

# AGENDA

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**Meeting:** Strategic Planning Committee

**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN

**Date:** Wednesday 1 December 2021

**Time:** 10.30 am

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Please direct any enquiries on this Agenda to Tara Shannon, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718352 or email [tara.shannon@wiltshire.gov.uk](mailto:tara.shannon@wiltshire.gov.uk)

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## Membership:

Cllr Howard Greenman (Chairman)  
Cllr Tony Trotman (Vice-Chairman)  
Cllr Ernie Clark  
Cllr Adrian Foster  
Cllr Sarah Gibson  
Cllr Carole King

Cllr Christopher Newbury  
Cllr Pip Ridout  
Cllr James Sheppard  
Cllr Elizabeth Threlfall  
Cllr Robert Yuill

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## Substitutes:

Cllr Helen Belcher  
Cllr Clare Cape  
Cllr Ruth Hopkinson  
Cllr George Jeans  
Cllr Dr Nick Murry

Cllr Andrew Oliver  
Cllr Stewart Palmen  
Cllr Nic Puntis  
Cllr Bridget Wayman  
Cllr Graham Wright

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## **Covid-19 safety precautions for public attendees**

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You must contact the officer named on this agenda no later than 5pm on 22 November 2021 if you wish to attend this meeting. Places will be allocated on a first come first served basis.

To ensure safety at the meeting, all members of the public are expected to adhere to the following public health arrangements to ensure the safety of themselves and others:

- Do not attend if presenting symptoms of, or have recently tested positive for, COVID-19
- Follow one-way systems, signage and instruction
- Maintain social distancing
- Please wear a face-mask (unless exempt) when in public spaces and transiting through the building.

Where it is not possible for you to attend due to reaching the safe capacity limit at the venue, alternative arrangements will be made, which may include your question/statement being submitted in writing.

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### **Public Participation**

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

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

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

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

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 28*)

To approve and sign as a correct record the minutes of the meeting held on 3 November 2021.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public. To ensure Wiltshire Council COVID-19 public health guidance is adhered to, a capacity limit for public attendance at this meeting will be in place. You must contact the officer named on this agenda no later than 5pm on Monday 29 November 2021 if you wish to attend this meeting. Places will be allocated on a first come first served basis and all requests may not be accommodated if there is high demand.

### **Statements**

Members of the public who wish to submit a statement in relation to an item on this agenda should submit this in writing to the officer named on this agenda no later than **5pm on Monday 29 November 2021**.

Submitted statements should:

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;

Be readable aloud in approximately three minutes (for members of the public and statutory consultees) and in four minutes (for parish council representatives – 1 per parish council).

Up to three objectors and three supporters are normally allowed for each item on the agenda, plus statutory consultees and parish councils.

Those submitting statements would be expected to join the meeting to read the statement themselves, or to provide a representative to read the statement on their behalf.

### **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 electronically to the officer named on the front of this agenda no later than 5pm on 24 November 2021 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 26 November 2021.

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 members prior to the meeting and made available at the meeting and on the Council's website. Questions and answers will normally be taken as read at the meeting.

## **6 Planning Appeals and Updates**

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        **21/01155/OUT Land at Restrop Road, Purton, Swindon, Wiltshire, SN5 4BP** (*Pages 29 - 52*)

Outline planning permission for up to 47 dwellings with associated landscaping and vehicular and pedestrian accesses off Restrop Road (all matters reserved except means of vehicular access).

7b        **20/08341/OUT Land South West of Park Road, Malmesbury** (*Pages 53 - 84*)

Outline Planning Application (with all matters except access reserved) for up to 26 Dwellings, Public Open Space, Landscaping and Associated Engineering Works.

## **8 Urgent Items**

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

## **Part II**

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

None

### Strategic Planning Committee

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#### MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 3 NOVEMBER 2021 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

##### **Present:**

Cllr Howard Greenman (Chairman), Cllr Tony Trotman (Vice-Chairman), Cllr Ernie Clark, Cllr Adrian Foster, Cllr Carole King, Cllr Christopher Newbury, Cllr Pip Ridout, Cllr James Sheppard, Cllr Elizabeth Threlfall, Cllr Robert Yuill and Cllr Stewart Palmen (Substitute)

##### **Also Present:**

Cllr Trevor Carbin, Cllr Edward Kirk and Cllr Jacqui Lay

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#### 36 **Apologies**

Apologies were received from Cllr Sarah Gibson who was substituted by Cllr Stewart Palmen.

#### 37 **Minutes of the Previous Meeting**

The minutes of the meeting held on 6 October 2021 were presented for consideration, and it was,

##### **Resolved:**

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

#### 38 **Declarations of Interest**

There were no declarations of interest.

#### 39 **Chairman's Announcements**

There were no Chairman's announcements.

#### 40 **Public Participation**

The rules on public participation were noted.

#### 41 **Planning Update**

Andrew Guest, Major Projects and Performance Manager gave an update to the meeting stating that the s106 agreement for 15/12351/OUT: Land at Rawlings Farm, Cocklebury Lane, Chippenham had been completed, so planning permission was issued.

In response to a question on when there would be updated 5 year land supply figures, the officer stated that the figures were being prepared but at present there was no confirmed date when these would be available.

#### 42 **Planning Applications**

The following planning applications were considered.

#### 43 **20/11382/FUL - Land at Pavenhill, Purton, Swindon, SN5 4DA**

##### Public Participation

Julie Hennessy spoke in objection to the application.

David Arnold spoke in objection to the application.

Alison Young (agent) spoke in support of the application.

Professor Richard Pagett representing Purton Parish Council spoke in objection to the application.

Lee Burman, Development Management Team Leader (North) presented a report which recommended that authority be delegated to the Head of Development Management to grant planning permission with conditions and subject to a s106 agreement for 20/11382/FUL, Land at Pavenhill, Purton, Swindon, SN5 4DA, for the demolition of 1 existing dwelling and erection of 25 market and affordable dwellings, with associated access works, car parking, public open space and landscaping.

The officer highlighted some typing errors within the agenda report. Corrections were stated as follows:

- Page 39, the first paragraph under Tilted Balance, includes the following sentence – “The scale of development is limited at 24 dwellings (net increase) and this is not considered reasonably well related to the scale of the settlement itself.” The word “Not” was included in error and should be deleted.
- Page 41, last paragraph under Residential Amenity, should read ‘*As such the proposals are considered to accord with the relevant policies of the plan and provision of the framework.*’
- The numbering on the conditions attached to the recommendation to approve was slightly out and would be corrected for the minutes if the application was approved.

The officer drew attention to representations sent directly to the Committee from Purton Parish Council and the CPRE (The countryside Charity, formerly known as the Campaign to Protect Rural England). The points raised in these representations were already addressed within the agenda report.



The officer explained that this application was being considered by the Strategic Planning Committee, rather than the Northern Area Planning Committee, as it had been called in by the local Member to consider the principle of development; the constrained vehicular access which was a concern to local residents; the conflict with the development plan and as the application raised housing land supply issues which affected all of Wiltshire.

The officer ran through the presentation slides, highlighting the location of the site and that the site was landlocked, requiring the demolition of 1 dwelling in order to provide access. The proposed site layout was very similar to a previous application (16/03625/FUL) which had been refused at Committee and dismissed at appeal. Within the proposed site layout, the play area had increased in size, the turning head had been reconfigured, the access road was of a slightly different alignment and there was better pedestrian access.

The substantive issues were stated to include the following, the proposal gave a net gain of 24 residential dwellings, the site was outside the limits of development and was not in accordance with Wiltshire Core Strategy (WCS) Core Policy (CP) 1, 2 and 19 and the Purton Neighbourhood Plan. As previously stated, a very similar application had been refused and dismissed at appeal by the Planning Inspectorate. However, at that time Wiltshire Council could demonstrate a 5 year housing land supply so the conflict with the policies and plans and the planning harm that arose outweighed the benefits of boosting the housing land supply. This was no longer the case. At appeal the planning inspector did not find any site specific substantive objections to the application. Therefore, one could only give limited weight to the issues raised with the application by interested parties. Since the similar application was considered, the Purton Neighbourhood Plan had been made, but this had now passed the 2 year timeframe for review, so was now considered to have reduced weight.

The officer explained that due to the shortfall in housing land supply the 'tilted balance' came into play on this application (paragraph 11d of the NPPF (National Planning Policy Framework)) which changed the weighting of arguments.

Material considerations for the Committee were stated to include the limited scale of the development with a net gain of 24 properties, which was proportionate to the scale of the settlement. The site was well related to the built form of the Purton settlement. The conflict with the Purton Local Plan was reduced due to the reduced weight of the Plan as described earlier. The proposal boosted the supply of land for housing and provided affordable housing. The officer felt that the reduced weight of the conflicts with plans and policies and increased weight of the benefits of the scheme were highly relevant if this proposal was to come before the planning inspectorate again. The officer stated that on balance the benefits arising from the scheme exceeded the planning harm, which was why the recommendation was for approval.

Members of the committee then had the opportunity to ask technical questions of the officer. Some Members, whilst acknowledging the concerns regarding the shortfall in the 5 year housing land supply, queried whether there was a housing

need in the local area and highlighted that the latest Housing Delivery Test for Wiltshire which indicated that the Council had met 149% of its required housing over the last 3 years. They also stated that there were several developments, such as 15/12351/OUT: Land at Rawlings Farm, Cocklebury Lane, Chippenham that would have a significant impact on the land supply. In response the officer explained that whilst Wiltshire Council had met 149% of its required housing over the last 3 years there was still a shortfall in supply. The 2019 figure where the Council could demonstrate 4.62 years supply would now be out of date and it was thought this figure was now 4.29 years supply. There was a housing need in the North and West Wiltshire Housing Market Area and across Wiltshire as a whole. The Land at Rawlings Farm development could not be counted towards the 5 year housing land supply due to when it went to Committee.

In response to further questions the officer explained that the housing allocation sites identified in the Purton Neighbourhood Plan (NP) had already been granted permission, however neighbourhood plans should be reviewed every 2 years, the Purton NP had not been, so now carried less weight. Despite this site not being one of the allocated sites the developer had, had aspirations to build on the site for quite some time.

The officer stated that the Highways Officer had considered the highways matters in detail and a lot of work had been undertaken due to the level of concern in the local area. The Highways Officer had raised no objections and felt the scale of use generated by the development could be dealt with. At the appeal on the previous similar application the inspector did not consider that the highways issues constrained the development. There were conditions attached to the recommendation to approve that covered highways matters.

The officer confirmed that the site had been considered when Purton were producing their Neighbourhood Plan. The officer explained that if approved, maintenance of the play area would be covered by a s106 agreement, usually through management company provisions.

Members of the public and Purton Parish Council then had the opportunity to present their views, as detailed above and late representations in writing to the Committee.

The unitary division member, Jacqui Lay, spoke in objection to the application. Cllr Lay highlighted that this site was outside the limits of development. Cllr Lay stated that Purton was a large village that should not be subject to lots of development as there was no service centre to support developments. A number of applications for houses in the area were detailed. Highways concerns regarding Pavenhill were explained, including the narrowness of the road and that local people felt the road was unsafe to walk along. Cllr Lay also felt that neighbourhood plans should not be disregarded, if this application was granted whilst being contrary to the neighbourhood plan it would undermine all neighbourhood plans across Wiltshire. There were issues with infrastructure and flooding to consider. Cllr Lay urged the committee to refuse the application, as the negative impacts of the application demonstrably outweighed the benefits, but if they approved it, recommended extra conditions to help support

nursery places, the village centre, improvements to the Rights of Way (RoW) network and mitigations to deal with the access issues and improve road safety.

Cllr Tony Trotman proposed a motion to refuse the application, seconded by Cllr Adrian Foster. Reasons for refusal included that this application would not be being recommended for approval without the 5 year housing land supply shortfall, the site was outside the settlement boundary, was landlocked and was contrary to CP1, the Settlement Strategy, CP2, the Delivery Strategy and CP19 the Spatial Strategy for the Royal Wootton Bassett and Cricklade Community Area. The site was not allocated for development in the Purton Neighbourhood Plan or Wiltshire Core Strategy. The Purton Neighbourhood Plan should have more weight when considering this application. Cllr Trotman highlighted a Malmesbury application (19/05898/OUT) considered by the Committee recently which was similar, which the Committee had refused, he felt that the Committee should be consistent when considering applications of this nature. The adverse impacts of the development outweighed the benefits.

A debate followed where Members stated they felt that it was important for them to be consistent, they could not refuse on Highways grounds as the Highways Officer has no objections, they should not be held to ransom over the shortfall in 5 year housing land supply when Wiltshire Council had demonstrably made good progress to addressing this, that Neighbourhood Plans should be supported and should be given more weight and that if this application was refused, Planning Officers should be cognisant of the Committees opinions when making recommendations for similar applications.

At the conclusion of the debate, it was;

**Resolved:**

**That planning permission be REFUSED for the following reasons:**

- 1. The proposal is outside of the settlement boundary for Purton, so it is located in the open countryside and has not been allocated for residential development within the Wiltshire Core Strategy (January 2015), The Wiltshire Housing Sites Allocation Plan (February 2020) or the Purton Neighbourhood Plan (2018). The development fails to meet any of the special circumstances for the creation of additional residential development in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. Therefore, the proposal is contrary to Core Policies 1, 2, and 19 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan and the Purton Neighbourhood Plan. The proposal is in conflict with the development plan taken as a whole. As such, the proposal fails to constitute and secure sustainable development as required by the NPPF, specifically paragraphs 2, 7, 8, 9, 10, 11, 12, 13, 15 and 47 and is contrary to the development strategy of the development plan. In accordance with paragraph 11d (ii) of the NPPF the benefits of the proposal have been fully considered but the adverse impacts**

would significantly and demonstrably outweigh those benefits, when assessed against the policies in the NPPF taken as a whole.

2. The proposed development does not make any provisions for securing affordable housing on the site; financial contributions towards early years education facility provision, public open space and play equipment and the on-going maintenance and waste and recycling facilities. The application is therefore contrary to Core Policies 3, 43, 45 and 52 of the Wiltshire Core Strategy (2015) and paragraphs 8, 34, 55, 56, 64 and 92 of the NPPF.

The Committee adjourned the meeting from 11.50am to 12 noon.

44 **20/09701/FUL - Land at Elizabeth Way, Hilperton, Trowbridge**

Public Participation

Mike Townley spoke in objection to the application.

Caroline Lincoln spoke in objection to the application.

Sarah Dickenson (agent) spoke in support of the application.

Cllr Trevor Carbin of Hilperton Parish Council spoke in objection to the application.

Cllr Edward Kirk of Trowbridge Town Council spoke in objection to the application.

Ruaridh O'Donoghue, Senior Planning Officer, presented a report which recommended that authority be delegated to the Head of Development Management to grant planning permission with conditions and subject to the completion of a s106 agreement for application 20/09701/FUL, Land at Elizabeth Way, Hilperton, Trowbridge, for construction of up to 187 dwellings, means of access, landscaping, drainage, public open space and all other associated infrastructure.

The officer highlighted some errors within the agenda report, these included:

- Page 56 of the agenda, section 3 'Site Description', the report referred to a number of grade II listed buildings adjacent to the site, it was confirmed that there were no grade II buildings adjacent to the site.
- Page 78, section 9.11 'Community Infrastructure Levy (CIL)', which stated that CIL charges would be calculated later, it was confirmed that this was an error, CIL charges could be calculated at this stage.

The officer referred attendees to the detailed report within the agenda which would be taken as read. In summary the application site was approximately 6.5 hectares within Hilperton Parish. The site formed part of the housing allocation in the Wiltshire Housing Sites Allocation Plan (WHSAP) under reference H2.3 which had been adopted in February 2020. The site was to the south west of Elizabeth Way in an area locally known as The Hilperton Gap. A masterplan for the site had been approved by the Council. A separate application for 165 dwellings within the wider H2.3 allocation had been granted outline planning permission by the Committee on 2 December 2020, that application was signed off with a completed s106 in May 2021. There were several Rights of Way

(RoW) within the site known as HILP4, HILP5 and HILP33. It was noted the site was in the yellow zone of the bat mitigation strategy.

Key details were stated to include the following the principle of development, whether the scheme constituted high quality design, negative effect in a highway and parking, adequate draining and impact on species and habitats.

Members of the committee then had the opportunity to ask technical questions of the officer. Several Members queried the uplift in numbers across the allocation site H2.3 from 355 (allocated in the masterplan) to approximately 423. In response the officer explained that this had been debated by the Committee on 2 December 2020 when the first application within the allocation came to Committee and had been found to be acceptable by Members as the uplift in numbers caused no planning harm, there were no sound reasons for refusal and this would also reduce pressure on greenfield sites. The NPPF also stated that there should be an uplift in the density of housing so long as there were no adverse consequences.

Details were sought on sustainable transport and the why the application did not contain separate cycle and footpaths. In response the officer stated that the development had a number of connections to neighbouring plots of land, these were shared cycle/pedestrian routes which were 4 metres wide and met highways guidance. The view of the local Highways Officer was that this complied with policies.

