

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

<b>Date of Meeting</b>	05 October 2016
<b>Application Number</b>	16/04961/OUT
<b>Site Address</b>	Arms Farm, High Street, Chippenham, Sutton Benger, SN15 4RE
<b>Proposal</b>	Outline Planning Application for up to 14no. Dwellings, including 6 no. Affordable Dwellings (All Matters Reserved) (Resubmission of 14/08888/OUT)
<b>Applicant</b>	Arms Farm LLP
<b>Town/Parish Council</b>	Sutton Benger
<b>Electoral Division</b>	Kington – Cllr Greenman
<b>Grid Ref</b>	394321 178521
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Mark Staincliffe

**Reason for the application being considered by Committee**

The application has been called into committee at the request of Cllr Greenman to consider important issues raised by local residents and the Parish Council such as impact on highway safety and impact on the setting of the adjacent listed building.

**1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that authority is delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

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

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

**2. Report Summary**

The key issues in considering the application are as follows:

- Principle of the development.
- Conflict with the emerging neighbourhood plan
- Whether the development constitutes over development of the site.
- Impact on residential amenities of adjoining neighbours.
- Impact on character and appearance of the area.

- Impact on the setting of the listed building and Conservation Area
- Previous appeal decision

Sutton Benger Parish Council object to the proposed development and 61 letters of objection have been received and 0 letters of support.

### 3. Site Description

The application site is located to the south west of Sutton Benger, a village and parish within the Chippenham Community area of Northern Wiltshire. The site is located outside of the defined Settlement Boundary of Sutton Benger and only the access to the site is within the designated Conservation. The northern boundary is defined by the High Street (B4069), which links the settlement to Chippenham. The eastern boundary is predominately formed of the residential dwellings fronting Gregory Close and Lee Crescent. The western and southern boundaries are formed by field boundaries, which abut open countryside.

On the Northern Boundary, beyond but immediately adjacent to the application site is Arms Farmhouse, a Grade II listed building. There is currently no public access to the Farmhouse, however, it is clearly visible from the High Street.

The building and its associated curtilage listed buildings are in a state of disuse which have a detrimental impact on its character and appearance, with many of its architecturally significant features obscured by its overgrown trees, shrubs and ivy.

Attached to the south east corner of the farmhouse's rear wing, and extending south east, is a low range of cow sheds which dates to the early 19th century and is considered to make a positive contribution to its setting through its group value as a component of the farmhouse's former yard complex.

Arms Farmhouse and its associated outbuildings do not form part of the planning application site. However, planning permission and listed building consent was recently granted permission for the conversion of the existing farm house and surrounding buildings into four residential units. This permission has been lawfully implemented but not yet complete.

### 4. Planning History

N/05/01325/COU	Change of Use of Agricultural Land to Garden <b>Planning Permission Refused</b>
N/10/02090/FUL	Alterations to Farmhouse (2 Units); Alteration to Existing Outbuildings to Form Four Residential Units; Change of Use of Land to Domestic Garden; Detached Dwelling; Parking, Landscaping & Associated Works; Alterations to Access. <b>Withdrawn</b>
N/10/02091/LBC	Internal & External Alterations & Demolition to Farmhouse, Internal & External Alterations to Existing Outbuilding in Association with Change of Use to Form Four Residential Units, Demolition of Boundary Walls, Erection of New Walls & Gates & Landscaping. <b>Withdrawn</b>
N/11/02233/FUL	Alterations to Farm House, Alterations to Existing Outbuildings to Form Four Residential Units, Change of Use of Land From Agricultural to Domestic Garden, Erection of Detached Double Garage, Parking, Landscaping & Associated Works, Alteration to Access (Amendment to N/10/02090/FUL) <b>Planning Permission Granted</b>
N/11/02234/LBC	Internal & External Alterations & Demolition to Farmhouse, Internal & External Alterations & Demolition to Existing Outbuildings in Association With Change of Use to Form Four Residential Units, Demolition of Boundary Walls, Erection of New Walls & Gates, Plus Landscaping (Amendment to 10/02091/LBC) <b>Listed Building Consent Granted</b>

14/08888/OUT	Outline Planning Application for up to 28 Dwellings With Associated Access Work and Public Open Space.- <b>Planning permission refused and appeal dismissed</b>
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## 5. The Proposal

The application seeks consent for up to 14 new homes (6 to be provided as affordable housing) on existing farmland to the south of the Arms Farm site. The application has been submitted in out line with all matters reserved.

