

REPORT TO THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	14 th September 2016
Application Number	14/11556/FUL
Site Address	Land North of the A350, West Cepen Way, Chippenham, Wiltshire SN14 6YG
Proposal	Storage & Distribution Centre (B8) & Service Yards, Parking, Landscaping & Associated Development. Retail Unit (A1) with Mezzanine Floor & Outside Garden Centre Area, Including Service Yards, Parking, Landscaping, Access & Associated Development.
Applicant	First Chippenham LLP
Town/Parish Council	Chippenham Without
Division	Kington
Grid Ref	390483 174694
Type of application	Full
Case Officer	Lee Burman

Reason for the application being considered by Committee

The application was called to Committee by Councillor Greenman in the event of a recommendation for approval to consider issues of highways impact, environmental impact, archaeological assessment, scale and size. In addition, to explore consistency with the Core Strategy including Wiltshire Council's addendum in respect of the boundary to Chippenham formed by the A350.

The application has been reported to Committee given the very large scale of representations of both support and objection and given the strategic scale of the proposed development.

1. Purpose of Report

To assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that planning permission be refused.

(Should the committee be minded to wish to approve the application, such a resolution would need to be referred to the Secretary of State for Communities and Local Government to determine whether or not he wishes wish to recover the application for his own determination.)

2. Report Summary

3498 objections received which includes 500 and 17 persons on 2 separate petitions. 230 comments and observations received. 151 representations of support received during the early phases of consultation.

Following further submissions and related consultation a total of 3772 objections. 250 comments received. 158 representations of support.

Multiple Parish and Town Councils have raised objection and concerns.

3. Site Description

The site is open agricultural land located on the fringe of Chippenham adjacent to the A350 bypass outside of the defined settlement boundary. The land is gently undulating with higher ground to the centre of the site falling to lower levels adjacent the A350. The site features mature boundary hedgerows incorporating mature trees, there are separate field parcels forming the site and these are defined by mature hedgerows including mature trees. The hedgerows on site in part fall within the definition of important hedgerows under the hedgerow regulations whilst some of the mature trees within the site are subject to tree preservation orders. The site is also crossed by a watercourse whilst further water courses run adjacent to the site.

To the north west of the site land rises steeply and includes woodland subject of a tree preservation order with Chippenham Golf Course lying adjacent to that land. To the north of the site and north east are significant built developments including a hotel, petrol stations, care home and Morrison superstore. The section of the A350 running northward from the Badger roundabout north of the site has been subject to recent dualling. To the north east and east of the site on higher ground falling to lower levels in a southerly direction is the residential development of Cepen Park West. This locality is separated from the application site by the A350, retained verges, mature hedgerows and trees and significant bunding between the A350 and the residential area. To the south and west of the site lies open agricultural land again defined by mature hedgerows with mature trees and watercourses. To the south west lies the village of Allington which contains various heritage assets including a designated conservation area and various listed buildings.

The site itself is one of archaeological potential and investigations by the applicant have confirmed the presence of significant archaeology dating from Bronze Age, Roman and Medieval periods. English Heritage (now Historic England) consulted interested parties in respect of proposals for the Scheduling of these archaeological remains as an Ancient Monument during the application process. As of 03/03/2015 it was confirmed that part of the site is designated as a Scheduled Ancient Monument.

Since the application was submitted significant works to the highway A350 have now taken place with further sections of the road now subject to dualling, including within the vicinity of the site albeit the section of road directly adjacent the proposed site access arrangements has not yet been fully dualled and the work remains to be completed.

4. Planning History

14/07265/SCO	Request for EIA Screening / Scoping Opinion
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5. The Proposal

The application description is as follows:-

Storage & Distribution Centre (B8) & Service Yards, Parking, Landscaping & Associated Development. Retail Unit (A1) with Mezzanine Floor & Outside Garden Centre Area, Including Service Yards, Parking, Landscaping, Access & Associated Development.

The proposal is put forward as for the erection of a regional storage and distribution facility for The Range to service their southern operations including the company's programme of retail store expansion. The distribution centre will include ancillary office space. The proposals also include an A1 retail store for the Range with related outdoor garden centre. The proposals include ancillary development including access, landscaping, planting, parking, service areas, acoustic fence, outdoor storage, earth movement and drainage works.

The proposed regional distribution centre (RDC) will have a total floorspace of 72,070 sq m (GIA) including 1,906 sq m (GIA) of office space over two storeys and two hub offices totalling 929 sq m (GIA), with a 760 sq m recycling centre and separate gate house building. The building will measure approximately 18 metres to ridge height. Provision of 600 parking spaces is proposed to serve the RDC operating 3 shift patterns over a 24 hour period. An internal circulation road running around the building is proposed for HGVs to be serviced via bays located to the front and rear of the RDC building.

The retail store will comprise 3,782 sq m of floorspace with an additional 1,858 sq m mezzanine floor and 556 sq m outdoor garden centre. The net trading floorspace is 5,413 sq m including the garden centre. The retail store will also have 100 sq m ancillary customer café. The retail unit would measure 7metres in height internally. Provision at the store of 250 car parking spaces is proposed. Opening hours for the retail store are not proposed in the application form and would need to be the subject of condition in the event of approval.

The structures will utilise a combination of cladding panels in various muted and natural colours (olive green, moorland green), with some natural local limestone in the retail unit and significant elements of glazing.

The site will be levelled through significant earth movement including extraction to the rear or western boundary and toward the centre of the site with land raising to the front or eastern site boundary in order to create a level site.

The proposals include on site creation of balancing ponds and the diversion of an existing watercourse around the southern boundary of the site. The site will also accommodate an internal access and circulation road system for both buildings and parking areas with a bus turning facility and layby. The proposals include direct access to the A350 via a priority right turn junction on highway with ghost land to access the site and a left turn egress only back to the A350 from the site.

The proposals have been screened as Environmental Impact Assessment (EIA) development falling with category 10 Urban Development Projects of greater than 0.5 hectares within Schedule 2 of the Town and Country Planning Environmental Impact Assessment Regulations 2011 (As amended). Schedule 2 category developments do not automatically require an EIA as is the case with Schedule 1, an assessment is required as to the sensitivity of the application site and location in terms of environmental designations and interests and the potential for the development proposed to impact on such considerations. In this instance the combination of the scale of the development proposed and potential impacts in terms of landscape and visual amenity, ecology, drainage, water supply, heritage assets and highways cumulatively contributed to the assessment that the development proposed must be the subject of an EIA. The application submission was supported by an Environmental Statement (ES) following an EIA. This ES has been the subject of further information submissions following the initial consultation in respect of the proposals. Consultation process and outcomes are addressed in further detail below.

6. Planning Policy

National Planning Policy Framework (NPPF) Paras 14, 17 Sections 1, 2, 4, 7, 11 & 12

Planning Practice Guidance

Wiltshire Core Strategy Adopted January 2015:-

CP1, CP2, CP3, CP10, CP34, CP36, CP38, CP41, CP50, CP51, CP52, CP55, CP56, CP57, CP58, CP60, CP61, CP62, CP65, CP67 and CP68

Saved policy NE 14 North Wiltshire Local Plan.

Chippenham Sites Allocations DPD submitted to the Secretary of State July 2015; and Revised Submissions July 2016.

7. Consultations

Consultation was undertaken in respect of the initial application submission which expired on the 8/1/14. The press notice issued in respect of this consultation did not include a complete description of the development proposed and so a further consultation period was undertaken with full re-consultation. Following the first consultation period and responses received additional submissions were made in respect of archaeological Investigations and an Addendum to the Environmental Statement. A further period of consultation was then undertaken in accordance with statutory requirements under the EIA Regulations relating to further information in respect of an Environmental Statement. The comments received in respect of the consultation on the application submissions are summarised as follows:-

Highways Agency (Subject to revised working arrangements and renaming as Highways England during the application process):

Holding direction issued seeking additional information. Following provision of a technical note by applicant's transport consultants Highways England maintained that they remained unable to respond as not all the requested information was provided. This largely related to impacts on traffic movements at J17 of the M4.

Subsequent to this the applicant team has been in direct liaison with Highways England in order to provide the additional information requested. That process was completed in June 2015. As at April 2015 new regulations in respect of Highways England were introduced and this removes their right of direction on planning applications, however directions already in effect remained in place. Under the new arrangements and in accordance with the Town and Country Planning (Development Affecting Trunk Roads) Direction 2015, where a LPA disagrees with the recommendations of Highways England the application must be referred to the Secretary of State Department of Transport for determination.

Highways England has removed its holding direction to positive determination subject to use of a condition. The condition requires that the proposed B8 warehouse does not operate a change of shift working during peak travel hours. Officers (Planning, Highways, & Enforcement) all consider that this condition is both unenforceable and potentially unreasonable as it does not allow for a staggered shift changeover during these hours. As such the proposed condition is not considered to meet the 6 tests on the use of conditions set out in the PPG and should therefore not be applied. Given this position if the Committee is minded to approve the application referral to the Secretary of State for Transport will be necessary.

Environment Agency:

No objection subject to conditions and informatives.

Natural England:

No objection identified but support proposed bat mitigation measures; identifies the need for the LPA to assess landscape impact; Refers to its standing advice re: protection of natural species; promotes biodiversity enhancement.