Questions were also raised on the hourly bus service to various locations as Members stated the site was nowhere near a bus stop. The officer stated that those comments formed part of the Highways Officers comments and they were not present to speak, so he could not comment.

Apparent contradictions within the report regarding the lighting of footpaths/rights of way and the needs of path users and bat mitigation/protection were queried. It was explained that these were requests and were covered by the conditions attached to the recommendation.

Other Members questioned why the play area was located where it was, especially as it was close to a main road. The officer explained that the public open space team set out criteria that must be fulfilled, not the specific location of open space/play sites.

Members also queried whether the modelling undertaken for drainage and flood mitigation took account of climate change. The officer confirmed that the masterplan would have undertaken this at the levels required by law, and this would have taken account of climate change. It was further explained that they were confident that the site could be drained without increasing flood risk elsewhere, no matter which of the methods discussed in the report was used and there were conditions in place to cover this.

In response to further questions the officer confirmed that the application contained 30% social housing and that the Hilperton Neighbourhood Plan was

an emerging document when this site was allocated and was in general accordance with the masterplan.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member Cllr Ernie Clark, spoke in objection to the application, however he stated that most of his comments had already been covered by his questions and the public speakers.

In response to public statements the officer stated that the recommendation within the report was guided by consultees, there had been no objections received to the location of the play area. Speed limits were under control of the local Highways Authority. Should the application change the status or function of the road then speed limit changes could be considered. Regarding the density of housing on site, the Committee had considered and made a decision on 2 December 2020 regarding an uplift in numbers so it would be hard to defend if refused on that basis.

Cllr Ernie Clark proposed a motion to refuse the application for the following reasons, it was contrary to policy 1g of the adopted Hilperton Neighbourhood Development Plan (HNDP) as the site was not well set back from Elizabeth Way, but instead provided a new and abrupt urban edge. The proposed density of the site and the type of housing was not in keeping with the existing houses to the west of the site contrary to HDNP policy 3. The planning inspector approved the Councils proposal to build on land west of Elizabeth Way stating that approximately 355 dwellings should be constructed, this particular plot was allocated 105 dwellings. This application fulfilled far too many of the houses allocated by the planning inspector. The applicant should revise the dwellings numbers down and revise the siting of the play area. This was seconded by Cllr Adrian Foster.

Cllr Newbury requested the Committee run these reasons for refusal past the planning officer for his opinion. The planning officer stated that these were subjective matters. Regarding the abrupt urban edge, the landscape officer, and design officer did not raise that as an issue. The site was set back 20-30 metres from the road and there was appropriate landscape buffering proposed. Wherever you stood in The Hilperton Gap you could see housing all around so you could not shield the site completely. The officer highlighted the NPPF which talked about maximising density and making efficient use of site allocations, reducing pressures on greenfield sites. The Council was in deficit on the 5 year housing land supply, the site had been allocated and deemed appropriate for housing. The Committee on 2 December 2020 had accepted the uplift in housing numbers. Therefore, the officer felt that refusal on those reasons would be difficult to defend at appeal.

A debate followed where some Members stated that they could not support the motion to refuse as whilst the application was for a larger number of houses than anticipated, those issues had been dealt with at a previous Committee. The density of the site was similar to other applications approved around the

county. Drainage was also raised as an issue for consideration, but this was dealt with by the conditions. Others felt that the location of the play area was unacceptable and that there was a shortage of parking spaces.

At the conclusion of the debate the motion to refuse was put to a vote and the motion fell. Cllr Ernie Clark requested that his vote be recorded.

Cllr Clark voted for the motion to refuse.

Cllr Tony Trotman then proposed a motion to approve the officer recommendation at pages 81 – 91 of the agenda. This was seconded by Cllr Christopher Newbury. It was,

**Resolved:**

**To Defer and Delegate to the Head of Development Management to grant full planning permission subject to the conditions set out below and to the prior completion of a Section 106 legal agreement to cover the contributions identified in Section 10 of the report.**

**DRAFT CONDITIONS AND INFORMATIVES**

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 and documents:**
  - **Site Location Plan 1\_1250 P19-2592\_01 REV A**
  - **Site Location Plan 1\_500 P19-2592\_01 REV D**
  - **Site Layout P19-2592\_09AA**
  - **Housepack P19-2592\_08C**
  - **Materials P19-2592\_10F**
  - **Ex Works P19-2592\_11H**
  - **Enclosure details P19-2592\_19A**
  - **Adoption and Management P19-2592\_12F**
  - **Parking Strategy P19-2592\_13F**
  - **Refuse Strategy P19-2592\_14E**
  - **Building Heights P19-2592\_15E**
  - **Affordable Housing P19-2592\_16E**
  - **Existing Survey 525-004 Rev F**
  - **Engineering for Planning Rev F 525-050-01**
  - **Engineering for Planning Rev F 525-050-02**
  - **Engineering for Planning Rev F 525-050-03**

- Engineering for Planning Rev F 525-050-04
- Engineering for Planning Rev F 525-050-05
- Drainage Strategy for Planning Rev F 525-075-01
- Drainage Strategy for Planning Rev F 525-075-02
- Attenuation Pond Rev F 525-320
- Road and Sewer Long Sections Rev A 525-200-01
- Road and Sewer Long Sections Rev A 525-200-02
- Road and Sewer Long Sections Rev A 525-200-03
- Road and Sewer Long Sections Rev A 525-200-04
- Road and Sewer Long Sections Rev A 525-200-05
- Vehicle Tracking Rev F 525-405-01
- Vehicle Tracking Rev F 525-405-02
- Vehicle Tracking Rev F 525-405-03
- Impermeable Area Plan Rev F 525-505
- Flood Exceedance Routing Rev F 525-510
- Flood Risk Assessment & Drainage Strategy Rev A
- Soft Landscape Proposals GL1271 01G
- Soft Landscape Proposals GL1271 02G
- Soft Landscape Proposals GL1271 03G
- Soft Landscape Proposals GL1271 04H
- Tree Pit Details GL1271 05A
- Lighting Plans P20417-01-rF
- Lighting Plans P20417-02-rF
- Lighting Plans P20417-03-rC
- Lighting Plans P20417-C15-MF0.87
- Lighting Base Line Survey And Proposed Street Lighting P20417-rep-01 Issue D
- Arboricultural Impact Assessment & Method Statement BDWB21071 Rev B
- Tree Protection Plan BDWB21071-03B
- Noise Assessment P17-053-R02v3
- Travel Plan 13919-HYD-XX-XX-RP-TP-6001 P02

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

3. No development shall commence on site until a scheme for the discharge of surface water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme details shall include any required off-site improvements needed to allow the site to be served (e.g. ditch clearance and maintenance), and to include a programme allowing sufficient time for the delivery of any required improvements.

**REASON:** To comply with Core Policy 67 of the Wiltshire Core Strategy 2015 and to ensure that the development can be adequately drained without increasing flood risk elsewhere as



required by paragraph 167 of the National Planning Policy Framework.

4. No development shall commence on site until a construction management plan, detailing drainage arrangements during the construction phase, 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. The plan must make provision for the installation of attenuation storage prior to the installation of any upstream drainage infrastructure.

**REASON:** To comply with Core Policy 67 of the Wiltshire Core Strategy 2015 and to ensure that the development can be adequately drained without increasing flood risk elsewhere as required by paragraph 167 of the National Planning Policy Framework during the construction phase.

5. No development shall commence on site (including demolition, groundworks, 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 be based on the Habitat Management Plan (BSG P19-962, June 2021) but it will remove reference to any long term management of habitats more appropriately covered in the LEMP. The CEMP will in addition cover the following:

1. Measures, such as fencing and professional oversight, to ensure all land included within communal landscaped areas on the Site Layout plan (Pegasus Drawing P19-2592\_09 Rev Y, 22/09/2021) is excluded from any temporary or construction related use throughout the entire period of construction. Works permitted for these areas will be limited to SuDs creation, landscaping and essential utilities.

2. Location of temporary work compounds throughout the construction phase

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details. Details of the Ecologist supervising the ecological works will be forwarded to the Local Planning Authority before vegetation clearance works commence.

This condition will be discharged when a Completion Report prepared by an independent professional ecologist is submitted to the Local Planning Authority by the end of the next available planting season after the date of substantial completion of the development. The Completion Report will certify that the required mitigation and/or compensation measures identified in the CEMP have been completed to the ecologist's satisfaction.

**REASON:** To ensure the protection of wildlife, retained and newly created habitats during the construction period.

6. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority before commencement of the development. The LEMP shall be based on the Landscape Management Plan (Golby & Luck 16 October 2020, Ref GL1271) submitted with the application, revised to address the following:
- The role of the Landscape Architect in ensuring landscape works are delivered in accordance with the LEMP
  - A plan showing the distribution of habitats that require management across the site.
  - Collate paragraphs 1.29 and 1.73 to clarify acceptable cutting regimes for the various types of hedgerows across the site. Provide minimum height and spread for each type. Clarify what acceptable management of trees will be.
  - At paragraph 1.50 clarify that throughout the lifetime of the development, failed tree and shrub planting must be replaced on a ratio of at least 1:1
  - Para 1.75 clarify the role of wetland / marginal planting for biodiversity and the maximum and minimum extent to which it will be maintained or reference to where this information is found in a relevant drainage management plan for the site.
  - Revise Maintenance Schedule to include reference to items in the above three bullet points.
  - The LEMP shall be implemented in full in accordance with the approved details for the duration of the development.

**REASON:** The application contained inadequate information to enable this matter to be considered prior to granting planning permission to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

7. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the construction phase of the development. It shall include details of the following:
- i. The movement of construction vehicles;
  - ii. The cutting or other processing of building materials on site;
  - iii. Wheel washing and vehicle wash down facilities;

- iv. Measures to control the emission of dust and dirt during construction;
- v. The transportation and storage of waste and building materials;
- vi. The recycling of waste materials (if any);
- vii. The loading and unloading of equipment and materials;
- viii. The location and use of generators and temporary site accommodation;
- ix. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- x. Routing plan
- xi. Traffic Management Plan (including signage drawing(s))
- xii. Number (daily) and size of delivery vehicles.
- xiii. Number of staff vehicle movements.
- xiv. Details of temporary Traffic Regulation Orders
- xv. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts; and,
- xvi. Pre-condition photo survey
- xvii. Phases plan

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

**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 in accordance with Core Strategy Policy 62.

8. 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 by the Local Planning Authority. The 180th dwelling shall not be 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 have all been constructed and laid out in accordance with the approved details.

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

9. **No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), have been submitted to and approved in writing by the Local Planning Authority. These plans will be in line with the approved plans of Adoptable Street Lighting.**

**The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

**This condition will be discharged when a post-development lighting survey conducted in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.**

**REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to ensure core bat habitat meets the requirements of the Trowbridge Bat Mitigation Strategy.**

10. **No dwelling shall be occupied until the approved refuse storage provision for that dwelling has been made available for use by the occupiers of that dwelling. These facilities shall be maintained in accordance with the approved details thereafter.**

**REASON: To ensure the provision of satisfactory facilities for the storage of refuse and recycling.**

11. **All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development. 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. Following all hard and soft landscape works being carried out in accordance with the approved details, a 'hard and soft landscape establishment' survey shall be submitted to and agreed in writing by the Local Planning**

**Authority at the end of the first planting and seeding season following the first occupation of the buildings or the completion of the development, whichever is the sooner.**

**REASON: To ensure the implementation of appropriate landscaping which will improve the environmental quality of the development in accordance with the aims of Core Policies 51, 52, 55 and 57 of the Wiltshire Core Strategy 2015.**

- 12. No dwelling shall be occupied until the parking space(s) together with the access thereto, have been provided in accordance with the approved plans and maintained as such in perpetuity.**

**REASON: In the interests of highway safety and the amenity of future occupants.**

- 13. Hours of construction shall be limited to 0800hrs to 1800hrs Monday to Friday, 0800hrs to 1300 hrs Saturday and no working on Sundays or Bank Holidays. No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.**

**REASON: In the interests of residential amenity.**

- 14. No development shall commence on-site above ground floor slab level until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the Local Planning Authority and thereafter be permanently retained.**

**REASON: In order to satisfy requirements in Core Policy 55 where it states that 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.**

- 15. No development shall commence on-site above ground floor slab level until the exact details and samples of the materials to be used for the external walls (facades and boundaries) and roofs (including of porches and bays) 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: In the interests of visual amenity and the character and appearance of the area.**

- 16. Notwithstanding information shown on the supporting plans, Plots 127 & 128 shall not be occupied until boundary treatment, external lighting, soft and hard landscaping for the private parking court to**

Plots 127 & 128, and a management plan for the power supply and maintenance of these, have been submitted to and approved in writing by the local planning authority.

**REASON:** The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed upon with the Local Planning Authority in the interests of addressing visual amenity, security and natural surveillance.

17. Notwithstanding the information shown on the submitted plans, no SUDs features shall be installed until a section drawing of the SUDs structures together with details of the appearance of any above-ground structures (i.e. inlets, barriers and retaining structures) or amenity features (i.e. seating, natural play, bridges, recreational platforms) have been submitted to and approved in writing by the local planning authority.

**REASON:** Insufficient information was submitted to ensure due regard to the character and appearance of the area and in the interests of security and safety. This condition is imposed in accordance with the National Planning Policy Framework (2019) and Policy CP57 Wiltshire Core Strategy and CIRIA SUDs guidance on best practice.

18. Notwithstanding the information shown on the supporting plans, no dwelling shall be occupied until the detailed design and specification for all trees to be planted within the highway or adjacent to it in public verges or private landscape strips (e.g. landscape breaks which separate parking and driveways) has been submitted to and approved in writing by the local planning authority. Details shall include:

- a scaled plan showing all trees to be planted, with a schedule detailing sizes of all proposed trees/plants, and area of space provided for the tree pit.
- Typical plan and section drawings of the street tree, including type and materials to be used for hard landscaping including specifications, where applicable for:
  - a) surrounding hard surface and edging
  - b) tree pit design
  - c) use of guards or other protective measures
  - d) underground modular systems
  - e) Sustainable urban drainage integration
  - f) Use of Root Barrier Protection Areas (RPAs)
- A management plan confirming liability for maintenance and pruning and replacing of trees within or adjacent to the street.

- Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

**REASON:** Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with the National Planning Policy Framework (2021) and Core Policies 50, 51, 52, 55, 57 and 67 of the Wiltshire Core Strategy 2015.

19. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), have been submitted to and approved in writing by the Local Planning Authority. Where light spill has the potential to impact core bat habitat, the lighting impact assessment of the reserved matters application(s) must meet the requirements of section 8.3 of the Trowbridge Bat Mitigation Strategy in terms of the methodology for predicting post-development lighting condition; maintenance of illuminance zones A, B and C, and; lighting design solutions. 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, to minimise unnecessary light spillage above and outside the development site and to ensure core bat habitat meets the requirements of the Trowbridge Bat Mitigation Strategy.

20. Notwithstanding the submitted details, prior to first occupation a revised travel plan shall be produced and submitted to and approved in writing by the Local Planning Authority. The revised travel plan shall include annual targets and monitoring, inclusive of annual reporting, the provision of travel vouchers and coordination between an appointed travel plan coordinator and Wiltshire Council. The travel plan shall incorporate specific measures to be secured in the event that targets are not met and to coordinate with the Wiltshire Council for the implementation of these. The travel plan and all relevant measures shall be operational prior to first occupation and shall be operational up to an including the

submission of a final 5-year report produced against monitoring and survey detail secured following the 5th anniversary of the first occupation on site.

**REASON:** To maximise the priority of sustainable modes of transport within the development and to maximise mode shift in the interests of highway sustainability and in accordance with Core Strategy Policy 60, 61, 62 and 64.

21. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

**REASON:** This condition contributes to sustainable development and meeting the demands of climate change. Increased water efficiency for all new developments enables more growth with the same water resources.

22. The development hereby approved shall be carried out in accordance with the mitigation measures prescribed in Section 4 and portrayed in Figure 1 of the submitted noise Assessment by Hepworth Acoustics P17-053-R02v3.

**REASON:** In the interests of residential amenity.

23. The development will be completed in accordance with the Biodiversity Net Gain Calculation Report (BSG 28/06/2021) and spreadsheet (G Lang and S Betts 28/06/2021) or a subsequent revised metric calculation submitted to and approved by the Local Planning Authority. This condition will be discharged when a report has been submitted to and approved by the Local Planning Authority which demonstrates that the development has been completed in accordance with the approved metric calculation. The report will demonstrate for habitats and hedgerows that the development will achieve at least 100% mitigation (i.e. no net loss) for land lost to development. Any shortfall in mitigation within the application site up to a maximum of 5% will be made up through contributions to the Council's Trowbridge Bat Mitigation Scheme.

