

Date of Meeting	6 th April 2016
Application Number	13/06782/OUT
Site Address	Land North West Of Boreham Mill, Bishopstrow Road, Warminster
Proposal	Outline application for the erection of up to 35 custom build residential dwellings including access details
Applicant	HPH Ltd & Hab Housing Limited
Town/Parish Council	WARMINSTER
Ward	WARMINSTER EAST
Grid Ref	389085 144135
Type of application	Outline Planning Application
Case Officer	Peter Horton/Mike Wilmott

BACKGROUND

Members may recall that this application was considered by this committee in June 2014. The committee resolved to approve the application, subject to the prior completion of a Section 106 legal agreement to cover various matters necessary to mitigate the impact of the development. That agreement was completed and the planning permission issued on 21st January 2015.

A third party subsequently challenged the decision to grant planning permission via a Judicial Review. The challenge was heard in the High Court in July 2015 and Judgement was given in October 2015. The JR was advanced on four grounds. Three of these related to planning matters and the remaining one on whether a councillor at the meeting was entitled to vote on the matter.

The challenge on planning matters related to (1) a claim that the development would have a significant effect on the River Avon Special Area of conservation because of the risk of contamination to the River Wyle through the specialist foundation works; (2) a claim that the EIA Screening Opinion was flawed; (3) a claim that the Council's conclusion that the development would not harm heritage assets was flawed. The Judge dismissed each of these claims, commenting on the related costs application that the claimant 'lost badly' on these grounds. However, whilst he considered that the Councillor involved had no pecuniary interest in the application, and was not automatically disqualified from participating in the decision, he did find that his participation in this particular decision to grant planning permission gave rise to an appearance of potential bias due to the significant involvement of the housing association that he was then a Director of in the affordable housing aspects of the application. He concluded that it was wrong for the councillor to have participated in the meeting and, noting the closeness of the vote on the proposal, he concluded that the planning permission should be quashed.

Once a planning permission is quashed in this manner, the planning application is effectively reinstated as undetermined and has to be determined once more by the Council as local planning authority.

Given the length of time that elapsed between the committee decision of June 2014 and the decision to quash the decision in October 2015, the applicants have had to update some of their reports and ecological material to reflect the changed circumstances. This material was submitted in December 2015. Letters explaining the situation were then sent to all interested parties, including those who had made comments on the application in 2014, providing them with the opportunity to comment on the additional material. The application has now been re-assessed, taking account of the current development plan context and the representations made.

The decision on this application has to be made in the context of the development plan; national planning guidance and advice and other material considerations as they exist now, not as they were in 2014.

Reason for the application being considered by Committee

The application was originally called in to committee at the request of the Division Ward Member, Cllr. Andrew Davis to enable Members to consider the application in conjunction with the associated listed building consent proposal covered by application 13/06783/LBC. (The decision made by the committee in June 2014 to grant listed building consent to relocate a grade II listed milestone a short distance away to facilitate the construction of a junction to serve this residential development was not challenged in the High Court. The consent is still valid and is therefore not before the planning committee).

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 a Section 106 legal agreement.

2. Report Summary

The main issue to consider is whether, notwithstanding the fact that the site lies outside the Warminster limits of development, the proposal represents a sustainable form of development for which planning permission ought to be granted. The other key determining issues relate to the five year land supply, highway safety, flood risk, ecology and conservation, and neighbouring impacts.

3. Site Description

The application site is broadly circular in shape measuring approximately 1.22ha located on the southern side of Boreham Road, on the eastern edge of Warminster. The southern boundary of the red-lined site lies just short of the river Wylye. Boreham Mill (built 1886) lies to the south east. Beyond that lies Bishopstrow Conservation Area. The existing access into the site is in the north western corner of the northern boundary, which runs adjacent and parallel to Boreham Road.

Current planning constraint mapping indicates that the site lies in Flood Zone 1. The site was previously recorded as being functional floodplain. However in 2010, the Environment Agency amended their flood map in recognition that much of the site fell outside of the river's floodplain.

The River Wyle is within the River Avon Special Area of Conservation (SAC) which is a European designated site. The Avon is also notified at a national level as the River Avon System Site of Special Scientific Interest (SSSI).

4. Planning History

By way of some background, the site was in agricultural use up until the early 1960s. In 1963 (under planning reference 44-1962/63), planning permission was granted for permanent tipping of building material and excavated soil. This permission was enacted and tipping operations were carried out which has resulted in raising ground levels across the site by around 2m. The tipping operations have long since ceased and the land has been overgrown and unused for many years.

In 1974 a planning application for a motel/restaurant was submitted but was deemed premature pending the establishment of the Warminster bypass - which was eventually built in the 1990s.

A Neighbourhood Development Order (NDO) proposal for a self-build housing development was initiated in 2011 with the support of the Town Council at the time, but this was later dropped in June 2013 following the appointment of new town councillors.

The following two applications were subsequently withdrawn to allow the applicant and his appointed agent(s) time to revise the submission and to engage further with the local community.

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| 13/02808/OUT | Outline application for the erection of 35 dwellings and associated works including access and layout arrangements (including provision of 7 self build plots) – application withdrawn |
| 13/04282/LBC | Relocation of Grade II Listed Milestone to facilitate the construction of a junction serving the proposed adjacent residential development – application withdrawn |
| 13/06783/LBC | Granted in June 2014. This related to the proposed relocation of a Grade II listed milestone to facilitate the construction of a junction serving this proposed residential development. |

5. The Proposal

This is an outline proposal for up to 35 custom build homes and associated access works. All matters except means of access are reserved for future consideration (i.e. to be dealt with by a separate / subsequent reserved matters submission) – should this outline application gain consent. An illustrative layout is however included with the application along with a “Design Principles” document. As part of the submission, it has been confirmed that 30% of the houses would be ‘affordable’.

An ecological buffer zone of 0.53ha is proposed around the perimeter of the site along the river Wylde in accordance with a management plan. Part of this is within the red-lined site itself and part on land outside the site but under the applicant’s control. This would create an undeveloped natural ring around the new development, maintaining the green boundary to the site.

Whilst landscaping is a matter reserved for later approval, the indicative plans show the existing boundary vegetation to be retained, as well as providing new screen planting on the sensitive edges of the site.

Supporting the application, the following documents were provided, consulted upon and fully appraised:

Planning, Design and Access Statement; A Community Engagement Statement An Archaeological Assessment; A Flood Risk Assessment, A Transport Assessment with separate Drainage Reports, A Geo-Environmental Site Assessment and Remediation Strategy; A Landscape & Visual Impact Assessment; An Arboricultural Impact Assessment; A Habitat Regulation Assessment and Habitat Survey as well as a Biodiversity Value Assessment, Dormouse Survey and Ecological Management Plan. Additional material and addendums to some of these documents were received in December 2015.