## 6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:

Core Policy 1-	Settlement Strategy
Core Policy 2-	Delivery Strategy
Core Policy 3-	Infrastructure Requirements
Core Policy 10-	Spatial Strategy: Chippenham Community Area
Core Policy 41-	Sustainable Construction and Low Carbon Construction
Core Policy 43-	Providing Affordable Homes
Core Policy 45-	Meeting Wiltshire's housing needs
Core Policy 50-	Biodiversity and Geodiversity
Core Policy 51-	Landscape
Core Policy 57-	Ensuring high quality design and place shaping
Core Policy 58-	Ensuring the Conservation of the Historic Environment
Core Policy 60-	Sustainable Transport
Core Policy 61-	Transport and Development
Core Policy 62-	Development impacts on the transport network
Core Policy 63-	Transport Strategies
Core Policy 64-	Demand Management
Core Policy 67-	Flood Risk
Appendix D	
Appendix E	
Appendix G	

Saved Policies of the North Wiltshire Local Plan:

NE18-	Noise and Pollution
T5-	Safeguarding
H4-	Residential development in the open countryside
CF2-	Leisure facilities and open space
CF3-	Provisions of open space

National Planning Policy Framework 2012:

Achieving sustainable development – Core Planning Principles (Paragraphs 7 14 & 17)	
Chapter 1-	Building a strong, competitive economy (Paragraphs 18 & 19)
Chapter 6-	Delivering a wide choice of high quality homes (Paragraphs 47, 49, 50 & 55)
Chapter 7-	Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)
Chapter 8-	Promoting healthy communities (Paragraph 75)
Chapter 11-	Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 & 123)
Chapter 12-	Conserving and enhancing the historic environment (Paragraphs 126, 128, 129, 132, 133 and 139)

## 7. Summary of consultation responses

Wessex Water- No objection, subject to conditions

Drainage- No objection, subject to conditions

Ecology- An updated survey has confirmed that the site conditions remain similar to when the previous suite of ecological surveys were carried out in 2014. This application site is considerably smaller than previous applications, however this part of the site includes a species-rich hedgerow and supports a population of slow worms. Sensitive construction methods should be employed to ensure that these features are protected during the construction phase, which should be secured through a Construction Environmental Management Plan.

Primary Education- A financial contribution is required towards the provision of the 4 primary places that this development generates a need for. At the current cost multiplier = 4 x £16,979 = £67,916 (subject to indexation). This will be put towards the expansion of Sutton Benger CE.

Secondary Education- A financial contribution of towards the 3 secondary places that this development generates a need. Using the current capital cost multiplier this will be 3 places x £21,747 = £65,241 (subject to indexation). This will be sought via CIL.

Affordable Housing- There is demonstrable need for affordable housing in the Chippenham Community Area – within which Sutton Benger falls - and that a 40% on-site affordable housing contribution at nil subsidy would be sought from these proposals in line with policy approaches. Based on a scheme of 14 units, 40% Affordable Housing would equate to 6 affordable units required on site with a tenure split of 60% Affordable Rent and 40% Intermediate Housing in order to reflect current demonstrable need.

Sutton Benger Parish Council- Objection. The proposal is contrary to Core Policy 61(ii) in that it is not capable of being served by safe access to the highway network. The proposal would give rise to potential harm to highway safety due to the lack of visibility to vehicular traffic travelling along the access road and when accessing the High Street, Sutton Benger. Visibility is impaired due to the proximity of the bus shelter on the west-bound side of the High Street. As there are no passing places along the access road there is the potential for large vehicles having to reverse back out onto the High Street.

Archaeology- No objection, subject to conditions (WL26)

Waste Team- No objection but £91 per unit required for waste and recycling.

Highways- No objection

Conservation- The new boundary between the existing field and houses is proposed as a hedgerow containing native species with some deciduous trees. The majority of the site is outside the conservation area but within the setting of heritage assets that include the conservation area and listed buildings. The new access drive from the main road past the farm buildings is within the conservation area. It therefore affects the setting of designated heritage assets. The historic footpath that runs from the field gate next to the main barn at Arms Farm straight down to the far end of the field is to be realigned to pass down the side of the new development and then re-join the historic line near the far end of the field.