**REASON:** to meet the requirements of the Trowbridge Bat Mitigation Strategy.

24. The development shall not be first occupied until as-built drawings have been submitted to the Local Planning Authority in CAD drawing format.



**REASON:** To comply with Core Policy 67 of the Wiltshire Core Strategy 2015 and to ensure that the drainage scheme has been built in accordance with the approved Flood Risk Assessment and Drainage Strategy.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), the garages hereby permitted shall not be converted to habitable accommodation.

**REASON:** To secure the retention of adequate parking provision, in the interests of highway safety.

26. The 180th dwelling shall not be 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.

27. 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.

28. Notwithstanding the submitted details, no dwelling shall be commenced until details of material treatment of footways and junction transition areas have been submitted to and approved in writing by the Local planning Authority. The material treatment shall illustrate priority of pedestrian movement along key corridors and shall provide a contrast to adjacent carriageway areas. Prior to occupation of any dwelling, the footways and junction transition areas shall be completed in all respects with the approved details and maintained as such thereafter.

**REASON:** To maximise the priority of sustainable modes of transport within the development in accordance with Core Strategy Policy 60 and 61.

29. Prior to first occupation, the cycle/footway connection routes through to Middle Lane, Osborne Road and the development site to the north shall be surfaced and completed to the satisfaction of the Local Planning Authority and maintained as such thereafter. The routes shall provide continuous thoroughfare to adjacent highway and development site networks and shall not be subject to ransom within the control of the applicant.

**REASON:** To maximise the priority of sustainable modes of transport and connectivity to adjacent highway networks and development sites in the interests of highway sustainability and Core Strategy Policy 60 and 61.

30. Prior to first occupation, the vehicular access onto Elizabeth Way shall be completed in all respects in accordance with details to be submitted to and approved in writing by the Local Planning Authority and maintained as such thereafter.

**REASON:** In the interests of highway safety and Core Strategy Policy 60 and 61.

**INFORMATIVE TO APPLICANT:**

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the \*\*\*\*\*

**INFORMATIVE TO APPLICANT:**

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

**INFORMATIVE TO APPLICANT:**

With regards to condition 3 (surface water drainage scheme), there is an existing ditch to the North West corner of the site, although it

is noted that this has not been maintained and it, therefore, silted up, overgrown and fallen into a state of disrepair over the years resulting in a limited capacity. The ditch does become more established and more accessible further along this route and connection to this from the site would be preferable in accordance with the surface water discharge hierarchy. For ease of maintenance and access, we would accept a piped connection along this route to discharge into the ditch further along this public right of way. This ensures that the route of discharge remains as existing (the site currently drains to this point) and does not introduce an additional discharge into a sewer system that already surcharges and floods the road. Additionally, it provides additional longitudinal storage and treatment post-discharge from the site and ensures that the ditch does not get starved of water.

Wessex Water has already indicated that a requisition to cross third party land would be possible but that agreement with the riparian owner will be required to discharge to this ditch. Wessex Water and Wiltshire Council are in agreement that discharge to the ditch via a piped connection would be the preferable discharge option as this will safeguard the discharge route and minimise any impact on adjacent properties or public sewers. The applicant must explore more fully the connection to the ditch system before pursuing a connection to the adjacent surface water sewer. With respect of landownership enquiries to see whether or not a ditch connection would be feasible, the Council would expect to see the following:

- a. Confirmation in writing that they have undertaken inquiries to identify the landowner and that those inquiries must include an appropriate notice seeking the identity of the owner of the parcel of land (also must be identified) and the works to be undertaken to be placed in the London Gazette and a local newspaper (That will be the Wiltshire Times) with copies of the notices being provided to the Council.
- b. Confirmation that the developer has placed at least three notices on-site close to the parcel of land and at an access point for the attention of the landowner describing the and potential works to be undertaken with a small plan identifying the parcel of land on which the works will take place.
- c. Confirmation that the developer raised the question of land ownership with the Town or Parish Council, neighbouring properties and any utility companies likely to have assets or an interest in the land.

The developer should obtain appropriate insurance and indemnifies the Council against any potential future claims that may be made by

the landowner arising from the Land Drainage Consent and the drainage works on the land should the ditch option be employed.

**INFORMATIVE TO APPLICANT:**

In respect of condition 7, the photographic pre-condition highway survey is to be carried out for the full extent of Elizabeth Way and junctions at either end and copies of pre and post condition survey are to be supplied to Wiltshire Council.

The applicant should be informed that the Highway Authority will pursue rectification of any defects identified by the highway condition survey which can be attributed to the site construction traffic under the provision of S59 of the Highways Act.

Cllr Ernie Clark requested that his vote be recorded.

Cllr Clark voted against the motion to approve the officer recommendation.

45 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 1.30 pm)

The Officer who has produced these minutes is Tara Shannon of Democratic Services, direct line 01225 718352, e-mail [tara.shannon@wiltshire.gov.uk](mailto:tara.shannon@wiltshire.gov.uk)

Press enquiries to Communications, direct line ((01225) 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	1 December 2021
Application Number	21/01155/OUT
Site Address	Land at Restrop Road, Purton, Swindon, Wiltshire, SN5 4BP
Proposal	Outline planning permission for up to 47 dwellings with associated landscaping and vehicular and pedestrian accesses off Restrop Road (all matters reserved except means of vehicular access).
Applicant	Hollins Strategic Land LLP
Town/Parish Council	Purton
Division	Purton (Cllr Jacqui Lay)
Grid Ref	408221 187198
Type of application	Outline with all matters reserved except access
Case Officer	Lee Burman

### Reason for the application being considered by Committee

The application has been called in by the Ward Member, Councillor Lay, in the event of a recommendation to approve given conflict with the provision of the neighbourhood plan and part of the site being outside the settlement boundary for Purton.

### 1. Purpose of Report

To consider the development proposed in relation to the policies of the development plan, provisions of national guidance and material circumstances and considerations and the recommendation to approve subject to conditions and the completion of a planning obligation/S106 agreement within 6 months of the date of the Committee meeting.

### 2. Report Summary

Key issues include:-

- Principle of Development/Development Plan Compliance
- Highways Impact
- Impact on the Character, Appearance and Visual Amenity of the Locality
- Impact on Residential Amenity
- Ecological Impact
- Drainage Impact

A total of 144 objections and 3 general comments have been received from all parties.

Purton Parish Council Objects to the proposals.

### 3. Site Description

The site is located on the southern fringes of Purton adjacent to a new area of housing development and other existing areas of the village. The site lies outside but adjoining the defined settlement boundary of the village.

The immediately locality is characterised by a mix of house types using a variety of materials.

Known site constraints in the locality include rights of way, susceptibility to surface water flooding, a watercourse lies adjacent, Grade 3 agricultural land, and MOD Low Flying Zone (Low risk); records of protected species including badgers, slow worms and bats.



### 4. Planning History

The site lies adjacent and adjoining existing residential properties many of which have been subject of applications. None are considered of direct relevance to the application site and proposals.

The site itself has been the subject of a previous application which was refused and is now the subject of appeal with confirmation of timeframes and hearing date in abeyance whilst this current application is determined.

- N/03/00860/FUL - Retention of access including new gate and posts and retention of hardstanding to form parking area - Approved with Conditions

- 19/03731/OUT - Outline planning permission for up to 61 dwellings with associated landscaping, pedestrian accesses towards High Street and through Reids Piece, and vehicular access off Restrop Road - Refused and currently subject of Appeal.

The land immediately adjacent to the north has the following planning history (excluding applications to discharge conditions) –

- 16/10513/FUL - Residential development of 38 dwellings including access, car parking, landscaping and other associated infrastructure - Approved with conditions
- 19/11981/106 - Modification of planning obligation for planning 16/10513/FUL (residential development of 38 dwellings including access, car parking, landscaping and other associated infrastructure) - Not yet determined.

## 5. The Proposal

The description of development is set out above. This is a revised description from that originally submitted. The revisions reduce the quantum of development proposed and allow for a revised site layout. As noted, this is an application in outline with all matters except access reserved. The proposal is now for up to 47 dwellings with associated landscaping and vehicular and pedestrian access. This revision has sought to address the concerns and objections of officers with the intention of achieving an acceptable development and so allowing the current appeal to be withdrawn.



*Indicative Layout Plan*

## 6. Planning Policy

Wiltshire Core Strategy

- Core Policy 1 – Settlement Strategy;
- Core Policy 2 – Delivery Strategy;
- Core Policy 3 – Infrastructure Requirements;
- Core Policy 19 – Spatial Strategy for the Royal Wotton Bassett and Cricklade Community Area;
- Core Policy 43 – Providing Affordable Homes;
- Core Policy 45 – Meeting Wiltshire’s Housing Needs;
- Core Policy 46 – Meeting the Needs of Wiltshire Vulnerable and Older People;
- Core Policy 50 – Biodiversity and Geodiversity;
- Core Policy 51 – Landscape;
- Core Policy 55 – Air Quality
- Core Policy 52 – Green Infrastructure
- Core Policy 57 - Ensuring High Quality Design and Place Shaping
- Core Policy 60 – Sustainable Transport
- Core Policy 61 – Transport and Development
- Core Policy 64 – Demand Management
- Core Policy 67 – Flood Risk

#### North Wiltshire Local Plan 2011(saved policies)

- Saved Policy H4 - Residential development in the open countryside
- Save policy NE14 – Trees and Development the Control of Development
- Saved Policy NE18 – Noise and Pollution
- Saved Policy CF3 – Provision of open space

#### Purton Neighbourhood Plan 2017 (PNP) - 2026 Made November 2018

- Purton Policy 4 - Ecological Enhancements
- Purton policy 5: To Protect key local landscapes
- Purton Policy 6 - Settlement Identity
- Purton Policy 13 - Development Principles
- Purton Policy 14 - Development outside settlement boundary at Restrop Road

#### Wiltshire Housing Site Allocations Plan (HSAP) adopted February 2020

#### Settlement Boundary Review

Site allocations in the North and West HMA at Table 5.2 – sites H.2.1 – H.2.11 at Trowbridge, Warminster, Chippenham and Westbury - a total of 1250 dwellings

#### Supplementary Planning Guidance

The Wiltshire Planning Obligations Supplementary Planning Document (SPD) (Adopted May 2015)

#### Emerging Development Plan Documents

#### Wiltshire Local Plan 2016-36

The Council agreed via Cabinet on 1st December 2020 the next steps for the Wiltshire Council Local Plan Review to set out the requirements for the level of growth that each area needs to accommodate up to 2036. This includes agreement of the Local Development Scheme (LDS), including consultation on the Local Plan Review to inform the details of the draft Plan.

The July 2020 LDS anticipates adoption of the Local Plan in quarter 2 of 2022.



The following sections of the National Planning Policy Framework 2021 are relevant to the consideration of this application:

- Achieving sustainable development – paragraphs 2, 3, 7, 8 and 11, 12, 13, 14, 16, 29
- Decision-making – paragraphs 47, 55, 56, 57
- Delivering a sufficient supply of homes – paragraphs 74, 77
- Promoting sustainable transport – paragraphs 105, 110, 111, 112, 113
- Making effective use of land – paragraph 120
- Achieving well designed places – paragraph 126, 130, 134
- Meeting the challenge of climate change, flooding and coastal change – paragraphs 159, 160, 161, 162, 167, 169
- Conserving and enhancing the natural environment – paragraphs 174, 180, 175, 177, 185, 186

## 7. Consultations

The application has been the subject of two consultation exercises and the following is a summary of the position reached following these exercises. This is a summary and does not purport to be a full recitation of all comments made.

Purton Parish Council – Objection. Conflicts with the development plan NWLP H4; WCS CP1 CP2 CP19; PNPP Policy 14 in principle. Also traffic generation/movement WCS CP60 CP61. Harm to character appearance and visual amenity of the locality in conflict with WCS CP51 CP57.

Lydiard Tregoze Parish Council – Objection based on increased traffic movement in the village

Wiltshire Council Spatial Planning – No objection raised but Officers consider that the proposals result in some level of conflict with the provisions of the development plan being outside the settlement boundary. Core policies 1, 2 and 19 in the adopted Wiltshire Core Strategy, and saved policy H4 in the North Wiltshire District Local Plan. It is also contrary to the Purton Neighbourhood Plan. Officers however note that the site is in the area of search for housing sites in the PNP and that the shortfall in the housing land supply in Wiltshire is a significant material consideration.

Wiltshire Council Highways – No objections subject to planning obligations.

Wiltshire Council Rights of Way – No objections subject to provision PROW provision an enhancement include through planning obligations.

Wiltshire Council Urban Design – Previous objections addressed, excepting some concern remaining on use of materials.

Wiltshire Police Crime Prevention Design Advisor – No objections but concerns raised in respect of specific design / layout details.

Wiltshire Council Landscape – No objections raised

Wiltshire Council Trees Officer – No objections – additional information needed to inform reserved matters proposals.

Wiltshire Council Drainage Support subject to conditions

Thames Water No objection but highlight issues around existing infrastructure and easements.

Wiltshire Council Archaeology – No objections. The proposed development site has been subject to a programme of comprehensive archaeological investigation which accurately assessed the sites archaeological potential. It is my opinion that no further archaeological mitigation would be required on site.

Wiltshire Council Ecology – No objection subject to conditions

Wiltshire Council Public Protection – No objections subject to conditions.

Wiltshire Council Waste & Recycling Team – Support subject to contributions toward waste and recycling facilities

Wiltshire Council Public Open Spaces Team – No objections subject to contributions and play space requirement:-

*The following open space and play provision is required and is to be calculated when the dwelling mix has been confirmed:*

*1 x 1 bed = 30m<sup>2</sup> of public open space  
1 x 2 bed = 45m<sup>2</sup> of public open space, 3m<sup>2</sup> of play  
1 x 3 bed = 60m<sup>2</sup> of public open space, 6m<sup>2</sup> of play  
1 x 4+ bed = 75m<sup>2</sup> of public open space, 9m<sup>2</sup> of play*

*Due to a LAP providing little play value, we would prefer this to be substituted for a LEAP or a trim trail. This can be addressed at Reserved Matters application stage.*

*The open space and play provision must be secured in perpetuity and Wiltshire Council will not adopt the POS.*

*An off-site sports contribution of £12,972.00 is required to be used towards the cost of providing or upgrading Purton Cricket Club Pavilion and/or playing pitch provision within the vicinity of the land.*

Wiltshire Council Affordable Housing Team – No objection to the revised proposals:-

*The proposal is for 47 residential dwellings on a site totalling 3.56ha.*

*There is therefore a requirement to provide 19 affordable units within a scheme of 47 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing in Purton where there is a high level of demand for both affordable rented and shared ownership housing.*

*To meet current demonstrable need the Affordable Housing units should be provided with a tenure mix of 60% of the units (11 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.*

*Unit Size Mix:*

*Core Policy 45 of the Wiltshire Core Strategy states that housing size and type will be expected to reflect that of the demonstrable need for the community within which a site is located. There is currently a need for all sizes of affordable accommodation in Purton. An indicative mix which would reflect current need would be:*

*Affordable Rented:*

20% - 2 x 1 bed, 2 person flat, in a maisonette / house style, or bungalow  
20% - 2 x 2 bed, 4 person house  
20% - 2 x 2 bed, 4 person bungalow\* to be provided as adapted units  
35% - 4 x 3 bed, min 5 person house  
5% - 1 x 4 bed, min 6 person house

*Shared Ownership:*

50% - 4 x 2 bed, 4 person house  
50% - 4 x 3 bed, min 5 person house

*NB: The Shared Ownership homes should be provided in semi-detached pairs with in-curtilage side parking bays to aid marketing / sales of this tenure and not directly connected to the Affordable Rented units in pairs or terraces rows.*

Wiltshire Council Education – No objections subject to financial contributions to Early Years/Nursery Education provision.

## **8. Publicity**

The application was advertised by press notice, site notice, publication to the Council's website, neighbour notifications, and notification of interested local organisations and parties. The application has been the subject of two consultation exercises and the following is a summary of the position reached following these exercises. This is a summary and does not purport to be a full recitation of all comments made.

147 representations from members of the public have been submitted raising objections and a range of general comments. This include multiple submissions by the same persons and multiple instances of this occurring reflecting the multiple periods of consultations. The following is a summary of the objections raised.

- Previous application at this site for the same development refused; Conflict with the development plan WCS CP1 CP2 CP19.
- Inadequate services and facilities in Purton to serve the development.
- Housing requirement already met. Overdevelopment of the village.
- Increased risk of flooding.
- Outside defined settlement for the village which has already accommodated required development.
- No safe pedestrian access to and from the site and poor relationship with neighbouring development / inaccessibility / unsafe accesses.
- Inaccessible by public transport/poorly related to public transport services.
- Harm to Public Rights of Way.
- Increased traffic and inadequate road network, traffic congestion and hazards created. Vehicles cannot access the site easily/constrained access.
- Conflicts with and contrary to the Neighbourhood Plan.
- Harm to residential amenity of neighbouring properties, loss of privacy.
- Harm to residential amenity and the local environment through noise, disturbance and air pollution from the additional traffic.
- Harm to ecological habitat and wildlife.
- Inadequate consultation.
- Play space poorly related to existing and proposed development
- Loss of greenspace and visual amenity not adequately mitigated.
- Development proposed is not sustainable.