Wessex Water:

No objection but identifies requirement for agreement of point of connection of the proposed private foul drainage system public network and that the public network only has capacity for domestic flows; trade effluent will require separate consideration and agreement. No details of water storage tank capacity available but there is capacity in the water supply network as requested. The impact of connection and provision subject to further testing and agreement of operation requirements, which could be covered by conditions.

Wiltshire Fire & Rescue:

No objection but recommend use of sprinkler systems and identify need to agree location of fire hydrants. Access for emergency vehicle required.

English Heritage (reorganised and renamed during the application process now Historic England):

Objection - harm to above ground Heritage Assets.

In respect of below ground heritage assets – initiated process for consideration of scheduling as an ancient monument.

Scheduled Ancient Monument status confirmed as of 03/03/15. The applicant submitted a request to the Secretary of State for Culture, Media and Sport (DCMS) for that decision to be reviewed. That review has now been completed and the designation of part of the site as a Scheduled Ancient Monument has been confirmed by the Secretary of State by correspondence dated 23/07/2015.

As such in the event of a resolution to approve the application a further application to DCMS for Scheduled Ancient Monument Consent would be necessary.

Following submission of ES Addendum including Archaeological Investigation Historic England objects to the proposals identifying harm to the setting of Grade II* Listed Buildings and the Setting of the Allington Conservation Area; Also harm to the fabric and setting of below ground heritage assets – buried archaeology. Historic England identify that a Scheduled Ancient Monument Consent would be required should full planning permission be granted.

Spatial Plans and Economic Development Teams:

Additional information requirements identified.

Following Submission of the ES Addendum it is identified that the GVA uplift and job creation figures are sound and credible. The proposals will make a significant contribution to the strategic economy and meet the economic development aims and objectives of both the South West Strategic Plan and the WCS.

It is identified that the proposals accord with and meet several of the criteria of CP34 of the WCS in respect of new employment related development on unallocated sites. Criterion vi in respect of environmental impacts is not fully addressed given the representations of specialist consultees in these matters.

This position is on the basis of the application submissions identifying The Range as the end user of the development. The withdrawal of the Range as occupant at least in respect of the RDC is addressed further in the main body of the report.

GVA Grimley:

Additional Information requested.

Following submission of the ES Addendum it is identified that the sequential test in respect of sustainable locations for retail development required by the NPPF para 24 and policy CP38 of the WCS has not been addressed and met in full. In particular inadequate information is included to demonstrate that potential alternative and sequentially preferable sites have been fully assessed. In several instances sites have been discounted as inadequate without the applicant fully considering and demonstrating that they have considered alternative forms of development proposals.

It is also identified that the impact on Chippenham Town Centre in terms of trade diversion has been underestimated with the impact likely to be considerably greater than identified in the RIA resulting in harm to the vitality and viability of the Town Centre. It is recommended that the application be refused on both grounds.

Wiltshire Council Highways:

Objection. Recommend refusal

Following submission of the ES addendum Highways Officers maintained their objection to the scheme proposals with particular reference to the impact of traffic movements to and from the site during peak hours and the negative impact on the free flows of traffic on the A350 at peak hours including vehicular movements at the two nearby roundabouts.

Wiltshire Council Drainage:

No objection subject to conditions

Wiltshire Council Rights of Way:

No objection

Wiltshire County Archaeologist:

Holding Objection until results of the Trial Trenching investigation became available.

Following submission of the ES Addendum Officers maintained their objection to the proposals and recommended refusal due to harm to and loss of significance of the buried archaeology.

Wiltshire Council Ecology:

Additional information requested

Following submission of the ES addendum officers raise objection to the harm to BAP protected Ecological habitats and species of fauna. Concern is also raised as to the ES submissions which are identified as consistently underestimating the significance of the impact of the proposals and over estimating the benefits of the proposed mitigation measures.

Wiltshire Council Landscape Officer:

Objection and recommend refusal.

Following the submission of the ES Addendum officers maintained their objection to the scheme proposals identifying significant harm to the landscape and character and

appearance of the locality. Proposed mitigation in terms of landscaping and planting was assessed to be inadequate in relation to the scale of development proposed and assessed impact on the landscape. The LVIA contained in the ES was considered to overestimate the significance and benefits of proposed mitigation.

Wiltshire Council Tree Officer:

Objection. Inadequate information provision, inadequate assessment of proposed planting stock. Loss of category A trees without sufficient compensation.

Following the submission of the ES Addendum officers object to the loss of category A trees and inadequate compensation/mitigation in relation to replacement tree planting.

Wiltshire Council Urban Design:

Objection recommend refusal.

Following the submission of the ES addendum and scheme revisions in respect of design character officers maintained their objection and recommended refusal on the basis of harm to the character and appearance of the locality.

Wiltshire Council Waste:

Inadequate information and detail to comment definitely at this stage as to adequacy and efficacy of the waste management proposals.

Following submission of ES Addendum support subject to conditions.

Wiltshire Council Public Protection:

No objection subject to conditions and suggested revisions.

Following the submission of the ES addendum and objector submissions Officers maintained no objection subject to condition but did request full submission of the air quality modelling data and methodology. This was not provided by the applicant. This matter is addressed further in the main body of the report.

Wiltshire Council Conservation Officer:

Identified harm to the setting of designated heritage assets including Allington Conservation Area and various Listed Buildings contrary to National and Local Policies – Objection.

Following the submission of the ES addendum officers maintain their objection identifying harm to the setting of Grade II * Listed Heritage Assets and the Allington Conservation Area and recommended refusal

The applicant resolved to respond to the identified additional information requirements and objections raised in the first round of consultation including with further information submissions. The applicant also completed the detailed site investigations in respect of Archaeological Trial Trenching. Consultation in respect of these further information submissions was undertaken in accordance with the requirements of Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Parish Councils

Chippenham Town Council - Supports new jobs and retail opportunities for Chippenham but is concerned about the rural buffer to the town. Considers that the retail unit would be better located within the town or sites adj town centre and on brownfield land. Distribution Centre fails to respect character of the town and its setting. Facility would be better located adj J17 of the M4. Scale of proposal has visual impact on the town and rural buffer. Concern raised over traffic impact of this proposal; Light Pollution; Impact on Residential Amenities

and Environmental impact on countryside and wildlife. Possible flooding and drainage issues. Concern over impact on Development Plan strategy west of Chippenham and generating support for further development west of the A350.

Chippenham Without Parish Council – Strong objections and recommends refusal. Identifies significant detrimental impact to Chippenham, adjacent rural area and the town centre. Loss of open countryside. Contrary to national and local planning policies restricting development in the open countryside adjacent the town. A350 is a logical boundary for Chippenham and should be considered a limit to development. Once breached the development sets a precedent for further development. Any development in this location should be considered through the Chippenham Sites DPD and the proposal is premature to that document and process. Similarly the Parish Council is aiming to prepare a neighbourhood plan and development should be considered through that process. The Parish Council consider that the application is contrary to national and local planning policies including North Wiltshire Local Plan saved policies e.g. NWLP Saved Policies HE1 & HE6 harm to the Allington Conservation Area; WCS CP1 conflict with settlement strategy; CP3 harm to environmental constraints e.g. Archaeology, drainage and flood risk; CP9 & 10 Chippenham Area Development Strategy conflict; CP34 Fails to meet all criteria; CP50, 51, 57, 58 & 66 harm to biodiversity, geodiversity, landscape, Heritage Assets, Highway network and poor quality design. Disputes the claimed Economic benefits and identifies harm to the highway network via the proposed access and traffic generation including 24 hour operation.

Kington St Michael Parish Council – Object on the grounds that development west of the A350 conflicts with the strategy for the development of Chippenham and sets a precedent for development west of the A350; the scale of development causes harm to the landscape and conflicts with CP51 WCS; Disputes the claimed economic benefits especially job creation figures; Identifies large scale traffic generation resulting in congestion on the A350; Identifies concerns over flooding resulting from the scale of development and hard surfacing proposed; Identifies harm to the vitality and viability of Chippenham Town Centre;

Langley Burrell Parish Council – Objects on the grounds of harm to the Landscape character and visual amenity of the locality being out of character with the surrounding area, conflict with CP57 WCS; The scale and form of development proposed will generate significant volumes of traffic movements and trips resulting in significant congestion on the A350; 24 hour site operation will result in harm to residential amenities and the character and amenity of the locality through noise and light pollution and will also result in air pollution; The proposed distribution centre would be better located adj J17 of the M4 as a stand alone unit. Development to the west of the A350 breaches a logical barrier for the town creating a precedent for future development in conflict with the strategy for the development of Chippenham which was being promoted through the WCS albeit subject to amendment by the Examination Inspector. Hardenhuish Brook has a history of flooding which will be worsened by development on this scale with implications for flooding in the locality/catchment area. The proposed development does not accord with or meet the requirements of WCS CP34 especially criteria v, vi, vii, viii & ix. Disputes the claimed economic benefits of development particularly job creation for the town.