The proposed new development would cause harm to the setting of the heritage assets due to the changes that would result to the agricultural setting of the heritage assets. The harm would be less than substantial but there is always a question as to whether private new houses have a considerable public benefit. The applicants have tried to reduce the impact on the setting of heritage assets by keeping the development against the existing C20th estate. However, the impact of this development, and therefore the level of harm caused,

could be further reduced by omitting garages. Even more harm could be reduced by omitting the furthest three properties on the site.

The creation of the new access track behind the byres at Arms Farm brings the vehicles very close to the rear elevation of the byres and the small projecting nib in particular. It may be that the nib which is old but not hugely significant in terms of the architectural integrity of the byres, will need to be lost in order for the track to be implemented. This would need listed building consent and it is suggested that cart/bump stones are installed at frequent intervals along the rear of the byres in order to protect the structure if the track is created. On balance, the harm that would result from this new track and the alterations associated with it would be less than the harm that would have occurred if the access route had been through the middle of the farmyard.

The colour and texture for the surface of the new access drive/track will need to be carefully chosen in order to retain a rural/agricultural appearance whilst still meeting requirements set out by Highways. I understand that the area at the entrance to the site needs to be bound but limestone or granite sets would ensure the surface material does not wash off into the main road, retain permeability for water run-off and would also help to reduce speed. For the remains of the shared surface a limestone coloured bound large gravel/hard-core finish as usually seen on farm tracks is recommended.

Public Protection- No objection subject to conditions.

## **8. Publicity**

The application was advertised by neighbour letter, site notices and press advert.

The application has generated over 61 letters of objection and 0 letters of support. A summary of the comments is set out below:

- Adverse impact on residential amenities of adjoining properties
- Adverse impact on setting of Listed Building & Conservation Area
- Highway safety issues
- Not possible to collect waste from the site
- Flood risk and drainage issues
- Insufficient school places
- No local employment or facilities
- Problems with sewage infrastructure
- No doctor facilities
- Need to safeguard the countryside from development
- Application premature
- Overdevelopment of the site
- Loss of sunlight and daylight to adjoining properties
- Outside framework boundary
- Light pollution
- Affordable housing not required

## **9. Planning Considerations**

Previous Appeal Decision

In 2015 the Council refused planning permission for 28 dwellings on land to the rear of Arms Farm. This was subsequently appealed and dismissed at appeal. The inspector agreed with the Council's case and concluded the following:

*Although the appeal proposal conflicts with Core Policy 2, having regard to the requirements of local and national planning policy for the delivery of housing, the appeal site is an appropriate location for the development proposed.*

However, the inspector found that the scheme would cause harm to the setting and heritage significance of the listed buildings at Arms Farm and would fail to preserve the character or appearance of the Sutton Benger Conservation Area. It would also harm the setting of the Conservation Area. Although these harms would be less than substantial, they would nonetheless be serious, individually and cumulatively, and they were afforded very significant weight.

The Inspector concluded that Landscaping would not overcome the fundamental incongruity of the appeal scheme in relation to the heritage assets. Albeit that it is not particularly intrusive, being a simple, open sided structure, the removal of the dutch barn would be of some benefit. Even so, the inspector was not persuaded that the appeal scheme would be less intrusive and, as such, this is a matter which was afforded little weight.

The benefits outlined by the inspector were not considered to be sufficient to outweigh the harm identified to the specified heritage assets. Placing these factors and all of the relevant material considerations in the balance, The inspector found that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. In the circumstances the inspector concluded that the proposal would not represent a sustainable form of development.

#### Principle of Development

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

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Chippenham Area. The emerging Neighbourhood Plan is at an early stage and formal submission is some way off. Due to its limited progress to date, this document can only be afforded limited weight.

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

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

#### Wiltshire Core Strategy CP1, CP2 and CP10 and Saved Policy H4

CP1, CP2 and CP10 deal with the broad issues of settlement strategy and delivery. Other relevant policies of the Development Plan are otherwise discussed later in the Report under topic heads.

