

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

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| Date of Meeting | 20 April 2016 |
| Application Number | 15/10457/OUT |
| Site Address | Land at Former Blounts Court Nursery, Studley Lane, Studley, Calne, Wiltshire, SN11 9NQ |
| Proposal | Residential Development of 53 Dwellings Including Access, Car Parking, Landscaping and Associated Infrastructure. |
| Applicant | Mr Julian Sayers |
| Town/Parish Council | Calne Without |
| Electoral Division | Calne Rural – (Cllr Crisp) |
| Grid Ref | 396450 170996 |
| Type of application | Full Planning |
| Case Officer | Mark Staincliffe |

Reason for the application being considered by Committee

The application is to be considered by committee as the previous planning application for the site was approved by members of the Northern Area Planning Committee. Due to the high volume of local representations and the recommendation at the previous committee it was considered necessary, and in the public interest, for a decision to be made by Members of the Northern Area 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 That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

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

2. Report Summary

The main issues in the consideration of this application are as follows:

- Principle of development
- Impact on the character and appearance of the area
- Impact on the adjacent employment site
- Highway safety
- Access
- Design and Layout
- Prejudice to plan making
- S106 Contributions

Calne Without Parish Council object to the application, which has also generated 50 letters (some local residents have responded more than once) of objection and 0 letters of support. Consultation on the additional information resulted in a further 15 letters of objection.

3. Site Description

The application site is located to the south of Studley and the north of Derry Hill in Wiltshire. The site lies adjacent to the A4, with Chippenham approximately 5 km to the west and Calne approximately 4km to the east. To the north of the site lies Vastern Saw Mill and the residential settlement of Derry Hill to the South.

Approximately 1.4 hectares of the site benefits from an extant permission for approximately 1.4 hectares of land as a commercial garden centre, which was granted permission in 2004 and has been lawfully implemented.

The extant planning permission comprises of:

- 18,000 sq ft commercial buildings
- 4,000 sq ft covered external display areas
- Outdoor display and sales area
- 125 space customer car park

A further consent was granted in 2015 for the redevelopment of the site for 28 Dwellings, Including Access, Car Parking, Highway improvements and Landscaping. Though the application has not yet been implemented it is still extant and could be implemented subject to the submission of an acceptable reserved matters application and the discharge of appropriate conditions.

The remaining part of the application site is not previously developed land.

4. Planning History

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|-----------------|---|
| N/99/01373/S73A | Renewal of permission for mobile home |
| N/00/02147/CLE | Certificate of lawfulness (existing use) for use of part of nursery garden as a garden centre (sui generis)- CERTIFICATE GRANTED. |
| N/00/02903/CLE | Use of part of nursery as a garden centre (sui-generis) CERTIFICATE GRANTED |
| N/90/00636/ADC | Advertisement sign SPLIT DECISION (PART APPROVED & PART REFUSED) |
| N/90/02404/ADC | Resubmission - display of three no non illuminated signboards PERMISSION REFUSED |
| N/02/00849/FUL | Erection of replacement buildings, car parking, landscaping and highway alterations WITHDRAWN |
| N/03/00403/FUL | Refurbishment of existing garden centre including erection of replacement buildings, revised car parking arrangements, landscaping and highway improvements PERMISSION REFUSED |
| N/03/03374/FUL | Refurbishment of existing garden centre including erection of replacement buildings, revised car parking arrangements, landscaping and highway improvements PERMISSION GRANTED |

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|----------------|---|
| N/08/00822/FUL | Erection of replacement buildings (Alteration / Revision to permission 03/03374/FUL) PERMISSION GRANTED |
| 14/04177/OUT | Erection Of 28 Dwellings, Including Access, Car Parking & Landscaping. PERMISSION REFUSED |
| 14/09769/OUT | Erection of 28 Dwellings, Including Access, Car Parking and Landscaping (Re-submission of 14/04177/OUT) PERMISSION GRANTED |

5. The Proposal

The application seeks permission for the erection of up to 53 dwellings including access, car parking, landscaping and associated infrastructure in lieu of the approved garden centre. The planning application has been submitted in outline form with all matters reserved except access.

The submitted indicative layout plan demonstrates the separation of the proposed residential units and saw mill by way of a landscape and open space buffer, such that the commercial element and its car park is accessed from an alternative access and to allow the existing employment site to operate without disturbance to the proposed dwellings.

The indicative layout shows a medium-density layout of housing similar in layout to the previously consented scheme. The indicative layout consists mainly of detached and semi detached properties, each with associated parking areas and outside amenity space, lending a generally suburban character with areas of public open space and improved pedestrian links to Derry Hill and its services.