Biddestone and Slaughterford Parish Council – Identifies significant concern particularly in respect of development beyond the A350 in conflict with the development strategy of Chippenham in the WCS thereby setting a precedent for future development in this location. The scale of development is out of character with the character and appearance of the locality and will not blend into the landscape especially given inadequate landscaping and planting which will not replace that lost to development. The development will generate a significant increase in vehicular traffic negatively impacting on the surrounding highway network though increased congestion. Concerned that the retail unit will be detrimental to the

social and economic future of the town centre where it is considered that there are available units and sites for retail development.

North Wraxall Parish Council – Identifies significant concerns in respect of conflict with WCS policies; Scale and design of the building out of character with the locality increase in vehicular traffic resulting in a negative impact to the surrounding road network; congestion at the bumpers farm roundabout on the A350; Major retail unit outside the town centre would have a detrimental impact on the Social and Economic future of the town centre.

Castel Combe Parish Council – Raise concerns in common with other Council's on the Parish Forum. In particular conflict with Local Planning Policies CP9, CP10, CP51, CP57 & CP58 WCS. Harm to the local community and vitality and viability of the Town Centre. Breaches the logical boundary to the town harming the rural buffer and setting a precedent for future development in this location.

Seagry Parish Council – Objects on the grounds that development breaches the boundary to the town of the A350 contrary to national and local policies. Disputes the claimed economic benefits of the scheme proposals. Would result in harm to the vitality and viability of the town centre.

Marshfield Parish Council (Outside of but adj Wiltshire) Identifies concerns over traffic generation and impact on the A420; harm to the rural character of the locality.

8. Publicity

The application was advertised by press notice, site notices and neighbour notification letters. As noted above a further consultation period with revised press notice, site notices and further notification letters was undertaken due to an incomplete description of development in the original press notice.

Also as noted above the application was the subject of further information submissions adding to the initial Environmental Statement submission. These further information submissions were advertised by press notice and consultees and interested parties were notified in writing of the submission.

In summary following the consultation in respect of the initial application submission 3498 objections were received which included 500 on 17 on two petitions. 230 comments and observations were also received. 151 representations of support received. Officers have been informed of online petitions and facebook based campaigns expressing support for the Range with significant numbers of persons referenced. However, no formal submissions have been made to the Council for example copying a petition of support with signatories. Officers cannot accept and give weight to facebook pages with "likes" as representations on an application as these are not a formal submission and include no confirmed details as to the person involved and the basis of their "like" or support. In liaison with persons involved in the organisation of these on line campaigns officers made this position clear and requested that formal petitions be submitted.

Objections - Summary

The objections and comments made are summarised as follows:-

Harm to Character & Appearance/Visual Amenity of the locality – 517 comments

Harm to the Allington Conservation Area/Listed Buildings in the locality – 78 comments

Negative impact on Highways in the locality through traffic generation – 797 comments

Principle of development in this location is unacceptable / inappropriate and will breach the Settlement Framework Boundary for Chippenham contrary to adopted planning policy and create a precedent for further development in this location – 252 comments

Loss of Agricultural land – 105 comments

Harm to and loss of important Archaeology – 91 comments

Harm to residential amenities (Highways disturbance, Noise, Light, Air Pollution, Overbearing Impact) – 343 comments

Increased Flood Risk/Inadequate provision for surface water drainage – 164 comments

Loss of Trees – 12 comments

Inadequate / Inaccurate Information submitted – 68 comments

Harm to/loss of Ecological Interests – 109 comments

Harm to Chippenham town centre/other retail centres – 455 comments

Overstated benefits of development which do not outweigh harmful impacts, in particular dispute over job generation figures/nature of the jobs created.

Harm to health

Premature to Chippenham Development Plan Document progression

Loss of green field land / green belt

Pollution – Noise, Air and Light

Better locations adj M4

Impact on property prices

Poor public consultation

Proposals do not take account of A350 dualling

Chippenham has enough shops selling the same items

Retail unit should be within Chippenham Town Centre

Inaccessible by foot/ Footbridge required.

Support - Summary

Some of those persons expressing support for the proposals made specific comments as to the reasons for their support which can be summarised as follows:-

Employment opportunities are required in Chippenham

Will provide jobs and generate employment

Following further submissions and related consultation a total of 3772 objections. 250 comments received. 158 representations of support. With respect to the consultation undertaken on the further information submission representations received can be summarised as follows:-

Harm to Character & Appearance/Visual Amenity of the locality – 235 comments

Harm to the Allington Conservation Area/Listed Buildings in the locality – 194 comments

Negative impact on Highways in the locality through traffic generation – 254 comments

Better alternative locations elsewhere - 216

Principle of development in this location is unacceptable / inappropriate and will breach the Settlement Framework Boundary for Chippenham contrary to adopted planning policy and create a precedent for further development in this location – 12 comments

Loss of Agricultural land – 7 comments

Harm to and loss of important Archaeology – 16 comments

Harm to residential amenities (Highways disturbance, Noise, Light, Air Pollution, Overbearing Impact) – 12 comments

Increased Flood Risk/Inadequate provision for surface water drainage – 7 comments

Loss of Trees – 4 comments

Inadequate / Inaccurate Information submitted – 15 comments

Harm to/loss of Ecological Interests – 15 comments

Harm to Chippenham town centre/other retail centres – 201 comments

Overstated benefits of development which do not outweigh harmful impacts, in particular dispute over job generation figures/nature of the jobs created.

Additional comments were made by many objectors referring to light & noise pollution. Whilst a limited number also made broadly supportive comments that there is a lack of job opportunities locally and development will bring economic benefits.

Whilst the quantum of comments received has been referenced in the above summary it should be noted that the scale of comments received either in support or objection is not in itself a material planning consideration and as such does not provide a sound and defensible reason for determination. It should also be noted that Officers have sought to ensure that duplicate representations are not registered but a significant number of individuals have made multiple submissions some of which are very similar, raising similar objections and concerns but phrased in slightly different terms.

Procedural Matters

As is referenced above The Secretary of State for Communities & Local Government has notified the Council that he wishes to consider whether or not he would want to recover the application for his determination and as such any resolution of the Committee for approval would need to be referred to the Secretary of State. It is not thought that this applies to a refusal, although this matter is currently being checked out with the National Planning Case Work Unit.

In the event of a resolution by Committee to approve the application the resolution would also need to be referred to the Secretary of State for Transport / Department for Transport under the Town and Country Planning (Development Affecting Trunk Roads) Direction 2015. Referral is required as Highways England only removes its objection to the scheme proposals subject to the use of a condition. Officers do not consider that the condition meets the 6 tests on the use of conditions set out in Planning Practice Guidance and do not consider that it can be attached to any grant of permission. On this basis the Council would be determining the application not in accordance with the advice of Highways England and in those circumstances referral is required under the Direction.

It should also be noted that in the period January 2016 – May 2016 the applicant team liaised with officers on an informal basis in respect of possible scheme revisions aimed at addressing impact on Heritage Assets – especially the Scheduled Ancient Monument. Officers assessed that the draft revisions did not overcome previously identified concerns in several respects. Subsequently the applicant team proposed a course of action for consideration on the basis that formal submissions to amend the scheme proposals be submitted and that these be determined under the auspices of the current application albeit the type of application was proposed to be altered from an application for Full Planning Permission to one for Outline Planning Permission. Officers identified that the scheme and application type revisions were so significant as to constitute a new development proposal and so could not be determined under the terms of the current application and a new submission would be required. No formal submissions were made.

9. Planning Considerations

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.

Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Listed Building or Conservation Area to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

Both national legislation and the NPPF require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. Applications that accord with an up to date development plan should be approved without delay. The NPPF also identifies that sustainable development as defined at para 14 is the golden thread underpinning all planning guidance and proposals that constitute such development should also be supported. As such the following assessment addresses whether or not the proposals are in accord with the development plan, whether or not material circumstances indicate a decision not in accord with the development plan can be justified and whether or not the proposals constitute sustainable development. Any such

assessment is a matter of balanced judgement and the overall assessment and recommendation in this respect is reached in the conclusion section of this report.

9.1 Principle of Development

The proposed development incorporates two different land uses, B8 Storage and Distribution which is an employment type land use; and secondly A1 Retail uses. These raise different material considerations, including relevant planning policies, in respect of the principle of development.

It is however important to note that the application site is not allocated for either form of development proposed or indeed any other form of development. The site lies outside of the defined settlement framework boundary of Chippenham and is therefore within the open countryside. The location of the defined framework boundary for Chippenham and the allocation of sites for development is the subject of review and emerging proposals within a specific Development Plan Document (DPD) for Chippenham, as was required following the preparation, examination and adoption of the Wiltshire Core Strategy. This document is still under consideration but the direction of travel of policies and allocations indicates no change to the existing settlement framework boundary to the west of the A350. CP1 & CP2 identify that Chippenham is one of the major Strategic centres within Wiltshire and therefore a focus for major development. The policies identify that development outside the defined limits of the settlement is not supported except where in accord with other policies of the plan. CP10 of the WCS identifies significant requirements for development in the Chippenham community area with development focussed on Chippenham as the principle settlement with the area and in accordance with the strategy for the location development set out in CP1. The policy goes on to clarify that allocations to address the identified development requirements will be set out in the Chippenham Sites Allocation DPD in accordance with criteria defined in CP10 and in response to issues identified in support text to the plan paras 5.48 & 5.54. In this context it is identified that new employment development at Chippenham is a priority but this should be on allocated and/or brownfield sites. Also that retail development within and adjacent Chippenham Town Centre will be supported but that out of centre development will weaken the centre. In this context it should be noted that neither the WCS nor the Chippenham Sites DPD propose allocation of this site for development or indeed any major development to the west of the A350.