Core Policy 1 and Core Policy 2 of the WCS set the foundations for how 'sustainable development' is defined and applied in Wiltshire. The strategy recognises the importance of delivering new jobs and infrastructure alongside future housing. The delivery strategy seeks to deliver future development in Wiltshire between 2006 and 2026 in the most sustainable

manner by making provision for at least 178 ha of new employment land and at least 42,000 homes.

Chippenham is identified within the WCS as one of the three Principal Settlements which act as a strategically important employment and service centres for a number of villages in the immediate area and beyond. Chippenham is to be a focus for development (Core Policy 1). The principal settlements will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure meeting their economic potential in the most sustainable way to support better self containment.

Sutton Benger is identified as a large village in the core strategy. Whilst a proposal of 14 units is lower than the 28 previously proposed, it remains the case that it is contrary to the Core Strategy and in particular core policies CP1 and CP2 which set out the overarching strategy for Wiltshire. According to CP1 'development at large Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.'

Paragraph 4.15 says:

*'At the settlements identified as villages, a limited level of development will be supported in order to help retain the vitality of these communities. At Large Villages settlement boundaries are retained, and development will predominantly take the form of small housing and employment sites within the settlement boundaries. These settlement boundaries will also be reviewed as part of the Housing Site Allocations DPD as set out in the Council's Local Development Scheme, in order to ensure they remain up to date and properly reflect building that has happened since they were first established.'*

Core Policy CP2 states that development outside of the limits of development of existing settlements will only be permitted in exceptional circumstances, or if the site is identified for development through a site allocation document or a Neighbourhood Plan. The exceptional circumstances are set out in paragraph 4.25 of the Core Strategy. In this case, the site lies outside of the limits of development for Sutton Benger. The proposal does not meet any of the exceptional circumstances identified in WCS paragraph 4.25 where development outside limits of development is acceptable. Similarly, as it lies beyond the limits of development, it does not comply with saved policy H4 of the North Wiltshire Local Plan as it does not meet the exceptions, such as agricultural needs, set out in that policy. The proposal is therefore in conflict with the development plan in this respect.

The application site is located outside the settlement boundary for Sutton Benger. The proposal for 14 dwellings exceeds the level of development envisaged for large villages such as Sutton Benger i.e. Small housing sites involving less than 10 dwellings. Whilst the settlement boundaries are being reviewed as part of the Housing Site Allocations DPD it is too early to say whether the boundaries at Sutton Benger will be amended and/or whether this site will be identified as a housing site.

The context provided through the core strategy specifically for large villages around Chippenham is that an element of growth is possible and can be accommodated due to the desire to improve self containment of settlements and thus reduce the need for out commuting. The village of Sutton Benger has, in recent times, delivered residential units and permitting further development prior to the adoption of a site allocation DPD or Neighbourhood plan would be, strictly speaking contrary to the Core Strategy. This is a matter that weighs against the proposal in the planning balance.

Housing Land Supply

Housing land supply has to be regularly assessed. The Council cannot currently demonstrate a 5 year housing land supply in the North & West HMA, and the current calculation is that the Council does not have a 5YHLS. This figure does not include the proposed site allocations in the Chippenham Site Allocations DPD. In these circumstances, NPPF Paragraph 49 advises that policies relevant for the supply of housing should not be considered up-to-date. As a result the presumption in favour of sustainable development as set out at Paragraph 14 of the Framework is engaged so that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

It can be seen therefore that CP1, CP2, CP10 and Saved Policy H4 are all relevant for the supply of housing and are to be considered out-of-date. This does not mean, however, that these policies carry no weight or even only limited weight. A recent court of appeal judgement that specifically examined how to apply and interpret paragraph 49 (C1/2015/0583 Suffolk Coastal District Council and Hopkins Homes Limited and C1/2015/0894 Richborough Estates Partnership LLP vs Cheshire East Borough Council First).

There are a number of important statements and points of clarity provided in the above decisions that are important to framing any discussion on this application and the degree of conflict with the WCS. Particularly relevant are the statements in the court of appeal decision, paragraphs 42 to 48 ('How is the policy in paragraph 49 of the NPPF to be applied?'), which highlight a number of key points.