6. Planning Policy

Wiltshire Core Strategy (WCS) - The most relevant policies of the WCS are: CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP31 (Spatial Strategy: Warminster Community Area) and CP43 (Providing Affordable Homes). CP50 deals with biodiversity and CP57 with design, whilst CP58 deals with the impact on the historic environment.

In policy CP1, Warminster is identified as a 'market town'. Market towns are identified as having the potential for significant development that will increase the jobs and homes in each town in order to sustain and enhance their services and facilities. Policy CP2 states that development outside of limits of development (subject to some exceptions) will only be permitted where it has been identified through community-led planning policy documents including neighbourhood plans, or a subsequent development plan document (DPD) which identifies specific sites for development. This development must be adjacent or well related to the limits of development. The limits of development for Warminster are carried through from the former West Wiltshire District Plan.

West Wiltshire Leisure and Recreation DPD – policy LP4 is relevant, relating to provision of new recreational facilities in developments.

Whilst Warminster is in the process of preparing a Neighbourhood Plan, it has yet to be examined, and therefore has very limited weight in the decision making process. Furthermore, in its current form, it does not make any changes to the limits of development in Warminster, leaving these to be dealt with through the Council's Housing Sites DPD.

The National Planning Policy Framework (NPPF) sets out national planning policy and at its heart, there is a presumption in favour of sustainable development, which is seen as a 'golden thread' running through both plan-making and decision taking (paragraph 14). The NPPF expects local planning authorities to plan for a mix of housing types, but it also makes specific reference to people wishing to build their own homes (under paragraph 50).

The Government have signalled their support for self-build and custom house building. Planning Practice Guidance produced by the Government states that: *'The Government wants to enable more people to build or commission their own home and wants to make this form of housing a mainstream housing option. From 1 April 2016, most local planning authorities are required to keep a register of individuals who are seeking to acquire serviced plots of land in their area in order to build homes for those individuals to occupy'*

7. Consultations

Warminster Town Council – objects to the proposal on the following grounds:

- Contrary to WCS Core Policy 2;
- The context of the development site within very close proximity to the area of high quality habitat offered by the River Wyle and its spurt to protected species is an unacceptable threat to ecology and contrary to CP50 of the WCS;
- An approval may set an unwanted precedent for similar residential development in the district, undermining the objectives of the WCS;
- The WCS identifies that Wiltshire Council can demonstrate a five year land supply, with the relevant HMA having a 5.6 year supply;
- It fails the NPPF exception in paragraph 55 (isolated housing in the countryside)

Bishopstrow Parish Council - Objects to the application on the following grounds:

Since the granting of permission in June 2014 substantial changes and decisions have been made that make the development of this site even less necessary:

1. In January 2015 Wiltshire Council adopted the Core Strategy
2. In December 2015 Warminster Town council (WTC) withdrew its support for the scheme;
3. WTC has publicly stated that:
 - It doesn't require more houses than those already agreed to meet its quota for the CS as any additional numbers have been and will be met by windfall developments and on brownfield sites;
 - The Warminster settlement boundary remains where it is and that this site remains outside of it;
 - Through its Neighbourhood plan, the whole of Warminster, including this site, needs a higher level of EA assessment of flood risk. Given recent events in the north of England and last year's flooding in Somerset and the previous year's flooding of Bishopstrow then the 1% chance modelling is now agreed to be no longer adequate at a time of climate change. Defra is to take a fresh look at how it calculates flood risk and any development that has the potential to worsen the situation should not be permitted. Bishopstrow Road in January 2016 had flood signs in place near the site due to water run-off from the fields; once again confirming the risks of flooding in the area. Local fields are also under water in exactly the same places as where the area was seriously flooded in December 2013/January 2014. Development of this site would place our village at greater threat as it would remove holding capacity and increase through-put from the proposed ditches. Without appropriate modelling across the whole of Warminster and through the Wyle Valley unacceptable and unnecessary risks would be taken. The priority as a Council is to manage risks and not cause them to be potentially higher. A sequential analysis of sites within Warminster would show that there are sites available that do not run such great risks as this one.
 - It fails on all counts the NPPF exception paragraph 55.
 - The development would be contrary to WCS CP2;
 - The context of the development site within very close proximity to the area of high quality habitat offered by the River Wyle and its spurt to protected species is an unacceptable threat to ecology and contrary to CP50 of the WCS;
 - An approval may set an unwanted precedent for similar residential development in the district, undermining the objectives of the WCS;
4. There has been an increasing level of concern regarding the materials that were used as landfill in the 1960's;
5. The Geo-environmental report mentions carcinogens, arguing that they are from one of the motor vehicle or garaging facilities nearby. What has been done to prevent it happening again

6. The development of this site is therefore not wanted by Warminster TC and local people; is not needed to meet the needs of the CS; has risks to health and security through flooding and carcinogens; Is contrary to WCS CP2 and CP50; does not qualify as an exception site and would set a precedent for further speculative development.

Natural England –

- Advises that the Habitats Regulations Assessment (HRA) should be updated (see below in the comments from the Council's Ecologist);
- Points out that a Nutrient Management Plan has been produced since the previous submission, but the development will not compromise the deliverability of the plan if it is connected to mains drainage;
- The development will not damage or destroy the interest features of the River Avon SSSI provided that the permission secures the implementation of the measures proposed in the ecological management plan;
- There may be a small adverse impact on protected species, which should be offset through wider environmental enhancements;
- The measures submitted with the application to mitigate adverse impacts should be planned and implemented as part of a wider approach to the enhancement of the designated site and the Council should consider securing measures to enhance the biodiversity of the site.
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Environment Agency - No objection subject to conditions.

English Heritage - No objection. However would like to have assurances that the buffer area proposed to the south east of the site would be sufficient to alleviate any harm that might be caused to the setting of the conservation area.

Wiltshire Council Conservation Officer - No objection. The site is outside of Bishopstrow Conservation Area but within its setting. Provided that the landscape buffer around the edge of the site remains intact, then the proposed development would not have a significant impact on the Conservation Area or the nearby heritage assets.

Wiltshire Council Highways - No objection subject to a s106 agreement and various conditions ensuring the provision of a visibility splay; relocation of the milestone; structural details of the culvert beneath the access road; provision of the new access; closure of the field gate and reconstruction of the footway. The S106 agreement should cover: (i) The bus stop on the north side of Boreham Road being upgraded with the installation of high access kerbs with localised resurfacing of the footway to suit the revised levels; and (ii) The construction of a pedestrian refuge with illuminated bollards on Boreham Road

Wessex Water - Recommends a planning condition requiring a foul and surface water drainage strategy to be submitted to and approved in writing by the local planning authority.