However, policies in the adopted WCS do allow for development to come forward in such locations subject to several criteria. In respect of the B8 RDC element of the proposals CP34 is of relevance in this context. This policy does allow for additional development within the B8 use class to come forward outside of but adjacent the principal settlements, which includes Chippenham, subject to several criteria. Assessment of the proposals in respect of these criteria is undertaken under issue specific headings below. With respect to the retail element of the scheme proposals CP38 is also of relevance. This policy addresses proposals for retail and leisure development outside of defined town centres where in excess of 200 sq m. The policy requires the submission of an impact assessment in accordance with national guidance. Where this demonstrates that proposals would not harm the vitality and viability of existing centres and complies with the sequential approach to site selection by demonstrating that the most centrally located site available has been selected proposals would be acceptable in principle. The consideration of these tests with respect to these proposals is addressed in further below.

With respect to both elements of the scheme various policies contained within both the NPPF and the WCS are also relevant and the requirements of which would also need to be addressed before permission could be granted. These matters are addressed under relevant subject headings below.

Given this situation the location of the site outside of the defined settlement framework boundary of Chippenham is not in and of itself fatal to the application proposals.

9.2 Retail Impact

The applicant has submitted a retail impact assessment in support of the application. In summary this identifies that:-

- The proposals will not result in harm to the vitality and viability of existing retail centres in particular Chippenham Town Centre;
- Principal trade diversion will be from stores in the Bath Road retail park but this is largely compensated for by projected retail expenditure growth;
- There are no sequentially preferable sites for the retail element of the scheme capable of accommodating the scale of proposed development

The Council instructed consultants with expertise in retail impact assessment and detailed knowledge of circumstances within Wiltshire to assess the submission proposals, the relevant consultancy being GVA Grimley. On the basis of the initial application submissions GVA Grimley identified a number of queries and additional information requirements in order to be able to assess the proposals fully. The applicant team responded to this request and the additional information was made available to all parties as part of a full re-consultation. Following this process GVA Grimley advised that the requirements of the sequential test had not been fully met and that the harm to the vitality and viability Chippenham Town Centre with respect to trade diversion had been significantly underestimated.

With respect to the sequential test GVA Grimley advise that the applicant has not adequately demonstrated in respect of a number of sites that they have fully considered alternative operation options for their proposals. They have relied on a single appeal decision to justify dismissing alternative and sequentially preferable sites on the basis that the site is not immediately available for their form of proposed development. The applicant has not submitted evidence of having investigated with the site owners site availability and has not considered options for retail operations that may have been viable on the sites in question.

With respect to trade diversion GVA Grimley identify that on the basis of their own calculations the trade diversion from Chippenham Town Centre will be in the order of £3.1 million and that this equates to 2.3% of town centre retail activity. GVA Grimley estimate that together with other permitted schemes in the locality trade diversion is estimated to be at 11.2% of town centre turnover. If the retail store operates at a level higher than projected, which is possible, diversion will be greater. The scale of trade diversion is assessed as significant and as having a harmful impact on the vitality and viability of the town centre contrary to national and local policy. In making this assessment GVA Grimley identify significant issues with the calculations' and assumptions made in the submitted RIA in terms of estimated retail activity and turnover in the town centre, being significantly greater than estimated in the Council's own retail studies informing the WCS and CSAP DPD as updated. Similarly and of significant importance the applicant estimates a far greater trade diversion from other existing stores and centres than from the town centre itself i.e. Bath Road Retail Park, this is identified as 60% of the stores anticipated turnover and GVA consider this to be a significant over estimate.

The applicant team indicated an intention to respond in full and with further submissions in respect of these matters. Officers have allowed an extended period of time for this to take place and repeatedly requested receipt of these further submissions. No further submissions have been made and the application is therefore reported on this basis. It should also noted that as of 21/01/2016 the owner of The Range business made public announcements that the company was withdrawing from the scheme proposals in Chippenham having identified an alternate location for the B8 RDC. These announcements were made in radio interviews

and are a matter of public record. Officers have requested clarification and confirmation of the position from the applicant team and allowed an extended period of time in order to do so. No response has been received. This matter is addressed further below but at the time of writing it is unclear as to whether or not the Range would occupy the A1 Retail element of the scheme proposals.

9.3 Economic Impact

There are several aspects to the assessment of economic impacts and this is linked to the requirements of CP34, also the proposed co-location of the retail and B8 RDC employment elements. In summary the matters to be considered and tested include:-

- Contribution to the wider strategic interest of the economic development of Wiltshire (moving toward a higher-value economy by expanding key employment sectors);
- Contribution to local economic needs (Job creation, financial benefits arising from construction, operational activity, enhanced employment activity, onward supply chains)
- Impact on strategic employment allocations and commitments;
- Benefits of and requirements for co-location of retail and employment elements.

The applicant has submitted an Economic Impact Assessment in support of their application. In short this asserts that the proposals will:-

- Generate approximately 1107 FTE jobs in the operational phase of development,
- Generate approximately 618 jobs in the construction phase of development;
- £44 million GVA to the wider South West economy through construction of which £20.1 million could go to Wiltshire and £7.1 million could go to Chippenham Economies;
- £38.1 million annual uplift to the South West Economy from the operation of the proposed development; of which £31 million could go to the Wiltshire Economy; and £13 million to the Chippenham Economy;
- The proposals will generate £2 million in additional business rate revenue of which Wiltshire would retain £1 million;
- There are no available and deliverable strategic sites capable of accommodating the scale of proposed development;
- Training and operational benefits including testing new delivery technologies and store operational practices resulting from co-location.

Officers from both the Economic Development and Spatial Plans Teams have jointly reviewed the submissions. The initial response identified that the consideration of alternative sites and impacts on strategic site allocations was limited and not comprehensive. Consequently it was not adequately demonstrated that development of the application site was appropriate and necessary, particularly in the context of the issues raised and harm caused by extension of development beyond the Chippenham Settlement Framework boundary and that the requirements of CP34 had therefore not been addressed. Officers did however consider that the figures identified in the assessment in terms of job creation and economic uplift / GVA were sound. In this context it is considered that the scheme would make a significant contribution to the local and strategic economy and these benefits of the development must therefore be given weight. Officers also identified several queries and requests for additional information which had to be addressed before a complete and comprehensive response and advice could be provided, this also included the position with respect to the Retail Impact Assessment review.

The applicant team has responded to this position with additional submissions which were the subject of further consultation with all parties. The Council's Strategic Planning and Economic Development Teams advise that following the submissions the figures in respect

of GVA uplift to the local economy and in respect of job creation are sound. In this respect several of the criteria contained within policy CP34 of the WCS are met and therefore there is some policy support for the proposals. It is however identified by officers that criterion vi & ix which require developments to be consistent in scale with their location and not to adversely affect nearby buildings and the surrounding area; and be supported by adequate infrastructure are not met given the consultation responses of other officers and organisations. In this context Landscape, Trees, Ecology, Urban Design, Conservation, Archaeology and Highways Officers all identify objections and harm. Similarly Historic England also identifies harm. As such there is conflict with these elements of the policy. It is therefore necessary to balance the benefits arising from compliance with various criteria in the policy against the harm identified in relation to conflicting elements. That exercise is completed in the conclusion to this report.

Objectors have made detailed submissions in respect of the supporting business case and economic benefits arising from the scheme proposals contradicting the assertions of the applicant and the assessment of the Council. Officers have invited the applicant team to respond to these submissions and allowed an extended period for them to do so. That opportunity has not been taken up and no further submissions have been made.

Of relevance to this exercise and policy compliance and conflict is the applicants' submissions in relation to the co-location of the B8 and A1 uses on this site and their submissions that there is no requirement to consider alternative site locations for the proposals. In the latter respect this is not considered to be correct. CP34 requires an assessment of the impact on the delivery of strategic locations and only supports proposals adjacent to principal settlements on unallocated sites where they are required to benefit local economic and social interests and meet sustainable development objectives. It is intrinsic to considering whether these criteria are met that some consideration is given to whether or not there are alternative locations that may be more appropriate for the proposed uses. Similarly CP38 requires a sequential test to be applied to demonstrate that the proposed site is the only suitable and available site for the retail use, it is inherent in this policy that other sites must be considered. In addition as is set out in the heritage asset section below case law has established that where harm to a heritage asset is identified as is the case with this proposal it is incumbent on the decision maker to consider whether the benefits of development could be achieved without the identified harm to the asset and this requires consideration of alternative sites. Furthermore this is EIA development and the EIA process similarly requires consideration of whether or not alternative locations for the proposed development exist which will result in less or no environmental impacts in comparison with the application site. As such it is considered that there is a clear requirement for the applicant to have considered alternative locations. This has not been demonstrably completed by the applicant and it is considered by officers that there are other locations around Chippenham that could potentially offer the same benefits of development without the same scale and nature of impact and harm to interests of acknowledged importance.