First, it is up to the decision maker to judge whether a plan policy is or is not a relevant policy for the supply of housing, this can include restrictive policies not necessarily related to housing specifically; however that may have the effect of limiting housing. Furthermore, the appeal court decision confirms that in their view there will be many cases in which restrictive policies are still given sufficient weight to justify the refusal of planning permission, despite their not being up-to-date under the auspices of paragraph 49.

In conclusion, the appeal court decision confirms that ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date', and, that the fundamental purpose of paragraph 49 is not to punish Councils (and by extension local communities), but to provide an incentive to boost housing land supply.

An important point to take from the above Appeal Court judgement is that there is a clear Development Plan policy that Sutton Benger is a Large Village and some level of growth is expected during the plan period.

In summary, it is concluded that while limited weight only can apply to the fact of breach of settlement boundaries given the shortfall in the housing land supply and the clear need to meet a need of future housing beyond existing settlement boundaries, the fact that Sutton Benger is to be a focus for limited development and is considered to be a sustainable location should carry some weight in the decision-making process.

#### Whether a Sustainable Location

The site, which comprises undeveloped agricultural land, Grade II Listed Farm House and associated Grade II listed farm buildings, lies on the edge of Sutton Benger, in close proximity to the main road and location amenities. The Council's strategy for housing is to focus growth in the principal settlements of Chippenham, Trowbridge and Salisbury. But the large villages are expected to accommodate limited new housing development.



Whilst the loss of countryside would cause some environmental harm, the Council is unable to meet the full housing requirement for Chippenham without development taking place on greenfield land.

In terms of accessibility, a Primary School is located within the village and its future expansion will be secured by way of s106 agreement and will offer easy access by foot for the residents of the proposed development. Secondary Schools are located in Chippenham both are not walk able and vehicular transport is almost certain to be required.

The weekly shopping trip would be difficult on foot or cycle and would generally be undertaken by car in any event, often in conjunction with other activities. Limited employment opportunities are located within Sutton Benger and the immediate locality, with the main employment located in Chippenham including town centre employment and Langley Park Industrial Estate. Other employment opportunities in Chippenham include Bumpers Farm & Methuen Park industrial estates but only limited employment opportunities exist within the village.

The nearest bus stops are located less than 1 kilometre walk of the site. These buses offer access to other settlements such as Chippenham, Swindon, Royal Wootton Bassett, Calne and where facilities and employment opportunities are available.

To conclude on this issue, the development would not prejudice the fulfilment of sustainable development objectives as set out in local and national planning policy. It is therefore considered to be a sustainable location for new housing development, as is recognised by the Core Strategy and in particular policies CP1, CP2 & CP10. This matter weighs in favour of the proposal.

The issue of whether Sutton Benger was an appropriate location for development was covered in paragraphs 26-37 of his decision and it concluded that the appeal site was an appropriate location for development and there is no reason to disagree with this conclusion.

#### Prejudice to plan making

PPG advice on the issue of prematurity is as follows:

*“Arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.” (PPG 21b/14)*

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

There is, however, no rule of law that a development control decision cannot pre-empt a local community's adoption of a neighbourhood plan. The application is not in conflict with any published neighbourhood plan or up to date policies in the local plan. Moreover, as is made clear in the “Planning Balance” section below, the proposals bring forward a series of

planning benefits which make the proposal acceptable in its own terms and justify approval of this application now.

#### Impact on Heritage Assets

There has been local concern raised in relation to harm to the setting of the listed building and conservation area. Furthermore, in dismissing the previous appeal the Planning Inspector concluded that the proposal, for 28 dwellings would harm the setting of the listed building and the public benefits did not outweigh the harm. This is an important material consideration and one that must be considered when determining this application.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Considerable weight must therefore be given to the preservation of the listed building, including its setting.

The House of Lords in *South Lakeland District Council v Secretary of State for the Environment* case decided that the “statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.

Located within the application site are a Grade II listed farm house, listed barn & byre. Beyond the site there are various listed buildings which are partially visible from the application site. Though the site is not within a conservation area it is in close proximity to the Conservation Area.

The Council’s Conservation Officer has confirmed that the proposed development would result in some harm to the setting of the listed buildings adjacent to the site (Arms Farm and its associated outbuildings). However, this harm is far less than that which previously arose and officers are satisfied that an acceptable reserved matters scheme could be provided on site.