Since the previous approval the applicant has carried out the noise mitigation to the saw mill as required by s106 agreement. The adjacent saw mill will still be a signatory to the s106 agreement, thereby ensuring that the noise mitigation measures will be retained, in accordance with the recommendation and proposals set out in the noise survey. Furthermore, the applicants have confirmed a controlled crossing will be provided as well as highway and footpath improvements.

6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:

Core Policy 1- Settlement Strategy

Core Policy 2- Delivery Strategy

Core Policy 3- Infrastructure Requirements

Core Policy 8- Spatial Strategy: Calne Community Area

Core Policy 51- Landscape

Core Policy 43- Providing affordable homes

Core Policy 45- Meeting Wiltshire's housing needs

Core Policy 50- Biodiversity and Geodiversity

Core Policy 51- Landscape

Core Policy 57- Ensuring high quality design and place shaping

Core Policy 58- Ensuring the Conservation of the Historic Environment

Core Policy 62- Development impacts on the transport network

Core Policy 67- Flood Risk

Appendix D

Appendix E

Appendix G

Saved Policies of the North Wiltshire Local Plan:

NE18- Noise and Pollution

T5- Safeguarding

H4- Residential development in the open countryside

CF2- Leisure facilities and open space

CF3- Provisions of open space

National Planning Policy Framework 2012:

Achieving sustainable development – Core Planning Principles (Paragraphs 7 14 & 17)

Chapter 1- Building a strong, competitive economy (Paragraphs 18 & 19)

Chapter 6- Delivering a wide choice of high quality homes (Paragraphs 47, 49, 50 & 55)

Chapter 7- Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64) Chapter 8- Promoting healthy communities (Paragraph 75)

Chapter 11- Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 & 123)

Chapter 12- Conserving and enhancing the historic environment (Paragraphs 126, 128, 129, 132, 133 and 139)

7. Summary of consultation responses

Calne Without Parish Council

Object for the following reasons:

- The Wiltshire Core Strategy Core Policy 8 requires a total of 165 homes in the “rest of the Community Area” (ie apart from Calne Town) in the period to 2026. This figure has already been met.
- The application is not sustainable, as further development will add to the pressure on the access and the ability for pedestrians and traffic to safely cross the A4, with no reasonable traffic regulation order in place for traffic to travel at a reasonable speed. (Core Policy 62)
- The existing A4 crossing is already beyond capacity and dangerous. Further numbers will increase pressure on the safety.
- There has to be a strong case for a proper guarantee on road improvements to provide a decent means of vehicular access and pedestrian crossing.
- the proposed site adjacent to a sawmill could put pressure on the sawmill to close with the loss of employment.
- the change of use of the greenfield part of this site will cause loss of wildlife habitat.
- continuing problems nearby in Norley Lane with sewage pipe capacity, is already causing problems
- Narrow lanes in poor state of repair being the only other egress from Studley for those wishing to avoid queues and the dangerous exit onto A4

Drainage

Application form states that foul drainage disposal to be via main sewer via existing sewer system – a check will be needed with Wessex Water to confirm if there is available capacity.

Application form states storm water drainage disposal to be achieved via soakaway and sustainable drainage system. Detailed information relating to proposed soakaways is missing but as it is an outline application this can be controlled by way of condition and will form part of the reserved matters application. No objection subject to conditions.

Art Services

Art and design in the public realm will help to mitigate the impact of development by contributing to good design, place-shaping, infrastructure and engage communities with the development and is listed within the Planning Obligations SPD.

Based on an indicative figure of £300 per dwelling, a contribution of £15,900 would seem to be an appropriate figure for this site and ideally given to the council prior to commencement of the development towards integrating the work of artists into the development or its vicinity.

Rights of Way

Footpath CALW65 runs along the western boundary of this site. The documentation discusses a “possible” link to the footpath and the masterplan shows a link. This link is essential and must be provided so residents have a direct link onto the rights of way network. This can be controlled by condition.

Public Protection

No objections subject to conditions and compliance with the noise assessment submitted with the earlier approved scheme.

Ecology

The additional land includes a significant number of trees and shrubs associated with the former nursery at this site. The additional area of land does not introduce any additional protected species issues to development of the site. No objection

Wessex Water

There is current available capacity within the local water supply network to serve the proposed development.

There is an existing 150mm public foul sewer adjacent to the proposed site in Studley Lane. This sewer conveys foul drainage from a fairly significant upstream catchment and will have limited available capacity to accommodate additional development flows. Further appraisal will be required to consider the impact of the development upon the existing network, the applicant should contact this office for further details. As a foul drainage strategy is yet to be agreed a condition will be required.