With respect to the co-location of the A1 and B8 uses the arguments put forward concentrate on the staff training and operational benefits in terms of goods delivery and testing of store and product layouts. It is accepted that the co-location on the same site would enhance the ability of the company to achieve these benefits but these are considered to be relatively limited and marginal benefits. It is also considered that these benefits could also be achieved if the uses were on two separate sites but in the same locality i.e. in and around Chippenham. The benefits are not convincing as a requirement for co-location on the same site and are considered to be overstated. They are not considered to outweigh the harm to the vitality and viability of the town centre and the site specific impacts particularly in respect of heritage assets that has been identified and this has relevance in terms of the constrained site area and limited mitigation proposals. The removal of the A1 retail unit from this site

would have offered greater space on site for landscaping and planting mitigation, potentially reducing harm and consequently conflict with other policy requirements.

9.4 Changed Circumstances Relevant to Economic Benefits

It must be noted that the above assessment is wholly on the basis of the identified occupation of the both the A1 and B8 elements of the scheme proposals by "The Range" as an end user. As of 21/01/2016 the owner of The Range business made public announcements that the company was withdrawing from the scheme proposals in Chippenham having identified an alternate location for the B8 RDC. These announcements were made in radio interviews and are a matter of public record. Officers have requested clarification and confirmation of the position from the applicant team and allowed an extended period of time in order to do so. In particular officers have sought clarification as to the intentions in respect of occupancy of the A1 element by The Range; whether or not an alternate user of the RDC is proposed or if this is now a speculative proposal with no end user identified; whether or not the supporting information is to be revised. The applicant team has declined to respond. On this basis officers consider that at the least the RDC proposal is speculative with no end user identified. Significant weight cannot therefore be given to the economic benefits and uplift argument stemming from this element of the scheme and it is not considered that the requirements of CP34 as to a significant contribution to the economy of Wiltshire have been met. There is therefore conflict with this policy in respect of several of the criteria and the in principle support afforded by compliance with the policy is therefore absent. The importance of the benefits in terms of balancing planning harm is addressed further below.

9.5 Residential Amenities

As is noted in the description of development and throughout this report the scale of built development is very significant indeed. The B8 RDC would be one of the largest in the region and possibly the largest single building in the Chippenham locality. Taken together with the A1 use and related car parking and vehicular access and movement the development would be very large in scale.

However, this does not automatically and necessarily result in harm to existing residential amenities. Similarly the fact that a development will be visible from nearby properties does not automatically result in harm to the amenities of those properties. The site is set at a lower level than the majority of the nearest properties in Cepen park and it is separated from them by large scale bunding, mature planting in and around this bund; mature boundary planting to the application site; and the A350 itself. There is a distance of 70.5 metres to the nearest property within the built area of Chippenham and these residential properties are separated by the A350. The proposals incorporate boundary planting and landscaping, internal fencing and planting alongside directional and timed lighting.

The ES assesses noise, lighting and air quality impacts and the Council's Public Protection team has assessed these submissions. The ES is found to appropriately and accurately assess the impacts of the proposed development and these are not considered to be so significant and harmful as to warrant refusal. Public Protection Officers raise no objections in this respect subject to the use of conditions.

With respect to air quality, objectors have made detailed submissions querying and disputing both the applicant's submissions and the Council's assessment of those submissions. As with other matters referenced above the applicant has been offered the opportunity to respond to these submissions and an extended period of time allowed to do so. In addition the Council's Public Protection Officers requested submission of the detailed modelling work undertaken to inform the submissions in order to fully verify and confirm their assessment. That offer and request has been made to the applicant on several occasions over an extended period. No response to objector's submissions has been made and no modelling

information provided. The Council's Public Protection Officers consider their assessment to be accurate and do not raise formal objection to the scheme proposals.

Given these site circumstances, assessments and the form and nature of the proposals it is not considered that the development will result in harm to existing residential amenities in terms of overbearing impact, loss of daylighting, loss of privacy, light or noise disturbance or intrusion within the nearby properties such that permission ought to be refused on this basis.

9.6 Highways and Access

Both the Council's Highways Officers and Highways England (formerly Highways Agency) have been consulted in respect of the application submissions including the additional submissions.

At the first round of consultation Highways England issued a holding direction under its then powers (since revised) pending the receipt of additional information submissions. In particular Highways England sought submission of information demonstrating the projected volume and impact of vehicular movements on J17 of the M4. An extended process of liaison took place between Highways England and the applicant's consultant team seeking to address requirements. Following receipt and consideration of the assessment Highways England has removed its holding direction and raises no objection to the scheme proposals subject to the use of a condition as follows:-

The B8 distribution unit (72,070sqm) hereby approved shall not operate a weekday employee shift changeover between the hours of 0730 and 0930 in the morning, and between 1630 and 1830 in the evening. The use classes referred to in this condition are those defined in The Town and Country Planning (Use Classes) Order 1987 (as amended).

Condition Reason

The condition is necessary in order to limit the traffic generation of the development to that set out and assessed in the Transport Assessment which supported the planning application. The Transport Assessment demonstrated that the transport impacts of the B8 development operating within the time limits set out in the proposed condition would not be severe. There is no evidence which demonstrates that development traffic in excess of that which could occur within the limits set out in the proposed condition would not be severe.

The applicant team has been invited to consider and comment on that proposed condition over an extended period of time and has made no submissions in that respect.

Officers including the case officer, Highways and Enforcement officers consider that this condition would not be enforceable as it would not be possible to clearly establish a breach of the condition. In addition officers consider that the condition would be unreasonable as it would not allow for a staggered short changeover during the restricted hours and which may address the concerns identified. As such it is not considered that the proposed condition meets the 6 tests on the use of conditions set out in PPG and should not be applied in the event of a resolution to grant permission. In effect it is recommended that a decision in accordance with the consultation response and recommendation of Highways England is not agreed. In these circumstances and under terms of the Town and Country Planning (Development Affecting Trunk Roads) Direction 2015 Local Planning Authorities must refer the application to the Secretary of State for Transport for determination in the event of a resolution to approve without the condition attached.

With respect to the Council's Highways Team at the first round of consultation officers raised objection to the scheme proposals. In particular officers had raised concerns as to the impact of a direct access to the site from the A350 in terms of peak hour traffic movements

to and from the site resulting in traffic disruption, congestion, delay and unsafe traffic movements. In this context officers identified that other options for site access i.e. via a new arm from either one of the nearby roundabouts had not been robustly and demonstrably identified as unfeasible. These concerns and objections were raised during pre-application discussions and a comprehensive response had been anticipated but not received.

Further concerns were raised as to the peak hours impact of traffic generated by the proposals on the operation and traffic movements through the Badger and Brook Roundabouts. These are the two roundabouts at the north and south of the stretch of the A350 adjacent the application site. Highways Officers identified on the basis of the application submissions that the traffic accessing and exiting the site during peak hours would result in "hook" movements on these roundabouts in order to access the correct direction of travel for the onward journey and that this would significantly inhibit the movement of traffic through these roundabouts resulting in congestion and delay harmful to the free flow of traffic in the locality at peak times.

Additionally officers raised objections as to the lack of accessibility of the site for staff and customers by any other means than the private car. Given a lack of detail as to proposals for bus services and pedestrian and assessed the proposals as unsustainable. Consequently Officers recommended refusal of the application for three reasons.

The applicant sought to respond to these objections with additional survey information as to traffic volumes on this section of the A350 and relevant junctions alongside more detailed proposals for site access by pedestrians and cyclists including a controlled access via Brook Roundabout to the South. The submissions make commitments to significant financial contributions via a S106 agreement for implementation of the cycle and pedestrian connections including any necessary road works and for the provision shuttle bus services, which could include an existing service diverted into the site or creation of a wholly new service funded for a period of 5 years. In addition Technical Note submissions assert that there are absolutely no reasonable means of accessing the proposed development off the existing Badger and Brook roundabouts located to the north and south of the site respectively due to land ownership and geometric constraints.

Further consultation was undertaken in respect of the additional submissions and these were reviewed in full by Highways Officers. Officers maintained their objections finding the submissions did not address their concerns regarding hook movements on the roundabout and access directly to and from the A350 itself. In this respect there is conflict with WCS policy CP62. The proposals for the shuttle bus services were agreed and accepted as addressing concerns in that respect and objections removed. The pedestrian and cycle links to the site were not considered to introduce sufficient accessibility as to enable the development of a significant retail and employment facility to be considered sustainable and in this respect the proposed scheme was found to be in conflict with WCS policies CP60, CP61, and NPPF paragraphs 9, 17, 30, 34 and 35.

It should be noted that since the application was submitted and further Transport Assessment information submitted for consideration in the ES Addendum in response to the Wiltshire Highways and Highways England submission there have been significantly changed circumstances. Significant sections of the A350 in close proximity to the site have been the subject of works of dualling. Albeit the section directly adjacent the site as proposed to form the site access/egress has yet to be dualled. It is considered that the baseline conditions informing the Transport Assessment/Environmental Statement as updated and including cycle /pedestrian link proposals have changed materially. The applicant has been afforded an extended period of time by officers to review the position and make revised and / or additional submissions should they so wish but has not done so. The consideration of the application proposals must be made in that context.