For the purposes of determining the application Core Policy 58 is relevant and states:

*Development should protect, conserve and where possible enhance the historic environment.*

*Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance:*

The wording of core policy 58 and the supporting text to the policy is quite clear that if harm is identified it is in conflict with the policy. As the proposal fails to conserve or enhance the setting of the heritage asset the development is in conflict with CP58. This is a matter that weighs against the scheme in the planning balance.

Failure of the proposed development to comply with CP58 is not necessarily fatal to the acceptability of the proposed development. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF is a material planning consideration and paragraphs 133 & 134 of the NPPF are relevant to the determination of the application. Paragraph 134 provides: “*Where a development proposal will lead to less than substantial harm to the significance of a*

*designated heritage asset, this harm should be weighed against the public benefits of the proposal'*

The process of determining the degree of harm, which underlies paragraph 132 of NPPF, must involve taking into account the value of the heritage asset in question. In considering harm it is also important to address the value of the asset, and then the effect of the proposal on that value. Not all effects are of the same degree, nor are all heritage assets of comparable significance, and it is for the decision maker to assess the actual significance of the asset and the actual effects upon it.

It is agreed that the principal adverse effects concerning the historic environment detailed within this application site concern the loss of this small part of the existing rural fields associated with and forming part of the setting of the Arms Farm Complex and the associated visual change that will ensue with the extension of Sutton Benger into the countryside.

As a Farm Complex the existing fields that surround the listed farm are linked to the special interest of the building and its setting. This fact/matter was confirmed when the inspector issued his decision on the previous application.

The new application retains the majority of the field network identified by the Council and Inspector as important to the setting of the listed building. The indicative layout provided by the applicant indicate that the residential development, access and the associated paraphernalia will no longer go through the farm yard or through the fields to the immediate rear of Arms Farm but along the eastern boundary of the site and away from the listed building and thereby retaining the open views to and from the listed building and thereby significantly reducing the harm to the setting of the listed building, though some harm will still occur. The Conservation officer has confirmed that this harm is less than substantial.

The Court of Appeal in *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 ("Barnwell") makes clear that the duty imposed by s72 (1) meant that when deciding whether harm to a conservation areas/listed buildings was outweighed by the advantages of a proposed development the decision-maker should give particular weight to the desirability of avoiding such harm. There is a "strong presumption" against the grant of permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the conservation area/listed building. For the reasons set out above the proposal is in conflict with Core Policy 58 of the Core Strategy, it would also be in conflict with the NPPF unless the benefits of the scheme clearly outweigh the harm.

Significant weight must therefore be given to the harm in the planning balance and determining if planning permission should be granted.

Moving onto the conservation area in the locality, some harm would be caused and this would be less than substantial. The development is therefore in conflict with the NPPF and Core Policy 58.

Less than substantial harm to the setting of listed buildings has been identified, the proposal is therefore in conflict with both Core Policy 58 of the Core Strategy and the NPPF. Significant weight must therefore be given to the harm in the planning balance and determining if planning permission should be granted.

The balancing exercise in these respects is undertaken in the Conclusion at the end of this report.

### Highway Matters

The application has been submitted in outline with all matters reserved; therefore the applicant is not seeking permission for the access. However, the highway officer was concerned whether a safe access into the site could be achieved. As a result the officer requested indicative plans to demonstrate that a safe & adoptable access could be provided. The applicant has provided these plans to the highway officer for information purposes only and doesn't want these approved as part of the scheme.

The Highway officer has considered these plans and is satisfied that a safe access, with appropriate visibility splays can be provided on site and offers no objection subject to conditions.

### Affordable Housing

Core Policy 43 states the Council will seek to negotiate an element of affordable housing to meet local needs on all housing developments of 5 or more dwellings. The applicant has agreed to provide 40% onsite affordable housing with a 60% affordable rent and 40% shared ownership tenure split. The provision secured by the planning obligation accords with the policy and meets the relevant tests set out in the CIL regulations. The proposed development therefore accords with Core Policy 43 and this is a matter which weighs in favour of the proposal.

### Urban Design & Layout

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

The illustrative layout suggests that the level of development proposed could be satisfactorily accommodated in terms of landscape, character and visual impact, residential amenity and place making. Even with slight changes to the residential layout to accommodate space for adequate maintenance for retained and proposed trees and hedgerows, the layout would be spacious and not look out of place in the context of the street.