- Revised proposals do not address concerns raised previously.

CPRE object. Shortfall in housing land supply does not override conflict with the development plan. Case Law cited.

## **9. Planning Considerations**

Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

In accordance with the provisions of the EIA Regulations 2017 there is a requirement to assess whether the proposal would have significant environmental effects as a result. The proposal would fall into category 10b of schedule 2 in that it is an urban development project. The site would not exceed the applicable thresholds and criteria set out in column 2 of Schedule 2 as it relates to the provision of dwellings, so the 1 Ha site area does not apply, the proposal would not exceed 150 dwellings and the overall site area would not exceed 5 Ha. Therefore, in accordance with paragraph: 017 Reference ID: 4-017-20170728 of the Planning Practice Guidance projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not at least partly in a sensitive area, are not Schedule 2 development. The site is not within a SSSI, National Park, World Heritage Site, SAM, AONB or any other European Designated site. Nonetheless by virtue of its limited scale, known site constraints and the likely assessed impacts of development individually and cumulatively at this site it is not considered to constitute EIA development for the purposes of Town and Country Planning (Environmental Impact Assessment) Regulations 2017 so no Environmental Statement is required to be submitted with the application.

### 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, 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), The Wiltshire Housing Sites Allocation Plan and the Purton Neighbourhood Plan ('Made' November 2018)

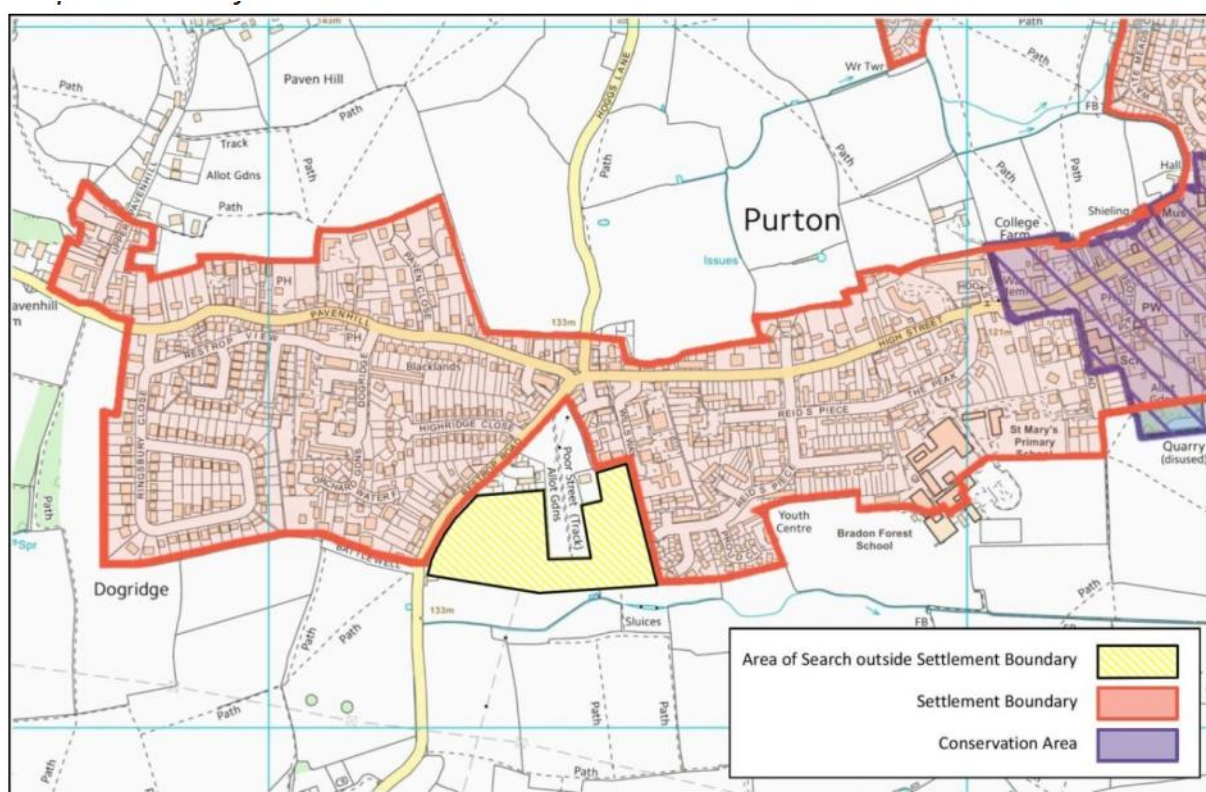
The application site is outside the defined settlement of Purton and the defined limits of development and so is in the open countryside for planning purposes. The site partially falls within the designed area of search for development of up to 40 dwellings under PNP policy 14. The Core Strategy defines a settlement hierarchy for Wiltshire throughout which the assessed development requirements are distributed. The nearest settlement recognised in the strategy is Purton. Purton is defined as a Large Village in the WCS.

Core Policy 1 states that large villages have a limited range of employment, services and facilities. The policy goes on to state that development at Large and Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Core Policy 2 sets out the delivery strategy for growth for the period 2006 to 2026. This policy sets out how development will be considered both inside and outside the defined limited of development. This policy advises that development will not be permitted outside the limits of development as defined on the proposals maps other than in the circumstances set out in paragraph 4.25 which defines exceptions to this restriction. This clearly demonstrates that Core Policy 2 is not a bar on all development outside the settlement boundary but that there are exceptions where such development will be permitted. The development proposed does not meet one of the exceptions to the development strategy of the plan as set out at para 4.25 of the WCS or under the provisions of saved policy H4.

Core Policy 19 which deals specifically with the strategy for the Royal Wootton Bassett and Cricklade Community Area. Purton falls into the remainder of the community area. Pertinent to the proposal, the supporting text to Core Policy 19 at para 5.102 bullet 6 notes that the long established policy of protecting the distinct character and identity of the villages and settlements remains a priority for local communities.

The settlement boundaries for Purton were reviewed through both the Purton NP and more recently the Wiltshire Housing Site Allocations Plan, adopted in February 2020 and the site remains outside the settlement boundary of Purton.

The Neighbourhood Plan allocates land for development and allows for development within the defined settlement of Purton in accordance with the strategy of the plan as defined by WCS core policies CP1, CP2 and CP19. Additionally, an area of search for 40 dwelling under policy 14 of the plan applies to a large part of the site and the majority of the proposed built area of development within the site layout. The housing requirement for the Royal Wootton Bassett and Cricklade Community area as set out in WCS CP19 has been met and exceeded. Development has already been consented and is under construction on the policy 14 area of search land to the north for 38 dwellings. As such the proposal is at least partially in conflict with the development strategy of the plan as defined in this locality by CP1, CP2 & CP19, which must be read together alongside the relevant provisions of the PNP.



**Extract from Purton NP**  
**(Yellow area – land designated as Area of Search under PNP Policy 14)**

It is however necessary to consider what, if any, material considerations would justify a decision otherwise than in accordance with the strategy of the plan. In this context there are several matters that must be taken in account. Firstly, the Council cannot currently demonstrate an NPPF compliant available and deliverable supply of land of housing for the requisite 5 year period plus buffer. The latest Housing Land Supply Statement (HLSS) identified that the shortfall is 4.56 years. As such the policies of the plan most relevant to the determination of the application are

considered to be out of date and para 11(d) of the framework is engaged. In this context the PNP is over two years old so the relevant period for HLSS provision remains 5 years and not 3 and para 14 of the framework is not engaged.

As set out in Supreme Court of Appeal decision *Suffolk Coastal District Council v Hopkins Homes Ltd & Anor* [2017] UKSC 37, even where paragraph 11(d) of The Framework is triggered through a lack of five year housing land supply, the weight to be given to the relevant development plan policies and the NPPF remain questions of planning judgement for the decision-maker. The weighting of those will vary according to the particular circumstances of each case. This can include consideration of the extent of the shortfall of housing supply, as confirmed most recently by *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808; the actions being taken by the local planning authority to address any shortfall, and/or the particular circumstances of the restrictive policy. In these respects, it must be noted that the shortfall is relatively limited as was confirmed by the Planning Inspector considering the Purton Road appeal (Ref APP/Y3940/W/18/3202551; 17/08188/OUT) which was tested through the courts and found to be sound by multiple justices. It is also material to note that the Council has an action plan in place for addressing the shortfall and is taking steps to do so. Importantly this has included granting permission for development on sites where no significant site specific harm arises; there is reasonable access to services, facilities and employment opportunities by virtue of good connectivity by a range of modes of transport and proximity to major settlements; and the scale of development proposed is proportionate to adjacent settlements. Indeed this plan of action has already resulted in the grant of consent on other sites in this community area and elsewhere in this Housing Market area as set out in the latest HLSS. These permissions include:-

Site reference	Site Address	HMA	Number of units (net)	Status	Status date
18/07128/FUL	Manor Farm The Street Grittleton SN14 6AN	North & West	14	Full permission	01/04/2019
18/10554/FUL	Former Margaret Stancomb Infant School British Row Trowbridge BA14 8PB	North & West	21	Full permission	06/06/2019
18/03338/FUL	BROWNFIELD The United Church & Community Buildings Church Street Trowbridge Wiltshire BA14 8DZ	North & West	23	Full permission	28/06/2019
18/04202/FUL	BROWNFIELD Woodlands Social Club Woodland Park Calne SN11 0JX	North & West	18	Full permission	10/10/2019
19/00537/FUL	Land to the East of A345 and West of Old Sarum Salisbury Wiltshire SP4 6BW	South	65	Outline permission	12/11/2019
18/02346/FUL	Timber Yard Real World Studios Mill Lane Box Corsham Wiltshire SN13 8PD	North & West	20	Full permission	06/12/2019
18/12068/FUL	BROWNFIELD 141 Castle Street Salisbury SP1 3TB	South	66	Full permission	20/12/2019
19/06378/FUL	Marden Court Quarr Barton Calne Wiltshire SN11 0EE	North & West	16	Full permission	06/03/2020
19/11569/OUT	Land south of Filands, Malmesbury	North & West	71	Resolution to grant	27/05/2020
20/02387/OUT	Land at Pound Farm, South View, Lyneham	North & West	50	Resolution to grant	27/05/2020

A team of officers meets regularly to keep under review other potential sites. Other actions include dedicating additional resource and priority to unlocking stalled strategic allocated sites such as Rawlings Green, Chippenham with decision to approve now issued. The Wiltshire Housing Sites

Allocation Plan has also been adopted since the Purton Road appeal decision identified the shortfall in housing and this will deliver additional sites in this housing market area.

### Housing Supply

Through the determination of the appeal at Purton Road the Council's Housing Land Supply position was considered and tested. At that time it was agreed that the five year housing supply figure was between 4.42 and 4.62 years See Inspector's decision letter paragraph 21, where he considered that even at the lower end of the agreed range there is a relatively modest shortfall in housing land in the Wiltshire Council area. The Council has since then published the Housing Land Supply Statement December 2020 (base date April 2019) which states that the Council can demonstrate 4.56 years of supply of housing at the unitary level. This is at the midway point in the range of supply considered by the Inspector, and higher than the lowest end of the range which the Inspector considered and yet still attached significant weight to the conflict with the development plan policies 1, 2, 19, and moderate weight to saved policy H4.

It should be noted that the Wiltshire administrative area is one of the largest in the country in terms of geographical area. Therefore, in accordance with the spatial strategy in the CS there is also a need to consider both the housing market area and community areas to fully comprehend the spatial distribution of homes in the administrative boundary. Although there is a deficit in housing provision within this HMA this is due to the under-provision in other community areas namely Corsham, Trowbridge and Warminster, all of which are substantial distances from the application site.

The latest Housing Land Supply Statement published December 2020 (base date April 2019) shows that in the remainder of the Royal Wootton Bassett Community Area, 428 dwellings have been completed, with a further 254 units identified as being developable by 2026. This means that the indicative requirement has been exceeded by 297 dwellings (when the indicative requirement is 385 dwellings). There is also a surplus in Royal Wootton Bassett itself. This clearly demonstrates that the spatial strategy is delivering the required housing requirement to meet the housing needs in a sustainable manner in this Community Area.

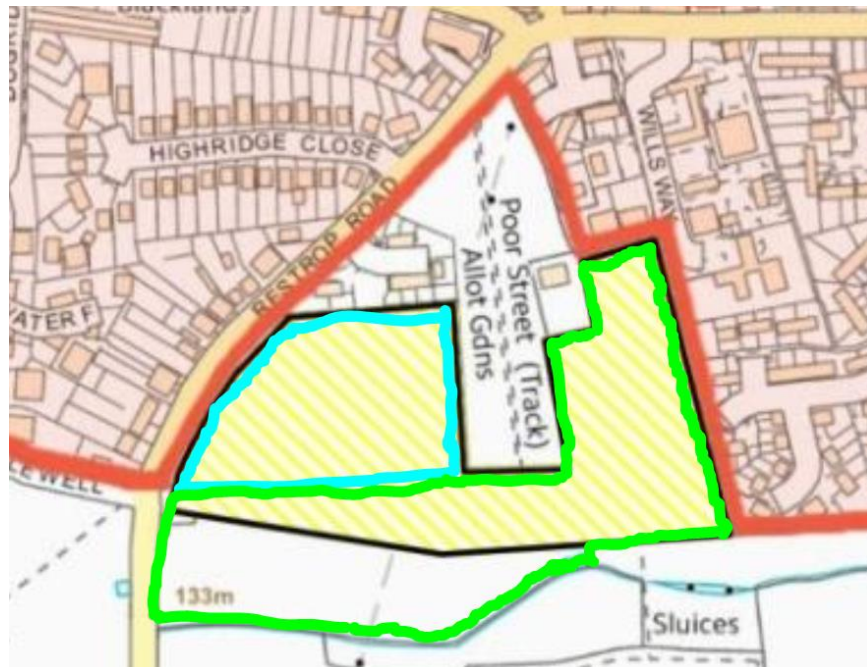
It is also material to note that the Council cannot demonstrate that affordable housing needs in Wiltshire and in this locality are being met.

As such the Council cannot demonstrate the available and deliverable supply of land for housing that is required by the NPPF and the tilted balance under para 11d is engaged. The site whilst in the open countryside lies directly adjacent to the large village of Purton and so cannot be considered remote or isolated. The scale of development is limited at 47 dwellings and this is considered reasonably well related to the scale of the settlement itself. The neighbourhood plan is now more than 2 years old and as such the provisions of para 14 are not engaged. That is not to say that the plan does not carry weight - it still does - but reduced in the context of the tilted balance.

Importantly and as already noted, the majority of the proposed development area and a major portion of the site as a whole falls within the defined area of search for the allocated 40 houses under policy 14 of the PNP. The revision to the scheme proposals have addressed some of the concerns in this regard drawing a greater proportion of the built form into the area of search. Whilst consent has already been granted for 38 dwellings on a part of this area of search the land in question has been assessed as broadly acceptable and sustainable in housing development terms. Two of the 40 dwelling allocation remain to be approved. The Council is committed under its action plan to finding and supporting development sites that broadly accord with the strategy of the plan in order to address the accepted shortfall in the housing land supply that exists. This site and proposal would achieve that aim which could then be used in evidential submission in

respect of other appeals on less sustainable housing sites. There are multiple such appeals in hand at the current time.

In this context there is an appeal relating to this site, registered but currently on hold whilst this application is determined. Approval should allow the appeal to be withdrawn.



*Enlargement of PNP Policy 14 plan*  
*Blue overlaid line – approx position of permitted housing site (16/10513/FUL)*  
*Green overlaid line – approx position of current application site & live appeal site (19/03731/OUT)*

In summary, though the proposals do have some conflict with the development plan in terms of the principle of development in this location, this is considered to be limited and there are material considerations of substantial weight that should be considered in the planning balance. These are considered, together with the planning balance, below –

### Highways & Parking

It is noted that substantial and significant local concerns are raised as to the adequacy of the road network service providing access and egress to the site and pedestrian accessibility and safety. A significant proportion of representations submitted in respect of the application proposals raise concerns as to the road conditions, conflicting vehicular movements and lack of parking in the locality, lack of public transport access and the lack of safe pedestrian accessibility and linkages with the village, the highway network and neighbouring development.

The Council's Highways Officers, Public Rights of Way Team and Waste and Recycling officers have all been consulted in respect of the current proposals as revised. As is set out in the summary sections above none raise objections subject to the use of conditions and planning obligation, all agreed by the applicant team.

In this context and whilst the sale and force of concern and objection is recognised it is not considered that a refusal on the basis of inadequate site access/egress, including pedestrian accessibility; creation of a highways hazard; harm to highway safety; harm to PROW; or



increased traffic congestion can be identified such that the proposals could be defensibly refused on this basis.

