyne 4, which runs west east from Pound Close across field 2 to meet with Lyne 1 and head south towards Lancaster

Square. The illustrative layout has the alignment retained but adjacent to residential plots and along footpaths in the estate. This would change the character of the experience for footpath users who would not get into the countryside as quickly. In terms of Lyne 5, which runs west to south east through the site, this is proposed along a strip of landscaping. The effects on the experience of this PROW are less than Lyne 4.

The PROW Officer did not object to the current proposals. Policy CP51 and CP57 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. As previously found in the 2019 report, the proposal is still not considered to conflict with CP51 as the effects on PROW Lyne 4 and 5 can be mitigated through appropriate landscaping.

9.8 Ecology

The Inspector and the 2019 report raised no adverse comments with regards to ecological matters. The Council's Ecologist advised as since no major changes have taken place either in the physical attributes of the site or changes in available information regarding notable habitats or species in the wider local area, the previous Ecological Officer's response is applicable to this submission. In 2016, the previous officer advised they were satisfied that observations on the previous application (15/12487/OUT, see memo dated 25/01/16) remain valid consequently it is recommended the same set of conditions are attached and no objection is raised.

9.9 Archaeology

The Inspector and 2019 report raised no adverse comments with regards to Archaeological matters. Evaluation carried out in relation to a previous development proposal indicated the presence of archaeological remains in the northern part of this site. The Council's Archaeologist recommends an archaeological condition required to secure the implementation of an archaeological excavation in the northern part of the proposed development site. As the appealed scheme was to deal with archaeology by way of a planning condition the same approach can be applied here.

9.10. S106 contributions

Wiltshire Council has a Planning Obligations Supplementary Planning Document. This should be read in conjunction with the WCS (primarily Core Policy 3) and the Wiltshire CIL charging schedule. This SPD identifies the planning obligations that will be sought by the Council for development that generates a need for new infrastructure and should be a material consideration in planning applications.

In addition to this, Wiltshire Council has adopted CIL. This would be calculated at Reserved Matters stage.

The Council is also mindful of the tests for s106 legal agreements that are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Any requests that do not meet the above tests will not be actively sought by the Council.

9.10.1 Recreation Provision

3,120m² Public Open Space including 270m² equipped play is required. No play areas are currently included in the current proposals and there is mention of creating access to the adjacent play area; in this case the Open Space Officer requested an off-site contribution to upgrade the adjacent play area of £39,420.00 in lieu of providing the play on site. The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

The 50 dwellings would also generate a requirement for 1391.5m² sports pitches which equates to an off-site contribution of £13,915.

The applicant has agreed to the contribution and this will be secured by way of S106.

Early Years / Education Provision

There is no requirement for Early years.

There is no spare capacity currently available at Lyneham Primary. There are no other primaries within the 2 miles statutory safe walking distance from the development site. The council therefore require a developer contribution towards the provision of the 14 places that this development requires.

Using the current* cost multiplier of £18,758 per place: $14 \times £18,758 = £262,612$ subject to indexation.

There is no spare capacity available at RWB Academy. Forecasts indicate that this pressure will continue for the next few years and so necessitates the provision of additional places at the school. The council therefore require a full developer contribution towards the 10 secondary places that this development generates a need for.

Using the current* capital cost multiplier: $10 \text{ places} \times £22,940 = £229,400$, subject to indexation.

*(It is important to note that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

The applicant has agreed to the contribution and this will be secured by way of S106.

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 40% on-site affordable housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within the 40% Affordable Housing Zone, which the site is within. There is therefore a requirement to provide 20 affordable units within a scheme of 50 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing in the Royal Wootton Bassett & Cricklade Community Area.

The Affordable Housing Officer advised to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership

The application proposes the minimum 40% affordable housing with the mix indicative and subject to negotiation. The mechanism for delivery of affordable housing is set out in Core Policy 43 where it states that it will be subject to an appropriate legal agreement. Such a legal agreement is considered to meet the CIL tests.

The applicant has agreed to the affordable housing levels and this will be secured by way of S106.

Waste and Recycling

The submitted Waste and Recycling audit by Terence O'Rourke 2019 states the collection of recycling will be undertaken by the local authority. The Waste and Recycling Management Team require the cost of the provision of waste and recycling containers for each residential unit to be absorbed by the applicant / developer. The current cost is £91 per dwelling which is indexed linked. The total sum for 50 dwellings would be therefore £4,550. Core Policy 3 listed waste management services such as recycling and collection facilities as priority theme 1 infrastructure and the cost to the Council is a direct impact of the development. It is therefore a reasonable request to make that the developer bears these costs. The Council contends that this request meets the tests set out under 122 and 123 of the CIL regulations.

The applicant has agreed to the contribution and this will be secured by way of S106.

Other matters

Concern has been raised regarding the D2 use building. The developer does not propose to construct the building but to provide the land for free. No end user has been identified, but the permission provides the opportunity for a D2 use to come forward on the site.

10. The Planning Balance and Conclusion

As stated above, in the determination of planning applications the first issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS). If it does not do so then the issue arises as to whether material considerations, including relevant policies in the NPPF, mean that the development can be regarded as sustainable and that permission should be granted otherwise than in accordance with the plan. Ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies which are most

important for determining the application that are 'out of date' and attract reduced weight, and the NPPF guidance intended to boost housing land supply where the development can be judged sustainable.

Importantly, paragraphs 11d of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and the weight given to such policies is not dictated by the NPPF and, as noted above, will vary according to circumstances on a case by case basis. It is also important to consider the extent to which the land available for housing in Wiltshire falls short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. In this regard and since the refusal of the last application the Council has continued to promote development in the North & West Wiltshire Housing Market Area at sustainable locations. Nevertheless in 2019, when the decision on 19/08298/OUT was made, the Council could demonstrate a 5-year housing land supply in the North & West Wiltshire Housing Market Area, the Community Area was meeting its requirement and the proposed development was not in accordance with the spatial strategy, therefore during the balancing exercise carried out at that time it was deemed 19/08298/OUT should be refused.

The Council is now faced with an identical scheme for 50 dwellings, with the addition of a D2 use. Since the refusal was decided the Council's housing land supply position has changed. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council must now look at the proposal for 50 dwellings and D2 use in light of the changes to the housing land supply to see whether or not permission should now be granted. Therefore, of key consideration are the benefits and harms associated to the development and the level of weight which may be attributed to them in the planning balance.

Benefits

Noted by the inspector at previous appeal;

- 20 affordable housing units (significant weight by inspector)
- 60 new dwellings (significant weight by inspector)
- Improved village edge (moderate weight by inspector)

- Additional open space and landscaping (moderate weight by inspector)
- Construction activity (limited positive weight by inspector)
- Increase in Council tax receipts (limited positive weight by inspector)

Additional benefits noted by the applicant;

- Community building
- Net biodiversity gain
- Increased local population economic benefit
- Reduced traffic on A3102
- Deliverability

The Council considers the benefits as follows;

Provision of Affordable Housing

Additional affordable homes in Wiltshire is afforded substantial weight.

Provision of open Market Housing

Given the current 5-year land supply position in Wiltshire it is considered that the provision of 50 dwellings is afforded substantial weight.

Improved village edge

This was found by the inspector as a benefit. Whilst it is a benefit it would in effect be mitigating the scheme as the village edge could be improved by residents on the southern section changing their boundary treatments and it is given moderate weight.

Additional open space

The field is already used by residents using the PROW as open space to walk dogs and enjoy the countryside. There is a requirement to provide public open space on major housing developments and this would be secured via a s106 agreement. It is not therefore a benefit of the scheme but rather mitigation against the impacts of the development i.e. to provide recreation space for the occupants of the development. It is given limited positive weight, as it is effectively mitigation.

Creation of construction jobs

In the context of housing construction 50 dwellings is a small development and therefore, will not generate substantial amounts of construction jobs over a long period of time. There will be a short-term gain. Limited positive weight is given to this point.

Council tax

As per the Inspector, limited positive weight is given to this.

Deliverability

Given the modest shortfall in housing land supply, the deliverability statement highlighting likely occupation in December 2022 and conditions on the permission stating reserved matters to be submitted within one year and commencement one year from reserved matters approval. The ability of the site to contribute to the modest shortfall relatively quickly is given substantial weight.

Community Building

Gleeson is only proposing to make the land available for community use, with the community body paying for the building to be built and paying for its ongoing maintenance. At the time of writing there is no identified end user or specific requirement for a community use building in this location. Limited weight is given to this benefit.

Net biodiversity gain

The outline application does not contain the specific details of how biodiversity is increased on the site and is required by CP50 and the NPPF. Therefore, this is given limited weight.

Increased local population economic benefit

To a large degree this depends on the buying preferences of the future residents. Given Lyneham is a village many residents will rely on other areas for shopping and entertainment. Moderate weight is given to this point.

Reduced traffic speeds on A3102

Whilst reducing speeds to 30 miles per hour is a benefit this could be undertaken by the Local Authority reviewing the highway and adjusting the speed. The need to reduce the speed is due to the junction the proposal creates, consequently speed reduction is mitigation and not afforded anything more than limited weight.

The site is acceptable in terms of flooding, highway safety, ecology and no other site constraints are identified that make this site unsuitable for development. As examined above,

it is considered there are no site-specific harms arising from the proposal other than the loss of a greenfield site in agricultural use that would result in some harm to the character and appearance of the area. However, as noted by the inspector, landscaping will ensure a softer treatment to the village edge. It is noted the scheme causes less than substantial harm to a heritage asset, however it is deemed the benefits of the proposal outweighed the less than substantial harm.

Harm

The main harm identified is conflict with Core Policies 1, 2, & 19 of the WCS – in essence, the spatial policies of the development plan that seek to provide housing in settlements with the facilities to support increased provision. Lyneham is identified as a 'large village' and as such would not normally be expected to receive developments of more than ten houses.

However, it is instructive to examine the appeal decision determined 18 months ago at Alderbury, South Wiltshire (17/04001/OUT – copy attached as an appendix to this agenda). Alderbury too is designated a large village in the settlement hierarchy of the WCS and that proposal was also for up to 50 dwellings outside of the limits of development. As with this appeal, the Council could not demonstrate a five-year land supply for housing. The Inspector noted that Alderbury had a good level of services for a large village and found that there was no evidence that the proposal would harm any local services and facilities, nor at this scale, would it in his view undermine the spatial strategy or amount to unsustainable development. He could find no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal, that included helping to erode the deficit in housing land supply and increasing the supply of affordable housing. Accordingly, he allowed the appeal and granted planning permission. Whilst each application should be considered on its own merits, it is noticeable that Lyneham too has a good level of services, with two small stores (Tesco/Co-op), a primary school, community halls and other facilities and that there is no evidence here that the proposal would harm local services or facilities.

Given the conflict with the policies of the development plan, the key test is whether the adverse impacts of granting permission significantly and demonstrably outweigh the benefits. The latest housing land supply position shows a modest shortfall that will in part be met by this development. Although there is some harm identified to the heritage asset these harms are considered to be clearly and demonstrably outweighed by the benefits of development. Urbanising the green field with the associated landscaping was noted as an improvement on the village edge by the Inspector. There are no other site-specific harms. Conditions placed upon this permission and Section 106 contributions ensure the scheme is fully mitigated to ensure infrastructure is in place to support the development.

On balance, it is considered that the very limited adverse impacts identified do not significantly and demonstrably outweigh the benefits that the development would provide. Accordingly, it is recommended that planning permission be granted, subject to the prior completion of a section 106 legal agreement

RECOMMENDATION:

It is recommended that authority be delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and completion of a S106 legal agreement covering the areas outlined below in the Heads of Terms, within six months of the date of the resolution of this Committee.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to **REFUSE** planning permission for the following reason: -

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

Heads of Terms for Section 106 legal agreement to secure the following:

- 40% affordable housing - 60% of the units (12 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.
- Primary school contributions (£262,612)
- Secondary school contributions (£229,400)

Regarding education payments *(Please note however, that the cost multiplier quoted applies for 2018/19 and is due to be updated shortly for the 2019/20 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

- Off-site sports pitch contribution (£13,915) The Wiltshire Playing Pitch Strategy (adopted Feb 2017) has Ballards Ash (Rugby Ground) at RWB as the nearest

beneficiary, it is the nearest Rugby Club to Lyneham and therefore is relevant to the development. The project would be for general pitch and changing upgrading.

- Open space - 3,120m² POs including 270m² equipped play required (or off-site contribution of £39,420.00 in lieu of providing play on site). If POS provided on site The POS would need to be secured and managed in perpetuity, Wiltshire Council would not adopt the on-site POS.

Open space management

- Waste and recycling contribution £4,550.
- £6,000 towards a TRO to move the speed limit.

1 OUTLINE PLANNING PERMISSION COMMENCEMENT

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

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

2 APPROVAL OF CERTAIN RESERVED MATTERS

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

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

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

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

3 RESERVED MATTERS TO BE SUBMITTED

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

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

4 APPROVED PLANS

The development hereby permitted shall be carried out in accordance with the following approved plans and documents unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

Site Location Plan 1275.01

Site Survey Plan 1275.02

Design and Access Statement and principles in the Illustrative Site Layout 1275.03

Heritage Desk Based Assessment CR0097_01

Transport Assessment TW/IN/BB/ITB10092-010A R

Travel Plan TW/IN/BB/ITB10092-011A R

Sustainability and Energy Statement by Daedalus

Landscape and Visual Appraisal by Enderby associates

Arboricultural Impact Assessment and Method Statement
PoundFarm_AIA_AMS_062019

Flood Risk Assessment TRS/GLE/E4389/15900

Ecology Appraisal 5633 EcoAp dv5/JoC/HG

All received 13th March 2020

Air Quality Impact Assessment 01.0048.005/AQ v1 received 26th March 2020

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

5 RESTRICTION ON DEVELOPMENT

Notwithstanding the details set out in the description of development, the development hereby approved shall comprise no more than 50 dwellings and a D2 use building.