It is considered that the proposal results in a good indicative layout, furthermore, the Council and Planning Inspector when considering the larger development did not raise any objection to the proposal in terms of landscape impact. For this reason and the reasons given above it is considered that though it would change the rural character of the area it is not so harmful as to conflict with local and national planning policies.

### Impact on residential amenities

The application has been submitted in outline form with all matters reserved, the layout of the development is therefore not fixed. However, the applicant has submitted an indicative layout to demonstrate how the level of development may be accommodated within the site.

Having analysed the submitted plans it is considered that the development will not have a significant adverse impact on the residential amenities of adjoining properties in terms of loss of sunlight daylight or privacy. It is acknowledged that there will be an impact on some properties outlook but the separation between existing and proposed dwellings would be sufficient to ensure that there will not be a conflict with CP57 and the NPPF.

### Ecology

Concerns have been raised by local residents in terms of ecological impact. The Council's ecologist has raised no objection to the proposed development and a reason for refusal based on this would be difficult to justify at appeal.

#### Flood Risk & Drainage

The Council's drainage team raise no objection to the proposed scheme, subject to conditions. It is considered that the development is acceptable with regards to this matter. The development therefore accords with Core Strategy Policy CP67.

#### S106 Contributions

The following will be required:

- A contribution for householder bin/recycling facilities (£91 per unit = £1274)
- 40% affordable housing units
- £67,916 (subject to indexation) contribution to primary education.

The applicant has been informed of these requirements and no objection has been raised.

### **10. Conclusion (The Planning Balance)**

It can be seen from the analysis in the body of the report that a number of Development Plan policies are offended by the proposal and that the proposal, not least because it is beyond settlement limits and in an area classed as countryside, is not Development Plan compliant. However, as also noted, various key policies are deemed out-of-date by reason of Paragraph 49 of the NPPF so that Paragraph 14 of the NPPF is engaged so that permission should be granted 'unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed' against the NPPF as a whole.

The benefits of the scheme are clear. It would bring forward much needed market and affordable housing. These matters are consistent with the CS. The fact that the council is not delivering development as envisaged by the Core Strategy emphasises these benefits to which significant weight should attach. Significant weight should also attach to the economic benefits immediately associated with the proposal in terms of job creation and/or maintenance and spend in the local economy. Similarly, the provision of affordable housing and the CIL contributions generated by the development.

Set against these benefits there is acknowledged harm to the heritage asset that falls into the category of less than substantial. Significant weight has to attach to that harm, but it does not outweigh the significant benefits that arise from providing much needed housing in the Housing Market Area. On balance, the public interest is best met by resolving to approve the application.

### **RECOMMENDATION**

Authority is delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

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

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

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

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

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

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The means of access to the site.

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

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

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

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

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

carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

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

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

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

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

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

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years

REASON: To ensure that the proposed development does not result in the unnecessary loss of trees and existing screening, and for the avoidance of doubt.

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

REASON: In the interests of highway safety.

7 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

8 No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

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

9 The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON: To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

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

EDP 2335/46

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

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



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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

12 No development shall commence until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/or [DELETE as appropriate] the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

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

**Step (i) Site Characterisation:**

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

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwater and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

**Step (ii) Submission of Remediation Scheme:**

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

**Step (iii) Implementation of Approved Remediation Scheme:**

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

**Step (iv) Reporting of Unexpected Contamination:**

In the event that contamination is found at any time when carrying out the approved

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

**Step (v) Verification of remedial works:**

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

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

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

**Step (vi) Long Term Monitoring and Maintenance:**

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 14 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual

amenity and the character and appearance of the area

- 15 No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 16 No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the roads are laid out and constructed in a satisfactory manner.

- 17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), any garages shall not be converted to habitable accommodation.

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

- 18 The maximum number of residential units on site shall not exceed 14.

Reason: For the avoidance of doubt.

INFORMATIVE TO APPLICANT:

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

INFORMATIVE TO APPLICANT:

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

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

INFORMATIVE TO APPLICANT:

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

INFORMATIVE TO APPLICANT:

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

INFORMATIVE TO APPLICANT:

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