As such the proposals are considered to accord with the relevant policies of the plan and provisions of the framework.

#### Residential Amenity

It should be noted that the application proposals are submitted in outline with all details as to layout and form of development reserved for future consideration. However, revised illustrative scheme proposals have been submitted on the basis of a reduced number of dwellings. This is important as the submission now demonstrates that the site is capable of delivering the quantum of development proposed in an acceptable form which would not harm existing residential amenity and would secure an adequate level of amenity for future occupants. In the latter respect, in particular, significant concerns arise from the original illustrative plan submission based on the larger quantum of development then proposed. The revisions are considered to have now substantively addressed these concerns.

As such the proposals are considered to accord with the relevant policies of the plan and provisions of the framework.

#### Character, appearance & Visual Amenity of the Locality

As with residential amenity considerations it must be noted that landscaping details are reserved for future consideration. The revised illustrative proposals are however considered to demonstrate and confirm that an acceptable and appropriate layout in landscape terms can be achieved.

Whilst the site is greenfield outside the limits of development and the proposal result in an irrevocable change in the character of the site through urbanisation and in a visually prominent location, it must be noted and considered that much of this land is identified as an area search for housing development in the PNP. To a large degree the impact identified has been accepted by the plan policy designation.

The Council's Landscape Officers were consulted in respect of the scheme proposals and supporting submissions but have not raised any comment, objections or made any recommendations. Similarly the Council's Trees officers raise no objections.

It is considered that on this basis the proposals accord with relevant policies of the plan and provisions of the framework

#### Drainage

Submitted representations from interested parties raise drainage impacts and flood risk as a concern. The site is one with some limited records of flood risk. The Council's Drainage Team raised initial objection on the basis of inadequate information provision in support of the proposals, albeit it was considered that the matters were capable of being addressed by use of condition.

Following the revision of the scheme proposals the Council's Drainage Team has revised its position and confirmed support for the scheme proposals subject to the use of condition. These are agreed by the applicant.

It is considered that on this basis the proposals accord with relevant policies of the plan and provisions of the framework

## Design

Again it must be noted that the design and layout of the scheme are matters that are reserved for future consideration. However, Council's Urban Design Officer has reviewed and assessed the revised proposals including the revised Design and Access Statement. In their further consultation response, they identify that the vast majority of concerns raised in response to the initial scheme proposals have been addressed by the revisions. Concern remains as to the use of materials but officers do not raise objection on this basis and agree that the latter is capable of being addressed through determination of reserved matters details and applications.

As such the proposals are considered to accord with the relevant policies of the plan and provisions of the framework.

## Ecology

The revised application proposals and supporting submissions have been the subject of consultation with the Council's Ecologists. No objection is raised subject to use of conditions. These are agreed by the applicant.

On this basis it is not considered that significant harm arises from the proposals that is incapable of mitigation such that conflict with the relevant policies of the plan or provisions of the framework arises and the application could defensibly be refused on this basis.

## Other Matters

### *S106/Planning Obligations*

- Waste & Recycling Facilities – £4,277
- Early Years / Nursery education provision – £105,132
- Open Space SUDS Management & Maintenance Provisions
- Off Site Sports Contribution £12,972.00
- PROW Enhancement contributions including £60K for the up-grade of the surfacing of PURT89 from its junction with the main road to where it meets its currently blacktopped length.
- PROW future maintenance funding £6,000
- Traffic Regulation Order funding £6,000
- Affordable Housing Provisions:-

19 units with a tenure mix of 60% of the units (11 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.

#### Affordable Rented:

20% - 2 x 1 bed, 2 person flat, in a maisonette / house style, or bungalow

20% - 2 x 2 bed, 4 person house

20% - 2 x 2 bed, 4 person bungalow\* to be provided as adapted units

35% - 4 x 3 bed, min 5 person house

5% - 1 x 4 bed, min 6 person house

#### Shared Ownership:

50% - 4 x 2 bed, 4 person house

50% - 4 x 3 bed, min 5 person house

Triggers – all prior to the commencement of development.

All agreed by the applicant.

## **10. Conclusion**

The site lies outside the defined limit of development for the village of Purton. The development proposed is not one of the exceptions to the strategy of the plan that would be supported in this location. The identified requirement for housing in this community area envisaged under the strategy of the plan has been met and exceeded.

The site has been the subject of similar application proposals which were refused and are now subject of an appeal. The appeal is currently in abeyance whilst this application is determined.

It is important to consider that the Council is not able to demonstrate an available and deliverable supply of land for housing so the tilted balance at para 11d of the framework is engaged; the WCS has passed 5yrs in age and has not yet been reviewed and so housing requirements are assessed on a Wiltshire wide basis; and the Purton Neighbourhood Plan has also passed 2 years in age and has not yet been reviewed and as such the provisions of para 14 of the framework are not engaged.

The consequence of this change in circumstances is that the policies of the development plan most relevant to the determination of the application proposals cannot now be given full weight.

The benefits of development include the boost to the supply of land for housing; and the provision of affordable housing both of which can be afforded substantial weight given the submitted housing delivery statement. In addition, the proposals result in some economic benefits through construction and the additional spending of the new population supporting services and facilities in the locality and these can be afforded limited weight. The harm arising for the proposals remains the conflict with the strategy of the plan as to the location of new residential development. This can still be afforded substantial weight as the plan represents the local expression of sustainable development, is considered to remain in accord with the framework and the shortfall in the housing land supply is limited with requirements in this community area met and exceeded.

However this harm and plan conflict is reduced by the majority of the site and the built area of development falling within the identified area of search for policy 14 of the PNP for housing development. Whilst consent for the majority of that housing allocation in the plan has already been issued on part of the area of search the site has been largely identified as having development potential. No other site specific harms that are incapable of mitigation are identified. Approval of the revised scheme would implement the Council's action plan for addressing the Housing Land supply shortfall.

On balance the harm arising is limited and the benefits clearly and demonstrably outweigh the harm identified in weight and number.

Therefore, in accord with the provision of paras 11 and 12 of the framework permission is recommended.

## **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 Planning Obligation/Section 106 legal agreement covering the areas outlined below, within six months of the date of the resolution of this Committee.**

**In the event that the applicant makes clear that they will not 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 reason set out below. This alternate provision to be subject to consideration of any other factors outside the control of the applicant and the Council that may result in unavoidable delay. If such circumstances are assessed by officers to arise then to allow for completion of the agreement after the 6 month period under delegated authority:-**

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing and landscape and drainage maintenance and management) required to mitigate the direct impacts of the development and thereby fails to comply with CP3 CP43 & CP52 of the Wiltshire Core Strategy, Saved policy CF3 NWLP, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework.

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

Waste & Recycling Facilities – £4,277

Early Years / Nursery education provision – £105,132

Open Space SUDS Management & Maintenance Provisions

Off Site Sports Contribution £12,972.00

PROW Enhancement contributions including £60K for the up-grade of the surfacing of PURT89 from its junction with the main road to where it meets its currently blacktopped length.

PROW future maintenance funding £6,000

Traffic Regulation Order funding £6,000

Affordable Housing Provisions:-

19 units with a tenure mix of 60% of the units (11 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.

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35% - 4 x 3 bed, min 5 person house

5% - 1 x 4 bed, min 6 person house

Shared Ownership:

50% - 4 x 2 bed, 4 person house

50% - 4 x 3 bed, min 5 person house

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved

REASON: To ensure a prompt delivery of the site to contribute towards the identified shortfall in housing land supply and 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 reserved 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;
- (e) The layout of footpath links with the neighbouring development and highway.

Detail to be informed and supported by:-

- Updated Tree Survey;
- Plan to show trees to be retained and removed;
- Plan to show all trees to be retained along with the canopy spread and root protection areas shown on the proposed layout;
- Arboricultural Method Statement (if required);
- Tree Protection Plan.

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 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 ensure a prompt delivery if the site is to contribute towards the identified shortfall in housing land supply and 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.

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:

- Topographical Survey
- Site location Plan
- Site Access Arrangement
- Site Access Arrangement with traffic calming

All Received 03/02/2021

- Indicative Masterplan
- Parameter Plan

Received 19/10/2021

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 of no more than 47 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.

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

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

7. No development shall commence, except ground investigations and remediation, until infiltration testing, groundwater monitoring (including seasonal variation) and soakaway design in accordance with Wiltshire Council's Surface Water Soakaway Guidance have been undertaken to verify that soakaways will be suitable for the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the occupation of the development.

The developer should provide the following information to discharge the condition:

#### Drainage Strategy

- A drainage layout plan with the proposed location of SuDS features.
- Confirm the drainage strategy approach (e.g infiltration or discharge to watercourse, or blended approach).
- Soakaway and/or network drainage calculations.
- A revised discharge rate with 20% betterment on greenfield run of rates (if discharge to watercourse is proposed)
- A groundwater flood risk assessment.
- A plan showing the finished floor levels of the properties.
- A plan showing the exceedance / overland flow routes.

#### Ground Investigations

- Infiltration testing at the location and depth of proposed soakaway features.
- Groundwater monitoring taking into account seasonal variation.

#### Ownership and maintenance

- Indicative ownership and maintenance regime of SuDS features.

#### Construction

- A construction management plan showing how surface water will be managed during the construction phase.

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.

8. The Indicative Masterplan which is included in Parameters Plan (received 19/10/2021) will be adopted as an Ecological Parameters Plan, with all features marked for the protection or benefit of ecology carried forward to Reserved Matters where the layout will be expected to fit within these parameters without erosion or overlap. The Ecological Parameters Plan will not be altered without agreement from the LPA's ecologists.

REASON: To ensure adequate volume of habitat is retained within the site to support mitigation and management for ecological receptors and to maintain the integrity of the ecological function of the retained and created habitats within the site.

9. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

10. Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

11. No external light fixture or fitting will be installed within the application site until a lighting strategy, including lux plot, has been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate that a level of 0.5 Lux or less can be achieved at the interface with all sensitive ecological habitat areas.

REASON: to avoid illumination of habitat used by bats and other sensitive wildlife species.

12. Prior to the start of construction, the Defra Biodiversity 2.00 Metric (or current version) will be used to calculate Biodiversity Net Gain for the site. The unlocked spreadsheet must be submitted alongside a brief report and detailed site plans indicating the location and volume of all existing habitat and of new habitat created as net gain.

REASON: to ensure that biodiversity net gain is incorporated into the development, in line with NPPF current requirements.

13. 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 by the Local Planning Authority. The development shall not 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 have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

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

14. No dwelling shall be occupied until details of visibility splays for the access and zebra crossing have been submitted to and approved by the Local Planning Authority and have been provided in accordance with the approved details. The access should be provided with a visibility splay of 2m x 90m to the nearside carriageway edge, cleared of obstruction at and above 900mm.

REASON: In the interests of highway safety.

INFORMATIVES TO APPLICANT:

15. The applicant should be aware that the off-site highway works will need to be the subject of a Section 278 Agreement with the Highway Authority to secure the approval of the works to the highway. The design of the access arrangement will also need to be the subject of a Safety Audit.

The off-site Highway Works would include the following:-

Zebra Crossing in proximity to the indicative location shown on the masterplan  
An improved entrance/gateway feature at the location of the current changeover of speed limit.  
The provision of a 3m shared use path on Restrop Road to the North of the access, from the crossing point to the site.



The applicant should be aware that the on-site highway works will require adoption by the Highway Authority and a S38 agreement will be required in this respect.

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

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

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

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

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

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

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

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

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

the CIL forms please refer to the Council's Website [www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

Informatives:

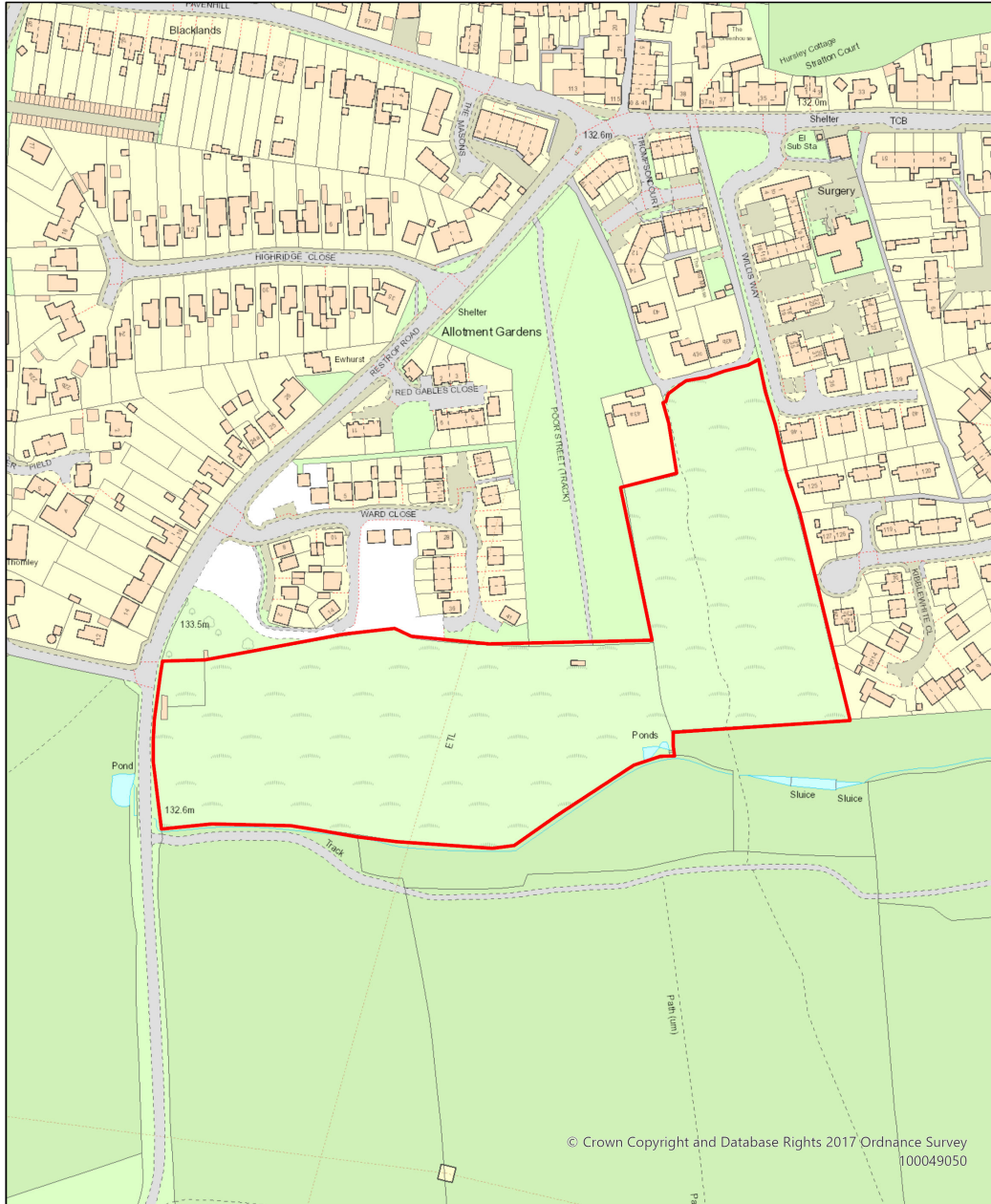
24. Wiltshire Council is the land drainage authority under the Land Drainage Act 1991. Land drainage consent is required if a development proposes to discharge flow into an ordinary watercourse or carry out work within 8m of an ordinary watercourse.

An ordinary watercourse is a watercourse that does not form part of a main river. The term watercourse includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows.

Wiltshire Council's land drainage bylaws and the land drainage consent application form and guidance notes can be found on our website.

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

Application Submissions  
Wiltshire Core Strategy  
Purton Neighbourhood Plan  
NPPF 2021  
HLS Statement 2019



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## REPORT FOR STRATEGIC PLANNING COMMITTEE

Report No.

<b>Date of Meeting</b>	1 December 2021
<b>Application Number</b>	20/08341/OUT
<b>Site Address</b>	Land South West of Park Road, Malmesbury
<b>Proposal</b>	Outline Planning Application (with all matters except access reserved) for up to 26 Dwellings, Public Open Space, Landscaping and Associated Engineering Works
<b>Applicant</b>	Hannick Homes and Developments Ltd
<b>Town/Parish Council</b>	Malmesbury CP
<b>Electoral Division</b>	Malmesbury (Cllr Gavin Grant)
<b>Grid Ref</b>	392554 187902
<b>Type of application</b>	Outline
<b>Case Officer</b>	Lee Burman

### Reason for the application being considered by Committee

The matter has been scheduled as a Strategic Committee item due to the development being a major development that does not conform with the provisions of the development plan.

#### 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 the completion of a planning obligation and conditions.

#### 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
- Heritage
- S106 contributions (Affordable Housing, Education, Public Open Space, Waste)

Malmesbury Town Council has raised an objection to the proposed development, and a total of 51 letters of objection have been received and 5 letters of support.