REASON: The maximum number of dwellings is required to be stated in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

6 UNIT HEIGHT

Notwithstanding the details set out in the description of development, the dwellings and D2 use building shall be no greater than two storeys in height.

REASON: Restricting height is required in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

7 BUNGALOWS

The first reserved matters application shall contain a minimum of six no. two or three-bedroom bungalows.

REASON: To define the scope of the development based on the design and access statement.

8 SITE LEVELS

No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads and footpaths), in relation to existing ground 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 details.

REASON: To ensure the finished levels are acceptable in the interests of visual amenity.

9 LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN (LEMP)

The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) in accordance with the measures outlined in the Ecological Assessment shall be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:

a) Description and evaluation of features to be managed;

b) Landscape and ecological trends and constraints on site that might influence management;

c) Aims and objectives of management, including long term objectives to ensure management in perpetuity on land outlined in red on the Site Location Plan 1275.01

- d) Appropriate management options for achieving aims and objectives as set out in points a)-c) above ;
- e) Prescriptions for management actions for the site outlined in red on the Site Location Plan 1275.01
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures which shall include measurable targets;
- i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery.

The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. A report shall be submitted to the local planning authority annually detailing the works undertaken and performance against the targets set .

The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed in writing 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 and priority species.

10 ECOLOGY CEMP

No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity and tree protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialists ecologists need to be present on site to oversee works

- f) Responsible persons and lines of communication
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority every three months from the start of the development until the completion of the final planting.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

11 ARCHAEOLOGY

Prior to the submission of the first reserved matters application a written programme of archaeological investigation including a timeframe for on site work and off site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority. The programme shall be carried out in accordance with the approved timeframe.

REASON: To enable the investigation of the presence of heritage assets at the site, incorporation of any mitigation measures and recording of any matters of archaeological interest.

12 LANDSCAPING IMPLEMENTATION

All soft landscaping comprised in the approved details of landscaping, as required by the reserved matters applications and details required by conditions within this decision notice shall be carried out in the first planting and seeding season within or following the completion of each phase, 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.

13 CONSTRUCTION METHOD STATEMENT

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

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

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

REASON: 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.

14 ACCESS

Prior to first occupation of any dwelling hereby permitted the access 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 90 metres to the east, and 59 metres to the west.

REASON: In the interests of highway safety.

15 A3201 UPGRADE

Prior to first occupation the street lighting of the A3102 shall have been upgraded to BS5489-1;2013 BS EN123202-2 2003 for a distance of 60 metres to either side of the access position, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of safe and convenient operation of the site access during the hours of darkness.

16 TRAVEL PLAN

No part of the development shall be occupied prior to the implementation of the Framework Travel Plan, (or implementation of those parts capable of being implemented prior to occupation). Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein.

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

17 LYNE4

Prior to occupation of the 20th dwelling footpath LYNE4 shall be planed off, resurfaced and street lit between the development and The Green, including new dropped kerbs where it crosses Pound Close, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

18 DROPPED KERBS

Prior to first occupation new sets of dropped kerbs shall be provided at the end of Farthing Lane and at 2 locations on Pound Close in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

19 LYNE57

Prior to occupation of the 20th dwelling footpath LYNE57 shall have been planed off and resurfaced between the point where it joins LYNE4, to the point where it connects

with the proposed pedestrian link to Pound Close near 71 Pound Close, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility to and from the development.

20 ACCESS LINK

Prior to occupation of the 30th dwelling a 3.5 metre wide bollarded, emergency, pedestrian and cycle access link shall have been provided between the development and Webbs Court in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving emergency, pedestrian and cycle accessibility to and from the development.

21 ULTRA LOW ENERGY VEHICLE INFRASTRUCTURE

No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved by the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.

REASON: Core Policy 55; Development proposals, which by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality , will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

22 CONTAMINATED LAND

No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination (including asbestos) on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;

- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwater and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the

23 SURFACE WATER DISCHARGE

No development shall commence on site until a scheme for the discharge of surface water from the site /phase, including SuDS (sustainable drainage systems) and all third party approvals (as necessary), has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority and the sewerage undertaker . Scheme details shall include any required off-site capacity improvements needed to allow the site/phase to be served, and to include a programme allowing sufficient time for the delivery of any required improvements.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy (adopted January 2015) and to ensure that the development can be adequately drained without increasing flood risk to others.

24 ECOLOGLY & LIGHTING

Reserved matters applications shall be in accordance with the mitigation measures set out in Ecological Assessment (Aspect Ecology, 2019), each reserved matter application shall be accompanied by a 'Lighting Design Strategy for Biodiversity'. The strategy will cover both construction and operation phase and shall:

1. Identify those features/ routes that are important to light sensitive/ nocturnal species such as bats, badgers and hedgehog and to be retained within dark corridors.
2. Show full details of proposed construction and operational lighting, including lux plots to show there is no lighting impact to the features/ routes identified. Lux plots should be presented on a scaled site drawing and the light levels must be shown at ground level and at 2m above the ground (horseshoe bats fly typically within this range). The light levels should also be shown as "from new", not as normally calculated levels after some months or years of use.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other lighting be installed without prior consent from the local planning authority.

REASON: As required by Core Policy 50 to ensure the long-term functioning of wildlife corridors and Core Policy 52 the retention and green infrastructure.

25 ARBORICULTURAL METHOD STATEMENT

No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:

" A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;

" A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;

" A schedule of tree works conforming to British Standard 3998: 2010;

" Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;

" Plans and particulars showing the siting of the service and piping infrastructure;

" A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including

details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;

" Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of

the findings of the supervisory visits; and

" Details of all other activities, which have implications for trees on or adjacent to the site.

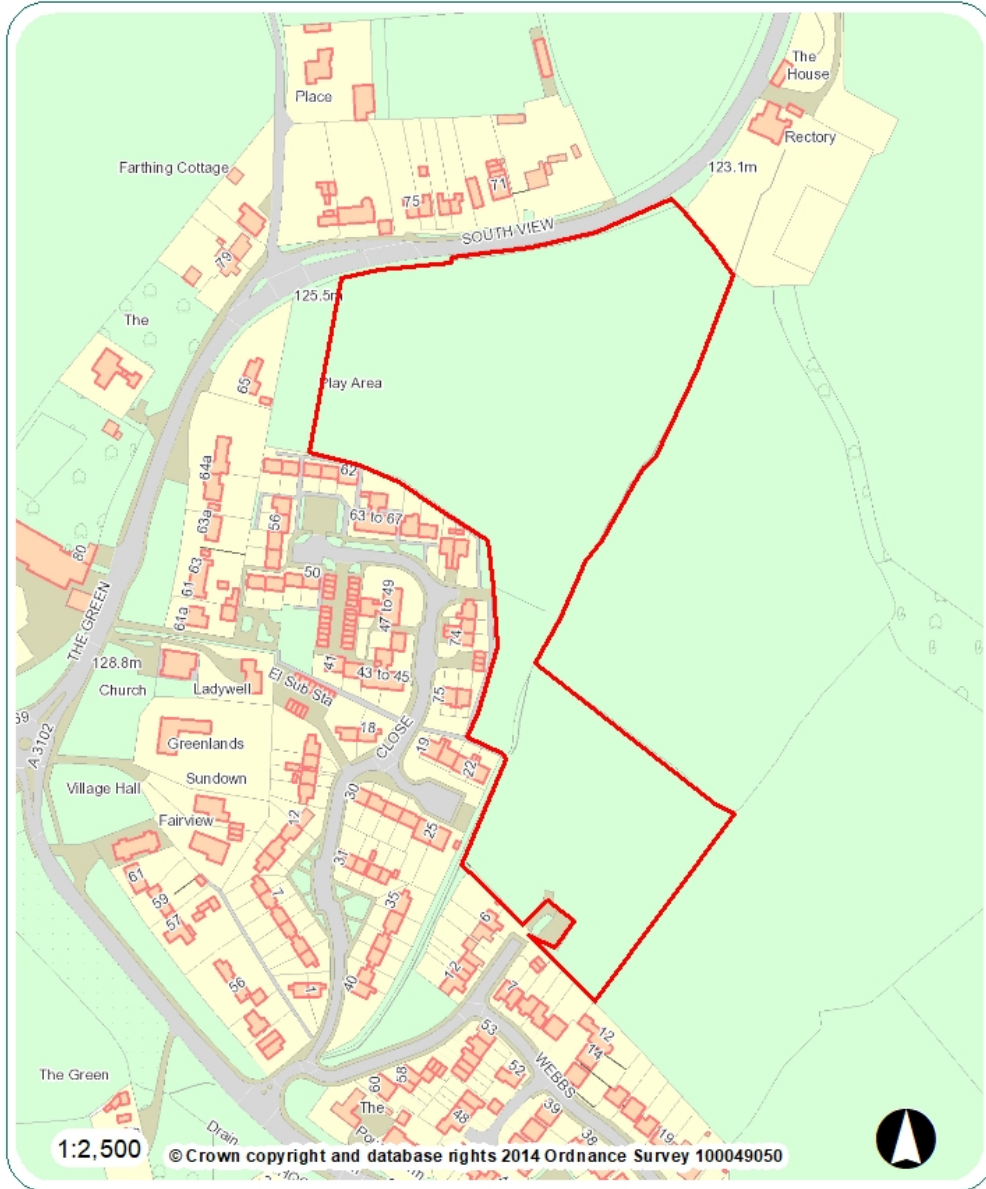
" Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved

remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

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 order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

26 INFORMATIVE: You are advised to contact Wessex Water directly regarding sewers adoption.

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Appeal Decision

Inquiry Held on 13, 14 and 15 November 2018

Site visit made on 12 November 2018

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2019

Appeal Ref: APP/Y3940/W/18/320041

Land off Firs Road, Alderbury, Salisbury, 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 Longford Estates against the decision of Wiltshire Council (LPA).
 - The application Ref. 17/04001/OUT, dated 24 April 2017, was refused by notice dated 14 December 2017.
 - The development proposed is residential development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building and land to extend existing primary school playing fields.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building and land to extend existing primary school playing fields on Land off Firs Road, Alderbury, Salisbury, Wiltshire. The permission is granted in accordance with the terms of the application ref. 17/04001/OUT, dated 24 April 2017 and subject to the conditions in the attached Schedule.

Preliminary Matters

2. Other than the means of access, all other matters of detail have been reserved for subsequent consideration. I have treated the masterplan and the proposed land use plan as illustrative only.
3. Prior to the LPA's determination of the application the description of the development was modified (as set out above) to specify the location of the proposed access. As contained within the Statement of Common Ground (SoCG), dated 1 October 2018, that has been agreed by the appellant and the LPA, the proposal includes the change of use of land to school playing fields.
4. In determining this appeal I have also taken into account the contents of the separate SoCG, dated 9 November 2018, relating to housing land supply (HLS), as well as a further SoCG in respect of education contributions.
5. In submitting the appeal the appellant failed to serve the requisite notice on one of the parties with a legal interest in the land. The appellant wrote to that party in September 2018 notifying it of the appeal. That party subsequently made representations supporting the principle of the proposed development. This was made available to both main parties in advance of the Inquiry opening. I consider that the interests of no party has been prejudiced by this

- late notification/representation and I have taken it into account together with all other representations, including those made to the LPA at application stage.
6. A completed agreement, under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended), has been submitted. This includes: provision for at least 22% of the proposed residential units to be affordable dwellings; arrangements for transferring ownership of the playing field extension land; the provision of open space/play area (including arrangements for its upkeep and maintenance) and; a financial contribution towards the cost of waste and recycling. I shall return to this agreement below.
 7. The proposed new pre-school building would occupy a very small part of the existing primary school playing field. Sport England (SE) was not consulted on the planning application but was notified of the appeal shortly before the Inquiry opened. SE's response on the application/appeal was received on 29 November 2018. The appellant and the LPA have commented on SE's response. I closed the Inquiry in writing on 6 December 2018.

Main Issue

8. The main issue is whether the LPA is able to demonstrate a five year supply of housing land and if not, whether any adverse impacts of granting planning permission, having particular regard to any conflict with the spatial strategy of the development plan and any harmful impact upon local services and facilities, would significantly and demonstrably outweigh the benefits of the proposal.

Reasons

Planning Policy

9. The development plan includes the Wiltshire Core Strategy (CS), adopted in 2015, and the 'saved' policies of the Salisbury District Local Plan, adopted in 2003. The most relevant development plan policies to the determination of this appeal are CS policies 1 (settlement strategy), 2 (delivery strategy) and 23 (spatial strategy Southern Wiltshire Community Area [SWCA]).
10. I note from the introduction to the CS that this development plan document, amongst other things, aims to set out a flexible and realistic framework, contribute to the achievement of sustainable development and manage future development to ensure that communities have an appropriate balance of jobs, services, facilities and homes.
11. The appeal site lies within the SWCA. Amongst other things, the CS identifies: a minimum housing requirement of 10,420 dwellings in this part of Wiltshire and; Alderbury as a Large Village with a settlement boundary. The site lies outside but is adjacent to the adopted village settlement boundary.
12. The settlement boundaries were drawn many years ago to cater for the housing needs of the former Wiltshire Structure Plan and formed part of the Salisbury District Local Plan. The mere age of these boundaries do not render them out-of-date and they remain part of the development plan. However, as set out within part of the LPA's evidence base¹ for the CS, the settlement boundaries "*are out of date and do not reflect the current urban form*" and "*will need to be reviewed later to ensure that they are fit for purpose.*"

¹ Page 45 of Topic Paper 3: Settlement Strategy (2012).