9.7 Landscape and Visual Impact Including Trees

Both Landscape and Trees officers raise objection to the scheme proposals. This is on the basis of the significant harm to the character, appearance and visual amenity of the locality arising from introduction of large scale built form into an open agricultural landscape in a highly prominent location. The proposals are assessed as resulting in significant large scale change to the landscape character in this location. Officers also object to the loss of mature high value and high quality trees on site that are the subject of a Tree Preservation Order. In addition officers do not consider that the proposed landscaping is sufficient or effective mitigation for the harm identified. Officers do not consider the landscaping and planting proposed to be of sufficient structural scale to mitigate the visual intrusion of development on this scale. Indeed it is identified that significant elements of the development proposal are subject to very limited proposed landscaping and planting mitigation i.e. along the southern boundary and will be highly prominent in views from the immediate vicinity and medium distance views. The submitted ES including LVIA is not considered to be convincing in its assessment of the impact of the scheme proposals including the value and benefits of the proposed mitigation. Reliance on existing planting to the eastern boundary adjacent to the A350 as providing substantive screening is not considered to be well founded and sound. Similarly the mitigation benefits of proposed planting to the north and west is considered to be significantly over stated. Similarly officers do not consider that the proposed planting will achieve longevity and maturity as indicated in the submissions given locations of planting and the density of planting within limited spatial areas, especially to the western boundary. The proposals are considered unrealistic in this respect and this assessment as to the establishment of tree planting further undermines the benefits of the suggested mitigation that arises.

Officers also identify the importance of the A350 as a logical and defensible western boundary and limit to the built form and area of Chippenham in this locality. It is suggested that development on the scale proposed would significantly undermine this position and provide support for further development beyond the road line. Indeed the applicant themselves seek to justify this development proposal by reference to the development that has occurred to the north of the site beyond the A350 i.e. Chippenham Golf Course, Premier Inn and the Retirement Residential Accommodation as establishing a form of precedent. This is not considered convincing in the context of the scale and form of development that is proposed being very large scale built employment and retail development. Both forms of land uses are more appropriately located on allocated employment sites in town centres and in town centres respectively as a starting principle. The scale of development proposed is of a wholly different order and form than that which exists. It is considered that development on this scale and of this form and nature would significantly undermine a policy of restraint in respect of other proposals beyond the existing western limits of Chippenham, which is the broad approach adopted in the WCS and the emerging CSAP DPD. Furthermore it should be noted that there is no identified end user for this development proposal at least in respect of the B8 RDC but possibly both elements. As such planning permission if granted may not be implemented but establishes that the location is suitable for development and creates a "material consideration" in respect of further proposals for development. This would be inappropriate.

It should be noted in this context and in relation to Design and Heritage Asset Impact considerations that the applicant has been encouraged by officers on multiple occasions from pre-application enquiry stage through to meetings in February 2016 and subsequent correspondence to revisit the site area of the proposed development to expand significantly the site boundaries and include significantly greater structural landscaping. The applicant has repeatedly declined to do so asserting this to be unnecessary.

9.8 Design

Officers were presented with scheme proposals as part of an initial pre-application enquiry. On a without prejudice basis and at the request of the applicant team comments were provided in respect of the design character of the proposals. With respect to the built element of the scheme these comments have been taken on board and responded to positively. It is of course acknowledged that a proposal of this scale and form has design limitations and will inevitably be somewhat functional. The proposals have included the use of a roofscape that is staggered and layered and includes oversailing of the elevation. In this respect the proposal breaks up the bulk and mass of the building to a certain degree. In addition the frontage elements of both buildings as they face toward Chippenham and the A350 include the use of materials and elevation treatments that again seek to break up the bulk and mass of the structure in this elevation. In addition this approach adds character and with the use of materials reflecting the local vernacular of stone within the town, there is therefore considered to be a linkage to the town and an effort to include elements that add quality to what is a very large scale development and which is principally functional in design character.

There are elements that have not been designed to minimise impact on the character and appearance of the locality and this relates back to the issues identified under the previous section heading of landscaping. The southern and south eastern site boundary is exposed and visually prominent. The northern and western boundaries include minimal landscaping and planting treatment again doing little to mitigate visual impact on the character and appearance of the area. The roofscape includes extensive use of rooflights which will result in some degree of light spill given the proposed 24 hour operation of the RDC facility. The site includes extensive areas of at grade parking provision with external storage to the facilities and an external garden retain store, in part screened with internal fencing. In these respects it is considered that the design has failed to seek the highest quality design solution to addressing impacts on the character and appearance of the area. As with the minimal provision for structural landscaping and planting the approach is driven by the constrained and limited extent of the site area, the vast majority of which has been proposed for built development.

As such officers object to the scheme proposals on the basis of the harm caused to the character and appearance of the locality as a result of the scale, form, bulk, mass, positioning and layout of the scheme proposals.

9.9 Heritage Assets / Archaeology

The site itself and the locality are the subject of several heritage asset designations. The site lies within proximity to Grade II* listed buildings and the Allington Conservation Area. In addition following site investigations below ground archaeology of regional and national significance was identified including a Roman farmstead structure surviving in good condition. Evidence of multi phase occupation at the site was also identified as of significant potential with iron-age pottery finds and evidence of medieval human occupation. Consequently the site was designated as a Scheduled Ancient Monument (SAM) by the Secretary of State for Culture Media and Sport on the advice of Historic England. The applicant has challenged this designation seeking two separate reviews. The Secretary of State, Department for Culture Media and Sport has re-confirmed the designation. Subsequent to this the applicant has been invited to revisit their application submissions on multiple occasions and has declined to formally amend or withdraw the proposals and has not revisited the supporting information. No application for Scheduled Ancient Monument Consent has been submitted to the Secretary of State.

The significance of the SAM is the historic interpretative value of the Romano British culture, occupation and way of life in this region. The relationship to the agrarian and pastoral landscape in this locality provides interpretive and historic information of national importance

illuminating the historic record and resource. The resource includes multiple structures indicating a high status family farmstead site and a significant rarity in the archaeological record hence national importance. This is further reinforced by findings indicating multiple phases of occupation of an extended period from the Neolithic to Mediaeval periods again providing important historic information as to the cultures of Britain in this part of the country.

Historic England and the Council's Archaeologist formally object to the scheme proposals with the harm to the archaeological resource identified as a major concern and reason for the objection. The below ground archaeology would be entirely lost via removal as a result of the land levelling and construction works and the relationship of the structures to the surrounding landscape, which remains largely untouched and in agricultural use, would also be lost in its entirety. The proposed timeframe for excavation of the site and investigation and archaeological recording as proposed by the applicant team of 1 month of archaeological mitigation works is considered to be wholly inadequate and unrealistic. It is considered that important interpretative information and research could not be facilitated and secured in this timeframe with consequent substantial harm to the heritage asset. As identified above the economic benefits of the scheme proposals are not well established and founded given the withdrawal of the identified end user from the RDC scheme proposals and lack of clarity as to the retail scheme element. In this context and alongside the inadequate proposals for archaeological mitigation it is not considered that the identified substantial harm is outweighed by the benefits of development and the exposure and investigation of the archaeology.

With respect to the Listed Buildings including Bolehyde Manor (grade II*), Allington House, The Pitts, Manor Farm, Ivy Cottage and The Cottage; and the Allington Conservation Area the significance of these heritage assets lies in their contribution to the local historic record as evidence of the development and evolution of the community at Allington and small villages and hamlets in the vicinity of the market town of Chippenham. The setting of both these heritage assets defines and informs the relationship of the structures individually and collectively with the surrounding pastoral landscape and the agricultural activity therein again informing the linkage to and relationship with the market town of Chippenham. The proposed development will not affect the fabric of any of these heritage assets but will have less than substantial harm on the setting of both the Conservation Area and the setting of various listed buildings including Bolehyde Manor (grade II*). The large scale of the built structure results in a significant loss of open agricultural land forming a part of the setting of these heritage assets and would alter the relationship between them and Chippenham. The structure would be prominent in views to and from the Conservation Area and various listed Buildings including Bolehyde Manor (grade II*), impinging on and fundamentally altering the characteristics of these views and inter relationships. Officers further identify that the proposed mitigation of landscaping and planting alongside use of materials is wholly inadequate in preventing and minimising the harm to the setting of the heritage assets. Historic England and the Council's Conservation Officer have both objected to the scheme proposals in this respect identifying harm to the setting of the heritage assets. In this context there is conflict with CP58 of the WCS and paras 128 – 134 & 137 of the NPPF.

The Council as Local Planning Authority is under a statutory duty to seek to preserve and where possible enhance both listed buildings and Conservation Areas. Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 apply.

Given this statutory requirement and the guidance contained at paras 128 – 134 of the NPPF it is necessary to consider what, if any, material benefits of the scheme proposals outweigh the identified harm. In this context recent case law has established that it is not sufficient to show an equal balance between harm and benefits as such an approach does not give effect to the statutory requirement to give special attention to the preservation of heritage assets. In this context and as already noted the claimed economic benefits of the

scheme proposals are in significant doubt given the now speculative nature of the RDC element of the development and possibly the A1 retail store also, with the identified end user have publicly withdrawn from the scheme. The applicant team has not sought to respond to this change in circumstances and has not provided any further material justification of the development and especially in the context of the harms identified. In addition no comprehensive consideration to the assessment of alternative locations for development that may achieve the asserted benefits of development without resulting in the identified harm has been undertaken. Given the statutory requirements and case law it is not considered that the scheme proposals as they currently stand can be considered to result in such significant benefits that the identified harm is outweighed sufficiently to overcome objection to the proposals and the conflict with the development plan CP58 WCS 2015.