Wiltshire Council Spatial Planning - The application appears contrary to development plan policy, as housing development is proposed outside the town policy boundary. However the applicants set out a detailed case for making their proposals an exception to this framework. Planning legislation allows decision makers to set aside the provisions of the development plan when material circumstances indicate otherwise. The weight to be attached to the range of matters argued by the applicants, (the nature of the scheme, the approach it pilots and the benefits claimed for it) and whether these amount to such circumstances is a matter for the decision maker.

In terms of planning policy, it is considered appropriate to firstly consider what likelihood there is that the site would become included when the town policy limit is reviewed, either by the Neighbourhood Plan or Housing Sites Allocation DPD.

Core Policy 31 dictates that about 1,920 homes should be delivered at Warminster over the plan period to 2026. Based on the completions and commitments data available in the Council's latest HLSS^[1], together with the draft trajectory for delivery of housing on the WWUE allocation^[2], it is expected that there will be a residual housing figure of around 320 dwellings to find at Warminster over the remainder of the Core Strategy plan period. As such, it is expected that there will be a need to allocate some additional housing land at Warminster through the forthcoming Housing Sites Allocation DPD to help address this residual requirement, and development of land north west of Boreham Mill could help to meet this requirement.

In respect of the Warminster Neighbourhood Plan^[3], the draft document has been formally submitted to Wiltshire Council and will be subject to examination in the next couple of months. The draft Neighbourhood Plan does not seek to allocate land for housing.

The NPPF expects local planning authorities to plan for a mix of housing types and specifically refers to people wishing to build their own homes in paragraph 50. National housing strategy since 2011 has also been looking to promote ways to increase the amount of self build. A much smaller proportion of new homes in the UK are self built compared to many other countries such as the dominance of the volume house builders. The Government has stated its aim to make self building more mainstream. The latest announcement in the 2014 Budget centres on possible funding for self building schemes and a right to build as means to acquire public land for self or custom built housing.

The current application is distinctly different from the 2013 withdrawn applications. A proposed legal agreement governing the scheme would involve a cascade marketing approach to be agreed with the Council giving priority for new homes to people with a connection to Warminster-Bishopstrow, then the Warminster Community Area, and finally nationally. In addition, there is also a commitment to provide up to 30% of the homes as affordable housing. It is noted that the Town Council does not object to the proposals.

In short the scheme clearly resembles the form of scheme that was being considered through the abandoned NDO process previously facilitated by Wiltshire Council and it is seemingly just the sort of scheme the Government is attempting to promote.

Wiltshire Council Urban Designer - At a principle level, the concept is commendable. However the indicative layout presents a number of issues which should be noted by the applicant and addressed:

The scheme is completely inward looking with no houses fronting onto the main road. The layout is dominated by roads, hard standing and parking. 7 of the 35 units would be 3 storeys - This is not considered to be appropriate for a rural area. Many of the houses are pushed right up against existing vegetation. This is likely to limit light levels within the dwellings or result in future pressure to remove trees and hedges.

^[1] <http://www.wiltshire.gov.uk/housing-land-supply-statement-2015-final.pdf>

^[2] <http://unidoc.wiltshire.gov.uk/UniDoc/Document/File/MTYvMDEzMjMvTUFTLDY5ODU1Mg==>

^[3] <http://consult.wiltshire.gov.uk/file/3710140>

The smallest units have inadequately sized gardens.
The first 4 units on entering the site have no south facing windows.

Wiltshire Council New Housing team – Supportive, subject to a 30% affordable housing contribution. This would equate to 11 homes being broken down into 80% (9 units) being provided for affordable rent and 20% (2 units) to be for shared ownership. The rented units would need to be let and the shared ownership units will need to be sold by following the Council's nomination policy which is operated by Homes4Wiltshire.

The Council's Housing team supports the aim of engaging prospective occupiers with elements of a custom build process. This could see a range of levels of involvement for prospective tenants; from a direct engagement in the design process of their future home, to the carrying out of some of the construction work on the property. The Council would seek to identify suitable registered tenants for this project.

Wiltshire Council Archaeologist - Even though there is archaeological potential at the site, there is modern landfill across the site to depths of between 1.2m and 1.9m below existing ground level. Based on the construction method using piled foundations with suspended ground floor slabs, the impact on below ground archaeology would be minimal. Therefore no further archaeological investigations are required.

Wiltshire Council Environmental Health – No objections subject to conditions, including a contaminated land condition. Such a condition should be protective of any development undertaken and would deal with any unexpected contamination encountered as works proceed.

Wiltshire Council Ecologist - The site adjoins the River Wylfe, which is part of the River Avon SAC. The screening report however confirms that there would be no significant effects on the SAC, subject to conditions.

In relation to bats, there would be a consequential loss of foraging habitat in the short term due to tree felling. The long term effects would depend on how the site is managed. However it seems likely that the river corridor would remain suitable as a bat commuting corridor. In relation to birds, the new planting should maintain the abundance of nesting opportunities and it is possible that the development could lead to no net loss of biodiversity.

It is essential for the Ecological Management Committee and a revised Ecological Management Plan to be secured under a S106 agreement. This should explain how and when the Management Committee would be formed, how it would be administered, reporting systems and how the work programmes would be updated, delivered and monitored. The Management Plan should be agreed in writing by the Council before the first dwelling is sold. It should explain the Committee's responsibilities in perpetuity towards the River Avon SAC, protected species and biodiversity in general as well as any other duties in relation to drainage, landscape, health and safety.

Conditions should be attached requiring the submission and approval of a Construction Management Plan and also a scheme to maintain and enhance the River Avon SAC.

New evidence has been presented in a letter dated 18th January 2016 to suggest that the sampling and subsequent evaluation and assessment undertaken for the geo-investigation (Geo-Environmental Site Assessment Report "GESAR", Geo-Investigation (South West) Ltd, July 2013) might have been inadequate. Claims have been made by a local resident that the demolition waste dumped on the site included ash and clinker and asbestos and there is a suggestion that the scope of the ground investigation may not have been adequate to pick up such contamination. Some of the comments were subsequently discredited in a letter

from William Parks received on 4 February 2016. The contamination consultants provided a response dated 9 February 2016 which demonstrates to me that the claims are unreasonable and that the risks to the River Avon SAC remain very low.

I note Natural England's comments on the potential for the development's sewage discharges to lead to increased phosphate in the River Avon SAC. If this development were to be approved, the total quantum of development approved to date would be considerably below that allocated in the Core Strategy which is 1920 dwellings. The Nutrient Management Plan for the River Avon SAC assumes development can continue up to this figure and therefore the Council should be able to approve this application. However, several applications for the Warminster Urban Extension are also currently pending which means that the combined quantum of permitted development could exceed 1920. The Habitats Regulations require that account is taken of such in-combination effects and I have therefore considered these below.