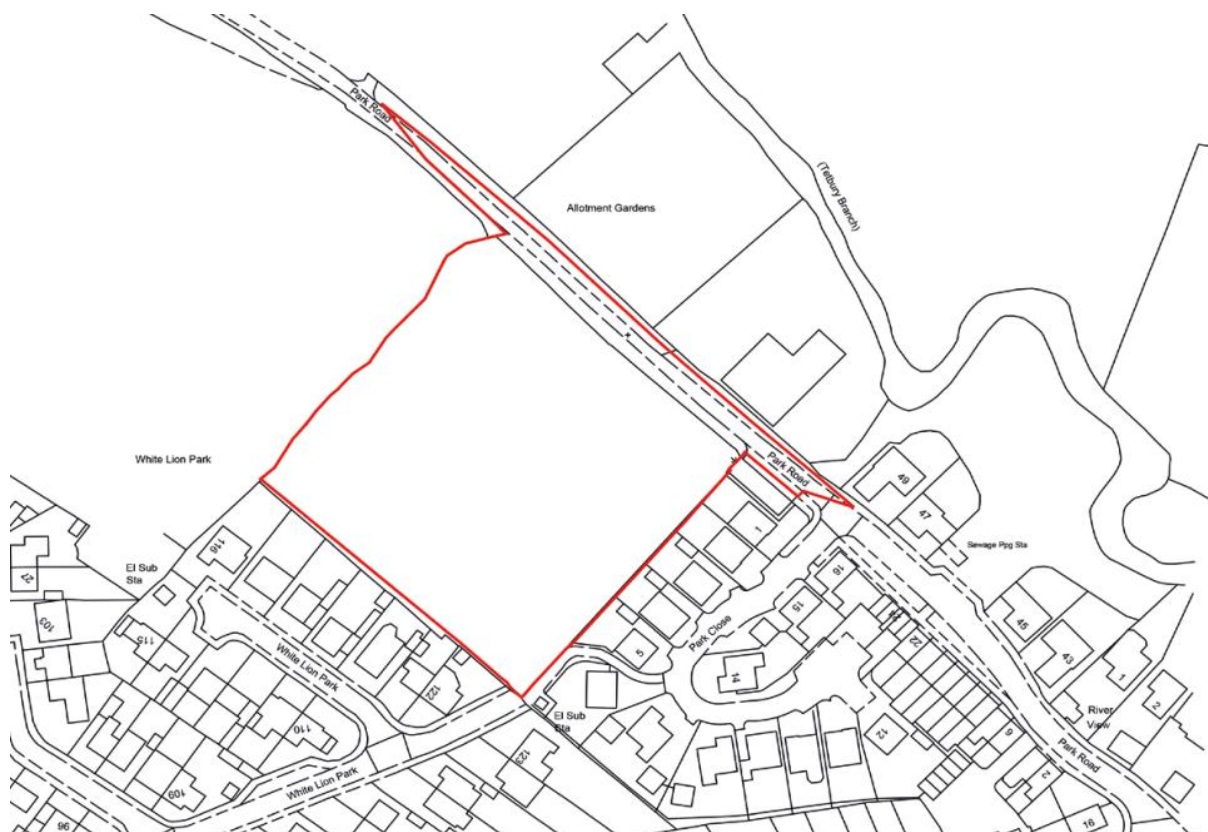
### 3. Site Description

The application site consists of 0.84 Ha of land located to the northwest of properties in Park Close and to the north east of the properties 116-122 of White Lion Park. The site outlined in red forms part of a grassed field. The application site includes the current field hedgerows and trees to the northwest of the site with open fields beyond. The site to the northwest has been the subject of a separate application for development of up to 50 dwellings, recently refused under reference 19/05898/OUT; an appeal against the refusal decision has now been lodged.

The site slopes up from Park Road fairly steeply towards White Lion Park. The site is located in the Avon River Valley with the boundary to the Cotswold AONB located to the western side of Park Lane. Park Road, including land within the red site boundary forming the proposed access to the site, is low lying and close to the river valley and is located in Flood Risk Zones 2 and 3 and part of the application site is also in an area at risk of both ground water and surface water flooding. The indicative housing layout shows housing only in flood risk zone 1.

The site is also a former twentieth century out-farm (now demolished) of regular courtyard plan, a potential site for archaeology.

The proposed development site lies in countryside outside the town's settlement boundary and is not identified as a housing site within the 'Wiltshire Housing Sites Allocation Plan' (February 2020) or the Malmesbury Neighbourhood Plan ('Made' 2015), or allocated for any form of development in the adopted development plan.



#### 4. Relevant Planning History

There is no site history for the application site, relevant history for the adjacent site to the west includes;

N/11/01382/OUT - Outline planning consent for residential development (77 dwellings); community building (Use Class D1); public open space; and associated works including construction of new access - Refused

N/12/03464/OUT - Residential development (77 dwellings); community building (use class d1); public open space and associated works including construction of a new access (resubmission of 11/01382/OUT). Refused; appeal dismissed on 08/09/2014, solely on the basis that releasing the appeal site for housing now could result in a significant and demonstrable adverse impact on the outcomes of both the WCS and the MNP and that, when assessed against the policies in the Framework taken as a whole, that could run the risk of outweighing any immediate benefits provided by the scheme.

19/05898/OUT - Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access. – Refused; appeal lodged.

#### 5. Proposal

The application seeks outline consent for up to 26 dwellings, public open space and associated engineering works. The application seeks detailed approval of access with all other matters reserved. The access would be provided from Park Road and includes provision of a widened carriageway and footway on the south side of Park Road to link to the existing footway on the corner of Park Close. An emergency access from the site is also provided to allow for access to the site in the event of flooding of Park Road which would be located to the southeast of the boundary with 122 White Lion Park, which would tie in with and existing end of a cul-de-sac.



**Layout Plan – indicative only**

The application is supported by a flood risk assessment, FRA, Historic Desktop Assessment and on-site field work regarding archaeology, and an Ecology Assessment.

### Environmental Impact Assessment

The proposed development relates to the erection of up to 26 dwellings on land covering 0.86 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.

## **6. Planning Policy & Guidance**

### Local Planning Policy -

#### Wiltshire Core Strategy (2015)

Core Policy 1- Settlement Strategy

Core Policy 2 - Delivery Strategy

Core Policy 3 – Infrastructure Strategy

Core Policy 13 - Malmesbury Community Area

Core Policy 43 – Providing Affordable Homes

Core Policy 44 - Rural Exception sites

Core Policy 50 - Biodiversity and Geodiversity

Core Policy 51- Landscape.

Core Policy 52 - Green Infrastructure.

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 64 – Demand Management

Core Policy 67 – Flood Risk

#### North Wiltshire Local Plan 2011 saved policies:

H4 – Residential Development in the Open Countryside

NE14: Trees, Site Features and the control of new development.

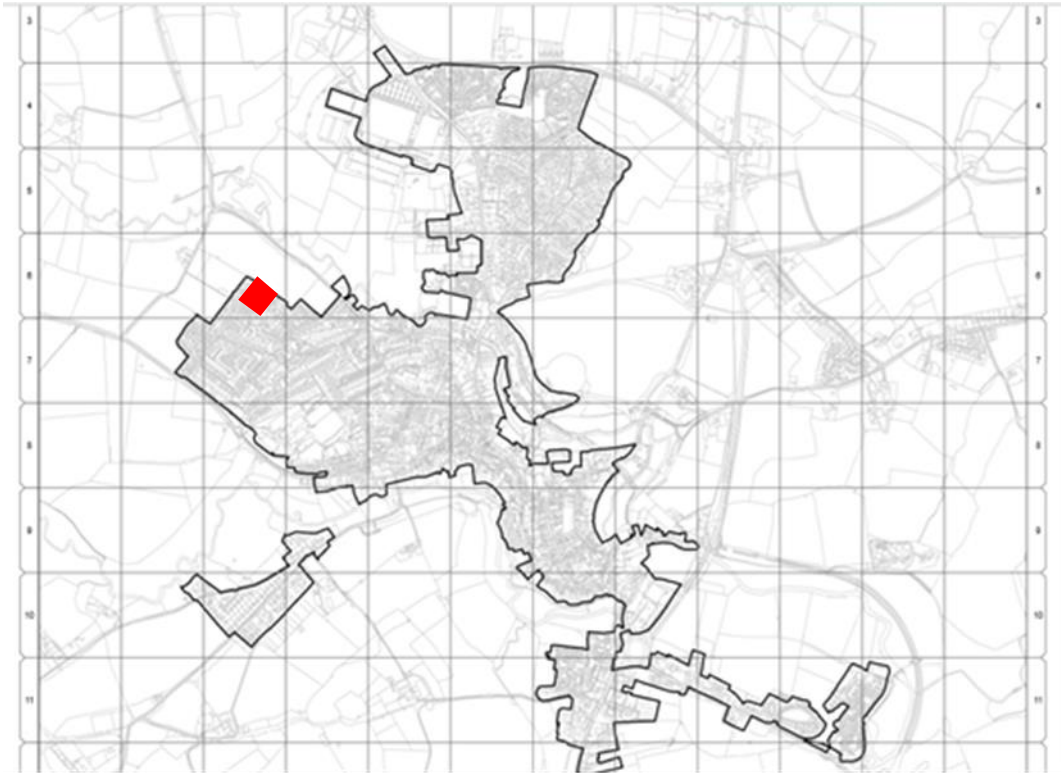
CF3: Provision of Open Space

NE18: Noise and Pollution

#### Wiltshire Housing Site Allocations Plan (February 2020)

The settlement boundary for Malmesbury has been reviewed within this document. The amended settlement boundary, as set out on page 122 of the document (and the subsequent maps after this page) the application site remains outside but in close proximity to the settlement boundary.





*(Extract from WHSAP with application site location indicated)*

Malmesbury Neighbourhood Plan (Made 2015) - Volume 1 (Main Body) & Volume 2 (Design Guide)

- Objective: Allocated sites for housing to at least meet the dwelling requirement for Malmesbury Town as set out in Wiltshire Core Strategy
- Policy 1: Land to the north west of Malmesbury, south of the Dyson Limited research and development facility and west of Malmesbury CE School (sites 3A and 15) is allocated for 170 dwellings
- Policy 2: Land at Burton Hill to the north (site 10), east (site 11) and south (site 6) of the Primary Health Care Centre is allocated for 50 mixed cottage-type dwellings, for elderly members of the community
- Policy 6: The redundant Burnham House site is allocated for redevelopment to provide approximately 50 dwellings as the first choice for Extra Care Housing.
- Objective: Assess housing requirement for the remainder of the Neighbourhood Area and address concern about volume windfall housing.
- Policy 3: Housing development in each designated small villages within the plan area (Millbourne and Corston) shall be on windfall sites and the number of dwellings should ideally not exceed single figures in order to preserve the rural character.
- Objective: Ensure that housing development responds to the identifiable needs of the changing populations of the Neighbourhood Plan Area
- Policy 4 – Planning applications for new housing, including conversions, must be tested against the current evidence of local demand and supply from sources including Wiltshire Council population forecasts, the Social Housing Register, the Strategic Housing Market Assessment and the most recent Neighbourhood Survey. Tables 2.1.1 and 2.1.2, above, are derived from this evidence.
- Policy 5 - Applications for new housing, including conversions, should be assessed against the demand net of cumulative consents given in the period, not the gross demand identified at the beginning of the period Policy 13: The NP Design Guide as

set out in Volume 2 of the MNP, should be taken into consideration in all developments to ensure a high quality of design that respects the specific character of Malmesbury Town and the surrounding area.

- Objective: Enhance the landscape setting of the town.
- Task 6.2: The settlement Assessment must be used when considering new development within Malmesbury Town and the Conservation Area Management Plan should be referenced.
- Objective: Encourage the conservation and use of natural assets.
- Task 6.3: Investigate extending and improving footpaths and cycle ways.
- Task 6.4: Ensure the biodiversity of the river valleys is maintained.

#### Design Quality –

- Objective: Ensure positive relationship between town and countryside.
- Task 8.4: Development proposals, particularly but not only, where sited on the edge of Malmesbury must maintain visual connections with the countryside.
- Task 8.5: the visual impact of new development on the countryside, and on views from the countryside, must be enhancing.
- Task 8.20: The scale and massing of all new buildings must be informed by and sensitive to local topography and landscape character, townscape and the wider setting of the development within the town.

#### NPPF 2021

Section 2 – Achieving Sustainable Development – paragraphs 7, 8, 9, 10, 11, 12, 14

Section 4 – Decision-Making – paragraphs 38, 40, 47, 55, 56, 57

Section 5 – Delivering a sufficient supply of homes – paragraphs 60, 61, 63, 65, 77,

Section 8 – Promoting healthy and safe communities – paragraphs 92, 93, 98, 100

Section 9 – Promoting Sustainable transport – paragraphs 104, 105, 107, 108, 110 – 112

Section 10 – Making effective use of land – paragraphs 119, 120, 124

Section 12 – Achieving well-designed places – paragraphs 126, 128, 129, 130, 131, 132, 134, 135

Section 14 – Meeting the challenge of climate change, flooding and coastal change - paragraph 159, 163, 164, 165, 167, 169

Section 15 – Enhancing the natural environment – 174, 176, 180,

Section 16 – Conserving and enhancing the historic environment, 189, 192, 193, 194, 195, 197, 199, 203, 204, 205

#### Planning Practice guidance

Design: Process and tools – updated (1 October 2019)

National Design guide – published October 2019 and revised in January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes.

Historic Environment – updated 23 July 2019

Housing Needs of different groups 24 May 2021

Natural Environment updated 21 July 2019

Planning Obligations – updated 01 September 2019

## **7. Consultations**

### Malmesbury Town Council: Objection

The response sets out the following reasons for objection -

- The site being outside the settlement boundary and not allocated for any development within the Malmesbury Neighbourhood Plan
- The Neighbourhood Plan allocates 1,000 dwellings to satisfy the minimum housing requirement for Malmesbury of 885 as required by the Wiltshire Core Strategy
- The Malmesbury NP tested the allocation against the provision of services and the additional dwellings would fail to be served by acceptable education and healthcare facilities due to these being unplanned
- There would also be adverse impacts upon highway infrastructure and town centre parking availability.
- Paragraph 71 advises that entry level housing sites should be encouraged unless the need for such homes is being met in the Authority's area and there is no evidence this is not being met, the existing provision for such housing (such as the Filand's site that would deliver 54 affordable homes and 80 affordable homes at Backbridge Farm), no evidence of the need for such homes
- The local connection policy should be fiercely defended and implemented and should take the approach of the rural exception site policy 44 in the core Strategy which should have clear support from the local community and should meet a genuine and identified local need.
- Park Road floods frequently
- Exacerbation of conflict on the highway with additional traffic and nearby commercial unit traffic on a narrow road
- The site is distance from local services, main roads and local schools increasing likelihood of travel by private means to access those services
- Detrimental impacts upon nearby AONB and ecology
- Sets a precedent to develop the larger site similar to the previous applications

Wiltshire Council Spatial Planning: Comments / caveated objection

*The planning statement sets out a variety of benefits to the scheme. Each of these will need to be assessed on their merits, with the appropriate detailed evidence, and placed in the planning balance. But altogether, they do not appear to amount to an urgent need to set aside the development plan in this instance and that the appropriate means to consider this proposal in the round, is as a part of the review of both the Local and Neighbourhood Plans. As the Council cannot demonstrate a five-year supply of deliverable housing sites, then the adverse impacts of granting consent will need to be weighed against the benefits. In the context solely of the principle of development, there is the potential for substantial harm weighing against this proposal's benefits.*

Wiltshire Council Highways: no objection

The original response raised a holding objection to the proposed access. This did not relate to the principle but sought additional information regarding the proposed access, specifically the proposed traffic calming built out and swept path analysis and safety audit, the proposals regarding speed restriction changes and street lighting as well as details regarding the emergency access. Revised plans and additional information were provided in March 2021 which resolved the concerns raised and the holding objection was withdrawn.

Wiltshire Council Landscape: Comments / caveated objection

The principle of new residential development within countryside outside the development framework boundary is not supported in principle. If the site is considered to be an acceptable exceptions site, or if it is considered that Para11d of the NPPF is engaged then it is considered that some limited harm to the character of the area would arise, resulting in a conflict with policy CP51 of the Wiltshire Core Strategy. This harm is identified to arise from the further urbanisation of Park Road, and the change of use resulting in the loss of a small green field area into a new urban area. This limited localised harm should be weighed against the proposal within any overall planning balance.