Education

Primary education- no contributions required here at this time, but future expansion requirements will be met where necessary, from CIL.

Secondary education- no contributions required here at this time, but future expansion requirements will be met where necessary, from CIL.

Waste Services

I recommend a condition that does not allow commencement of development until details concerning how waste collections will function on the development are submitted to and agreed by the council, to meet the requirements of policies CP3 and WCS6. In effect this would require submitted plans to follow the guidance in the draft SPD.

Contribution of £91 per property required for the provision of bins for the new dwellings.

Public Open Space

The current adopted open space policy is saved Policy CF3 from the North Wilts Local Plan. I've estimated a possible dwelling mix and the POS requirement would be 2880m² of Open Space and 258m² of equipped play provision. The planning statement states that this could be met on site (at least in part) and that seems to be the case.

Affordable Housing

Core Strategy Policy 43, Providing Affordable Homes is to be applied, then we would seek a 30% on-site affordable housing provision in this location. In this case, as the proposal is for 53 new homes, we would require 16 homes (i.e. 30% of 53 units) to be for affordable housing. I note that the applicant has proposed that 16 homes should be for affordable housing of which 11 homes (i.e. 70% of 16 homes) are to be for affordable rented tenure and 5 homes (i.e. 30% of 16 homes) to be for shared ownership tenure; this would be acceptable and in line with Core Policy 43.

Highways

No objection subject to conditions. Comments incorporated into the report below

Publicity

The application has generated 50 letters (some local residents have responded more than once) of objection and 0 letters of support. Consultation on the additional information resulted in a further 15 letters of objection.

Summary of key points raised:

- Risk to pedestrian safety.
- A pedestrian subway is the safest solution
- Speed limit should be imposed
- Too many houses
- Already fulfilled the requirements of the Core Strategy
- Noisy site
- Nowhere for children to play
- Loss of ecological habitat
- Poor impact on the character of the area
- Landscape issues
- No local facilities for new residents
- Should wait for the Neighbourhood plan (prejudicial to plan making)
- Do not need extra housing
- Essential that gap remains between the saw mill and the residential dwellings
- Full traffic light signals required
- Locals do not want additional houses
- Indicative layout is not locally distinctive or reflect the character of Studley
- Reduces employment opportunities
- No community benefit
- Proposed 3m high sound barrier is a poor design solution
- Development should be restricted to brownfield sites
- Sewage infrastructure lacking

- Supporting evidence regarding highway safety is flawed.
- No road widening proposed
- A TOUCAN crossing is too urban and suitable for this rural location
- Proposed crossing does not address previous concerns

CPRE

Object on two major issues:

1. Residential development of a considerable number of houses at a site which was separated from community, educational and retail facilities by an exceptionally busy and fast A road. Severance can only be 'mitigated' to a low degree unless major engineering works are undertaken on the A4 . Nowhere were these proposed. A highly unsatisfactory situation.
2. The issue of the only major employer in Derry Hill, Vastern Timber, being compromised by the proximity of households.

The draft Calne and Calne Without Neighbourhood Plan has now brought forward 25 sites for assessment. Until such time as this process has been completed and the Plan and the sites decided upon through the route of community participation and referendum, no one site or combination of sites, should be considered as preferable to another.

Vastern is one of Englands largest hardwood sawmills. As such it should be encouraged to grow as a source of local employment and not be constrained by the very real potential threat of adverse complaints from housing estate residents on its border.

We object to this application i)as premature to the progress of the Neighbourhood Plan, ii)relating to a site which is separated from the main community and its facilities by a fast and very busy A road, iii) is situated so close to a major local employer that the employment source may well be compromised in the future and iv)fails to deliver sufficient of the type of housing most in local demand.

8. Planning Considerations

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 North Wiltshire Plan saved in the WCS, forms the relevant development plan for the Calne Community Area. The Wiltshire Housing Sites Allocation Plan and the Neighbourhood Plan are emerging plans but can only be afforded very 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 Calne, and the recent planning decision on this site.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight.

Wiltshire Core Strategy

Policy CP1 identifies Derry Hill/Studley as a large village with the potential for some growth and to provide jobs and homes, however, residential development will usually be limited to small housing sites consisting of less than 10 dwellings. Policy CP2 states that development outside of the limits of existing settlements 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 Studley/Derry Hill and has yet to be identified for development through either the Sites Allocation Plan or a Neighbourhood Plan, and the proposal does not meet any of the exceptional circumstances in paragraph 4.25.