13. As I saw during my site visit, the adopted settlement boundary for Alderbury excludes numerous areas where development has taken place since this boundary was identified. It was drawn to take account of a very different housing requirement to the CS and no longer reflects the evolved urban form of the village. In 2016 it was found², in respect of land adjacent to part of the southern edge of the appeal site (Wagtails), that there was "*limited evidence to demonstrate that the boundary in this locality is reflective of the current urban form or that it reflects current local and national policy.*" The LPA has not identified any new evidence that would justify reaching a different conclusion.
14. The divisional Member and the Parish Council's representative both informed me that they consider the adopted settlement boundary for Alderbury to be out-of-date. I also note that this boundary was, in effect, set aside by the decision of the LPA to grant planning permission in 2017 for 28 dwellings and a health centre on land at Matrons College Farm (ref. 13/02543/OUT)³.
15. I note the findings made by Inspectors on some other sites⁴ in Wiltshire where the respective settlement boundaries were deemed not to be a constraint to development. However, the above noted admission by the LPA during the CS examination and the subsequent decisions at Matrons College Farm and Wagtails, as well as the current urban form of the village, significantly undermine the LPA's argument that the adopted settlement boundary for Alderbury is not out-of-date.
16. I concur with the appellant, the local Member and the Parish Council's representative that the Alderbury settlement boundary is now out-of-date. Both main parties informed me that such a finding would engage the tilted balance, as set out within paragraph 11 (d) (ii) of the National Planning Policy Framework (the Framework⁵).
17. My attention has been drawn to the Consultation Draft Wiltshire Housing Site Allocations Plan (SAP) that was published in 2017 and the emerging Wiltshire Local Plan Review (eLP). Amongst other things, the SAP includes a revised settlement boundary for Alderbury⁶. This Plan is at an early stage of the plan-making process and carries limited weight. As the eLP is at an earlier stage of preparation, I agree with both main parties that it carries very limited weight. Neither the SAP nor the eLP are determinative to the outcome of this appeal.

Benefits

18. The proposed market housing would increase the choice, mix and supply of residential accommodation within this part of Wiltshire. At the Inquiry, the Council informed me that there was a substantial unmet need for affordable housing. I also note from its records that eight households in affordable need have registered Alderbury as their first preference choice. The proposed market and affordable housing is a benefit that can be given substantial weight in the overall planning balance.

² APP/Y3940/W/16/3157162.

³ At the Inquiry I was informed that it was no longer possible to provide the health centre and instead a financial contribution of about £200,000 towards the cost of the village hall had been offered.

⁴ APP/Y3940/W/16/3162997 and APP/Y3940/W/16/3162581.

⁵ The Framework is an important material consideration that carries substantial weight.

⁶ This identifies many changes to more accurately reflect the urban form of the village. It includes a small part of the appeal site within the settlement boundary but does not entail any changes around Wagtails or Matrons College Farm.

19. Occupiers of the proposed dwellings would help support and sustain local services and facilities, including potentially increasing the number of pupils attending Alderbury and West Grimstead CE Primary School, which is currently under-subscribed. This can be given moderate weight in the planning balance.
20. The proposed extension of the school playing fields would fall short of achieving the Department for Education's guidelines for play space area requirements. Nevertheless, it would result in a significant increase (2,109m²) in the amount of useable playing field space. I concur with the appellant that SE's response is not based on a full appreciation of the current position⁷.
21. Wiltshire Council is prepared to accept a freehold interest in the playing field extension and the school's Estates Manager supports the principle of this element of the proposals. The additional playing field space would benefit pupils attending the school and would accord with the provisions of paragraph 97 of the Framework. This element of the proposals can also be given moderate weight in the planning balance.
22. Alderbury Pre-School building is a very modest facility that accommodates 29 children and which provides an important service to parents/carers and children, including a breakfast club and an after-school club for the adjacent primary school. It offers childcare for children aged 12 months to 11 years. The existing building is no longer adequate to cater for the needs and demands of this local service. The proposed new pre-school building would provide additional space for staff, children and their families and, in so doing, benefit the local community. This element of the proposals carries moderate weight.
23. All other claimed benefits, including support for the construction industry, relocation of the guide hut with dedicated parking, the proposed landscape planting and bat and bird boxes carry limited weight.
24. The totality of the above noted social, economic and environmental benefits weigh heavily in support of an approval in the overall planning balance.

HLS

25. At the start of the Inquiry the LPA argued that it could demonstrate 5.09 years HLS. This was based upon the CS housing requirement⁸ of 10,420 dwellings over the period 2006-2026 and using the 'Liverpool approach' to cater for the shortfall in housing supply. On the second day of the Inquiry the LPA informed me that it was no longer arguing that 15 units could be delivered at Bulbridge. This has the effect of reducing its claimed HLS to 5.06 years (headroom of 36 dwellings). The LPA's HLS witness informed me that this allowed for very little margin of error in its assessment.
26. Part of the appellant's case is that the overall CS housing requirement of 42,000 dwellings was based on an objectively assessed need that did not provide for the higher 'policy-off' economic scenario. As a consequence, it is

⁷ The LPA accepts that the provision of land owned by the appellant to the school to enable the creation of additional school play space and facilities is a benefit. Permission has also previously been granted for a change of use of land for recreational purposes, the erection of a new sports club pavilion, proposed access, parking and associated drainage works on neighbouring land (ref. S/2011/0029). The appellant's agent contacted the LPA in 2014 to state that a material start had been made to that development. This was not disputed by the LPA at that time. I agree with the appellant that this neighbouring development would provide replacement sports facilities that would be far greater in quantity and quality than the facilities on the appeal site.

⁸ As contained within CS policy 2 for the South Wiltshire Housing Market Area (SWHMA).

argued, with reference to case law and best practice which has emerged following the publication of the CS Inspector's Report, that the housing requirement relied upon by the LPA is out-of-date.

27. I understand the appellant's argument on this matter. However, it appears to me that following the publication of new guidance during the examination into the CS, the CS Inspector adopted a pragmatic stance towards the housing requirement. His findings/reasons were set out in his detailed report and there was no successful challenge to the adopted CS. Whilst the need for an early review of aspects of various housing policies is set out within the CS Inspector's report, it would be tantamount to re-running a major part of the CS examination if the housing requirement was to be revisited in this appeal.
28. Moreover, if a different housing requirement to the one specified in a development plan that is less than five years old was to be used without considering all evidence that underpins such assessments, it would be likely to result in inconsistencies in the decision-making process. A section 78 appeal is not the appropriate procedure for determining this complex matter, especially where the main parties agreed that only three sitting days would be required.
29. Even if the appellant is correct in arguing that the housing requirement is out-of-date, the Framework, amongst other things, requires LPA's to identify and update annually a supply of specific deliverable sites against their housing requirement set out in adopted strategic policies. In Wiltshire, the housing requirement in the adopted strategic policy (CS policy 2) is for at least 42,000 homes, of which a minimum housing requirement of 10,420 dwellings should be derived from the SWHMA. In the circumstances, it would be inappropriate to rely upon anything other than the adopted minimum housing requirement of 10,420 dwellings for this part of the district.
30. The CS uses the 'Liverpool approach' to cater for the shortfall in housing supply. In accepting this approach the CS Inspector was mindful of government advice (which at that time expressed a preference for the 'Sedgefield approach'), as well as the LPA's intention of a planned early review of the CS, Strategic Housing Land Availability Assessment updates and proposed Strategic Housing Market Assessment work which would allow it to review the effectiveness of existing and proposed delivery intentions. My reading of the CS Inspector's report is that it is not a ringing endorsement of the 'Liverpool approach' or for its use throughout the whole of the plan period.
31. In comparison to establishing the housing requirement, the appropriateness of the 'Liverpool approach' v 'Sedgefield approach' is something that is easily capable and appropriate to test at Inquiry. This is evident from the numerous appeal decisions that have been drawn to my attention by the main parties.
32. Some of these previous decisions involve sites elsewhere in Wiltshire and where the use of the 'Liverpool approach' was upheld⁹. However, these all relate to sites outside the SWHMA with a different housing requirement and where, unlike the SWHMA, housing delivery is still reliant upon strategic allocations. In the only example of an appeal decision¹⁰ within the SWHMA that has been drawn to my attention and where this matter arose, the Inspector appears to endorse the use of the Sedgefield approach.

⁹ APP/Y3940/W/15/3132915, APP/Y3940/W/16/3150514, APP/Y3940/W/16/3162997 & APP/Y3940/W/16/3162581

¹⁰ APP/Y3940/W/17/3173509. (The Council has argued that only limited evidence was submitted on HLS.)

33. The most recent of all of these other Wiltshire decisions is dated December 2017 and they all pre-date the latest changes to the Government's Planning Practice Guidance. This now establishes a default position in respect of the 'Sedgefield approach'. Moreover, as explained by the appellant's HLS witness¹¹, the CS housing requirement is disaggregated into different HMAs and there would be no inconsistency if the 'Sedgefield approach' was used for the SWHMA. Approximately four years after the CS Inspector's report was received the LPA has yet to meaningfully review the effectiveness of the 'Liverpool approach' in catering for the shortfall in supply across the district. I consider it appropriate to now use the 'Sedgefield approach' in the SWHMA.
34. The LPA accepts that if the 'Sedgefield approach' is adopted it is unable to demonstrate five years HLS. Under its own trajectory from sites there would only be about 4.8 years HLS. (If the appellant's trajectory is accepted there would be about 4.3 years HLS.) As a consequence, policies for the supply of housing within this part of the district are out-of-date. This also results in the engagement of the tilted balance.
35. Amongst other things, the Framework seeks to significantly boost the supply of homes and it is important to consider the extent of any shortfall in supply. In this regard, the main parties disagree in respect of two specific sites (Fugglestone Red and Kings Gate) and the windfall allowance. Whether 4.3 or 4.8 years HLS exists considerable weight should be given to the shortfall.
36. Fugglestone Red is a strategic allocation, owned by a single developer with outline consent (in part) and detailed permission (in part) for 324 dwellings. The LPA's trajectory tempers the developer's predicted delivery rates to 125 dwellings per annum (dpa) and is based on average build rates on other large sites in the area. However, none of the historic build rates relied upon by the LPA reveals that an average of 125 dpa has been achieved. The highest average build rate from these other sites is only 117 dpa.
37. Moreover, there is no cogent evidence to support the LPA's argument that these historic rates include 'wind up' and 'wind down' years and actual delivery rates have been slower than assumed by the LPA. There is no clear evidence to substantiate the LPA's assumed delivery rate on this site. Instead, there is greater strength in the appellant's argument that a lower number of homes would be delivered over the five year period (156). (Even if the 'Liverpool approach' is used the LPA would be unable to demonstrate five years HLS.)
38. Kings Gate has detailed permission for 216 units and delivery is underway. The LPA relies on information provided by the developer and I agree with its argument that this developer's national build rate is of little assistance in assessing the likely delivery rate on this particular site. Local circumstances are likely to be different to the country as a whole and I note that achieved rates on other parts of this site have exceeded the appellant's predicted delivery rate. However, commencement did not occur until several months after the developer's predicted date and delivery has been delayed accordingly. I concur with the appellant that some reduction should be made for this delay. (In itself this would not remove the 'headroom' under the 'Liverpool approach' but the LPA's claimed HLS position would be marginal in the extreme.)

¹¹ This witness was previously an officer of the LPA and was heavily involved with the CS examination at the time.

39. In respect of the windfall allowance there is a difference of 100 dwellings between the main parties. In reaching its figure the LPA has departed from the method it used in the preparation of the CS and which was found to be sound by the CS Inspector. There is nothing to now prevent the LPA using a different methodology and the alternatives were not criticised by the CS Inspector.
40. However, the approach now adopted by the LPA is based on historic trends and relies upon a continuous supply of a decreasing capacity of large windfall sites. The number of windfall permissions has broadly declined since 2009 and there is no cogent evidence to show that the LPA's figure is a conservative and reliable quantum to use for the purposes of assessing HLS. There is greater merit in using the appellant's lower figure, which is based on the CS methodology and has been shown to be robust by the appellant following an interrogation of the figures in the LPA's 2017 Housing Land Supply Statement.
41. Whether using the 'Liverpool approach' or the 'Sedgefield approach' the LPA is unable to demonstrate five years HLS for this part of Wiltshire.