Key extracts from response follow –

*The application site is a small rectangular field of circa 0.8 hectares in size. The field is not currently in any agricultural use and is overgrown with emerging scrub and rough grassland. The land is enclosed by tall native hedgerows along its north western and north eastern boundaries and by fenced rear garden boundaries with sporadic vegetation along the site's south western and south eastern boundaries.*

*The application site slopes down from the southwest from circa 78m AOD to 72m AOD to the northeast, giving a consistent fall in level across the site of approximately 6 metres. The large White Lion residential estate adjoins the site to the southwest and a smaller more recent housing development at Park Close adjoins the site's south eastern boundary. The site borders Park Road to the northeast with allotment gardens opposite the site extending further north up to the river. Further east and opposite the site, an existing employment use (Build Base) is located with residential settlement extending further east along the northern and southern sides of Park Road up to Gloucester Road. Open agricultural land adjoins the application site to the northwest. The existing agricultural land to the west is subject of a separate outline planning application for residential development of up to 50 new dwellings. [officer note: this application now refused].*

*The site and its immediate surroundings lie within a shallow river valley (River Avon-Tetbury branch). These shallow river valleys extend into and around the town and allow views of countryside to extend into the historic town core. The Malmesbury Neighbourhood Plan has allocated land for major urban development on the opposite side of this same river valley to the north west, to the south of the recently extended Dyson employment site.*

Cotswolds AONB Designation –

*If Paragraph 11d of the NPPF is engaged, then footnote 6 applies (in relation to the setting of the Cotswolds AONB).*

*Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act 2000) requires that responsible authorities should give due regard to the statutory purpose of conserving and enhancing natural beauty within an Area of Outstanding Natural Beauty while carrying out their statutory functions. This includes Wiltshire Council acting in its capacity as the Local Planning Authority or acting as the Highways Authority when determining planning applications or entering into Section 38 Highway Agreements. This 'duty of regard' extends to the designation itself and also to the setting of the AONB.*

*The Cotswolds AONB eastern boundary follows the line of Park Lane, approximately 400 metres to the west of the site. The application site is slightly detached and largely screened from the AONB by the intervening valley topography, in combination with mature trees and existing vegetation. The two existing rural roads (Park Road and Park Lane) add to the setting and rural approach into the AONB from Malmesbury. Further urbanisation of the rural road network, extending westwards from the town in this area, through widening, new*

*junction improvements and increased visibility splays, kerbing, road signage and street lighting should be resisted to help limit the effects of large scale new urban development, and artificial light harmfully extending into the AONB as far as possible.*

*The resulting effects from development upon the character of the rural road network, especially to the west of the application site as part of any necessary Section 38 Highway Agreement should be clearly understood by the LPA.*

#### *The Character of Park Road –*

*The proposed development would further urbanise a small length of this road, requiring the removal / severe cutting back of the existing hedgerow and ditch to implement the proposed new vehicular access and also incorporate the new footway and required highways visibility splays for highway safety reasons. The relevant section of Park Road sharing a boundary with the application site is already influenced to some degree by the existing urban development extending along it from the east, and by the Build base urban frontage located opposite.*

*Breaking through the existing roadside field boundary would be detrimental to road users experience of it to some extent. In addition, the views of additional new housing on currently open/green fields is likely to be perceived as harmful. However, these effects would be localised to the existing field's local setting, and the harm arising would be limited in my opinion. Whilst the development could be delivered sensitively, seeking to mitigate impacts as far as possible through landscaping and design, there would be inevitable adverse impacts in terms of character. These would be in conflict with Core Policy 51 (CP51), which requires development to protect, conserve and where possible enhance landscape character. Although the resulting harm is limited, this is a matter that should weigh against the application proposal. ....*

#### *Conclusion –*

*The principle of new residential development within countryside outside the development framework boundary is not supported in principle. If the site is considered to be an acceptable exceptions site, or if the LPA consider Para11d of the NPPF is engaged then I would consider that some limited harm to the character of the area will arise, resulting in a conflict with policy CP51 of the Wiltshire Core Strategy. This harm is identified to arise from the further urbanisation of Park Road, and the change of use resulting in the loss of a small green field area into a new urban area. This limited localised harm should be weighed against the proposal within any overall planning balance.*

Wiltshire Council Urban Design: no objection

The response raises no objection to the principle of the proposal but the indicative layout should not form part of the approved plans for the reasons set out in the detailed response.

Wiltshire Council Tree Officer: no objection subject to conditions

Wiltshire Council Ecology: no objection

The original response raised concerns regarding the level of surveys for bats and other species on site. The subsequent response to the additional information provided in June 2021 accepts the survey information provided, but seeks further information regarding off-site reptile mitigation measures as well as a better ecological parameters plan. These matters can be addressed by planning conditions and/or a S106 agreement.

Wiltshire Council Drainage: no objection, subject to conditions

Wiltshire Council Public Protection: no objection, subject to conditions requiring electrical vehicle points, and a construction management plan

Wiltshire Council Waste Management: no objection, subject to conditions and financial contributions towards waste receptacle provision.

Wiltshire Council Open Space: no objection, subject to S106 contribution

There is a need for off site provisions for public open space, including play area as there is limited space provided within the application site for the proposed future occupiers. The response also seeks a sports contribution of £7,235.80 for the proposed scheme.

Wiltshire Council Education: no objection, subject to S106 contributions

Early Years -

There is a need for additional early years provision as a result of the proposed development that requires an additional 3 places and so a financial contribution £52,566 would be required.

Primary -

The response advises that primary education contributions are required to provide additional places and a contribution of £112, 548 (subject to indexation) to provide places for Lea and Garsdon School or alternative school expansion is required.

Secondary -

The relevant school for places for future occupiers is Malmesbury Secondary School, which is full and payment of £91,760 towards expansion to accommodate the development is required.

Wiltshire Council Affordable Housing: no objection, subject to S106 affordable housing provision

The most recent response raised no objection subject to the provision of 40% provision of affordable housing with an indicative mix required of affordable rent and shared ownership homes as well as the need for accessible units to be secured by legal agreement.

Wiltshire Council Archaeology: no objection

The original response raised concerns regarding the lack of trenching of the site to establish the presence of buried remains in this location. The applicant has now undertaken the required investigation and now subject to a satisfactory level of archaeological mitigation and the resulting report is now in hand and approved. It is considered the potential for buried heritage assets on site has now been suitably assessed and no further comment on the application.

Wessex Water: no objection

There is no objection contained in WW's response. The response contains advice in relation to requirements for foul water and surface water drainage matters. The response advises that the foul flow can be accommodated within the existing sewer. The response also contains advice in relation to surface water drainage and the requirement for complying with the SUDs hierarchy in order for connection to their surface water sewer and support the

proposed use of SuDs subject to appropriate design. They also advice of the need for a 3 metres distance from their water main in the south eastern corner of the site.

Environment Agency: No objections subject to conditions

## 8. Representations

Letters in support (total 5) for the following reasons:

- Additional affordable homes
- Improved highway access arrangement

Letters in objection (c. 51) for the following reasons:

- Harm to ecology value such as slow worms, grass snakes due to the loss of this type of habitat, including a pond which could sustain Great Crested Newts
- The pond has not been assessed in the Ecology Report which could sustain breeding protected species
- Pollution in the River Avon from surface water run off that could affect water voles
- Loss of trees in Park Road
- Loss of habitat for foraging and roosting bats
- Increased flooding and additional pollution of the River Avon.
- Increased surface water run off on a sloped site
- Lack of SUDS integrated into the development
- The low lying river valley does not allow water to disperse and could affect property downstream
- The single access in the flood risk zone would not allow residents to escape on foot due to flood levels
- Lack of infrastructure to serve the additional dwellings
- Lack of school places to accommodate new homes with travel for pupils to Lea, with limited public transport
- Unsuitable location for new homes
- The homes would be in excess of the allocation for homes in Malmesbury
- Not in accordance with the Malmesbury Neighbourhood Plan
- The town will become too large to have a friendly community
- The town has seen a large amount of building in recent years
- The housing mix has not been compared to the needs set out in the MNP or already permitted schemes
- Needs already met through existing permissions
- Loss of a further green field
- Loss of important views of the countryside
- Lack of proposed landscape buffer to soften the built edge to the west
- The diverted road would significantly affect the character of Park Road
- Increased traffic and conflict with highway users walking in the vicinity
- Loss of narrow rural lane used for walking
- Harm to the local transport network and nearby junctions and dangerous in the winter due to icy weather and excessive slopes
- Increased commuting to jobs outside the town
- The road widening proposed in Park Road would affect the existing forecourt of an existing garage on the south side of Park Road
- Conflict with existing commercial operators in the vicinity.
- Additional pollution from traffic
- The diversion would significantly affect the flow of traffic in Park road and local roads

- Lack of footpaths in Park Road
- Lack of visibility splays provided
- The road and bridge in Park Road are in a poor state of repair

Wiltshire Swifts -

Concern is raised in relation to lack of provision for wildlife within the site, including swifts which are a “red listed” species. The response recommends 50 swift bricks are incorporated into the proposal.

## **9. Planning Issues**

### **9.1 Key issues –**

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
- Heritage
- S106 contributions (Affordable Housing, Education, Public Open Space, Waste, Ecology)

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, 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); the Wiltshire Housing Sites Allocation Plan (WHSAP) (Feb 2020); and the Malmesbury Neighbourhood Plan (MNP) (‘made’ Feb 2015).

The proposal seeks planning permission in outline form with all matters reserved except access, for up to 26 dwellings, with 40%, namely 10 dwellings, being affordable. There is no indicative mix stipulated, although the mix of the 10 affordable units consists of 2x one bedroom flats, 2x two bedroom flats, 3x two bedroom houses and 3x three bedroom houses.

The access would consist of a simple junction into the site from Park Road, with the widening of Park road and provision of a two metre wide footway on the South side of the widened access. The proposed highway works also include the provision of a reduced speed limit along Park Road, extending the 30mph limit.

### **9.2 Principle of the development –**

#### 9.2.1 The Development 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. Market



Towns 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. This is also the largest settlement within this community area with other settlements classified as large or small villages where there are limited services, employment and facilities and where growth is required to be limited.

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 December 2020, shows that at 1 April 2019, of the 885 homes required for Malmesbury 812 homes had been completed and there were 176 homes committed and deliverable by 2026. As such, Malmesbury is set to exceed the indicative requirement.

The Malmesbury Neighbourhood Plan became part of the development plan on 25th February 2015. The MNP does not allocate the application 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. 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 (16/06401/FUL approved 22/10/2021)
- Policy 2 – Burton Hill – 50 dwellings (16/11603/OUT approved 59 dwellings; 19/07095/REM submitted pending determination)
- Policy 6 – Burnham House – 50 dwellings (14/08832/FUL approved)

It is considered that the approval and delivery of allocations in the MNP follows a plan led approach to residential development in Malmesbury and exceeds the minimum requirements of the Wiltshire Core Strategy. The Neighbourhood Plan allocations have delivered well with additional dwellings above those allocated. In addition to the delivery of allocated sites, the Council has also permitted additional housing above those allocations. For example, up to 71 at Filands under reference 19/11569/OUT, last year.

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 Malmesbury Neighbourhood Plan is now six years old and is in the process of review with an anticipated review completion date of March 2022. The current plan is partly delivering the anticipated housing requirement with some of the allocations being delivered, although some allocations are taking longer than anticipated. Due to the age of the document and the need for review it is now the case that the policies in the plan carry less than full weight in consideration of the current application. In addition, Policy 4 and 5 seeks to ensure that planning applications for new housing be tested on the local demand and supply. As seen from the evidence in the Council's HLSS the Council and this HMA cannot currently deliver a five-year supply.

The proposed development seeks to provide up to 26 residential dwellings 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.

#### 9.2.2 Other material considerations relevant to the principle of development

The Core Strategy was adopted in January 2015. Planning Practice Guidance confirms that a development plan does not become out-of-date automatically after passage of 5 years. However, 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 paragraph 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 plus buffer based on past delivery rates. The NPPF makes it clear that where this cannot be demonstrated, the most relevant policies for determination of the application including the supply of housing (which in this case would include CP1 and CP2 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.

As detailed in the most recently published Housing Land Supply Statement (HLSS 2019) the Council cannot currently demonstrate a five-year supply. It currently stands at 4.56 years as from April 2019. 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 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 the 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 six years old it fails criteria (a). The MNP satisfies criteria (b) to (d) as the MNP has allocated a sufficient number of homes to meet its requirement, the local planning authority can demonstrate a 4.56 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 is for the decision maker to assess the weight to be afforded to the MNP in decision making. It is noted that the Neighbourhood Plan is to be reviewed but this process is at an early stage.

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

As noted above, 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. In this context and given the scale of development proposed, it is not considered that the existing permissions and commitments to housing delivery within Malmesbury can, in and of themselves, and irrespective of other considerations, be a defensible basis for refusal of the proposals in the context of the Council currently being unable to demonstrate a 5 year supply of land for Wiltshire as a whole.

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 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise.

In addition to the provision of general housing the proposal would also provide additional affordable homes, for which there is a pressing need in both Malmesbury and also in wider Wiltshire area. This is also required to be balanced in the matters to be considered as part of this application.

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.

### 9.2.3 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 applicants have provided a deliverability statement. The applicant is a housing developer with a track record of delivery in Wiltshire. They are willing to accept shorter delivery timeframes for implementation, ensuring delivery in the short term which could assist in the site contributing to the delivery of homes to redress supply. The applicant confirms the site is viable based on the proposed required S106 contributions, conditions, and site constraints. Further, there are no abnormal infrastructure costs or large land requirements associated.

## **9. 3 Character, appearance and visual amenity of the locality**

Core Policy 51 states that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. This advice is echoed in paragraph 174 of the NPPF. Core Policy 57 states that new development must relate positively to its landscape setting and the existing pattern of development by responding to local topography to ensure that important views into, within and out of a site are to be retained and enhanced. Development is required to effectively integrate into its setting and to justify and mitigate against any losses that may occur through the development.

The application is accompanied by a Design and Access Statement which includes the following statements relating to the impact of the proposed development on the appearance of the area and visual amenity in general -

*From a short distance, the site is highly visible due to the close proximity of visual receptors and limited height of local landcover. Residential properties immediately adjoining the site at White Lion Park and footpaths that cross in close proximity have direct views into the site, due to its sloping topography.*

*From the north, views into the site are limited due to the overgrown nature of the hedgerows and vegetation on the site itself. From the existing development of White Lion Park in the south, views of the site can be seen from the footpath between White Lion Park and Park Close and the properties themselves. This is the same for the dwellings located on Park Close to the east, with their proximity contributing to the views available. The field to the west is private farmland that is currently subject to a separate planning application for 50 dwellings (LPA ref: 19/05898/OUT) [officer note: this application now refused]. An established hedgerow along the sites western boundary is significant enough to diminish direct views between the two sites.*

*From all viewpoints the views feature the existing vegetation including hedgerows and trees. However, the site makes up a very small proportion of the view and as such its contribution to long distance views has been identified as negligible.*

The site is located on the north eastern edge of Malmesbury. The site is at a low level at the edge of Park Road but rises to the south-west as it joins the residential development of White Lion Park. This is similar to the adjacent development at Park Close, which adjoins the south-east side of the application site and rises to the south-west. Together White Lion Park and Park Close, and to a certain extent the commercial development to the east, wrap around the site, meaning that the proposed development would be seen – that is, when viewed from the north and from the AONB to the west – against a suburban and elevated backdrop of existing developments.

In terms of the impact of the proposal on the site itself, it would result in the development of an open field outside the settlement boundary, and so - intrinsic to the principle of the development of the site - would result in its urbanisation. In isolation this urbanisation conflicts with Core Policy 51 and 57 which seek to retain rurality in landscapes. However, the change to the site in isolation is not the only consideration relevant to assessing the landscape impact; it is also necessary to consider the wider impact and setting.

On immediate setting, the existing site (depending on the seasons and whether the boundary hedging has been cut) is relatively exposed, particularly when viewed from the site's access in Park Road due to the lack of dense and high boundary hedging here. The view from further west along Park road, where better boundary trees and hedging exist, is less obvious. But in any event, all views from Park Road into the site have the backdrop of the existing urban edge of Malmesbury beyond the site, which are largely unsoftened and/or scantily landscaped. These circumstances are a defining feature of the site.

Further afield, there are views from the AONB as well as from rights of way located to the west, but these are distant views affected by topography and intervening hedgerows and trees, and could be further mitigated by provision of additional landscaping within the site. The WC Landscape Officer has not raised concerns over the relationship with the AONB, noting that the application site does not contribute importantly to its setting, and that a small sensitively designed urban development retaining a strong vegetated western field boundary hedgerow is unlikely to cause harm.

Overall, it is considered that there would be some harm to the character and appearance of the site itself, this as a consequence of it changing from a 'green' field to a housing development. But, this harm is considered to be only moderate/negligible in view of the proximity of the site to established developments on c. 2.5 of its sides, and with these established developments prominent in views across the site - and so giving a 'semi-urban' feel to the site anyway. Outlook from the established developments in Park Close and White Lion Park would change; however, as there can be no assumed rights to views, this is not considered a sound planning reason to object. There would be very little impact for users of the public rights of way, and negligible impact on the AONB.