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, such as agricultural needs, set out in that policy. The proposal is therefore in conflict with the development plan.

NPPF

Amongst other things, the NPPF aims, within the context of a presumption in favour of sustainable development, to boost significantly the supply of housing. It requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements plus contingency dependent on past rates of delivery. Under the terms of the NPPF if the local planning authority cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered as up to date.

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) 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.

The overall housing requirement for Wiltshire of 42,000 homes is disaggregated into three Housing Market Areas (HMAs) in Wiltshire. The WCS confirms that provision should be made for a minimum of 24,740 homes within the North and West HMA (including Calne). Against this requirement the Council's April 2015 Housing Land Supply Statement indicates that there is 5.6 years supply of deliverable housing in the North and West HMA.

However, The Examination of the Chippenham Site Allocations Plan has been suspended to allow the Council to undertake further work in response to the Inspector's concerns 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).

These proposed allocations are included in the Council's published housing land supply statement and contribute towards the Council's 5 year land supply for the North and West Housing Market Area (HMA). 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. He concluded that with the suspension of the Examination of the Chippenham Sites Plan, the delivery of the sites included within it identified as contributing towards the 5 year housing land supply could not be guaranteed, and that consequently a five year land supply could not be demonstrated.

The Inspector responsible for this appeal decision acknowledged that Core Policy 2 relates to the supply of housing. As Core Policy 2 seeks to constrain development within defined

limits, he concluded that Core Policy 2 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. As a result Core Policy 2, as a relevant policy for the supply of housing, could not be considered up to date. In this case, he still went on to dismiss the appeal because the impact on the heritage assets he identified constituted significant and demonstrable harm that outweighed the benefit of the supply of the additional housing.

In these circumstances this application for housing must be considered in the context of the policies within the adopted development plan that do not relate to the supply of housing and the NPPF presumption in favour of sustainable development. However, some weight can still be applied to policies relating to the supply of housing. The remainder of this report seeks to set out the planning balance in relation to this application within this context.

Scale of Development

In the Wiltshire Core Strategy (policy CP1), Derry Hill/Studley is identified as a Large Village, the fourth tier in the settlement hierarchy below the three principal settlements, market towns and service centres. Core Policy 1 describes these settlements as having the potential for 'limited development' in order to help retain the vitality of these communities.

Core Policy 8 makes provision for 'approximately' 1605 dwellings to be provided across the Calne Community Area over the plan period of which no further homes remain to be identified (April 2015 Housing Land Supply Statement). However, the above figure does include the 28 dwellings previously permitted on this site. Should permission be granted for this proposal Calne community area would deliver 37 more dwellings than the minimum figure set out in the Core Strategy.

The number of dwellings proposed, when taken with those already approved, will exceed the minimum required in Core Policy 8 for Calne, but the figure set was a minimum and in the absence of a five year supply in the housing market area, cannot be relied upon as a reason for refusal for a development of this scale that brings with it supporting community infrastructure in the form of a pedestrian crossing point, in addition to the benefits secured through the section 106 agreement and Community Infrastructure Levy (CIL) . Furthermore, the Council has accepted this site as an area where residential development, though smaller in scale was acceptable in this location.

As explained above, the weight to be attached to Core Policy 2 is limited but as concluded by the Inspector at 'Arms Farm' Core Policy 1 carries full weight and there is no reason to depart from the conclusion reached by him.

Consultees have set out what is required to make the development acceptable in planning terms through Community Infrastructure Levy (CIL) receipts and the S106 agreement. From the evidence submitted and the consultation responses received there is no suggestion that additional housing within the locality had caused, or would lead to, a lack of community cohesion. The scale of development which includes supporting community infrastructure in the form of public open space and a pedestrian crossing linking Studley to Derry Hill, is therefore, consistent with CP1 in relation to the role of this settlement.

Prejudice to plan making

The question of prematurity has been raised in comments from local residents. Central Government advice in the NPPG on prematurity states:

Arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Refusal of planning permission on

grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

For the reasons set out above it would be very difficult to sustain a reason for refusal based on prematurity. So far as the Neighbourhood Plan is concerned, this is at a very early stage in its preparation.

In relation to plan making, the scheme is for up to 53 dwellings on the site. The Council's Core Strategy requires additional dwellings in the Calne community area during the plan period. Indeed, Core Policy 8 of the Core Strategy identifies Studley/Derry Hill as the sole Large Village within the Calne Community Area where the majority of housing, outside of Calne, is likely to come forward (development at small villages is limited to infill only by core policy 2).