9.10 Ecology

Whilst both Natural England and the Environment Agency have not raised objection to the scheme proposals the Council's Ecologist has done so. As is identified in the consultation summary above officers consider that the development will result in harm to BAP protected ecological habitats and species. Concern is also raised as to the ES submissions which are identified as consistently underestimating the significance of the impact of the proposals and over estimating the benefits of the proposed mitigation measures. Previously requested information was not submitted with the ES addendum/Ecology Technical Note (ETN).

Officers consider that the identified ecological impacts are largely related to the loss of the network of watercourses and species-rich hedgerows with mature trees, and the fauna associated with those habitat features; the ecological impacts are therefore concentrated in the south east of the site where the retail unit would be located. Both the NPPF 118 and CP50 are clear that significant ecological harm should first be avoided as far as possible (including the consideration of location development on alternative, less harmful sites) before considering mitigation and compensation for unavoidable impacts. The current proposals are considered to be an unsustainable, overdeveloped form of development on the site and indeed an alternative scheme which avoided many of the significant ecological impacts and allowed greater space for areas of ecological mitigation / compensatory habitat (as advised at the pre-application stage) could be more acceptable in ecological terms. However it is not clear that all such reasonable alternatives have been fully explored or considered by the applicant. In support of this assessment officers identify the following technical observations in relation to the submissions:-

Hedgerows

The ETN disputes the recommended application of the DEFRA metric to calculate a proportionate level of replacement hedgerow. While it is recognised that this metric was published alongside a pilot project, it still represents the best available evidence and national expert opinion on the reasonable and proportionate requirements for replacement of valuable hedgerow habitats, and has been approved by DEFRA. As such greater weight is attached to that published metric than the compensation proposed by the applicant team, which is not based on any justification other than it is the greatest length that can be planted on the site due to the large extent of development proposed, which merely supports the argument that the scheme represents overdevelopment of the site, with insufficient space available for ecological mitigation / compensation.

Besides the total length of hedgerow lost / replaced, the ES does not take account of the ecological value or functionality of the hedgerow network as a whole before and after the development. In the long-term, the hedgerow network (new and retained) will be fragmented and bounded by urban development, considerably reducing its ecological connectivity, particularly for species which are sensitive to urban development. The ETN suggests that the implementation of a long-term management plan will 'maximise biodiversity benefits' however the proposed layout will preclude favourable management of several sections of

hedgerow as implied by the ETN, particularly where they are adjacent to buildings, acoustic screening, security fencing, lighting, drainage features and hard standing. Indeed the Landscape and Ecological Management Plan itself confirms that new hedgerows would in fact be managed twice a year to a height of 1-1.5m (Table 2), which would significantly limit the ecological value of these hedgerows. It is also difficult to view this management plan as a benefit of the development given that the hedgerows are currently managed favourably and it is reasonable to assume that this favourable management would continue in the absence of development.

Neither the ES nor the ETN considers the period of time it will take to fully compensate for the loss of the hedgerow network. Several of the hedges comprise a high density of mature tree specimens (particularly in the lower lying eastern parts of the site), which reflect the significant age of these well established hedges and are likely to support a diverse range of biodiversity, particularly associated with these old growth features. New hedges would not provide effective replacement for these old growth features for a very long period, therefore loss of these habitats need to be viewed as a long-term loss which cannot be effectively compensated in the lifetime of the development.

In conclusion, officers do not accept that the proposed hedgerow planting would provide reasonable or proportionate compensation for the loss extensive areas of species-rich hedgerow and mature trees to the extent that any such impacts could be reasonably be assessed as 'negligible', therefore officers maintain that this loss of habitat is a material consideration under CP50 and should weigh against the proposals.

Ditches and Streams

The qualification of the onsite watercourses as 'headwaters' under the JNCC definition of the 'Rivers and Streams' priority / BAP habitat type is disputed in the ETN which suggests that they do not qualify as such because are not marked on the OS map at a scale of 1:50,000. In order to resolve this difference of opinion it is necessary to quote the specific JNCC definition of a headwater:

'a watercourse within 2.5 km of its furthest source as marked with a blue line on Ordnance Survey (OS) maps at a scale of 1:50,000.'

The watercourse itself does not need to be shown on the 1:50,000 map, as suggested by the applicant team, but only needs to be within 2.5km upstream of such a watercourse to qualify as a headwater under this definition; the onsite watercourses joins the Hardenhuish Brook (which is shown on the 1:50,000 OS map) approximately 300m downstream, therefore the onsite watercourses do meet this part of the JNCC definition. Officers acknowledge that there may continue to be a degree of debate on this definition, therefore it is worth pointing out that all of these watercourses would also fall within 1 or more of the definitions of 'water bodies' in the Water Framework Directive, to which CP50 applies (Para.6.67); Officers therefore maintain that the loss of this network is therefore a material consideration under CP50 of the WCS.

The total length and value of the watercourses to be lost are still not measured, described or assessed in the ES, however the ETN implies that its loss would be adequately compensated by the creation of 1089m of new ditches within the surface water drainage scheme without detailed justification. The submitted plans and the surface water management plan indicate that this drainage network will be very straight, with uniform cross sections and be managed heavily for drainage purposes (removal of debris, mown every two months, annually weeding and clearance) which are unlikely to develop any significant ecological interest in the long-term, as opposed to the existing watercourses which have more meandering courses with variable bank profiles which are not heavily managed.

These drainage features would also be intercepting runoff from extensive areas hard standing including access roads, car parking, trailer bays and external storage which will contain contaminants attached to sediments which will be intercepted within the drainage network before being discharged from the site, therefore water quality is likely to be lower than that in the existing watercourses, compromising the ecological value of this drainage network in the long-term.

In conclusion there is no justification that the surface water drainage network would provide reasonable or proportionate ecological compensation for the existing watercourses to the extent that any such impacts could be reasonably be assessed as 'negligible', therefore Officers maintain that this loss of habitat is a material consideration under CP50 and should weigh against the proposals.

Bats

The ETN disputes the use of published guidance on the evaluation of bat commuting and foraging habitats (Wray *et al*, 2010), which was recommended by officers in consultation responses and advice given identifying that both the Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines for Ecological Impact Assessment in the UK and the WCS (Para.6.67) make it clear that the value of undesignated habitats and species should be measured against published criteria wherever possible. Whilst Officers appreciate that there is room for professional judgement in what is an often disputed area of ecological assessment, significant weight is not attached to the Wray's criteria, which have been produced by national experts, published in the CIEEM journal which is subject to assessment by an editorial board, and are widely used by consultants in Ecological Impacts Assessments. Officers acknowledge the points raised in the ETN which may justify some site specific / local refinement of the Wray criteria, nonetheless based on the information available and local knowledge of the area officers are still satisfied that the site is of greater than 'local' value as suggested by the ES. The ETN also maintains that the loss of important commuting routes through the site will not be significant because alternative routes exist and does still not consider the cumulative effects of the dualling of the adjacent A350 as highlighted in previous consultation response.

Officers therefore conclude that impacts upon local bat populations would be significant as a result of the loss, fragmentation and degradation of commuting / foraging habitats associated with the existing hedgerow / watercourse network (see above). All bats are of recognised importance as Wiltshire BAP species and inclusion on Annex IV of the Habitats Directive, while several of the rarer species using the site are recognised as being of particularly high conservation importance through their inclusion as priority species in the NERC Act and inclusion on Annex II of the Habitats Directive. The impact of the development upon bat populations is a material consideration under CP50 of the WCS and Circular 06/2005, while the Council also has a legally responsibility to have regard to the requirements of the Habitats Directive, therefore the loss of bat commuting / foraging habitats as a result of the development should weigh against the proposals.

Birds

The farmland bird assemblage present on the site, including species of conservation concerns, would be largely displaced due to habitat loss and fragmentation, particularly the hedgerow and watercourse network. While it is acknowledged that the replacement hedgerows and planting may be of value to common urban species which are tolerant of urban development, this will not mitigate or compensate for the impacts upon most of the species to which CP50 applies. As such Officers are not satisfied that this impact may be dismissed as 'negligible' as maintained in the ETN, and is a material consideration under CP50 which should weigh against the proposals.

Invertebrates

An invertebrate survey of trees within the site was undertaken in February 2015 and submitted with the ETN. Government advice is that field surveys need to be carried out at an appropriate time of year, generally between May and October and indeed best practice guidance is also clear that multiple visits are necessary throughout the survey season in order to carry out a robust assessment of invertebrate assemblages. This survey is therefore considered to be highly constrained by its timing and scope and does not represent a robust evaluation of the invertebrate assemblage at the site necessary in order to inform the ES. Officers are of the opinion that a full invertebrate survey of the site would be required to inform the ES, in accordance with published best practice, preferably Natural England's 'Surveying terrestrial and freshwater invertebrates for conservation evaluation' which is endorsed through both Government standing advice and the CIEEM, and is widely applied by ecologists in the field. The scope of such a survey should also include other habitats (in addition to mature trees), including hedgerows, ditches, ephemeral waterbodies and floodplain grassland.