The consequences of accepting these conclusions on landscape and visual impact would have no bearing on the site to its north side which has recently been refused planning permission, in part for landscape and visual impact reasons. That site is less well-related to Malmesbury, is not enclosed by established development in the same way as the current application site, and would result in greater encroachment into open countryside.

#### **9.4 Impact on residential amenity**

The main considerations in this aspect are those properties closest to the site boundaries in White Lion Park to the south and eastern boundaries of the site. The indicative layout does not demonstrate an acceptable relationship between the proposed houses and these established properties in some areas. But there is sufficient space on the overall site to address this and to ensure privacy standards are achieved; the detailed layout would be a matter for the reserved matters application in any event. In terms of outlook, the site's levels slope down and away from the properties in White Lion Park, reducing the impact on their outlook. As the proposal would not significantly harm the outlook, amenities or privacy of residential properties nearby, there is not conflict with Core Policy 57 or the NPPF.

The indicative layout provided is not necessarily a plan which the reserved matters should rely upon, as is set out in the response from the Urban Designer. Therefore, full consideration of the residential amenities of future occupiers in terms of detailed matters such as internal layouts, private amenity spaces and separation distances would be fully considered in the subsequent reserved matters application. It is not considered that a reason for refusal of an outline application on the basis of harm to the amenity of future occupiers could be sustained in this instance.

#### **9.5 Highway Impacts**

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 the settlement boundary for Malmesbury. However, the site adjoins the White Lion estate which contains several hundred residential dwellings. Whilst the application site is set further east along Park Road, it is still relatively close to existing employment areas and services, such as schools, which are accessible via sustainable means of transport. It is, therefore, not considered that the location is so remote as to make it an unsustainable location in these terms.

Access is a matter for determination in this application. The application is supported by a Transport Statement with subsequent additional information provided in technical notes and detailed highways plans which includes vehicle 'swept paths'. The proposal includes

widening of Park Road to achieve a width of 5.5 metres with a two metre footway on the southern side. The access into the site is in the form of a standard junction from Park Road.

The response from the Council's Highways Team raises no objection to the proposed access. Detailed technical matters can be controlled by conditions. Although there is concern from local residents over increased traffic in Park Road and on the surrounding road network, the Highways Officer raises no objection, and in view of this an objection for this reason could not be sustained.

There has been concern raised in relation to the impact of the proposed footway in Park Road on the forecourt of a commercial property on its south side, which extends into the highway. However, the area fronting the commercial property is recorded as public highway, and therefore needs to be kept free of obstruction and available for public use in any event. There is a previous consent for extensions to the commercial property from 1990 and 1995 which restrict parking on the frontage to no more than 2 vehicles, but this does not override the designation of the area as a public highway anyway. It is not considered that the provision of the footway as proposed in the planning application would result in any significant harm to highway safety and no such objection for this reason is raised by the Highways Officer. The details of the proposed footway and kerbing would be a matter for the standalone Section 278 agreement.

## **9.6 Drainage / Flood Risk**

The larger part of the application site lies in Flood Risk Zone 1, with just a part of the access and Park Road itself in Flood Risk Zones 2 and 3. The application is accompanied by a Flood Risk Assessment which includes a surface water drainage strategy. The applicant has provided additional information in the form of an amended FRA and Drainage strategy. The flood risk assessment advises that an emergency access would be provided to the south via an existing cul-de-sac in White Lion Park to allow access to the west in the event of a flood. This has been assessed and agreed by the Council's Drainage Team and the Environment Agency.

The proposed dwellings would all be in the Flood Risk Zone 1 area, which is an acceptable zone for development in principle; there is no requirement to apply the sequential test in these circumstances. The Environment Agency raises no objection to the proposal subject to conditions relating to access and finished floor levels, which could be attached to any consent granted.

There is concern raised by some third parties in relation to matters in the Wessex Water response, but as these are detailed concerns they can be resolved through conditions attached to any consent granted. Subject to conditions there is no conflict with Core Policy 67 that would justify a refusal on this basis.

## **9.7 Trees and Ecology**

The application is supported by an indicative layout plan (revised), and an ecological assessment as well as an illustrative ecological parameters plans. This indicates the retention of trees and hedgerows within the site and on the site boundaries. The Ecology Assessment notes the presence of slow worms and bats habitats. The proposal would retain the existing trees and hedges within the site and proposes off site provision for translocated slow worms. The Ecologist has expressed concern that the ecological parameters plan does not provide an adequate 'dark corridor' for bats on the north west side of the site. This can be addressed by planning condition.

In terms of trees, there is limited information provided as highlighted in the response from the tree officer. However, as all trees and hedges, other than those to be lost to provide the proposed access, would be retained, it is not considered an objection could be sustained in this instance in relation to loss of trees. Suitable retention and enhancement could be provided and secured by conditions.

As referred to above, the Council's Ecologist, in the most recent response, sought additional information regarding the ecological parameters plans as there is concern raised in relation to the mechanism to secure off site translocation. These matters can be addressed by conditions and/or the S106 agreement in accordance with Core Policy 50 and guidance within 179 of the NPPF.

### **9.8 Open Space**

Saved Policy CF3 of the North Wiltshire Local Plan 2011 seeks the provision of open space on site and only in appropriate circumstances financial contributions towards open space provision elsewhere where it is appropriately located in relation to the application site or if this is not appropriate towards upgrade of existing nearby open space.

In this case in view of the circumstances of the site an off-site contribution is considered appropriate in accordance with the policy, which can be secured via the S106 obligation.

### **9.9 Heritage**

The application is accompanied by an archaeological desktop assessment. This is informed by a geophysical survey and trenching. The trenching revealed no remains. Accordingly, the WC Archaeologist raises no objections or requirement for conditions. The proposal would not affect any buried heritage assets so not conflict arises Core Policy 58 or the guidance in the NPPF.

### **9.10 Education**

The development would generate an additional need for school places including early years. Both Malmesbury Primary School and St Joseph's Primary School are full. The Backbridge Farm application allocated land for provision of expansion to Malmesbury Primary School. This land is in the process of being secured for the expansion to provide for additional places in the long term. In the short term, the Education Service is also providing additional spaces at Lea and Garsdon Primary School. Therefore, financial contributions are required for primary school places. In terms of secondary school places, Malmesbury Secondary School is currently full, and financial contributions are required for expansion of this school. Subject to financial contributions being made via a S106 obligation, the Education Officer raises no objections.

### **9.11 Other detailed matters**

The Public Protection Officer raises no objections subject to conditions regarding a construction management plan and electrical charging points. This matters can be readily controlled by conditions.

#### S106 contributions (Affordable Housing, Education, Public Open Space, Waste)

S106 matters have been covered in the above paragraphs, but are summarised in full here.

WCS Core Policy 3 states that new development should make provision for all infrastructure made necessary. CP3 is supported by the Planning Obligations Supplementary Planning



Document. The SPD states that planning obligations will be sought from developments that generate a need for new infrastructure and should be a material consideration in planning applications.

The planning obligations required to mitigate the effects of the proposed development here are summarised as follows:

- Affordable housing – 40% provision
- Education - £52, 566 for early years places; £112, 548 for primary places; £91,760 for secondary places;
- Play space - £70,000 play area equipment for nearby recreation grounds; £7,235.80 sports;
- Waste collection facilities - £91 per dwelling towards waste receptacles;
- Management and maintenance responsibilities for retention and management of land to provide the emergency access, open spaces and ecological mitigation.

The applicant has confirmed agreement to enter into a S106 agreement to secure these obligations

## **10. Conclusion – The Planning Balance**

The application site is not allocated in the adopted development plan. The site lies outside the defined limits of development for the Market Town of Malmesbury. The development proposed is not one of the exceptions to the strategy of the plan that would normally be supported in this location. The identified requirement for housing in this community area envisaged under the strategy of the plan has been met and exceeded. As such, the proposals are on face value not acceptable in principle, in terms of the development plan.

However, at this time the Council is not able to demonstrate an available and deliverable supply of land for housing so that the 'tilted balance' at para 11d of the National Planning Policy Framework is engaged; the WCS has passed 5 yrs in age and has not yet been reviewed, and so housing requirements are assessed on a Wiltshire wide basis; and the Malmesbury Neighbourhood Plan has also passed 2 years in age and has not yet been reviewed, and as such the provisions of para 14 of the framework are not engaged.

The consequence of this is that the policies of the development plan most relevant to the determination of the application cannot now be given full weight.

The benefits of development include the boost to the supply of land for housing; and the provision of affordable housing both of which can be afforded substantial weight given the housing supply situation. In addition, the proposals result in some economic benefits through construction and the additional spending of the new population supporting services and facilities in the locality and these can be afforded limited weight. The harm arising for the proposals is, firstly, the conflict with the strategy of the plan as to the location of new residential development. This can still be afforded weight as the plan represents the local expression of sustainable development, is considered to remain in accordance with the framework, and the shortfall in the housing land supply is limited with requirements in this community area met and exceeded. The harm is also in terms of the impact of the development on the landscape hereabouts, although for the reasons set out in this report, this harm relates essentially to the site itself (that is, in isolation of its wider setting in relation to which little or no harm arises), and so is considered to be limited. There are no other harmful effects and/or effects can be mitigated.

Therefore, in accord with the provision of paras 11 and 12 of the framework permission is recommended.

## **RECOMMENDATION**

**That the application be approved, subject to the applicant first entering into a legal agreement to deliver the following –**

- **Affordable housing – 40% provision**
- **Education - £52,566 for early years places; £112,548 for primary places; £91,760 for secondary places;**
- **Play space - £70,000 play area equipment for nearby recreation grounds; £7,235.80 sports;**
- **Waste collection facilities - £91 per dwelling towards waste containers/bins;**
- **Management and maintenance responsibilities for retention and management of land to provide the emergency access, open spaces and ecological mitigation.**

**And subject to the following planning conditions -**

Conditions –

1. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved

REASON: To ensure a prompt delivery if the site to contribute towards the identified shortfall in housing land supply and 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 reserved 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 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 ensure a prompt delivery if the site is to contribute towards the identified shortfall in housing land supply and 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.

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:
- Drawing no. 2718 001 ('Site Location Plan') dated 08/2020
  - Drawing no. H656/02 Rev F ('Site Access Arrangements') dated 19/02/2021
  - Drawing no. H656/03 Rev E ('Emergency Access Arrangements') dated 19/02/2021

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 of no more than 26 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.

6. No development shall commence 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. No dwelling hereby approved shall exceed 8 metres in height as measured from finished floor level and shall not exceed two storeys.

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

8. Prior to commencement of the development hereby approved, and notwithstanding that the application is accompanied by an Ecological Parameters Plan (Ecology Solutions, Rev A, September 2021), a further Ecological Parameters Plan shall be submitted to the local planning authority for approval in writing. The further Ecological Parameters Plan shall show a buffer, forming a dark corridor for bats adjacent to the north-west boundary of the site. This dark corridor shall be a minimum of 3-5m wide, measured from the edge boundary line of the existing hedge on/adjacent to this boundary (as illustrated on the currently submitted Ecological Parameters Plan. This minimum will be required to allow suitable access for maintenance and to protect tree roots as well as to protect foraging and commuting bats including lesser horseshoe and Barbastelle species. The dark corridor shall be provided in accordance with the approved further Ecological Parameters Plan and shall remain at all times thereafter outside of the approved housing development area, including any part of any house garden. Other than on the boundary line with the adjacent housing development, no fences or other means of enclosure shall be erected in the dark corridor, and no lighting shall be installed in the dark corridor. The dark corridor shall be retained as such in perpetuity thereafter.

REASON: In the interests of conserving biodiversity and to ensure a dark corridor is retained in this part of the site in the interests of protecting bats which are known to commute here.

9. Prior to the commencement of the development hereby approved, a strategy for the translocation of reptiles from the application site shall be submitted to the local planning authority for approval in writing. The strategy shall provide details of a suitable receptor site for the reptiles; the suitability of the receptor site shall be informed by a baseline survey, which will itself inform the details of any enhancements that will be required in advance of the translocation, together with a timescale for the enhancements to be carried out. The strategy shall also set out details of the method by which the reptiles will be translocated to the receptor site and the timings of this. The provision of the translocation site and the translocation of the reptiles shall take place entirely in accordance with the approved strategy.

REASON: In the interests of biodiversity and to ensure reptiles at the site are safely translocated to a site suitable for this purpose.

10. 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 phases 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 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.

11. No development shall first commence (including demolition, ground works and vegetation clearance associated with the provision and improvements in Park Road) until a Construction Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include, but not necessarily be limited to, the following:
1. Risk assessment of potentially damaging construction activities
  2. Identification of 'biodiversity and tree protection zones'
  3. 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)

4. The location and timing of sensitive works to avoid harm to biodiversity features
5. The times during construction when specialist ecologists need to be present on site to oversee works
6. Responsible persons and lines of communication
7. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
8. Use of protective fences, exclusion barriers and warning signs.
9. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEcoMP 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 CEcoMP 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.

12. The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) to 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:
  1. Description and evaluation of features to be managed;
  2. Landscape and ecological trends and constraints on site that might influence management;
  3. Aims and objectives of management, including long term objectives to ensure biodiversity net gain and management in perpetuity;
  4. Appropriate management options for achieving aims and objectives as set out in points 1 to 3 above;
  5. Prescriptions for management actions for the site;
  6. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
  7. Details of the body or organisation responsible for implementation of the plan;
  8. Ongoing monitoring and remedial measures which shall include measurable targets;
  9. 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.

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

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.

14. There shall be no surface water drainage disposal from the site, directly or indirectly, to the public foul sewer.

REASON: To safeguard the public foul sewer system.

15. The development shall be carried out in strict accordance with the approved Flood Risk Assessment (FRA) [Land South West of Park Road, Malmesbury, Wiltshire, Flood Risk Assessment – Hannick Homes (September 2020)] and the Surface Water Drainage Strategy contained within it.

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.

16. No part of the development shall commence until full engineering details of the highway improvement works to Park Road and the realignment of the carriageway into the development site have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: In the interests of highway safety.

17. No part of the development shall be first occupied, until the visibility splays shown on the approved plans at the junction of Park Road with the site access road have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

REASON: In the interests of highway safety.

18. No development shall commence on site until details of the internal 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. The development shall not 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 have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

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

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

REASON: In the interests of highway safety.

20. No development shall commence on site, until a Construction Management Statement, together with a site plan, which shall include the following ....

1. the parking of vehicles of site operatives and visitors;
2. loading and unloading of plant and materials;
3. storage of plant and materials used in constructing the development;
4. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
5. wheel washing facilities;
6. measures to control the emission of dust and dirt during construction;
7. a scheme for recycling/disposing of waste resulting from demolition and construction works;
8. measures for the protection of the natural environment;
9. hours of construction, including deliveries;
10. pre-condition photo survey;
11. Routing plan;
12. Traffic Management Plan (including signage drawing(s));
13. Number (daily/weekly) and size of delivery vehicles;
14. Number of contractor/staff vehicle movements;
15. Details of temporary/permanent Traffic Regulation Orders; and
16. Phases plan

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

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

INFORMATIVE: There shall be no burning undertaken on site at any time. Construction hours in the CMP should be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday, and no working on Sundays or Bank Holidays.

21. No development shall commence until a Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied prior to the implementation of the Travel Plan. The Travel Plan shall be implemented as approved thereafter.

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

22. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the LPA. The scheme shall be implemented prior to occupation of any part of the development or in accordance with a programme to be first approved by the local planning authority.

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.

23. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for a maximum water usage limit of no more than 110 litres per person per day. The scheme shall be implemented in accordance with the agreed details.

REASON: This condition contributes to sustainable development and meeting the demands of climate change. Increased water efficiency for all new developments enables more growth with the same water resources.

24. 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 development 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.

INFORMATIVES:

The applicant should note that if the intention is to offer the roads for adoption then the drainage requirements of the LLFA may not necessarily coincide with the adoption requirements of the Local Highway Authority. To find out more about the processes required to secure road adoption, contact the Highway Authority at [HighwaysDevelopment@wiltshire.gov.uk](mailto:HighwaysDevelopment@wiltshire.gov.uk).

The application is supported by a site specific Flood Risk Assessment (FRA). It should be noted that the LLFA's response to the application is reliant on the



accuracy and completeness of the FRA and the LLFA does not take any responsibility for incorrect data or interpretation made by the authors. The developer, or agent working on their behalf, retains the responsibility for the checking of the design, calculations and details contained in the FRA and additional submitted information.

The applicant should be made aware that the off-site highway works will need to be the subject of a Section 278 Agreement with the Highway Authority to secure the approval of the works to the highway. The design of the access arrangement will also need to be the subject of a Safety Audit.

The off-site Highway Works would include the following:-

- The widening of the Park Road carriageway to 5.5m from the Park Close junction and extending into the development, together with the provision of a 2m wide footway adjoining the south-western side of the carriageway, and associated drainage and ancillary works.
- The realignment of the north-western section of Park Road to provide a priority junction with the new access road.
- Amendments to speed limit, subject to a Traffic Regulation Order.

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

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

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

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

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

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on

land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

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

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).



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