The effect of allowing this development would not in itself be so significant as to undermine the Plan making process taking into account the previously developed nature of part of the site, the extant permission and its relationship to the settlement boundary.

Highways

In light of the position taken during the determination of the previous planning application at committee in consideration of application 14/09769/OUT, the prospect of being able to defend, on highway grounds, a refusal of planning permission for the 53 dwellings sought, is not sound. The decision undermines, to a material degree, the potential to argue a case at appeal. It is also of significance that the site has an extant permission for use as a garden centre, which has been lawfully implemented.

The previous permission ran alongside a planning obligation requiring the developer to provide a controlled crossing and a reduction of the local speed limit to an undefined lower speed limit and over an undefined length of the road, in the event local consultation provided for that possibility.

Given the commitment in the previous s106 agreement and the ability of the applicant to implement the approved development for the 28 permitted dwellings (14/09769/OUT), there is a far weaker highways and transport argument to resist development for the additional number of dwellings proposed.

A firmer and more precise s106 agreement will be required so that there is complete clarity as to what the end result will be in terms of addressing the severance issue. Whilst the previous concerns remain in relation to this site being severed by the A4, the provision of a controlled crossing would, to a degree, address that concern. However, Members should be aware that, by providing traffic signals on a fast road, the safety risk for pedestrians crossing the A4 might be reduced, but it could be exacerbated for drivers owing to the increased risk of shunt collisions in the vicinity of the signals.

Nevertheless, through careful design the shunt collision risk can be minimised; this would include ensuring that the stopping sight distance to the signals heads was compatible with approaching traffic speeds and that appropriate signing is provided. To this end officers have considered the implications of the previous decision and the planning obligation, and would be prepared to compromise Council policy as it stands in relation to the criteria applied to local speed limits. A compromise could be accepted to allow for a 50 mph speed limit (over a length of not less than about 400m each side of the crossing facility), which, in turn, could allow a more positive approach to be taken in relation to the provision of a controlled

pedestrian crossing. It is not considered that such a compromise to policy would set an unacceptable precedent for similar proposals in Wiltshire.

A reduction in the speed limit would be subject to local consultation, and a speed limit reduction cannot be guaranteed. The local police would have to be consulted and their advice given due consideration. Any reduction in speed limit can be accompanied by a reduction in the length of the right turn deceleration lanes, which increases the flexibility in choice of location for a controlled crossing. Officers consider that the most suitable form of crossing would be a Toucan crossing, to facilitate use by cyclist and pedestrians. The most favourable site would be at the western side of the eastbound deceleration lane, which would provide for i) access between the village footpath (CALW65) and the new housing site and to Studley beyond, and would also be within a more acceptable distance for pedestrians travelling via the crossroads, compared with the distance to the existing refuges, which are not within a particularly attractive walking distance for pedestrians crossing between Church Road and Studley Lane.

The applicant has submitted further information to show where and how a Toucan crossing could be provided, submitted drawing SK01A refers. This drawing shows the arrangement for reducing the length of the deceleration lane to be consistent with a 50 mph speed limit.

Further information has also been submitted to the highway authority to consider what impacts the provision of a Toucan crossing on the A4 might have on the operation of the crossroads junction. The assessment confirms that there is a negligible impact on the Church Road arm, which is where existing and forecast delays occur. In light of the potential increase in shunt collisions, it would be appropriate to ensure that the crossing is considered alongside reinforced 'gating' of any revised village speed limit with a view to impacting on driver perception of local conditions. This might be achieved by reinforced road markings and gateway treatment, but details would be sought only in the event of a permission for the development and this would be controlled by condition.

The provision of a Toucan crossing will require adequate waiting and passing space on the footways in the vicinity of the crossing; the footways on both sides of the A4 would be required to be widened to accommodate this requirement. This requirement has been included on submitted drawings and will be conditioned and will be agreed as part of the reserved matters application.

Concern has been expressed about the nature of the existing footpath (CALW65) and its use by cyclists. This is not considered to be a material issue, but it would be appropriate to require the path to be properly surfaced between A4 and Petty Lane, and for cycle use to be regularised. It is anticipated that use of the path by cyclists would be low, and that conflict would be minimal over the short length involved.

The footpath would be a good and reasonably safe route for children from the proposed development, and Studley beyond, as a route to school. A controlled crossing might have to be accompanied by a system of street lighting in the area to meet safety requirements. This detail will be subject to a later road safety audit.