The Upper Wylde into which the Warminster STW discharges is considered to be a "high risk" sub-catchment where achieving the conservation targets for phosphate is likely to be challenging. The NMP therefore requires that development in excess of that allocated can only be authorised if it will not compromise delivery of the NMP. i.e. such development offsets its own phosphate contribution. New modelling is currently being undertaken by Wessex Water and NE to quantify the additional phosphate these developments will generate. The Council will then work with the EA and NE to identify the scale and nature of offsets that should be required for development that exceeds the allocation. These latter developments will not be approved until a mechanism to secure phosphate offsetting has been agreed. The current development for 35 dwellings at Boreham Road can therefore be permitted because it will not lead to impacts either alone or in-combination with other developments.

The HRA Screening matrix has been updated.

Salisbury Plain SPA

Contributions for the SPA are now provided through CIL.

Protected species

I note the conclusions of the Ecological Appraisal Revision 1 (Keystone Ecology, October 2015). Conditions on site are largely unchanged except for the fact that Himalayan balsam, an invasive non-native plant, has colonised the site. Although the appraisal reports that the water vole population has declined, this is likely to be short term; water voles are common throughout the Avon catchment with populations going through cycles of expansion and decline in response to local environmental conditions.

NE's response of 18 December 2015 seems to reflect a change in position which does not appear to be justified either by changes in site conditions or by changes in the policy / legal context. I therefore support the applicant's position that adequate mitigation measures have been put forward. The extent to which any of these can be considered to lead to an overall enhancement of the site will very much depend on how the site is managed in the operational phase. Personally, I doubt there will be an overall enhancement due to the density of development.

Conditions:

Please apply Condition 12 from the previous decision notice.

Please apply Condition 17 from the previous decision notice. However for clarity please could the wording be extended to include words highlighted as follows: “incorporating pollution prevention measures and procedures to avoid impacts to protected species...”

REASON: to ensure protection of the natural environment during construction.

I note there was no condition for lighting in the previous permission. Given that the development site includes land of high value for foraging bats, I recommend that a condition is used to ensure that details of a lighting scheme is provided which demonstrates that external lighting will not lead to lux levels above 1 lux in the Proposed Ecology Zone (drawing number 340/S/203)

S106

The long term management of the ecology zone should be secured by S106 and I am happy with the wording of the version dated 20 Jan 2015, except reference to the contributions for the Wessex Stone Curlew project now need to be removed.

Wiltshire Wildlife Trust - Objects. The site is adjacent to the River Wylye which is included within the River Avon SAC. Many stretches of the SAC have high concentrations of phosphates. The site is also just downstream of the Smallbrook Meadows Nature Reserve, which is a County Wildlife Site. The site is part of the essential ecological connectivity for wildlife required within the River Wylye corridor and supports parcels of high quality habitat (marshy grassland) of great value to wildlife.

Wiltshire Council Landscape Officer - The existing riparian vegetation surrounding the site provides a substantial screening effect and creates a strong sense of enclosure. There is therefore limited concern that the landscape and visual effects of the proposed development would have significant or far reaching effects. Indeed, the submitted Landscape & Visual Impact Assessment demonstrates that the visual effect would be limited and localised.

Wiltshire Council Public Open Space & Leisure Teams -The submitted documents do not show any functional provision of onsite open space or sports provision, therefore offsite contributions of £48,891.85 and £7,838.74 respectively would be required. These contributions would be used to upgrade facilities at Warminster Park. Contributions of £15,175 towards upgrading the sports hall at Warminster Sports Centre and £11,863 towards upgrading pool spectator seating at its swimming pool are required.

Wiltshire Council Land Drainage Engineer - The local geology could be effective for infiltration from SUDS, but infiltration rates would need to be confirmed by undertaking permeability testing on the site. The ground water level is high and the site is close to flood areas highlighted on the Environment Agency’s flood maps, so the drainage strategy would need to be robust. To discharge into the existing ditch, a Land Drainage Consent application would need to be issued and include drainage calculations.

Wiltshire Council Education Team - The development generates a need for 10 primary and 7 secondary places. The designated schools would be St John’s CE Primary and Kingsdown School. St John’s has capacity, so there is no need for a developer contribution. However Kingsdown is full, so developer contributions would be required at £19,155 per place.

Wiltshire Fire & Rescue Service – A developer contribution of £2664.55 is required to mitigate against the risk posed by the development, including the costs incurred to provide additional / enhanced fire and rescue service infrastructure.

8. Publicity

4 Supportive letters received from the following: (received at time of original application in 2014)

- The National Self Build Association, who comment that custom building offers so many advantages over the normal speculative housing provision. There is an ever growing demand for this type of housing. It is far better to build a house for the end user: that way the property can be designed for them. It can also be more sustainable than anything built by speculative developers as they only build to the minimum specification under current legislation.
- A further letter of support has been received from the Chair of the Build a Dream Self Build Association whereby it is asserted that there is a national shortfall in custom build provision. Self build gives a community the best designed, best quality housing at the most reasonable cost, and which best fits their needs and lifestyles.
- Another letter of support has been received from Selwood Housing: They consider: (a) the proposal would deliver much needed affordable homes; (b) the custom build approach is extremely innovative, and; (c) the proposed development is of a high quality.
- The Chairman of Warminster and Villages Development Trust has also submitted a letter of support, within which it is argued that self-build is a tried and tested method that is very appropriate in today's economic circumstances. The site is clearly linked to Warminster rather than to Bishopstrow and there is a substantial divide between the 2 settlements.

52 Objection letters received from local residents and from the East Boreham Residents Action Group (EBRAG) raising the following concerns. Many of these (over 20) have repeated their concerns in the re-consultation carried out since the first decision was quashed:

- The site is outside the Warminster settlement boundary and so is contrary to Core Policy 2. This is a speculative proposal which if approved, would set a precedent for other speculative applications.
- Developing the site is unwarranted and other, more acceptable sites are already earmarked for development. The Warminster West Urban Extension would more than meet the need for extra housing required by the Core Strategy and would produce a surplus of 200 homes over housing need requirements. There is already a high density of new development in the locality e.g. Yeats Field View, St George's Close, Boreham Field and the Beeline Coach Depot. More housing should be directed to the west of the town, not the east.
- The proposal does not comply with paragraph 55 of the NPPF
- The application is one of several speculative applications currently submitted in Wiltshire and should be refused.
- The Council has a five year land supply
- The proposal offers no guaranteed affordable housing.
- The proposal would lead to the coalescence of Warminster and Bishopstrow, to the detriment of Bishopstrow's identity and independence. The previous Local Plan Inspector concluded that the site should remain undeveloped in order to stop this coalescence. This remains relevant.
- The site is a key site on a main route into Warminster, providing part of the town's identity, and the development would have a harmful visual impact.
- An up to date EIA (Environmental Impact Assessment) screening opinion needs to be undertaken. The only lawful screening opinion must be that there is a need for an EIA.

- The site is greenfield (a water meadow), it is not brownfield, nor is it of 'no agricultural use'. It is merely not used for agriculture because the site owners have chosen to leave it unused in an attempt to get planning permission.
- Too many large houses are proposed. This is not what Warminster needs.
- Covering the site with properties would increase run off into the river, increasing the risk of flooding downstream.
- Drainage and flooding problems are acute and the site is in the floodplain. The site is susceptible to serious flooding and developing it would exacerbate this. With climate change, the recent floods cannot be discounted as a one-off event. The Environment Agency's maps may show the site to be out of the flood risk area, but local people know differently.
- The proposed flood mitigation measures are inadequate.
- Construction would add siltation downstream of the site, increasing the downstream flood risk.
- The site adjoins the River Wylde which is a SSSI and is part of the River Avon SAC. The proposed development would increase pollution entering the river, both from excavating a site where there are suspected contaminants in the landfill, and from the houses themselves.
- Development of the site would cut off an important wildlife corridor along the valley.
- Development of the site would cause a great loss of wildlife habitat and would compromise fragile populations of otters and water voles. Increasing human access to the river would have a detrimental effect on species living there, which would not be attracted to man-made mitigation structures put there to accommodate them and drive them away. Furthermore the introduction of household pets would put local wildlife at risk.
- The proposed 8m buffer zone is insufficient for wildlife.
- The creation of the new access would involve the felling of mature lime trees. The developer has already cut down trees and thinned out the woodland on the west side of the site.
- The listed milepost should remain where it is, not be moved. Its current position affords protection from vandalism and vehicle impacts.
- Provision and use of the new access will diminish highway safety, resulting in an awkward T-junction close to a busy mini-roundabout. Vehicles approaching and indicating to enter the site from the town side could be mistaken for indicating to enter into Bishopstrow.
- The volume of traffic passing through the narrow road at Bishopstrow would increase significantly.
- The proposed development can only worsen the traffic congestion in East Street, which often tails back to the Esso garage.
- Individual house design would be to the individual householder's whim, which may result in a non-cohesive overall development.
- There would be an increase in light and noise pollution. There would also be disruption and noise when the site is developed.
- Kingsdown School is already operating at well above capacity. The development would put additional pressure upon the school and upon doctors' surgeries.
- The proposal adjoins Bishopstrow Conservation Area and would be detrimental to it.
- There is a danger of drowning at Boreham Mill weir.
- The proposed 3 storey houses would overlook the Mill House and the houses at Boreham crossroads. 3 storey houses would also harm the views from Battlesbury Hill.
- Irrespective of screening, the site will be visible, especially in winter.
- A substantial part of the site is designated as a Special Landscape Area.

- The landfill material below the surface, once disturbed, could release asbestos or other waste materials, causing a risk to human health and potential pollution risks.

9. Planning Considerations

9.1 Principle of Development

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

In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire Leisure and Recreation DPD that continue to be saved in the WCS, forms the relevant development plan for the Warminster area. The Wiltshire Housing Sites Allocation Plan and the Warminster Neighbourhood Plan are emerging plans but can only be afforded limited weight at this stage of their preparation.

Important material considerations in this case include the requirement in the National Planning Policy Framework (NPPF) to assess whether the Council has a five year housing supply for the north and west housing market area that includes Warminster.

Wiltshire Core Strategy – Core policy (CP1) identifies Warminster as a market town with the potential for significant development for jobs and homes. 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.”*

Core Policy 2 (CP2) sets out the delivery strategy and advises that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at Market Towns. It supports a plan-led approach to development outside of the limits of development of existing settlements, stating that such development will only be permitted in exceptional circumstances, or if the site is identified for development through a site allocation document or a Neighbourhood Plan. The exceptional circumstances are set out in paragraph 4.25 of the Core Strategy. In this case, the site lies outside of the limits of development for Warminster and has yet to be identified for development through either the Wiltshire Housing Sites Allocation Plan or a Neighbourhood Plan, and the proposal does not

meet any of the exceptional circumstances in paragraph 4.25. The proposal is therefore in conflict with this aspect of the development plan.

Core Policy 31 (CP31) sets out the strategy for Warminster and its community area and identifies an indicative requirement of approximately 2,060 new dwellings for the Warminster community area of which about 1,920 should occur at Warminster. The requirement is expressed as a 20 year requirement covering the period from 2006 to 2026. There will be a requirement for more houses to be built in the plan period at Warminster that this will help contribute towards.

Core Policy 31 (CP15) makes explicit reference to paragraph 5.158 which include incorporating measures in development proposals to protect the River Avon.

Material Considerations relevant to the principle of development - 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 5.25 years' worth of housing land supply measured against the housing requirements of the housing market area identified in the WCS (a description normally abbreviated to 5 years supply). The NPPF makes it clear that where this cannot be demonstrated, relevant policies for the supply of housing (which in this case would include 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.

Housing Land Supply has to be regularly assessed. The Council's April 2015 Housing Land Supply Statement, published in September, indicated that there was a 5.6 years land supply available in the north and west housing market area. However, this included some sites identified for housing in the draft Chippenham Site Allocation Plan. The Examination of this plan was suspended by the Inspector late last year to allow the Council to undertake further work to address concerns raised by him regarding the site selection procedure, sustainability appraisal and deliverability of the proposed allocations in the plan (policy CH1 South West Chippenham; CH2 Rawlings Green and Policy CH3 East Chippenham).

Following the suspension of the Examination, another planning inspector in December 2015 considered a proposal for a development of up to 28 houses on a site at Arms Farm, Sutton Benger, also within the north and west housing market area. The Council's position for the purposes of the appeal was, following the suspension of the examination into the Chippenham Site Allocations DPD, that the Council could not demonstrate a five-year supply of deliverable housing sites. Paragraph 49 of the Framework is clear that where a local

planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date.

As CP2 seeks to constrain development within defined limits, the Inspector concluded that CP2 is a relevant policy for the supply of housing. As such, he did not consider that it can be regarded as up-to-date, which, in his view, reduced the weight to be afforded to the constraints that it imposes and, thus, to a scheme's conflict with them.

Since the Inspector's decision (December 2015) and conclusions referenced above the Council has not yet been able to update its position on 5 year housing land supply. In these circumstances this application for housing must be considered in the context of the presumption in favour of sustainable development and consideration of the adverse impacts of the development compared to the benefits.

The conclusion that can be drawn from this analysis is that the principle of the development of this site for up to 35 dwellings must be considered acceptable at present unless there are significant adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal. The remainder of the report addresses the relevant issues relating to this proposal.

9.2 Sustainability and Housing Type

Although located on the edge of the town, the site is considered to be a highly sustainable location in terms of travel patterns and proximity to the town centre and its facilities. It is accessible by public transport and there are two bus stops located adjacent to the site on Boreham Road.

In addition, the proposed development would make good use of a site which has limited agricultural potential because of the presence of a 2m layer of imported material from the 1960s. Furthermore the site is owned in isolation of any wider agricultural holding. Hence the proposed residential development would not result in the loss of best and most versatile agricultural land.

Another factor in favour of the proposed development is the intended custom build approach. Paragraph 50 of the NPPF requires local planning authorities to "deliver a wide choice of high quality homes" and to plan for the "needs of people wishing to build their own homes". In the original report on this application, it was noted that in the Budget of 19 March 2014, the Chancellor announced Government support for custom build and set out measures designed to promote it, including a £150 million fund to provide loans to self builders. The Government has also brought in CIL exemption for self-build. Custom build is clearly an area currently favoured by the Government. In the UK, custom build makes up about 7% of new builds (in France the figure is 38%), such is the dominance of the volume house builders, but there is evidence to suggest there may be significant unmet demand for custom build.

Since 2014, the Government has taken further steps to promote self-build and custom house building. The Housing & Planning Bill currently going through Parliament and expected to receive Royal Assent in late spring/early summer will impose a duty on local planning

authorities to *'give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom build homes in the authorities' area'*. In the Bill, *'development permission'* is defined as planning permission and *'Self build and custom house building'* are defined as *'the building or completion by individuals; associations of individuals; or persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals'*.

There are not thought to be any other custom build proposals of this scale being promoted in Wiltshire. The proposed development is an opportunity to create a custom-build exemplar within Wiltshire, in line with the requirements of the NPPF to promote greater choice and to provide for those wanting to build their own homes. Historically, housing delivery in Wiltshire has been dominated by volume house builders, and this will continue to be the case with the proposed West Warminster Urban Extension (WWUE) in recognition of the land holding being taken up by three large-scale house builders. At present, no further significant land releases over and above those already identified west of the town seem necessary purely to meet the scale of housing required by the development plan. However the proposed provision of 35 custom build units on the opposite side of the town would provide enhanced choice and diversity. The applicants are prepared to enter into a s106 agreement requiring the units to be provided as custom build and to be subject to a cascade marketing approach giving priority to people with a connection to Warminster-Bishopstrow, then the Warminster Community Area and finally nationally.

The applicants are also fully committed to providing on-site affordable housing. Currently, Core Policy 43 requires 30% affordable housing provision of sites of 5 or more dwellings in the Warminster area. For the avoidance of any doubt, the applicant has confirmed their commitment to providing 30% on-site. This is considered to be acceptable and to be a benefit of the scheme.

Whilst some representations, including from Warminster Town Council, have argued that the site conflicts with paragraph 55 of the NPPF, this is not a relevant point in the consideration of this application. Paragraph 55 deals with applications for 'isolated homes in the countryside' and is there to provide a framework for agricultural workers dwellings and similar rural workers in isolated places in the countryside. It is not applicable to an estate of 35 houses on the edge of an existing market town.

There have been representations made that the material that was deposited on the site in the 1960's may be harmful to human health. However, the surveys commissioned by the applicants and reviewed by the Council's Environmental Protection Team do not demonstrate anything untoward that cannot be dealt with by an appropriately worded contaminated land condition. There are no grounds for refusal on this aspect.

9.3 Impact on Bishopstrow Identity/Heritage Assets

Officers recognise that some objectors have expressed concern that the proposal would lead to the coalescence of Warminster and Bishopstrow, to the detriment of Bishopstrow's identity and independence. The centre of Bishopstrow lies approximately 500m from the junction of Boreham Road and Bishopstrow Road. However the application site only extends for 50m from the junction down Bishopstrow Road and lies outside the Bishopstrow Conservation Area. It is therefore considered that the proposal would not lead to the erosion of Bishopstrow's separate identity. Furthermore, the application proposes to retain the existing tree cover around the boundaries and to provide for the establishment of a secondary line of hedgerow and trees in front of the buildings. There would also be a landscape and ecological buffer zone of around 10m width along the part of the site fronting Bishopstrow Road.

In addition, the existing riparian vegetation surrounding the site provides a substantial screening effect and creates a strong sense of enclosure. The landscape and visual effects of the proposed development would not be significant or far reaching. Indeed, the submitted Landscape & Visual Impact Assessment demonstrates that the visual effect would be limited and localised.

The site lies outside of the Bishopstrow Conservation Area but is considered to be within its setting. It is noted that neither English Heritage nor the Council's Conservation Officer object to the proposal. English Heritage in 2014 sought assurances that the buffer area proposed to the south east of the site would be sufficient to alleviate any harm that might be caused to the setting of the Conservation Area, which elicited a response from the agent's Landscape Architect confirming that this would be the case, and pointing out that Boreham Mill, an unlisted building dating from 1886 also effectively shields the conservation area from the application site, protecting its setting. Apart from a small section of field which faces the site across the river Wylye, the site is visually separated from the conservation area. But in any case, the proposed dwellings would be set back from the boundaries of the plot by a landscape and ecological buffer zone which would be around 10m wide at this point.

The proposal requires the relocation of the listed milestone, a move that already has the benefit of listed building consent. The development will enable this to be better displayed and will improve its setting. There is a listed bridge adjacent to the site, but whilst the outlook from this may change, it is not considered that there will be any adverse impact on its setting, which is mainly appreciated from the road itself.

It is not considered that there will be any harm to heritage assets as a result of this development. The judge in the JR did not agree that the earlier report was flawed in relation to the impact in heritage assets.

9.4 Highway Impacts

The highway authority raise no objection to the proposed development subject to a s106 legal agreement which would need to cover upgrading the nearby bus stop on the north of Boreham Road and the construction of a pedestrian refuge with illuminated bollards on Boreham Road in addition to planning conditions, including the provision of appropriate visibility splays.

9.5 Flood Risk

The majority of the site lies within Flood Zone 1 and hence is not in the floodplain. It is this part of the site which would be developed. The ecology buffer zone partially lies within Flood Zones 2 and 3, however no built development or domestic gardens are proposed within zones 2 & 3. The Environment Agency have been re-consulted and have repeated their position of 2014, raising no objection to the application subject to conditions requiring the any future construction to be in accordance with the submitted Flood Risk Assessment, which inter alia requires that surface water run-off levels should not exceed the existing run-off from the undeveloped site and that all ground levels within Flood Zones 2 and 3 should remain as existing. Furthermore, conditions are necessary to require all development to be located solely within Flood Zone 1, with no development taking place within 8m of the top of the bank of the river Wylye and that surface water drainage into the ground is controlled.

The EA has been repeatedly pressed by some objectors on this matter, but remains firmly of the view that the site is not in the floodplain and has restated its stance that it has no objections to the proposal. Some objectors argue that permission would not now be given for

landfill in this location, but the permission was granted and implemented more than 50 years ago and the Council and the EA have to deal with the situation as it exists now

9.6 Ecology Impacts

Natural England has confirmed that the proposed development would have no likely significant effects on the River Avon SAC, provided conditions are attached. Natural England furthermore submits that the proposal has potential for enhancing biodiversity and improving the condition of the River Avon SAC and SSSI, whilst the Council's ecologist considers that it is possible that the development could lead to no 'net loss' of biodiversity.

Given the importance of the site for biodiversity, the Council's ecologist considers it essential that a Management Company and Management Plan are secured under a s106 legal agreement. This should explain how and when the Management Company would be formed, how it would be administered, detail the reporting systems and how the work programmes would be updated, delivered and monitored. The Management Plan would need to be agreed in writing by the Council before the first dwelling is sold. It should explain the Company's responsibilities in perpetuity towards the River Avon SAC, protected species and biodiversity in general as well as any other duties in relation to drainage and landscape matters and should be based on the applicant's submitted Ecological Management Plan.

Members are advised that the applicant has agreed that the requirement for the submission and approval of a "Communal Area Management Plan" is to be included within the s106 agreement. Furthermore, the applicant has also agreed that the requirements of the Plan would be carried out by ecological contractors appointed by the Management Company.

The Council's ecologist believes that adequate mitigation measures have been put forward in relation to protected species. The Ecological Appraisal Revision of October 2015 demonstrates that conditions on site are largely unchanged. Whilst the water vole population has declined, this is likely to be short term, as they are common in the catchment area with populations going through cycles of expansion and decline in response to local environmental conditions.

9.7 Neighbouring Impacts

The indicative layout and orientation of the housing shown would not pose substantive harm to neighbouring interests/amenities or privacies. The separation distances between existing properties and the proposed development site is such that there would not be demonstrable harm caused. The more finer/detailed design elements including window positions would be treated as part of a follow-up reserved matters application.

9.8 Developer Contributions/Financial matters

The indicative layout does not propose any functional provision of onsite open space or sports provision; therefore, offsite contributions of £48,891.85 and £7,838.74 are required to mitigate the impact of the development, to be secured via a s106 agreement. Through consultation with the Council's public open space and leisure officers, these contributions would be used to upgrade facilities at Warminster Park.

Since the application was first considered, the Council has introduced CiL. This means that some areas that might previously have been covered by Section 106 obligations are now not covered. This includes contributions towards the Salisbury Plain SPA and contributions towards upgrading of facilities at Warminster Sports Centre.

The development generates a need for 10 primary and 7 secondary places. The designated schools would be St John's CE Primary and Kingsdown School. Whilst St John's Primary School has capacity, Kingsdown School is full. So, developer contributions would be required at £19,155 per place and to be secured via a S106 agreement.

The previously agreed and completed Section 106 agreement will need to be varied to cover the following matters:

- (a) The housing units to be provided as self/custom build;
- (b) The housing units to be subject to a cascade marketing approach, giving priority to local people;
- (c) 30% affordable housing to be provided on-site;
- (d) Contributions for offsite open space and sports provision at Warminster Park;
- (e) Education contributions;
- (f) The constitution and terms of reference of a Communal Area Management Company;
- (g) A Communal Area Management Plan to be submitted and approved by the Council, with the requirements of the Plan to be carried out by ecological contractors appointed by the Management Company, and;
- (h) Highway infrastructure improvement works with the bus stop on the north side of Boreham Road to be upgraded and the construction of a pedestrian refuge on Boreham Road.

The development may not generate CiL receipts as self/custom-builders can be exempt if they comply with the regulations. However, the Council will still be eligible for the new homes bonus for the houses.

10. Conclusion – The Planning Balance

The proposal is not in accordance with the development plan, in that it lies outside of the limits of development for Warminster carried through from the West Wiltshire District Plan into the Wiltshire Core Strategy. The proposal therefore conflicts with WCS CP2 in that the site has not been brought forward through the plan led process identified in policy CP2.

However, this has to be set against other material considerations that are relevant at this point in time. This includes housing land supply. The Inspector in the Arms Farm appeal reported in 9.1 above concluded that CP2 could not be relied upon by itself as a defensible housing policy due to the lack of a 5 year housing land supply. This means that the Government consider that planning permission should be granted for the proposal unless there are adverse impacts that would significantly and demonstrably outweigh the benefits that the proposal would bring.

These benefits include the provision that this development would make towards the custom/self-build housing supply that the government is encouraging and that will soon become a duty for the Council to meet. This is in addition to the five year land supply contribution and the financial benefits through the new homes bonus and to the contribution the site will make in meeting the needs for housing in Warminster in the plan period.

The site is well related to the town and represents a sustainable location for development. Furthermore it is visually well contained and its development would have no wider landscape impact. The site has previously been subjected to landfill and is not best and most versatile agricultural land that should be protected. The proposed development would provide 30% affordable housing and increase diversity in housing supply through the provision of plots for custom built housing in a sustainable location. Developing the site would not harm the character and appearance of the wider countryside or harm the setting of Bishopstrow Conservation Area or nearby heritage assets. Neither would it lead to the coalescence of

Warminster and Bishopstrow. There are no highway objections. The site where the houses are to be built is outside the floodplain and there would be no exacerbation of flood risk. Furthermore, there would be no likely significant effects on the SAC and the proposal has potential for enhancing biodiversity. The applicant is agreeable to a wide ranging s106 agreement incorporating the necessary requirements to mitigate the impact of the development.

There are no adverse impacts that would 'significantly and demonstrably' outweigh these benefits. Objections on flooding grounds are not supported by the Environment Agency. Objections to potential contamination are not supported by the Council's Environmental Protection Officers.

On the basis of the above, officers consider that this proposal is an appropriate form of development. It is therefore recommended that planning permission be granted, subject to an appropriate s106 legal agreement and conditions.

RECOMMENDATION:

The Area Development Manager be authorised to grant outline planning permission on the prior completion of a legal agreement to secure:-

- The housing units to be provided are restricted to be for custom/self build build;
- The housing units to be subject to a cascade marketing approach, giving priority to local people;
- 30% affordable housing to be provided on-site;
- Financial contributions for offsite open space comprising £48,891.85 and £7,838.74 (subject to any increases in the index linking since 2014) to upgrade facilities at Warminster Sports Centre;
- Financial contributions amounting to £134,085 (subject to any increases in the index linking since 2014) for secondary education school spaces;
- Establishing the constitution and terms of reference of a Communal Area Management Company;
- A Communal Area Management Plan to be submitted and approved by the Council, with the requirements of the Plan to be carried out by ecological contractors appointed by the Management Company, and;
- Highway infrastructure improvement works with the bus stop on the north side of Boreham Road to be upgraded and the construction of a pedestrian refuge on Boreham Road.

And subject to the following conditions:

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

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

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

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

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

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

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

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

- 4. The reserved matters submission shall be designed in accordance with the general principles set out in the submitted "Design Principles Rev B" document.

REASON: To ensure that the design quality envisaged at outline stage is actually delivered in the final scheme.

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

Step (i) Site Characterisation:

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

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to:
 - a) human health,
 - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - c) adjoining land,

- d) groundwater and surface waters,
- e) ecological systems,
- f) archaeological sites and ancient monuments

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

Step (ii) Submission of Remediation Scheme:

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

Step (iii) Implementation of Approved Remediation Scheme:

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

Step (iv) Reporting of Unexpected Contamination:

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

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report should be submitted to the Local Planning Authority. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

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

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

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

REASON:

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

6. Prior to commencement of the development full structural details and calculations of the culvert beneath the access road shall be submitted to the Local Planning Authority for approval by the Structures team of the Council . The culvert shall be constructed in full accordance with the details approved.

REASON: In the interests of ensuring correct drainage of the frontage ditch and the structural integrity of the access road serving the site.

7. No part of the residential development shall be first occupied until the access has been completed in accordance with the details shown on plan number IMA/13/071/010/A.

REASON: In the interests of highway safety.

8. No part of the residential development shall be first occupied until the field gate access to the west of the proposed development has been closed, with the existing lowered kerbs being replaced by full- height kerbs. After the first occupation of the development, the sole means of vehicular and pedestrian access to the development shall be as shown on plan number IMA/13/071/010/A.

REASON: In the interests of highway safety.

9. No part of the residential development shall be first occupied until the footway has been reconstructed over part of the frontage of the site at a consistent 2 metres width (between a position 26 metres west of the centre-line of the site access and a position opposite the existing pedestrian refuge on the site frontage) with the exception that some variation to this width will be accepted at the location of the retained trees. Full details of these works shall be submitted to and approved in writing by the local planning authority prior to commencement of the works.

REASON: In the interests of highway safety.

10. No development shall commence on site until a foul and surface water drainage strategy has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

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

11. Prior to commencement of the development, a scheme to maintain and enhance the River Avon SAC as agreed with the Environment Agency and Natural England shall be submitted to and approved in writing by the local planning authority. The

scheme will demonstrate the works to be undertaken within 8 metres of the river and ditches to enhance existing habitats and support the wider programme of river restoration works being promoted by the Environment Agency. It will also include details of a water quality monitoring programme that has been agreed with the Environment Agency. The works will be undertaken in accordance with the approved scheme.

REASON: In the interests of maintaining the ecological interest of the River Wylfe corridor and River Avon system SSSI.

12. Following the approval of a future reserved matters application, the residential development shall be carried out in full accordance with the Flood Risk Assessment (published by Hydrock, Ref: R/C08249/001.03, dated December 2013) and the following mitigation measures detailed therein:-

- Limiting the surface water run-off generated by the 1 in 100 year critical storm, including a 30% allowance for climate change, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site (paragraph 5.2).
- Ground levels within Flood Zones 3 & 2 shall not be raised - all ground levels shall remain as 'existing' within these Flood Zones (paragraph 3.1).
- Finished floor levels shall be set no lower than 104.65 metres above Ordnance Datum (paragraph 4.2.1).

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site as well as ensuring that there will be no increased risk of flooding to other land/properties due to impedance of flood flows and/or reduction of flood storage capacity.

13. Following the approval of a future reserved matters application, all new development shall lie solely within Flood Zone 1 (sequential approach). In addition, irrespective of the extent of the Flood Zones, there shall be no development within 8 metres of the top of the bank of 'main' river (River Wylfe) and no development within 4 metres of the top of bank of 'ordinary' watercourses. Provision shall be made for [controlled] vehicular access route(s) to these 'no development' areas / wider 'main' river and 'ordinary' watercourse corridors.

REASON: To provide riparian owner access to facilitate maintenance and possible future improvements.

14. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

REASON: Penetrative foundation methods can result in risks to potable water supplies. Thus it needs to be demonstrated that any proposed piling will not result in contamination of groundwater.

15. No infiltration of surface water drainage into the ground shall be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried

out in accordance with the approved details.

REASON: To protect controlled waters from pollution.

16. No development shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved in writing by the local planning authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

REASON To prevent pollution of the water environment and maintain the water quality of the River Avon SAC.

17. No development shall commence until a scheme for water efficiency has been submitted to and approved in writing by the local planning authority incorporating pollution prevention measures and procedures to avoid impacts to protected species. The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and prudent use of natural resources.

18. The reserved matters submission shall include details of the proposed road lighting scheme that shall demonstrate that this external lighting will not lead to lux levels above 1 lux in the Proposed Ecology Zone (drawing number 340/S/203).

REASON: To protect the ecology of the area, particularly bats.

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

Site Location Plan 340/S/200
Proposed Ecology Zone 340/S/203
Proposed Site Access Junction & Visibility Splay IMA-13-071/010A
Schematic Ditch Culvert at Site Access IMA-13-071/003
Indicative Masterplan 2561-100

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

INFORMATIVES TO APPLICANT:

1. Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:
 - the use of plant and machinery
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes.

The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>.

2. There are ordinary watercourses within or in close proximity to the site. If it is intended to obstruct the flow in the watercourse (permanently or temporarily, including culverting) you will require prior Land Drainage Consent from Wiltshire Council as the Lead Local Flood Authority. Please contact the Drainage Team to discuss their requirements:-

<http://www.wiltshire.gov.uk/communityandliving/civilemergencies/drainage/drainageordinarywatercourseconsent.htm>

3. Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws the prior written consent (Flood Defence Consent) of the Environment Agency is required for any proposed works (permanent or temporary) or structures in, under, over or within 8 metres of the top of the bank of the River Wylde, designated a 'main' river. The need for this consent is over and above the need for planning consent. The applicant is advised to contact Daniel Griffin on 01258 483421 to discuss the scope of our controls.

4. An appropriate submitted scheme to discharge the water efficiency condition would include a water usage calculator showing how the development will not exceed a usage level of 105 litres per person per day.