Dormouse

The ETN acknowledges that the submitted survey falls short of the required effort to comply with Natural England's standing advice, however the applicant team maintain that the presence of dormouse is 'reasonably unlikely' and therefore no further survey work is necessary. Given that the onsite hedgerows including those to be lost to the development are suitable for dormouse, and the need to take a precautionary approach to assessing impacts upon European Protected Species, the current assessment is insufficient to determine absence of dormice with certainty.

As is noted throughout the applicant team has been afforded an extended period of time to address these matters proactively and with further information submissions as requested. This opportunity has not been taken up and it is concluded that the proposals conflict with WCS CP50 and paras 17 & 118 of the NPPF.

9.11 Drainage

The Environment Agency, Wessex Water and the Council's Drainage officers have assessed the scheme proposals and supporting information including ES Addendum. No objection is raised subject to the use of conditions. It is considered that the development proposed can be sufficiently mitigated such that there would be no significant harm from flood risk as a result of the built form and loss of storage capacity. Similarly, sufficient provision can potentially be made for water supply and foul drainage subject to further detailed assessment, such that the requirements of the development proposed can be met. There is therefore considered to be no conflict with national and local policies in respect of drainage matters.

10. Conclusion

Section 38(6) of the Planning and Compulsory Purchase Act states that "*determination must be made in accordance with the plan unless material considerations indicate otherwise*". Paras 2 & 11 of the NPPF reiterate and confirm this requirement. This is the starting point for determination from a policy point of view. The Wiltshire Core Strategy forms the local component of the current development plan.

In addition Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Listed Building or Conservation Area to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Paragraphs 128, 131, 132, 133, 134 of the NPPF reflect and reiterate this advice and require Local Planning

Authorities to balance any identified harm to heritage assets with clear and convincing benefits which outweigh that harm as set within its statutory duties identified above.

As is noted in the report harm is identified to heritage assets including below ground archaeology and the designated Scheduled Ancient Monument; Grade II* Listed Buildings including Bolehyde Manor (Grade II*), Allington House, The Pitts, Manor Farm, Ivy Cottage and The Cottage; and the Allington Conservation Area.

Furthermore harm to several other interests of acknowledged importance and consequent conflict with several aspects of National Planning Policy (NPPF) and Wiltshire Core Strategy policies is identified:-

- In particular harm to the character, appearance of visual amenity of the locality and harm to the character and appearance of the landscape.
- Related to this impact is harm to protected trees through loss and removal and/or insufficient information to adequately demonstrate retention, and/or inadequate mitigation.
- Harm to Biodiversity Action Plan protected habitats and species of fauna and/or insufficient information to adequately assess impacts.
- Harm to the strategic highway network through traffic movements to and from the site; unsustainable development in transport terms with inadequate access by modes of transport other than the private motor vehicle.
- Harm to the vitality and viability of Chippenham Town Centre through trade diversion and inadequate information demonstrating a robust and policy compliant approach to site selection.

In addition the proposals are inadequately justified in a number of respects in terms of the adequacy and comprehensiveness of the supporting information submissions, especially in the context of matters raised during consultation and changed material circumstances since the application was submitted. In this respect additional information has been sought in respect of ecology; economic benefits; retail impact and application of the sequential test; operation and use of the development. This is of particular relevance in respect of the claimed economic benefits arising from the scheme proposals and the operation and use of the site, which are fundamentally inter related. This goes to the heart of the balancing exercise that is required in terms of harm to heritage assets, but also in more general terms in assessing the conflict with the development plan and what if any material considerations would indicate that a decision in favour of development and otherwise not in accordance with the provisions of the Development Plan should and could be reached.

As is identified in the body of the report the changed circumstances arising from the withdrawal of the identified end user "The Range" from the scheme proposals and lack of any statement from the applicant team in this respect significantly undermines the submissions made in support of the economic benefits of the scheme proposals. The degree of uncertainty now attached to the claimed economic benefits of the scheme proposals and the lack of updated information is considered to be so great that there is no sound basis for concluding that the conflict with the development plan and/ or the identified harm to heritage assets is outweighed. In this respect in itself it is considered that the application proposals do not accord with and meet the requirements of CP34 Additional Employment Land WCS.

As is required by the provisions of paragraphs 186 and 187 of the NPPF officers have sought to work with the applicant and provided multiple opportunities over an extended period of time to allow these matters to be addressed proactively. The applicant has not responded positively. Similarly the applicant has not withdrawn the application requiring the Council to make a determination of the scheme proposals on the basis of the available information. This has led to a less than satisfactory position in terms of assessment and

determination but it is necessary to reach a resolution in the interests of the community as a whole and those directly affected by the scheme proposals.

As such it is concluded that the scheme proposals will result in significant harm to a number of interests of acknowledged importance and that insufficient information is available to demonstrate that the public benefits of the scheme proposals outweigh the harms identified. In this respect it is considered that the development proposed is not in accord with the Development Plan and there are no clearly identified material circumstances that would support and justify a decision not in accord with the plan. The proposals fail to constitute sustainable development resulting in significant harm to the environment in multiple respects without providing sufficient mitigation of those harmful impacts; without providing sufficient information to fully assess impacts and justify proposed mitigation; and without demonstrating economic and social benefits. In these circumstances the NPPF makes it clear that development proposals should be refused planning permission.

RECOMMENDATION

Refusal for the following reasons:-

- 1. The proposed development by virtue of scale, form, location, works of construction and inadequate mitigation would result in substantial harm to below ground archaeological remains that are the subject of a Scheduled Ancient Monument designation. The proposals are contrary to CP57 criterion i and CP58 criteria i & iii Wiltshire Core Strategy Jan 2015 and paras 17 & 132 of the NPPF.**
- 2. The proposed development by virtue of its scale, form, location and inadequate mitigation would result in harm to the setting of various listed buildings (including Bolehyde Manor (Grade II*), Allington House, The Pitts, Manor Farm, Ivy Cottage and The Cottage). The proposals are contrary to CP57 criteria i and CP58 criteria iii Wiltshire Core Strategy Jan 2015; paras 17, 128, 132, 134 and 137 of the NPPF; and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.**
- 3. The proposed development by virtue of its scale, form, location and inadequate mitigation would result in harm to the setting of the Allington Conservation Area. The proposals are contrary to CP57 criteria i and CP58 criteria iv Wiltshire Core Strategy Jan 2015; paras 17 128, 132, 134 and 137 of the NPPF; and Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.**
- 4. The proposed development by virtue of its scale, form, location and inadequate mitigation would result in harm to protected species of fauna and their habitats. In addition the proposed development is not informed by sufficiently detailed and robust information to fully assess the impact on all protected species of fauna and their habitats. The proposals are contrary to CP50 Wiltshire Core Strategy Jan 2015 and paras 17 & 118 of the NPPF.**
- 5. The proposed development taking direct access from the A350 national primary route outside of a built-up area, and for which no overriding need has been established, would be contrary to adopted Core Strategy Policy 62 Wiltshire Core Strategy Jan 2015.**
- 6. The proposed development would lead to unacceptable traffic conditions, with additional congestion, delays, and hazardous conditions at nearby roundabouts and the proposed site access contrary to policy CP62. The**

proposed development would be detrimental to road user safety and convenience on the important A350 national primary route. The submitted traffic assessments of nearby roundabouts and the site access have been inadequately validated to reflect current observed traffic conditions and are therefore insufficient to enable the traffic effects of the development to be properly assessed. The development would be contrary to adopted Core Strategy policies CP60, CP61 and CP62 Wiltshire Core Strategy Jan 2015 and to NPPF paras 30 and 32.

7. The proposed development without good, direct, safe and useable pedestrian / cycle links to nearby facilities, the town centre and residential areas, would not accord with policies that development should be sustainable. The proposed development would depend heavily on the private car for access, and would be contrary to policies CP60 & CP61 Wiltshire Core Strategy Jan 2015 and National Planning Framework paras 9, 17, 30, 34 and 35.
8. The proposed development by virtue of its scale, form, location and inadequate supporting information fails to demonstrate application of the sequential test to site selection and will result in harm to the vitality and viability of Chippenham Town Centre through trade diversion. The proposals are contrary to CP38 of the Wiltshire Core Strategy Jan 2015 and paras 28 of the NPPF.
9. The proposed development by virtue of its scale, form, location and inadequate mitigation would result in harm to the character, appearance and visual amenity of the landscape and the locality. The proposal conflicts with CP51 criteria i, ii, iii, vi & vii and CP57 criteria i, ii, iii & vi Wiltshire Core Strategy Jan 2015; Saved Policy NE14 of the North Wiltshire Local Plan; and paras 17 & 61 of the NPPF.
10. The proposed development by virtue of its scale, form, location and inadequate and unclear supporting information fails to demonstrate that the development is required to benefit local economic and social needs. Further to reasons for refusal 1 through 9 above the proposals do not meet sustainable development objectives, are not consistent in scale with their location, adversely affect the surrounding area and are not supported by adequate infrastructure. The proposal conflicts with CP34 criterion v, vi, vii and ix Wiltshire Core Strategy Jan 2015 and paras 7, 14 & 17 of the NPPF.