The applicant has been asked to provide additional speed assessment data and a Stage 1 road safety audit for the crossing; this has not yet been supplied, but is not considered to be material in the context of the planning application determination, because the principle of a controlled crossing in the vicinity has been established by way of the s106 agreement relating to planning permission 14/09769/OUT.

It will be necessary to materially amend the previous s106 agreement for any permission of the current application to achieve the above requirements. The planning obligation for the

development should make provision for the necessary speed limit Orders to be secured, and a crossing consultation and advertisement.

There is also a need to ensure that the site embraces good pedestrian links to i) serve footpath CALW65, including a direct site connection to the path, and ii) provide a pedestrian link through the site to serve as a safe route for Studley pedestrians avoiding the need to walk up to the crossroads junction.

The size of the proposed development triggers a requirement for a residential travel plan in accordance with the Council's policy; the travel plan can be provided for within the planning obligation, and will seek to secure, inter alia, 'taster' tickets for local bus use for all new occupants.

Urban Design & Layout

This site does benefit from an extant permission which could be implemented at any time. The development of this would, as a matter of fact, have an impact on the landscape character of the area.

The applicant has agreed to retain some existing landscape features whilst improving landscaping within and to the edge of the site, such as perimeter hedgerows and some wooded areas. These are proposed for retention within the current proposals, which will be important to follow through if development is accepted in principle. These existing landscape features will need to be appropriately incorporated within the final development proposal to ensure that their value is retained in terms of supporting public visual amenity and wider landscape character, but also to ensure their long term health and viability is sustained for future generations.

The indicative layout has been amended from the submission of the originally approved application. The revised illustrative layout suggests that the level of development proposed could be satisfactorily accommodated in terms of landscape, character and visual impact, residential amenity, place making and space to accommodate adequate maintenance for retained and proposed trees and hedgerows.

It is considered that the proposal results in a good indicative layout, furthermore, the proposed open spaces will be largely overlooked by active development frontage which improves levels of surveillance and positively contributes to place making.

It is considered that further structured landscaping in the form of new buffers and tree planting would be necessary in order to better integrate the proposed development into the wider landscape context, and to protect the wider panoramas viewed from public vantage points. This can be controlled at the reserved matters stage.

The noise assessment requires the installation of acoustic fencing towards the outer limits of the site. It is acknowledged that these are large and can have a detrimental impact on the amenity of the area. However, such mitigation has been used at other sites within Wiltshire and the immediate area and these have assimilated into the area relatively quickly and without harm to the area.

It is acknowledged that the loss of a greenfield site would result in some harm to the character and appearance of the area. There would be minor adverse visual effects, particularly for nearby residents and people using public footpaths. To this extent the proposed development would not accord with Core Policy 51 which seeks to protect and conserve landscape character. On the other hand the negative impacts would be mitigated as far as possible, as required by the policy, through the inclusion of structural landscape features. The extent of visual impacts would not be widespread and there would be only

limited harm to the landscape setting of the local area, this harm is not considered to be significant enough to warrant a reason for refusal due to the existing site circumstances and the extant permissions that exist on site & in the locality.

Previously Developed Land

One of the reasons for considering an exception to policy in this location is that part of the site is previously developed land. As set out above, the site benefits from planning permission to redevelop part of the site. Preference is given to the use of previously developed land in core policy 2 of the Core Strategy and in national guidance contained within the NPPF and PPG. Preference should be given to land such as this for the provision of dwellings providing it conforms to other planning policies.

It is acknowledged that the additional land now proposed for development is not previously developed. As set out above, the extant permissions on site for housing and the garden centre in themselves have an impact on the visual appearance and landscape character of the area. The base line for assessing harm to the character of the area is therefore changed and different to the harm if this was a greenfield site with no extant permission. Though the additional housing does have an element of harm any harm is seen in the context of the existing housing and the adjacent saw mill and any harm would be far less than a isolated field in a more prominent location. The fact that part of the site is previously developed land ways in favour of the proposal.

Noise

The proximity of the proposed development to an established employment generating use was a concern when considering the previous planning application. To overcome this, the applicant submitted a noise assessment and proposed mitigation measures. These were considered by the Council's public protection officer and he was of the opinion that the two uses could operate without conflicting with each other.

To ensure that the mitigation is secured in perpetuity, a condition and legal agreement were agreed. The site owner, Council and applicant were signatories to this document and the mitigation measures have been implemented. The noise mitigation has worked and no objection is raised in terms of noise disturbance from the saw mill. A new legal agreement is required to ensure that the noise mitigation is retained in perpetuity.