The Spatial Strategy and the Impact upon Local Services and Facilities

42. Under CS policy 1, development at Alderbury is intended to be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. CS policy 2 provides that outside the defined settlement limits development will not be permitted other than in circumstances permitted by other policies in the Plan. CS policy 23 requires development to be in accordance with CS policy 1 with approximately 615 new homes over the Plan period, of which about 425 homes are to be provided outside Downton in the 'rest of the Community Area'. Proposals need to demonstrate how the relevant issues and considerations listed in paragraph 5.126 of the CS would be addressed.
43. The appellant accepts that the proposed development would be at odds with the provisions of CS policy 2. This conflict with a main policy of the development plan weighs against granting planning permission. However, I have already found above that the settlement boundary for Alderbury is out-of-date and the LPA is unable to demonstrate five years HLS in this part of the district. This diminishes the weight that I give to the conflict with CS policy 2.
44. The affordable housing element of the proposal would help to meet the housing needs of the local community/settlement. Nevertheless, the supporting text to CS policy 1 states that development will predominantly take the form of small housing sites (fewer than 10 dwellings) within settlement boundaries. I cannot think that the authors of this policy would have intended schemes for up to 50 dwellings outside the settlement boundary of a Large Village to be policy compliant when it was formulated. However, CS policy 1 was derived on the basis that the LPA would be able to demonstrate five years HLS. Given my findings above in respect of this matter, it is important to consider the aims of the CS in order to properly determine whether the proposal would conflict with the spatial strategy and amount to unsustainable development.
45. An integral part of the LPA's reason for refusing planning permission was that the conflict it had identified with CS policies 1 and 2 would constitute an unsustainable form of development that would place an undue strain on the limited services and facilities within the settlement. However, the LPA has not submitted any evidence to demonstrate that the proposal would harm any local

services and facilities. It is also no part of the LPA's case that the development of this 3.3 ha site would adversely affect the quality of the local landscape / environment, or result in any unacceptable loss of countryside, or harm the significance of any heritage asset, or have any adverse impact on nature conservation interests. In my experience, it is rare to discover that a proposed scheme of residential development outside a settlement boundary would not adversely affect one or more of these important planning matters.

46. The LPA also accepts that: the proposal would not change the function or alter the position of Alderbury within the settlement hierarchy; the appeal site is sustainable in transport terms and the proposal would not conflict with any policies in respect of accessibility, including those aimed at reducing the need to travel by car; Alderbury has a good level of services¹² for a Large Village; there is no evidence to indicate that the development would prejudice the redevelopment of any previously developed land or regeneration and; the proposal would not offend any of the considerations listed in paragraph 5.126 of the CS. Its planning witness also informed me that there is no evidence to demonstrate that the proposal would result in any imbalance between homes and jobs or that the ensuing increase (15% to 26%) above the prescribed housing requirement for the 'rest of the Community Area' would be harmful.
47. Given the above, including the flexible framework provided by the CS and its indicative and minimum housing requirements, I consider that the proposed development broadly accords with the provisions of CS policies 1 and 23. However, even if I am wrong on this matter there is nothing of substance to demonstrate that the proposal would undermine the aims of the spatial strategy or amount to unsustainable development. This site, which is located towards the centre of the village and where there is no cogent evidence of any harmful impact, is suitable for the proposed development.
48. Each case must be determined on its own merits and my decision does not turn on the approval that was given at Matrons College Farm. Nevertheless, this permission reveals that in applying the above noted settlement policies and spatial strategy the LPA accepts that there is scope for sizeable housing developments outside the Alderbury settlement boundary. As acknowledged by the LPA's planning witness, withholding permission for the appeal scheme exposes some inconsistency within its decision-making process in the SWHMA.
49. Although the appeal scheme would be at odds with CS policy 2 it would not conflict with the objectives of CS policies 1 and 23, or undermine the spatial strategy or harm any local services and facilities. When the development plan is read as a whole the proposal would amount to sustainable development.
50. The LPA is unable to demonstrate a five year supply of housing land and there are no adverse impacts of granting planning permission that would significantly and demonstrably outweighing the benefits of the proposal.

Other Matters

51. My attention has been drawn to many appeal decisions, including proposals / sites elsewhere within England. I have had regard to the findings within those decisions and I have already noted above that each case must be determined on its own merits. There are material differences between these other

¹² These include a primary school, recreation ground, village hall, convenience store, police station, chapel, church, pubs, post office, business park, various sports clubs and a regular bus service.

proposals / sites and the circumstances before me in this appeal. These include the HLS situation, the housing requirement, the extent of the proposed benefits, the location / characteristics of the site and the absence of any harm to important planning interests. None of these other decisions set a precedent that I must follow.

52. I note the concerns of some interested parties regarding the highway and drainage impacts of the proposed development. However, there is no cogent evidence to substantiate these concerns and refute the findings within the appellant's Transport Statement /highways evidence or Flood Risk Assessment/ drainage evidence. The proposal would not compromise highway safety interests or result in any significant increase in congestion or increase the risk of flooding. I note that the LPA's transport and drainage officers did not object.

Planning Conditions

53. I have considered the suggested agreed conditions having regard to the provisions of paragraph 55 of the Framework.
54. In the interests of certainty a condition would be necessary specifying the approved plans. As the proposed residential development is required to help address the shortfall in HLS and to secure the timely delivery of housing, it would be necessary to require shorter timescales for the submission of the reserved matters and the commencement of development. I agree with the timescales that were agreed by both main parties at the Inquiry.
55. To secure an appropriate programming, phasing and orderly pattern of development conditions would be necessary requiring the new pre-school building and the relocated guide hut to occur through timely delivery. To safeguard the character and appearance of the area conditions would be necessary regarding tree protection works and the submission of a landscape management plan. In the interests of highway safety and to ensure adequate highway works are provided within the site conditions would be necessary to prevent any future vehicular access onto Junction Road and requiring the submission of the internal estate roads and other highway details.
56. To ensure the relocated guide hut remains available as a facility to the local community a condition limiting its use to Class D2 of the Town and Country Planning (Use Classes) Order would be necessary. Conditions would also be necessary to ensure adequate land drainage, to safeguard archaeological interests and to mitigate any harm to nature conservation interests.
57. To safeguard the living conditions/amenity of neighbouring residents conditions would be necessary requiring the development to be undertaken in accordance with a construction management plan and to limit the hours of demolition / construction. To ensure adequate living conditions for residents of the proposed dwellings a condition would be necessary preventing any harmful road traffic noise.
58. The appellant has given written agreement to the various pre-commencement conditions that both main parties agree would be necessary.
59. The suggested conditions relating to landscaping and materials are matters that should be addressed at the reserved matters stage. It would therefore be inappropriate to include them as part of an outline permission. In the interests of clarity and concision I have modified some of the suggested conditions.

S106 Planning Agreement

60. Given the substantial unmet need for affordable housing and the contents of the appellant's Viability Report, the proposal includes necessary provision for affordable housing and at a rate that is fairly and reasonably related in scale and kind to the development. The affordable housing provisions of the Agreement would also be directly related to the development.
61. In addition to the above, the mechanisms for securing the transfer of the ownership of the playing field extension land and for the provision of open space/play area, as well as the financial contribution towards the cost of waste and recycling (£4,550) arising from the likely demands of the proposed development also accord with the provisions of paragraph 56 of the Framework. Both main parties also agree that none of these obligations would exceed the 'five obligation limit' to which Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) applies.
62. I have taken the S106 Planning Agreement into account.

Planning Balance / Overall Conclusion

63. As set out within the Framework, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, the purpose of the planning system is to contribute to the achievement of sustainable development. I have found conflict with a main policy of the development plan and one which forms part of a suite of policies intended to steer development to the most sustainable locations.
64. However, the settlement boundary for Alderbury is no longer fit-for-purpose, the LPA is unable to demonstrate five years HLS within this part of the district and the proposal would deliver a package of benefits, including some much needed affordable housing, as well as a significant increase in the amount of useable playing field space for use by pupils at the local primary school. Alderbury can also be conveniently accessed by means other than the car. These important material considerations justify granting permission that is at odds with CS policy 2.
65. Even if CS policy 2 was not out-of-date, there is nothing of substance to demonstrate that the proposal would amount to unsustainable development. There is no evidence of any harm to important planning interests, including the role and function of Alderbury within the settlement hierarchy and nothing to indicate there would be any imbalance of homes, jobs, services or facilities. The CS is intended to provide a flexible and realistic framework with minimum housing requirements as well as some development on greenfield sites.
66. Given all of the above and having regard to local circumstances, including the character and needs of the area, I arrive very firmly at the position that the proposals comprise sustainable development. The appeal scheme accords with the overall aims of the development plan and the objectives of the Framework. I therefore conclude that the appeal should succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Z Simons of Counsel Instructed by Mr F Cain, Head of Legal Services,
Wiltshire Council

He called

Mr C Roe MSc, MRTPI Spatial Planning Manager for Monitoring &
Evidence

Mr A Smith MA, MRTPI Associate, Geraint John Planning

FOR THE APPELLANT:

Mr S Lyness of Counsel Instructed by Mrs A Whalley of Pegasus Group

He called

Mr N Tiley BSc (Hons), ARTPI Associate, Pegasus Group

Mrs A Whalley BA (Hons),
DipTP, MRTPI Associate, Pegasus Group

INTERESTED PERSONS:

Cllr R Britton Member of Wiltshire Council (Alderbury and
Whiteparish division)

Cllr E Hartford Chairman Alderbury Parish Council

Mrs C Niven Local resident

Mrs R Owen Manager, Alderbury Pre-School

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1 Opening Submissions on behalf of the appellant

Document 2 Opening Submissions on behalf of the LPA

Document 3 Cllr Hartford's Statement

Document 4 Representation from Alderbury Guide Hut
Management Committee

Document 5 Mrs Niven's notes

Document 6 Missing pages to Appendices 14 and 15 of Mrs
Whalley's proof of evidence

Document 7 Bus timetables

Document 8 Mr Tiley's Note – windfall calculation

Document 9 Proposed revised Alderbury settlement boundary
showing 'Wagtails' site

Document 10 Housing Land Supply Statement April 2014

Document 11 SoCG – Education Contribution

Document 12 Draft S106 Agreement – track changes

Document 13 Closing Submission on behalf of the LPA

Document 14 Closing Submissions on behalf of the appellant

Document 15	Completed S106 Agreement
Document 16	SE's comments
Document 17	The appellant's response to SE's comments
Document 18	The LPA's response to SE's comments

(Documents 15-18 were submitted whilst the Inquiry was adjourned.)

SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission.
3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan ref. L.0340_3H-1 and access arrangements plan ref. L007-15A.
5. No more than 25 market dwellings comprised in the development hereby permitted shall be occupied before construction works to provide the new pre-school building and the relocated guide hut building and associated parking are completed and made available for their intended uses.
6. No construction works shall commence to provide the new pre-school building and guide hut building until schemes for their delivery have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved schemes of delivery.
7. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority (LPA). Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any retained tree is removed, uprooted or destroyed or dies within five years following the occupation of the last dwelling, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as may be specified in writing by the LPA. No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the LPA, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the LPA.

(In this condition 'retained tree' means an existing tree which is to be retained in accordance with the landscape/layout plans as part of the reserved matters.)

8. No dwellings shall be occupied 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.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting or amending that Order with or without modification), no vehicular access shall be made direct from the site to or from Junction Road.
10. No development shall commence within any given area of the site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, for that area of the site have been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be undertaken in accordance with the approved details, including the timetable, unless an alternative timetable is agreed by the LPA.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the area of the site and the proposed building referred to as the Guide Hut shall be used solely for purposes within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).
12. No development shall commence within any given area of the site until a scheme for the discharge of surface water from the site (including surface water from access/driveways), incorporating sustainable drainage details, for that part of the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use/first occupied until surface water drainage has been constructed in accordance with the approved scheme.
13. No development shall commence until a written programme of archaeological investigation, which shall 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. The development shall be undertaken in accordance with the approved programme/details.
14. The development hereby approved shall be undertaken in accordance with section 7 of the submitted Ecological Assessment (Ecology Solutions Ltd, April 2015). All documents submitted for reserved matters applications shall demonstrate how the recommendations of the above report will be

implemented in so far as it is relevant to the development.

15. No development shall commence within any given area of the site until a construction management plan for that part of the site 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:
- a) the movement of construction vehicles;
 - b) the cutting or other processing of building materials on site;
 - c) wheel washing and vehicle wash down facilities;
 - d) the transportation and storage of waste and building materials;
 - e) the recycling of waste materials (if any);
 - f) the loading and unloading of equipment and materials;
 - g) the location and use of generators and temporary site accommodation;
 - h) pile driving (if it is to be within 200m of residential properties)
- The construction/demolition phase of the development shall be carried out fully in accordance with the construction management plan at all times.

16. No residential development shall commence on site until a scheme for protecting the future occupants against road traffic noise has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before any dwelling is occupied and shall be maintained at all times thereafter. In discharging this condition the appellant/developer should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment report according to BS8233: 2014 (or subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 of BS8233:2014. The report shall also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.

17. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays. No burning of waste shall take place on the site during the construction phase of the development.



Appeal Decision

Inquiry opened on 11 July 2017

Site visit made on 14 July 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/Y3940/W/16/3162581

Land to the south east of South View and north of Webbs Court, South View, Lyneham, Wiltshire SN15 4PG

- 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 Gleeson Developments Limited against the decision of Wiltshire Council.
 - The application Ref 16/05959/OUT, dated 17 June 2016, was refused by notice dated 26 October 2016.
 - The development proposed is a residential development of up to 60 dwellings, including the creation of new vehicular access, public open space, children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (outline application with all matters reserved except means of access only in relation to a new point of access into the site).
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Wiltshire Council against Gleeson Developments Limited. This application is the subject of a separate Decision.

Preliminary matters

3. The Inquiry sat for 5 days on the 11-14 and the 18 July 2017. The site is readily visible from surrounding roads and public footpaths passing through it; I carried out an unaccompanied visit to the site and surrounding area before the Inquiry opened and a formal accompanied visit during the Inquiry on the 14th July 2017.
4. The application was submitted in outline with all matters, except the means of access in relation to a new point of access into the site, reserved. The matters of appearance, landscaping, layout and scale are therefore reserved for future consideration. The application was supported by a site location plan, 11189.01, and a site access plan ITB10092-GA-006 rev B and these are the plans on which the Council took its decision and on which I have considered this appeal. Two illustrative plans were submitted with the application; firstly, an illustrative site layout plan drwg 11189.03; and secondly, an illustrative site layout plan (coloured) 11189.03c. These were

submitted for illustrative purposes only to demonstrate one way in which the scheme could be developed and I have considered them in that way.

5. On the last day of the Inquiry I was provided with a signed and executed legal agreement under section 106 of the Town and Country Planning Act (in counterparts). The agreement provides for 40% of the dwellings in the development to be provided as affordable housing, the provision, maintenance and management of open space(s) and a play area, an education contribution towards improvements to provide additional secondary school places/capacity at Royal Wotton Bassett Academy School and a financial contribution towards the provision of waste and recycling containers for the residential units. I return to these matters and the section 106 agreement further below.
6. I received further correspondence from the appellant after the Inquiry closed to confirm that the challenge papers in respect of the Forest Farm Chippenham decision, APP/Y3940/W/16/3150514, were filed with the Court on 28 July 2017.

Main Issues

7. The main issues in this appeal are:
 - (1) whether the Council can demonstrate a five year supply of housing land;
 - (2) whether or not the proposal would contribute to a sustainable pattern of development;
 - (3) the effect of the proposed development on the character and appearance of the area;
 - (4) the effect of the proposed development on the setting of the Grade II listed building known as the Old Rectory; and
 - (5) whether the proposal makes adequate provision for any additional infrastructure need for affordable housing, education and open space arising from the development.

Reasons

Policy background and context

8. The development plan for the area includes the saved policies of the North Wiltshire Local Plan 2011 (adopted 2006)(NWLP), the Wiltshire Core Strategy (adopted January 2015)(WCS) and the Chippenham Site Allocations Plan (adopted May 2017)(CSAP). The CSAP was adopted following the Council's determination of this application in October 2016 but now forms part of the development plan for the area. These documents together set out the relevant policies against which to consider the proposals before me.
9. The draft Wiltshire Housing Site Allocations Plan (WHSAP) is an emerging plan. A Pre-submission draft was published for public consultation commencing on 14 July 2017. Given the very early stage of plan preparation and that public consultation has only just commenced I cannot afford this plan any significant weight.

10. The WCS provides the Council's spatial strategy for the whole of its administrative area over the plan period from 2006 to 2026. The area is divided up into three Housing Market Areas: 1 North and West, 2 East, and 3 South and into some 20 Community Areas. The WCS sets out a settlement strategy (Core Policy 1 (CP1)) that categorises settlements in terms of the scale of development that may be accommodated in the settlement in a hierarchy with Principal Settlements being at the top moving down through Market Towns, Local Service Centres and down to Large and small villages. The scale of acceptable development is set out for each category as one moves down through the tiers. The individual settlements are identified in CP1 for the higher order settlement tiers, but those for large and small villages are identified in the Community Area strategies.
11. Core Policy 2 (CP2) sets a delivery strategy for the area identifying the housing requirement for the whole area and for each Housing Market Area. A more detailed distribution is set out in the Community Area Strategies with policies for each area including the identification of indicative levels of housing provision.
12. The Appeal site is located in the North and West Housing Market Area (NWHMA) and in the Royal Wootton Bassett and Cricklade Community Area (RWBCCA), which is covered by Core Policy 19 (CP19).
13. The WCS states that the settlement boundaries, which are identified for all settlements from larger villages upwards in the hierarchy, are taken forward from the NWLP until such time as they have been reviewed. The recent adoption of the CSAP provides specific site allocations and boundary reviews for the Chippenham Area and the remainder of the Plan area site specific allocations and boundary reviews are to be addressed in the recently emerging WHSAP.

Five year supply of housing land

14. The WCS sets a housing requirement for the plan period (2006 -2026) of 42,000 dwellings for the whole of the plan area. The NWHMA has a requirement for 24,740 over the plan period equating to an average annualised requirement of 1,237. These are expressed as minimum in the policy. These matters are agreed in a Housing Statement of Common Ground (HSoCG).
15. The parties also note in the HSoCG that the Objectively Assessed Need (OAN) in the plan was higher than the requirement. I note that the requirement in the WCS was increased at the request of the examining inspector from that originally identified in the submission version of the Core Strategy, which had identified a requirement of 37, 000 over the plan period. The overall requirement agreed in the adopted WCS remained below the OAN for the area, which was in the region of 44, 000, but reduced to ensure environmental quality was not compromised.
16. The parties also agree that the Liverpool approach to spread any shortfall over the plan period is appropriate and that any buffer should be applied to both shortfall and forward requirement.
17. Where the parties disagree are in three main areas. Firstly the Council have included Gypsy and Traveller pitches within its completions total, the

appellant disputes these should be included; secondly the parties disagree on the appropriate buffer to apply; and thirdly the parties are in dispute regarding likely supply trajectories for a limited number of strategic sites.

18. These matters were addressed in a recently issued appeal decision in respect of Forest Farm¹. The decision was issued on 22 June 2017 after the date of submission for the proofs of evidence, but before the Inquiry commenced. The appellants have provided an updated Position Statement, at the request of the Council, given that the Inspector had concluded on many of these matters on the basis of similar evidence. The appellant has also confirmed that they have now challenged that decision. I have had regard to that Position Statement and the evidence I heard at the Inquiry in reaching my conclusions.

19. I will deal with each of these matters in turn.

Gypsy and Traveller

20. The issue revolves around the inclusion of some 120 Gypsy and Traveller pitch completions included in the Council's overall completions count. According to the HSoCG the Council identifies 11,756 completions in the NWHMA between April 2006-March 2016, which includes 120 Gypsy and Traveller pitches. Removing the Gypsy and Traveller pitches would reduce the completions over the period to 11,636. The residual requirement for the NWHMA for the remaining ten years would therefore be either 12,984 (Council) or 13,104 (appellant), against which I should calculate the five year housing land supply.

21. If Gypsy and Traveller accommodation formed part of the housing need in the Core Strategy, which was the basis to arrive at an overall requirement figure, then it would be appropriate to discount the completions against that requirement. The Council rely on Topic Paper 15: Housing Requirement Technical Paper which formed part of the evidence base for the WCS and which in Footnote 11 makes clear that 'The definition of a home is not confined to C3 dwellings, but includes all self-contained civilian accommodation, including Gypsy and Traveller pitches,'. The Wiltshire Council Strategic Housing Market Assessment 2011 (by Fordham) provided further evidence to support the WCS and the Council contend, in that it was compliant with the now revoked PPS3, it included consideration of different types of households including Gypsies and Travellers.

22. However, the examining Inspector for the WCS, at paragraph 75 of his report, did not accept these documents as representing the objectively assessed housing need for the area, as the appellant points out. However, his concerns were that Topic Paper 15 was used to support the Council's preferred quantum of housing not an objectively assessed need and, based on the Fordham work, the Office for National Statistics (ONS) population projections and alternative assessments of housing need, the overall need was greater, in the region of around 44,000. His concern was with the overall level of need and he does not here identify concerns related to individual groups, either being included or excluded from the overall figure.

¹ APP/Y3940/W/16/3150514

23. The Fordham SHMA is not explicit in its treatment of Gypsies and Travellers. Whilst there are various references to compliance with guidance in PPS3, this is not clearly directed towards this issue. Although PPS3 at paragraph 21 refers to Regional Spatial Strategies it further advises Local Planning Authorities to plan for a mix of housing and at bullet point three expressly refers to Gypsies and Travellers.
24. The WCS's delivery Strategy is explained at pages 44 to 55 culminating in CP2. The Council contend that at paragraph 4.25 there are additional sources of supply set out that include Gypsies and Travellers under specialist accommodation provision and thereby indicate the policy was reliant on such provision to address its requirement. The appellant highlights that these are identified as 'additional sources of supply'. However, these are set in the context of the preceding paragraphs and are additional sources of supply to those referred to at paragraphs 4.22 and 4.24. Together these set out the sources of supply that will contribute to the council's provision of housing and employment land. Further, at paragraph 4.24 it states the sources of supply are set out at appendix C to the WCS and within this appendix Gypsy and Traveller accommodation is also addressed.
25. The appellant contends that on the basis of the Technical Adjustment to the Framework the inclusion of Gypsy and Traveller accommodation within the overall requirement is incompatible with the latest advice. However, the Technical Adjustment was issued by way of a Written Ministerial Statement on the 22 July 2015, the WCS was adopted in January 2015 and thus could not have been expected to take account of that advice.
26. Overall from the information before me it would appear a reasonable conclusion that the WCS did include Gypsy and Traveller accommodation within its overall requirement. This is confirmed by footnote 11 and the structure of the delivery strategy and preceding justification paragraphs and accompanying appendix. The WCS at the time of its drafting and adoption did include Gypsies and Travellers in the overall requirement. It then has a separate policy CP47 to specifically address that subset of the overall requirement as is seen with the other 'additional sources of supply'.
27. Where these do not contribute to the requirement these are expressly referred to, such as for military establishments. Although included in the list of additional sources of housing supply and having its own policy CP37, paragraph 6.23 endnote 76 makes clear that provision of new housing during the plan period as a result of Army Rebasing on Salisbury Plain will be in addition to the housing requirement in CP2. There is no equivalent in relation to Gypsy and Traveller Core Policy 47, or other policies associated with the other 'additional sources of housing supply'.
28. I also consider the approach of the examining Inspector in addressing his matter 4 – housing. Here his approach was to consider the overall requirement, how any surplus should be addressed and the approach to the appropriate buffer before going on to consider specific subsets of the requirement and how these were dealt with. These subsets included affordable housing, rural exception sites, vulnerable and older people and Gypsies and Travellers. At no point does he suggest any of these are not to be treated as separate from the overall requirement. Indeed his assessment addresses how each element is addressed in the context of its own policy

and whether that addresses the national policy advice, at the time, and provides for an appropriate policy framework for that specific subset. In the end he concludes that the Core Strategy's approach to housing provision is justified and when considered as a whole is sufficiently consistent with national policy and that it will be effective in meeting the varied housing needs of the County over the plan period.

29. The WCS was found sound by the examining Inspector. Given that I have concluded the Gypsy and Traveller figures were included in the requirement it is also reasonable that the completions for their pitches are then included in terms of concluding on the residual requirement. Whilst the latest national advice is that Gypsy and Traveller needs should not rely on the overall five year housing land assessment and that a separate assessment is to be undertaken, that does not conflict with the issue before me which relates to general housing and the consideration of those matters that went to establishing the overall requirement at the time it was set, at the adoption of the WCS.
30. I therefore conclude that the inclusion of Gypsy and Traveller pitches in the completions figure, in the circumstances of this case, is reasonable. On that basis the residual housing requirement would be 12, 984 for the remainder of the plan period to 2026 (as the base date is 2016 for this appeal that equates to an annualised average requirement of 1,298).

Appropriate Buffer

31. Paragraph 47 of the Framework has its main aim to boost significantly the supply of housing. In order to achieve this it advises that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement. The advice goes on to require an additional buffer of 5% to ensure choice and competition in the market for land, but where there has been a persistent record of under delivery this should be increased to 20% to provide a realistic prospect of achieving the planned supply.
32. There is no definition of what persistent under delivery may be and the advice in the Planning Practice Guidance (PPG) confirms this involves questions of judgement for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing. There is no universally applicable test or definition of the term. An assessment of the delivery record is required to establish whether there has been a record of under delivery. This will need to be measured against an appropriate requirement. The extent or period of time over which such an assessment is to be considered is also important and the PPG advises that this is likely to be more robust if a longer term view is taken, as this can take account of peaks and troughs in the housing market. Then consideration will need to be given as to whether any failure amounts to a persistent record of under delivery.
33. Both parties have referred me to comments from a number of Inspectors on the issue of the buffer including those from the examining Inspector into the WCS and to other appeal decisions in the locality including, most notably,

those at Forest Farm and Malmesbury². What is clear from the way in which the Inspectors have dealt with the issue is that there is a judgement that is required, that the matter needs to be considered in the round and that a balanced decision should be made.

34. The Council provide figures from 2006 to 2016 across a ten year period for the NWHMA or an appropriate area within which the appeal site is located in the preceding structure plan (The Wiltshire and Swindon Structure Plan (WSSP)). The appellant has also considered this ten year period but in addition has further considered figures back to 1990/1991 to create what they see as a longer term view.
35. Within the periods assessed by each party there were a number of requirements that delivery could be considered against including the adopted WCS (Adopted January 2015) requirement figure, the submission draft WCS requirement figure, the WSSP (adopted April 2006) requirement figure, the earlier Wiltshire Structure Plan 2001 alterations (adopted April 1991) and the Wiltshire Structure Plan 2011 (adopted January 2001). With each of the differing plans there are also different geographic areas assessed including North Wiltshire, West Wiltshire, Wiltshire (excluding Swindon) etc and at various points different controlling local authorities and different development plans in operation. Whilst the PPG advises a longer term view takes account of the movements in the housing market, the use of historical data can also create issues regarding the compatibility and comparability of data and therefore needs to be treated with caution.
36. The period 2006 - 2016 is a compatible time scale assessed by both parties and covers the period of the current WCS (2006 -2026). The WCS was adopted in January 2015 and therefore has only one full year of data since its adoption presented 2015/16. This demonstrates the Council did not achieve its delivery target against the annualised requirement. In the preceding year, the year 2014/15 the Council did not achieve the delivery against the annualised target on the basis of the 42, 000 requirement, but in 2013/14 it did meet the target. Indeed the appellant contends that if the ten years back to 2006 are considered against this annualised target it is only meet 30% of the time. However the 42,000 requirement figure was not requested by the examining Inspector until during 2013 when examining the WCS which had been published for consultation in Feb 2012 with a requirement of 37, 000. When considered against an annualised target based on that requirement the Council demonstrate that the target is met in the NWHMA in 2013/14, 2010/11, 2007/08 and 2006/07.
37. In considering the early part of this period, when the WSSP had set the requirement and before the WCS had been published, the Council's figures demonstrate that the Former North Wiltshire remainder achieved its delivery against that requirement in 3 out of the 5 years between 2006/07 and 2010/11. The appellant's figures also show that during that period, against the WSSP target, delivery was achieved in 4 out of the 5 years.
38. Taken together in the round across that ten year period these facts lead me to conclude that there was not persistent under delivery when delivery is considered against the available requirement figure during that ten year

² APP/Y3940/A/13/2200503

period. However, there are other factors that need to be considered before an overall conclusion can be reached.

39. Looking at the NWHMA specifically, the appellant's figures show that over the ten year period delivery is achieved only 3 out of the ten years and that only 2013/14 has recently achieved the target with the other two years when delivery was achieved being in 2006/07 and 2007/08. Overall in the ten year period since 2006 the delivery of housing has not been strong with significant times of under provision. Since the adoption of the WCS there also appears to be a falling delivery with under delivery in the last two years and (although figures are not yet confirmed) potential under delivery in 2016/17.
40. Taking the longer term view, as presented by the appellant, this appears to confirm a 30% delivery rate against the annualised target in place at the time. However, I have some concerns about the historic data as this relates to other geographic areas and that the local planning authority is not the same. Furthermore, whilst the breakdown of the separate north and west Wiltshire figures would support the 30% delivery rate, if disaggregated, they appear to show delivery in the areas being achieved against their respective targets in different years, so that they are achieved in the north area when not in the south and vice versa. It is only in ten out of the 23 years assessed that the target is not met in both areas in the same year.
41. Much of this information has been considered before by other Inspectors. In Malemsbury the Inspector concluded the information led to persistent under delivery. However, following this decision the WCS examining Inspector and two other Inspectors have considered that there has not been persistent under delivery. In those cases where they have considered that under delivery has not been persistent they have been careful to leave it open to other Inspectors to arrive at their own conclusions given the passage of time, the information that maybe in front of them and by raising concerns that if continuing under delivery occurs there may be a point at which this becomes persistent. They were also aware of the Malemsbury decision at the time of their decisions.
42. I am conscious that the Council has recently adopted the CSAP, published its WHSAP for public consultation and is in the process of producing a SHMA jointly with Swindon, which I was informed is in effect the start of the process for the early review of the WCS. In this regard whilst they maybe a little behind the expectations of the WCS examining Inspector, they are moving towards those factors he had regard to.
43. I note that Topic Paper 4 to the WHSAP includes reference to aiming towards a figure that includes a 20% buffer. The appellant sought to suggest this reflected a concern by the Council that it may indeed become such a Council. That is not my reading of the resilience testing to which the paper refers, but is an aim to protect the Council as a matter of prudence so that if achieving a delivery at that level there would never be a question of its plan being undermined through a determination that it was persistently under delivering.
44. Overall whilst I acknowledge performance is not strong in housing delivery and there are worrying signs that the Council needs to address, particularly in the more recent years since adoption of the WCS where delivery has not

met requirements, I do not conclude that under delivery at this point has been persistent in the context of the Framework. On that basis I conclude that the appropriate buffer to adopt is 5%. This would result in the residual requirement (including the 120 Gypsy and Traveller completions) with a 5% buffer for the 5 year period equating to 6, 817.

Disputed sites

45. An amended Housing Statement of Common Ground HSoCG dated 7 July 2017 was provided to be me on the morning of the first day of the Inquiry. This followed Wiltshire Council's updated position reflecting advice from Persimmon in relation to Ashton Park and which resulted in the removal of 300 units from the Council's trajectory for that site. The figure in paragraph 1.19 of that HSoCG needs therefore to be reduced by 300 to give 7, 066 deliverable 5 years supply for the Council. The HSoCG therefore agrees that the base position for supply is as set out in the Housing Land Supply Statement dated 1 April 2016 published 3 March 2017 (CD33). It further agrees that following adjustments after the Forest Farm decision (and following Persimmon's latest advice) that the Council's deliverable 5 year supply is 7, 066 dwellings. The parties have identified three strategic sites where there is dispute concerning the delivery trajectory wherein the appellant considers that a further 330 units should be removed from the Council's supply. This was amended during the Inquiry, to ensure consistency between the HSoCG and Mr Miller's evidence for the appellant whereby the trajectory for South West Chippenham was amended, increasing the difference to 385. The three sites are South East Trowbridge (known as Ashton Park), South West Chippenham and Rawlings Green. I will deal with each in turn below.
46. Ashton Park is a development allocated in CP2 of the WCS for 15 hectares of employment land and 2, 600 dwellings. Up until the day before the Inquiry the Council had a trajectory which identified up to 350 dwellings being provided in the 5 year period with 100 units being provided in 19/20 and 250 units being provided in 20/21. Following correspondence with the developer, Persimmon, the Council amended this on the day of the Inquiry to provide only 50 units in 20/21. The appellant suggests that no dwellings should be counted in the 5 year period.
47. This is an allocated site. There is an extant planning application with the Council which was submitted in May 2015. There are outstanding concerns regarding the master planning of the site and in particular significant concerns raised by Natural England regarding bats. These are however not new issues and I was informed that matters were being progressed. I understand similar evidence was presented to the Forest Farm Inquiry. Since then time has moved on and the land owner has significantly reduced the housing delivery trajectory in the forthcoming 5 year period. The Council are suggesting that 50 dwellings should still be realised on the back of the developer's advice. The site is an allocated site, there is a developer in place, there is an application being considered and amendments / re-planning is underway. There is some 4 years before the first units are to be provided and then only 50 in that year. This does not appear an unrealistic position in my view and is within the time scale that Mr Miller suggests housing units on large sites would become available, i.e. two and a half years after determination of the outline. On that basis I conclude that the

site is available and deliverable. Whilst the late change in the trajectory adds doubt, it does not provide clear evidence that the scheme will not be implemented within 5 years. I therefore retain the 50 units for Ashton Park

48. Moving to South West Chippenham. This again is an allocated site, this time in the CSAP where policy CH1 identifies approximately 171 ha of land at South West Chippenham for a mixed use development to include 1,000 dwellings amongst other matters. The difference between the parties refers to the 1,000 units and which are to be built out by Crest and Redcliffe.
49. Here the Council suggest some 530 units could be provided in the forthcoming 5 year period with 30 units to be provided in 17/18 (reduced from a previous estimate following the Forest Farm Inquiry), 150 units in 18/19 and 175 units in each of the two remaining years 19/20 and 20/21. The appellant revised the figures in the HSoCG to reflect those in Mr Miller's proof and suggest that 85 units would be provided in 18/19 and 135 units in each of the remaining years 19/20 and 20/21 producing a total of 355.
50. The appellant provided evidence, ID11, to suggest that Redcliffe would not be putting a spade in the ground until 2018 which to my mind calls into doubt the 30 remaining units in the Council's trajectory for 2017/18. It also adds pressure as to the level of delivery in the following year 18/19 if the developer is only commencing development in that year. This is likely to have a significant impact on the level of provision over that year, thus meaning the small reduction to 150 that is suggested by the Council is likely to be excessively optimistic even if accepting that 175 units a year are provided in full subsequent years. The 85 proposed by the appellant for 18/19, when the spade in the ground is at the start of the reporting year seems a more reasonable figure with reference to the 175 yearly total for subsequent years.
51. As to the subsequent years 19/20 and 20/21, the Council relies on the evidence gathered from the developers who suggest that there are no significant concerns for those years delivery. Whilst this may be optimistic assurance by the developer there has to be a degree of pragmatism and realism within their suggested figures or it would affect their credibility for future monitoring. The PPG requires clear evidence that schemes will not be implemented within the five year period not the other way round.
52. The appellant has provided average delivery figures for the developers and sought to suggest that the delivery for this site would be significantly above those delivery rates. However, as pointed out by the Council, these are averages by way of a mean. There are no indications of maximum numbers of units that Crest are capable of delivering or what they normally achieve as a modal average. The exercise has limitations and is of little relevance to site specific considerations where national averages, comparative data and lack of detail on site constraints and infrastructure requirements may have significant implications on the figures. I see no reason to therefore reduce the final two years of the Council's trajectory for this site.
53. Overall for South West Chippenham I remove 95 units from the Council's figure (30 from 17/18 and $150 - 85 = 65$ from 18/19) the total supply for this site would therefore be 435 dwellings

54. Finally, in terms of disputed sites, I turn to Rawlings Green. This again is a strategic site allocation in CSAP, policy CH2, for approximately 50 hectares of land for a mixed use development to include no more than 650 dwellings, including a first phase of no more than 200 dwellings.
55. The Council have suggested that this site would provide a total of 180 units with 20 in 18/19 and 80 in each of the following two years 19/20 and 20/21. The appellant on the other hand suggests that the site would only deliver 20 units, in the year 20/21.
56. In September 2016 Wiltshire Council's Strategic Planning Committee endorsed an officer recommendation to grant planning permission for development of up to 700 dwellings, 4.5 hectares of employment land and associated infrastructure. The resolution was subject to the signing of a section 106 agreement. The decision has not yet been issued, although the Secretary of State has confirmed that the application will not be called in and the Council is free to issue the decision when the 106 is complete.
57. A separate planning application for a bridge over the railway line to provide a second access into the site has also been submitted to the Council. At the Inquiry I was provided with a copy of a committee report, ID12, in respect of the railway bridge, which is to be considered by Committee on the 16 August 2017. The Officer recommendation is to grant planning permission subject to conditions.
58. There are a number of outstanding issues including matters related to the bridge across the railway line. I was informed at the Inquiry that matters were progressing with Network Rail and that a window to carry out the works to cross the rail line had been agreed.
59. The site was considered by the CSAP examining Inspector in a fair degree of detail from paragraphs 72 to 99 of his report. He considered the issue of deliverability in his reasoning and in particular addressed the question of the bridge and land ownership matters. These are the matters that are raised here. In his reasoning the Inspector concluded on the basis of the evidence before him that there did not appear insurmountable problems which would prevent the construction of the bridge. The CSAP report was published in February 2017 and the CSAP was adopted in May 2017. These matters were further considered in the Forest Farm appeal where the Inspector accepted the Council's trajectory in respect of this site.
60. The site is an allocated site in a very recently adopted plan. The issues raised in terms of matters which may delay delivery were considered at that time and I have been provided with no significant evidence that would lead me to a different conclusion to the CSAP Inspector. This is also the conclusion reached by the Inspector in respect of Forest Farm. Whilst we have moved on in time the Council has before it an officer report with a recommendation for the approval of the bridge and I have been informed that a window for the construction of the bridge has been identified by Network Rail. Matters are therefore progressing.
61. Even if I were to accept the appellants concerns that the Council are being unrealistic in its timescales there is a reasonable prospect that the outline permission will be issued in the near future, I have no evidence to suggest it will not. Given the two and a half year timescale before units are produced

suggested by Mr Miller this would suggest that the first units would be delivered towards the end of 19/20 rather than 20/21. That could reduce the contribution of this site at most by 80 units not the 160 suggested by the appellants.

Conclusion on five Year Housing Land Supply

62. The residual requirement plus a 5% buffer is 6, 817. The Council's supply is 7, 066 from which I deduct 95 units from South West Chippenham producing a supply of 6971, equating to a 5.11 years supply. Even if I deduct the further 80 units that are potentially at risk at Rawlings Green the supply would fall to 6891, still equating to a 5.05 years supply. On this basis I am satisfied that the Council can demonstrate a 5 year supply of housing land.

Sustainable pattern of development

63. The purpose of the planning system is to contribute to the achievement of sustainable development³. Paragraph 8 of the Framework confirms that the planning system should play an active role in guiding development to sustainable locations. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in determining applications and appeals. The starting point is therefore the development plan before consideration is given as to whether material considerations might indicate a decision otherwise than the development plan was appropriate.
64. The WCS sets out a spatial strategy for the County consisting of three key elements, a settlement strategy (CP1), a delivery Strategy (CP2) and infrastructure requirements (CP3). The settlement strategy identifies a hierarchy of settlements in four tiers with the delivery strategy then identifying the level of growth and the way these settlements will develop in the future. As noted previously, the County is divided into Housing Market Areas and then further divided into Community Areas. CP2 identifies a minimum housing requirement for Wiltshire of 42, 000 dwellings with 24, 740 to be provided in the NWHMA in the plan period. The policy notes this will be delivered in a sustainable way including to limit the need for development on Greenfield sites and that sites for development in line with the area strategies will be identified in forthcoming DPDs and Neighbourhood Plans. The policy confirms that there is a presumption in favour of sustainable development within the limits of development at each of the settlements in the tiers. Outside the limits of development it confirms that development will not be permitted other than by other policies in the plan. The limits of development are set by the settlement boundaries established by policy H4 of the NWLP, which are to be reviewed in forthcoming allocation plans. WCS CP19 sets the spatial strategy for the Royal Wotton Bassett and Cricklade Community Area (RWBCCA) which amongst other matters identifies 1,445 homes to be built in the area of which some 385 would be provided in the rest of the community area outside Royal Wotton Bassett.
65. Lyneham is located within the NWHMA and within the RWBCCA. It is identified as a larger village, in CP19, within the fourth tier of the settlement strategy, 'large and small villages' of CP1. The parties agree that the site is

³ National Planning Policy Framework paragraph 6.

located outside the settlement boundary, although the appellant contends that the boundary is out of date, which is a matter I return to below. Furthermore, the appeal site is not identified in an Allocations DPD or Neighbourhood Plan and does not fall within one of the exception policies as listed at paragraph 4.25 of the WCS. On a plain reading the proposed development of this site would conflict with the spatial strategy of the WCS and would be contrary to the development plan.

66. The appellant however contends that the settlement boundaries are out of date as they were set in respect of a plan with a different, lower, housing requirement to the core strategy and the Council cannot demonstrate a five year housing land supply; therefore any conflict with the settlement boundaries should be given limited weight. It is further contended that aside from the settlement boundary the development is located adjacent to a larger village and would meet the needs of the village, is of a proportionate scale given the size of the village, is not in an unsustainable location and would not harm any other identifiable characteristic of the village. It would in the appellant's contention thereby not harm the objectives of CP1 or CP2.
67. The settlement boundaries have been brought forward from the NWLP and were tightly drawn around the settlements at a time when there was a different housing requirement. The WCS was found sound on the basis of a requirement for 42, 000 units and on the basis of an early review and site allocations documents to be produced. At this point the early review is only in its early stages, the CSAP has been brought forward and reviewed settlement boundaries around Chippenham, but the site allocations document for the rest of the County has not yet emerged. The WHSAP addresses settlement boundaries in the rest of the County but this has only just been published for consultation and given its early stage in plan preparation I cannot give it significant weight. Age of itself is not a reason to find a policy out of date and the fact that the settlement boundaries are brought forward from an earlier period does not of itself mean they are out of date.
68. The provision of additional housing, given the Framework's aim to significantly boost housing delivery is a positive benefit of the scheme. The WCS requirement and disaggregated requirements for the NWHMA and RWBCCA are also set as minimum. However, this needs to be viewed in the context of the Core Strategy's housing requirement, delivery strategy and strategy for the community area and my conclusion that the Council can demonstrate a five year supply of housing land. In this regard the WCS notes that the remainder of the RWBCCA has a requirement for 385 homes. Of this some 248 had been provided in completions at the time of the examination leaving a remainder of 113 units to be identified in the area. The latest Housing Land Supply Statement, CD33 appendix 6, demonstrates that in the remainder of the Community Area the requirement has now already been exceeded. This would suggest that the existing settlement boundary in this location is not constraining development and that development in this area is positively contributing to the wider NWHMA and for Wiltshire as a whole with the plan period only approximately half way through.
69. The emerging WHSAP does not identify any alterations to the settlement boundary in the vicinity of the site or further allocations for the village of

Lyneham. Whilst I do not give this significant weight it represents a direction of travel consistent with the conclusions that the settlement boundary is not constraining or restricting development in the area such that would undermine policies CP1 and CP2. The fact that the Council can demonstrate a five year supply of housing land to meet its requirement and that housing supply is, at this point, exceeded in this Community Area adds weight to the conclusion that the settlement boundary in this location is not out of date.

70. The settlement boundaries are an important component of the overall delivery strategy and they have an additional function in seeking to protect the countryside, a matter consistent with the Framework. Therefore, overall I conclude that, at this point in time, the settlement boundaries are not constraining development and the policies to which they are associated are consequently not out of date. The size of the development at 60 units outside the settlement boundary is of a scale that is not supported by policy. CP2 seeks to have a more restrictive approach to development than within the settlement boundaries where there is an indicative threshold of 10 units. The parties agreed this was not an upper limit but an indication of an appropriate level. I accept the point that as the site is outside the settlement boundary the threshold is not directly applicable. However, with a more restrictive position outside the boundary it would not be unreasonable to expect acceptable development outside the boundary to be of a lower threshold. This is the case in the other exception policies.
71. The question of whether the development is considered to sit one side of the settlement boundary or the other is therefore irrelevant if the scale of the development is considered. In this regard whether inside or out, 60 units is far in excess of the level or quantum of development that would be expected by CP2 or the exception policies at this location in the settlement hierarchy.
72. The appellant also suggested that Lyneham was a large Larger village with a good range of services and facilities, including community facilities. This was further supported by the representations from a number of local residents who gave evidence to the Inquiry. My attention was also drawn to the fact that in Topic Paper 3 to the WCS, CD9, Lyneham has a self-containment index of 63%, which is by far the highest in the Community Area. Suggesting that this small proportionate population increase would not dramatically change the function or characteristics of the centre and would not undermine that self-containment.
73. However, this goes to the question of the role and function of the village in the settlement hierarchy. Topic paper 3 recognised that Lyneham had the potential to be a higher order settlement given its population and facilities but decided against this because of the relationship with the wider rural area and proximity to other higher order settlements including Wotton Bassett. The comparative judgement being that given the proximity of higher order settlements with a greater range of services and facilities this would increase the propensity of people to travel to those higher order centres. In effect in setting a sustainable settlement hierarchy the Council, with the benefit of its wider evidence base, made decisions about which were in effect the more sustainable settlements and how those would be used. This sustainable settlement strategy is the basis of the core strategy and spatial strategy and which was found sound.

74. It is not for a section 78 appeal to go behind the strategy in this way. The WCS is recently adopted sets a settlement strategy which had regard to the comparative positions of various settlements across the whole County and determined an appropriate hierarchy and delivery strategy aligned to that which was found sound. I do not have the information to make a fully informed assessment in the same way as an examination and it would not be right for me to do so in the circumstances of an individual case; that would undermine the plan making process.
75. The appellant further suggested that given the scale of Lyneham the proposed development was a very modest increase and was not as great, in terms of a proportionate increase, as those that had been agreed in other larger villages, such as Bratton and Crudwell, which were proposed for allocations in the WHSAP. The scale of development in terms of overall numbers is far in excess of what the plan envisages for a settlement at this position in the hierarchy. Whilst the increase in proportionate terms may be less than other larger villages that does not overcome that fact. Moreover the rationale behind those other allocations includes a concern that those villages were situated in Community Areas that had not yet met their identified requirement and the allocations were aimed at delivering that requirement, therefore seeking to underpin the housing provision in the Community Area and wider plan. Whilst the assessment process for considering the acceptability of such allocations did include the proportionate size of the allocation to the village, it has to be considered in the context of the allocations plan seeking to provide a planned response to meet the requirement for housing delivery in the area in the context of the spatial strategy.
76. The additional population that would occupy the new development would require access to services and facilities to meet their everyday needs. This would include access to schools, higher order shops, employment etc. The Council's spatial strategy identifies higher order settlements where such facilities are concentrated and the delivery strategy expects larger scale developments to be directed towards those higher order settlements. Whilst there is a comparatively high self-containment index related to the proportion of people who live and work in the village there will always be a spread of such indices against different settlements and this does not reduce the concern that many of the new residents would be likely to have to travel to work given the level of the settlement in the hierarchy. The development proposes a contribution to the Wootton Bassett Academy to accommodate increases in the school age population again demonstrating the need for travel outside the village to access schools. I accept that there are various facilities social, recreational and shops that would serve a more local need but given the scale of the development there will be a significant drive to travel for a number of the residents to access day to day services and facilities. It is this very issue that the sustainable spatial strategy is aimed at seeking to minimise and by providing for such a large quantum of housing at such a low tier settlement the proposal would undermine, thereby increasing the necessity for travel to access those needs.
77. The Council accept that the scheme will provide affordable homes for the village and wider area and that this is a significant positive benefit of the scheme, given the need for affordable housing across the County and in the Community Area, ID13 identifies 188 households in the Community Area.

This is a positive benefit of the scheme to which I give significant weight. There is also a positive benefit to be considered in that the development would provide for additional housing given the advice in the Framework to boost significantly the supply of housing.

78. Drawing these themes together I have found that the settlement boundaries are not out of date, that they fulfil an important function in protecting the countryside and in the context of the interpretation of the spatial strategy. In this latter regard they need to be considered flexibly and given the delivery of housing in the RWBCCA to date they do not appear to be restricting development such that is limiting achievement of the requirements of the plan. The proposed development at 60 units is a scheme which in the context of the delivery strategy, CP2, is above what might reasonably be expected in areas outside this settlement, or even within it. The settlement is in a Community Area that has already met its planned housing requirements for the plan period and the direction of travel is not to amend the settlement boundary in this location. Whilst the Framework seeks to boost significantly the delivery of housing the Council can demonstrate a 5 year housing land supply, the Community Area is meeting its requirement level and the proposed development is not in accordance with the spatial strategy of the development plan.
79. Overall I conclude that the proposal would result in an increased demand for travel to access the services and facilities required for future residents to meet their day to day needs which would be provided for in higher order settlements it would therefore fail to comply with policies CP1, CP2 and CP19 of the WCS. As such the proposal would not contribute to a sustainable pattern of development in the County. Given that the planning system seeks to positively plan for development, undermining the development plan would result in material harm to the achievement of sustainable development in the County which is to be achieved through the spatial strategy.

Character and appearance

80. The site comprises two fields at the edge of Lyneham supporting pasture and arable cropping. They are sub divided by a mature hedge row for part of the boundary and in the wider area there are hedge and tree boundaries to the north east and east containing the site from the wider landscape. To the north the site abuts South View, the A3102, which has a relatively open boundary demarked by open fencing and loosely spaced trees. To the south and west the site abuts the edge of Lyneham where the boundary is primarily demarked by residential curtilages enclosed by standard fences, producing a relatively stark and unmediated urban edge.
81. The application is submitted in outline with only the access into the site being a matter for consideration at this stage. There has been illustrative material provided which gives an indication of one way in which the site could be developed but which is not determinative.
82. The site has no landscape designation and it is not argued by the Council that it is a valued landscape in terms of paragraph 109 of the Framework. Both parties accept that what harm there would be would be localised. The landscape harm would result from a presently undeveloped area of land being developed with a housing estate. The harm would be permanent and irreversible and would result in a complete change to the character of the

application site. However in the context of the wider landscape the site is located at the edge of the village. The village edge would in effect be moved outwards. There would be little significant difference to the appearance of the edge of Lyneham as seen across the remaining fields and with a hard urban edge. There would however be, as the appellant contends, an opportunity to improve the village edge, softening and landscaping it. The redline boundary ensures there are fields beyond the site across which the development would be viewed and the illustrative material includes landscape buffer zones and a density of development that would enable reasonably extensive landscaping at the periphery of the site.

83. The site is relatively contained by wider landscape features to the north and north east including the Old Rectory and the adjacent field boundaries with substantial trees. The site is not conspicuous or readily visible in longer distance views.
84. On this basis I conclude that whilst there would be a loss of open land, the end result would be a more coherent better assimilated and much improved village edge with enhanced landscaping. In my view this would be a positive benefit of the scheme and improve the landscape character and appearance of the area.
85. There are a number of public rights of way that pass through the site, in particular Lyne 4 and Lyne 5. The development of the site would affect Lyne 4, which runs west east from Pound Close across field 2 to meet with Lyne 1 and head south towards Lancaster Square. The illustrative layout has the alignment retained but adjacent to residential plots and along footpaths in the estate. This would change the character of the experience for footpath users who would not get into the countryside until the south eastern site boundary and the remainder of field 2. This would affect a short section of the footpath but would be a negative effect on the users of it.
86. In terms of Lyne 5, which runs roughly north eastwards from where Lyne 4 exits Pound Close up to the boundary with The Old Rectory and South View, again the alignment is proposed to be retained and much of it accommodated within a landscaped area that seeks to also incorporate the existing drainage ditch. Whilst this is an illustrative layout it does suggest that there is room to accommodate a more rural setting for the right of way and only limited sections would need to be directly adjacent to residential curtilages. The change in character could be moderated and would not be as significant as in respect of Lyne 4.
87. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. The Framework seeks to ensure that the intrinsic character and beauty of the countryside is recognised.
88. Given the limited localised effect of the development and the positive benefit of the potential landscaping improving the landscape structure and village edge I am satisfied that the scheme does address the identity of the village, its transition between man-made and natural landscapes, the locally distinctive character of Lyneham and the landscape features of value in the area. There is a negative effect on Lyne 4 and a lesser but still negative

effect on Lyne 5 however these can be mitigated, particularly in respect of Lyne 5 by appropriate landscaping which could be the subject of an appropriate condition.

89. On balance and for the reasons given above I conclude that the proposal would not result in material harm to the character and appearance of the area. The proposal would therefore not conflict with policy CP51 of the WCS which seeks to protect and conserve landscape character and appearance.

Setting of Listed Building

90. The Old Rectory is a Grade II listed building located to the north east of the appeal site.
91. I have a statutory duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Core Policy 58 in the WCS addresses the conservation of the historic environment and requires that development should protect, conserve and where possible enhance the historic environment. It further states that designated heritage assets and their settings will be conserved and where appropriate enhanced in a manner appropriate to their significance. The Framework in Section 12, paragraphs 126 through to 141, sets out policies for conservation and enhancement of the historic environment.
92. There is some uncertainty as to when the property was originally built, with suggestions that it could be 18th century. The property is for the most part red brick laid in English bond with a slate roof covering. The front elevation has a gothic front in ashlar limestone and brick gables with a natural stone roof. This was added in the 1870s and most likely associated with the property becoming a vicarage, which I was informed was in 1874.
93. The property consists of the detached building and its gardens which are contained within a walled boundary. The parties accept that this demarks the extent of the property's curtilage. Beyond the curtilage is open countryside with the village of Lyneham set to the south west across open fields. Again both parties accept that the appeal site which includes the fields between the village edge and the curtilage of the Old Rectory form part of the setting of the designated heritage asset.
94. The setting of a heritage asset is defined in the Framework as the surroundings in which an asset is experienced. It is not fixed and may change as the asset and its surroundings evolve. The Framework further advises that elements of the setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate its significance or may be neutral.
95. The significance of the Old Rectory is derived from: its aesthetic value, in terms of the appearance and architectural quality of the building; its communal value, in terms of its use as a rectory and its association with the village; in evidential value, identifying the historic associations with the parish church and Lyneham; and its historical value, as an illustrative remnant of Lyneham. The parties agree that the development would not directly impact on the building itself or indeed on its curtilage.

96. The fact the setting contributes to the significance of the asset and that the site is located within that setting is not a substantive point of issue; rather the issue revolves around the importance of that contribution. Both parties referred to Historic England's Historic Environment Good Practice Advice in Planning: 3 'The Setting of Historic Assets' in respect of assessing the setting of the building and its contribution to significance and I have had regard to it. The wider setting for the asset is the rural countryside and proximity to the village of Lyneham with which it has a close association. The footpath links in the area connect the site to the village and the proximity of the site to the village is such that there is a degree of visibility of the site from the village. However, that visibility is of an enclosed curtilage heavily treed with the property well screened. There are very limited views of the property itself which sits in a dip in the landscape and the substantial trees on the property boundary and within its curtilage, further obscure views of the building. In this regard therefore it is not the view of the property and its appearance that is important, but the view of the site and an understanding of its relationship with the village, which are in my view those elements of the setting that contribute to its significance.
97. The Council suggest that the function of the rectory as a place of refuge and sanctuary are important qualities in this regard. The Council suggest that the position of the rectory in relation to the village provided a degree of separation, with the walled perimeter adding to that sense of security, but the walls not being of such height as to discourage or exclude potential visitors. There is little evidence presented for this conclusion and indeed many rectories and vicarages provided a focal point for villagers to seek counsel, advice and sanctuary but did not have such a degree of separation or isolation from villages often being more closely related, physically, to the church they were associated with. I give this contribution to significance only limited weight.
98. In terms of the physical relationship between the proposed built form of the development and the Old Rectory the illustrative layout provides for the retention of an open landscaped area between the closest residential properties and the boundary of the asset. There are also indicative landscape proposals to strengthen the tree screening on the boundary. Whilst this is illustrative a condition was agreed between the properties setting a minimum distance between the asset and the closest residential property. To this extent the proposals would retain an area of open space between the asset and the village maintaining a sense of separation from the village. But at the same time maintaining the associative link with the village in terms of proximity and retaining the alignments of the existing footpaths.
99. The development of the site will close the gap between the village and the asset this will to some extent reduce the rural setting of the asset and would therefore reduce its separation and detachment. This potential has the effect of disrupting the understanding of the associative link that historically existed and thereby harm the setting of the asset. I note that the Council suggest that there is a cumulative addition of development on this side of Lyneham which adds to the effect on that relationship. However, Ms Ridgwell in her proof⁴ states the late C20th housing development can be seen across the field from the listed building but is set far enough away so

⁴ Page 5 Paragraph 2.2

as not to harm the setting of the heritage asset. If there is no harm to the setting presently there is not a cumulative impact.

100. Therefore on the basis of the above I accept that there would be some harm to the setting of the listed building by development in the intervening space between the village and the asset. This does not however directly affect the asset or its curtilage and affects only a small proportion of the wider setting of the building and has a limited effect on the contribution the setting has to the significance of the asset, in terms of its effect on the associative relationship and physical separation between the village and the asset. I conclude that the harm would in the context of the Framework to be less than substantial and that this would be at the lower end of that harm. I give this harm considerable importance and weight.
101. For the reasons given above I therefore conclude that the proposal would result in less than substantial harm to the Old Rectory, a Grade II listed building. As harm arises to the setting of this building of special architectural or historic interest the proposals would conflict with Core Policy 58 of the WCS which seeks to conserve the setting of such buildings.
102. Paragraph 134 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. The proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 60 new homes, there would be landscape enhancements to the village edge which would improve the character and appearance of the area, and the proposal proposes additional open space above the requirements of the development plan. These are significant public benefits of the scheme to which I give significant weight and in my view they outweigh the less than substantial harm that would arise from the development, to which I have given considerable importance and weight. Given this conclusion of the 134 balance I therefore also conclude that the proposal is not one that should be restricted in the terms of paragraph 14 of the Framework.

Infrastructure provision and Planning Obligation

103. The Council's evidence confirmed that the parties were working together to secure various contributions through a legal agreement and that if a signed agreement was presented to the Inspector that the Council would no longer resist the proposals on this basis. I was provided with a fully signed an executed agreement on the final day of the Inquiry.
104. Concerns were originally expressed that the proposed development would require: the provision of affordable housing, there is an identified shortfall in public open space in the area and therefore the development would need to make adequate provision for open space for the future residents, that the management of that open space would need to be appropriately provided for, given that there would be additional demands resultant from the increase in school age children, particularly with regard to pressures in secondary education, a financial contribution would be required to make adequate provision, and. finally that there would be additional resource demands in terms of the infrastructure required to support the Council's waste and recycling collection service.

105. With the provision of the executed agreement all of these matters were addressed to the satisfaction of the Council and they no longer sought to resist the development in terms of the impact on infrastructure.
106. However, I must also satisfy myself that the matters secured are in compliance with the Community Infrastructure Regulations, the Framework and in accordance with the development plan.
107. In terms of affordable housing there is a demonstrable need both in the County and the Community Area. The evidence presented in ID13 demonstrates that there were some 188 households seeking affordable housing in the RWBCC. The proposal makes provision for 40% of the dwellings to be provided as affordable housing in line with Policy CP43 of the WCS. The proposal fulfils a planning function which is reasonable and in keeping with the scale and kind of the development and therefore meets the appropriate tests. I give the provision of affordable housing significant weight in my overall balance.
108. The Public open space secured by the development is compliant with policy CP52 which relates the provision to the scale of development. In this regard it is in keeping with the scale and kind of the development. There is an identified shortfall in open space and the future residents would benefit from the open space. It is therefore reasonable and related to the development and planning. Policy CP52 requires suitable management arrangements to be put in place and these are secured by the agreement. I am satisfied that these matters are in keeping with the tests and that I should give them weight in my decision. However, they secure open space for the future occupiers of the development a need which would not otherwise arise if not for the development. As such this is not a positive benefit of the scheme but addresses or mitigates an impact of the development and I do not therefore attribute it positive weight in the overall balance.
109. The education contribution is based on a calculation method set out in 'Developers Contributions – Education Infrastructure Policy approved 2014, revised 2017'. The nature of the calculation takes account of the nature size and scale of the development resulting from a pupil product figure per specified number of dwellings. The Council have identified that the money would be spent at Royal Wotton Bassett Academy and that there had only been two other contributions in respect of any such works. It was further confirmed⁵ with this third contribution there would be sufficient funds to progress the extension and this would be progressed within the timescales of the development. On this basis I am satisfied this is a reasonable contribution that would mitigate the impact of the development on educational infrastructure. However, as mitigation it is not a positive benefit.
110. Finally the Council have a financial calculation to ensure adequate infrastructure can be provided to future residents for waste and recycling, ie the provision of bins. The standardised charge is per property and is proportionate. Again this is not a positive benefit.

⁵ ID23

111. For the reasons given above I conclude that the development would make adequate provision for any additional infrastructure need for affordable housing, education and open space arising from the development. The proposals would therefore accord with policy CP3, CP43 and CP52 of the WCS which require developments to make provision for the necessary onsite and offsite infrastructure requirements of the development.

Overall conclusions

112. Overall I have concluded that the Council can demonstrate a 5 year supply of housing land. I am satisfied that the plan is not absent or silent in respect of policies that affect the development and against which it can adequately be considered. I have also found that the settlement boundaries are not out of date and nor are the associated policies. As relevant policies in the plan are not absent, silent or out of date paragraph 14 of the Framework is not engaged I am therefore in the position of carrying out a straight balance in my decision making this means determining the application in accordance with the development plan unless material considerations indicate otherwise and as advised at paragraph 12 of the Framework development that accords with the development plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

113. In undertaking the balance I first identify the development plan position. In particular my conclusions that adverse impacts would arise from the granting of permission that would conflict with the development plan as a whole; it would conflict with the general spatial strategy including the settlement hierarchy and delivery strategy, CP1 and CP2 and that for the community area, CP19. In doing so to grant permission would undermine the development plan and the sustainable pattern of development that it seeks to achieve across the County and would lead to additional travel patterns to meet future residents' everyday needs for access to services and facilities. This is of substantial importance in the plan led system, given section 38(6) and the advice in the Framework. Added to this there is less than substantial harm to a heritage asset which further conflicts with policy CP58, notwithstanding that by itself the benefits of the scheme may outweigh that specific harm, when added to the overall balance it contributes to the overall adverse impacts which must be taken into account.

114. The other material consideration that I have had regard to that may indicate that a decision otherwise than the development plan would be appropriate include the following.. The provision of affordable housing, to which I give significant weight, and the provision of 60 new dwellings in the light of the need to significantly boost housing delivery in the Framework, to which I give significant weight. There would also be the positive benefit to the improved landscape and visual effect on the village edge, to which I attach moderate weight. The appellant has as part of the scheme identified additional open space and landscaping, over and above that secured through the planning obligation and required through policy, which would be secured by way of condition. Given the shortfall in open space provision in the area I attach moderate weight to this as a positive benefit. The appellant also suggests economic benefits would accrue from the development in terms of economic benefits arising through construction activity, a net increase in expenditure from future residents and increases in Council tax receipts.

These are benefits that would accrue with any development of this nature in the wider area and I only attach them limited positive weight.

115. Considering these matters in the round I am satisfied that these material considerations are not of sufficient weight to out-weigh the harm I have identified. A conclusion that a decision otherwise than the development plan, which the scheme conflicts with, would therefore not be appropriate

116. Those factors that contribute to the mitigation of development or where I have found do not result in material harm are a consequence of the development and would not arise if the development did not take place. As such they have a neutral effect on the overall balance exercise.

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

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Zack Simmons Of Counsel, instructed by Frank Cain Head of
legal Services Wiltshire Council

He called

Mark Henderson Manager Monitoring and Evidence Team,
BSc(Hons), MA, MRTPI Wiltshire Council

Caroline Ridgewell Senior Conservation Officer, Wiltshire Council
BSc(Hons), MSC, IHBC

Mark Staincliffe MPLAN Senior Planning Officer (Development
MRTPI Management), Wiltshire Council

FOR THE APPELLANT:

Rupert Warren Queen's Counsel, instructed by Jacqueline
Mulliner, Terence O'Rourke Ltd

He called

Martin Miller BA MPhil Technical Director Terence O'Rourke Ltd
MRTPI

Chris Enderby DipLA Enderby Associates
CMLI

Alan Ford MCifA Senior Heritage Consultant, Cotswold
Archaeology

Jacqueline Mulliner Director and National Head of Planning, Terence
O'Rourke Ltd.

INTERESTED PERSONS:

Mr Richard Marshall Local Resident
Mr R Gill Local Resident (and Parish Councillor)
Ms L Thrussell Local Resident (and Parish Councillor)

Documents submitted during Inquiry (Inquiry Documents (ID))

- | ID | Description |
|----|--|
| 1 | Appellants list of appearances and opening comments |
| 2 | Wiltshire Council's list of appearances |
| 3 | Extract from Written Ministerial Statement HLWS167 providing technical adjustment to paragraphs 49 and 159 of the National Planning Policy Framework. |
| 4 | Court of Appeal Decision [2017] EWCA Civ427 |
| 5 | High Court Decision [2015] EWHC 539 (Admin) |
| 6 | Wiltshire Council's opening statement |
| 7 | Signed Statement of Common Ground Housing Land Supply Matters dated 2017 |
| 8 | Copy of comments made orally to the Inquiry by Mr R Marshall |
| 9 | Plan 1189.003LB identifying distances between the closest locations of the proposed dwellings (illustrative) and the Old Rectory and its curtilage submitted by appellant. |
| 10 | Appendix One to Topic Paper 2 (CD74), not previously included, submitted by appellant |
| 11 | Web page from Redcliffe Homes website regarding Rowden Park, Chippenham submitted by appellant. |
| 12 | Council report for area planning committee on application 15/11886/Ful Bridge at Rawlings Green submitted by Wiltshire Council |
| 13 | e-mail from Housing-services Development & Enabling Team Wiltshire Council confirming affordable housing requirement submitted by the appellant. |
| 14 | Table of cumulative total of housing completions in the North and West Housing Market Area 2006-2016 submitted by the appellant. |
| 15 | List of suggested conditions submitted by Wiltshire Council |
| 16 | a) Itinerary for site visit
b) Plan of site visit route associated with itinerary
Submitted by appellant in agreement with Wiltshire Council at Inspector's request |
| 17 | Wiltshire Council's closing submissions |
| 18 | Appellant's closing submissions |
| 19 | Wiltshire Council's cost application against the appellant |
| 20 | Appellant's response to Wiltshire Council's costs application |
| 21 | Wiltshire Council's reply to appellant's response to costs claim |
| 22 | a) Counterpart certified copy of section 106 agreement dated 18 July 2017 (Signed and sealed by the Council and signed by David Edmund James Webb, Timothy David Webb and Frances Irene Skull)
b) Counterpart certified copy of section 106 agreement dated 18 July 2017 (signed and sealed by the Council and signed by Lloyds Bank PLC) |
| 23 | Email from Head of school place commissioning regarding the use of the education contribution secured in 106 agreement submitted by the Council. |

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