The noise from the adjacent 'A' road may or may not be an issue but this would become apparent once the reserved matters application is submitted and if necessary could be mitigated through the installation of acoustic fencing. This is considered to be acceptable and will be controlled by way of condition.

Setting of Listed Buildings

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.

The House of Lords in the South Lakeland case decided that the "statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved."

The proposed development is located over 70m from the nearest listed building (Baptist Chapel on Studley Lane). Having viewed the site from the listed building and attempted to view the listed structures from within the site it is considered that the proposal is unlikely to be visible and will therefore have a neutral impact on the setting of the listed buildings. The proposal is considered to accord with CP58 of the Core Strategy and the NPPF.

Sustainability of the Site

The Council has acknowledged that housing will need to be delivered in and around Studley/Derry Hill- no more homes remain to be identified of the indicative requirement of 165 in Calne Community Area remainder (Core Policy 08). Previously used land is identified as a the preferable location for the provision of new housing and as identified above part of the site is previously developed land.

The preference for development on brownfield sites is noted. However, section 6 of the NPPF requires Councils to identify a supply of specific, developable sites and these should be in a suitable location for housing development and there should be a reasonable prospect that sites are available and could be viably developed at the point envisaged. Some housing has been provided on an available brownfield sites but no further land would currently appear to be available, thus they fail to fulfil this requirement.

The proposed site is well located to both Studley and Derry Hill and the services that these offer, such as public transport, shops and schools. The development is therefore considered to be in a sustainable location and would meet the objectives of local and national planning policies. It is also important to note that the Council, in considering the previous application, did not raise concerns in relation to the sustainability credentials of this site.

Affordable Housing

Core Policy 43 states the Council will seek to negotiate an element of affordable housing to meet local needs on all housing developments of 5 or more dwellings. The applicant has agreed to provide 30% onsite affordable housing. This provision will be in accordance with the Council's Housing Department's requirements.

9. S106 contributions

The site generates a requirement for the provision of 30% on-site affordable housing, to be provided in an integrated manner across the application site as agreed at the reserved matters stage. The type and tenancy mix shall be negotiated with the Council's Housing Officers to ensure a 'best fit' for local housing needs.

Under Core Policy 3, the proposal also generates a requirement for the provision of on-site public open space proportionate to the final housing mix, indicated on the submitted layout plan and to include an equipped play are.

The heads of terms for the s106 are as follows:

- 30% affordable housing
- £91 per residential unit for the provision of bins for each property within the site
- Onsite provision of Public open space and play provision (2880m2 of Open Space and 258m2 of equipped play provision)
- Provision of management company to maintain public open space and play area
- Provision of pedestrian crossing
- Funding of a TRO
- Noise attenuation and noise mitigation to be retained in perpetuity.
- Provision of a travel plan

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 and has not been brought forward through the plan led process outlined in policy CP2 of the Core Strategy. However, this has to be set against other material considerations, the most pertinent of which in this case is the Inspector's decision in December 2015 on the Arms Farm appeal which concluded that in the light of the uncertainty surrounding the delivery of sites at Chippenham, for the reasons set out above, policy CP2 could not be relied upon by itself as a defensible housing policy where the Council was unable to currently demonstrate a five year land supply in the housing market area.

As this report demonstrates, unlike Arms Farm, there are no longer any outstanding site specific objections to the development of this site in terms of the scale of development (CP1), affordable housing (CP45), ecology (CP50), landscape (CP51), heritage assets (CP58), flood risk (CP61) and highways (CP62) that would significantly and demonstrably outweigh the benefits that this particular development in this location on the edge of a sustainable settlement.

The conflict with CP2 in terms of its location and the consequential reduction in the gap between Studley and Derry Hill is the main negative impact of the proposal. However, as discussed above, given the current levels of uncertainty surrounding the 5 year housing land supply position in the North and West Wiltshire HMA following the conclusions of the appeal Inspector at Arms Farm Sutton Benger and the suspension of the Chippenham Site Allocations Plan examination great weight cannot be placed on this policy. Therefore, in accordance with the NPPF, the application should be considered in the context of the presumption in favour of sustainable development. This means:

'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'

As recognised in the Arms Farm Appeal Decision as referenced above, the Council, at the moment, cannot demonstrate a 5 year supply in the north and west HMA because of this policy CP2 of the Wiltshire Core Strategy is considered to be out of date. The application should be considered in the context of the presumption in favour of sustainable development. In these circumstances, the guidance in the NPPF is that the local planning authority should grant planning permission.

This means that to determine the application consideration must be given to many factors. Firstly, whether the development is sustainable given the current policy context (NPPF and Development Plan) and, secondly, whether the presumption in favour of development is outweighed by adverse impacts which are significant and demonstrable. This involves a balancing exercise which requires a careful assessment of issues relevant to policy considerations and fact.

The report has highlighted that the adverse impacts of the development include the construction of dwellings within the open countryside on a partly Greenfield site. The benefits of the proposal include the fact that the proposal will boost housing supply at a scale of development that is not inappropriate in this location adjacent to a large village where a current lack of a five year supply of housing is acknowledged, there would be an additional supply of affordable housing and there would be economic benefits through construction and occupation of the houses.

The application will see significant improvements to pedestrian linkages to the local school and services. It is considered on this occasion that the adverse impacts do not outweigh the benefits of scheme. It is therefore considered sustainable development in the context of the NPPF paragraph 49 and should be permitted.

RECOMMENDATION

That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

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

The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Public Open Spaces and is therefore contrary to Policies CP3 & CP43 of the Wiltshire Core Strategy Adopted January 2015 and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

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

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

- 2 No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
 - (a) The scale of the development;
 - (b) The layout of the development;
 - (c) The external appearance of the development;
 - (d) The landscaping of the site;

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

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

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

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

- 4 No more than 53 dwellings shall be developed on the application site edged red on the submitted Site Plan.

Reason: For the avoidance of doubt and in the interest of proper planning

- 5 No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until a Tree Protection Plan showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction -Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission.

- 6 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.

- 7 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 public highway.

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

- 8 Prior to first occupation of any of the dwellings hereby approved, the noise mitigation measures set out in 'Emtec Noise Level Survey and Noise Control Measures'- Issue 18 July 2014 shall have been implemented & 'Emtec Noise Level Survey and Noise Control Measures Addendum'- Issue 06 August 2015 in full. Once the works are complete and before the first occupation of any of the dwellings hereby approved a Noise Level Survey in accordance with BS4142:1997 shall have been submitted to and approved in writing by the Local planning authority demonstrating that the noise levels from the sawmill have been suppressed so as to achieve a Rating Level of 35dB(BS4142:1997) at 1m from the nearest noise sensitive properties. This noise mitigation shall thereafter be permanently retained.

Reason: To ensure adequate residential amenities of future residents.

- 9 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected

from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

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

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

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

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

REASON: 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.

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

Site Location Plan- Received 20 October 2015

Emtec noise survey dated 18 July 2014

Emtec noise survey dated 06 August 2015

Arboricultural Report dated 07 October 2015

Flood Risk Assessment Craddy's Document Reference: 10318w0001

Planning Statement

Ecological Assessment

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

- 12 The development shall not be commenced until a foul water drainage strategy is submitted and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker
- a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing 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
- 13 The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.
- REASON: To ensure that the development can be adequately drained
- 14 No development shall commence on site until details of the pedestrian links from the development hereby approved to Footpath CALW65 and pedestrian links from the development to A4 have been submitted to and approved in writing by the local planning authority. Prior to the occupation of the 20th unit the approved details shall be provided.
- Reason: To allow connectivity between the application site and Derry Hill and to ensure that the development is sustainable.
- 15 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has

been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

- 16 No dwelling built on the site shall be occupied until it has have been provided with car parking spaces in accordance with the minimum standards as required by the Wiltshire LTP 2011-2026 Car Parking Strategy. Any garage counted as a parking space shall have an internal dimension of at least 3m by 6m per space

REASON: To ensure adequate parking space is provided on site clear of the highway

- 17 No dwelling shall be occupied before the 20th dwelling hereby permitted is occupied, until:

a) A scheme for the laying out and equipping of the play area shown on the submitted plan, to include landscaping, boundary treatment and provision for future maintenance and safety checks of the equipment has been submitted to and approved in writing by the Local Planning Authority and;

b) The play area has been laid out and equipped in accordance with the approved scheme.

REASON: To ensure that the play area is provided in a timely manner in the interests of the amenity of future residents.

- 18 Prior to the commencement of the development Studley Lane shall be widened and improved in accordance with details which shall first have been submitted to and approved by the local planning authority. The details of the widening shall include the provision of a footway of minimum width 2 metres on the development side of the widened lane, and the provision of a bellmouth junction to the site, which shall include visibility splays for the access, and improvements, by way of forming a footway crossing, to the access retained for car parking for the adjacent sawmills site.

REASON: In the interests of highway safety

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 [INSERT].

INFORMATIVE TO APPLICANT:

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.

INFORMATIVE TO APPLICANT:

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.

INFORMATIVE TO APPLICANT:

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.

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
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructuralevy.