

Date of Meeting	14 th December 2016
Application Number	16/01633/OUT
Site Address	Land at The Grange, Devizes Road, Hilperton, Wiltshire, BA14 7QY
Proposal	Erection of up to 26 dwellings - outline application: all matters reserved other than access
Applicant	Charlcombe Homes Ltd
Town/Parish Council	HILPERTON
Electoral Division	HILPERTON – Councillor Clark
Grid Ref	387531 158873
Type of application	Full Planning
Case Officer	Jemma Foster

Reason for the application being considered by Committee

This application was deferred by the Committee at the 28 September meeting to allow officers to provide policy clarification with respect to Wiltshire Core Strategy CP29 – The Spatial Strategy for the Trowbridge Community Area.

Councillor Clark has requested that this application be considered by the Planning Committee if recommended for Approval for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Environmental/highway impact
- Contrary to the adopted Wiltshire Core Strategy

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 planning permission should be granted.

2. Report Summary

The main issues to consider are:

- The Principle of Development
- Archaeology
- Flood Risk and Drainage
- Impact upon the character and appearance of the area
- Heritage Assets
- Ecology and Landscape
- Sustainable Construction
- Impact upon neighbouring amenity
- Access and highways

3. Site Description

The site comprises 1.25 hectares of relatively flat open grassland/paddock immediately South of Devizes Road and to the east of 'The Grange' which is a large Victorian house.

The site is immediately adjacent to the current limits of development which runs on the north and west boundary of the site. To the South of the site is the existing Paxcroft Mead development and immediately east of the site is an approved modern housing development which is yet to be completed. The site is also adjacent to the Hilperton Conservation Area which runs on the western boundary. The site is enclosed by existing vegetation on the north, east and southern boundaries. The western boundary sees a masonry wall and the existing driveway to The Grange with a variety of trees.

4. Planning History

There is no planning history on this site.

The site immediately to the east of the site had planning permission granted for 15 units through an appeal (application reference number 13/06879/OUT) which was allowed on 24th December 2014. Although this was some time ago, at the time of decision making, the Local Planning Authority were unable to demonstrate a five year housing land supply, a similar situation that applies at present.

5. The Proposal

The application seeks outline planning permission for the erection of up to 26 dwellings. The application has been made in outline with all matters reserved except for access which would be located off Devizes Road.

During the course of the application, amended plans and a Heritage Assessment were submitted which reduced the amount of dwellings from 30 to up to 26. Layout was also removed and will now be subject of a reserved matters application. A full consultation process was held with the public and statutory consultees following the amended information.

6. Planning Policy

The **Wiltshire Core Strategy** (WCS) was adopted on 20th January 2015. The following Core Policies (CP) are relevant when assessing this application.

CP1 (Settlement strategy), CP2 (Delivery strategy), CP3 (Infrastructure requirements), CP29 (Trowbridge Area Strategy), CP41 (Sustainable construction and low carbon energy), CP43 (Providing affordable homes), CP45 (Meeting Wiltshire's housing needs), CP46 (Meeting the needs of Wiltshire's vulnerable and older people), CP50 (Biodiversity and geodiversity), CP51 (Landscape), CP55 (Air Quality), CP57 (Ensuring high quality design and place shaping), CP58 (Ensuring conservation of the historic environment), CP60 (Sustainable Transport), CP61 (Transport and Development), CP62 (Development impacts on the transport network), CP64 (Demand Management), CP67 (Flood Risk)

Wiltshire Waste Core Strategy WCS6 (Waste Audit)

When adopting the WCS, some policies continued in force from the West Wiltshire District Local Plan (1st Alteration) (WWDLP). Those which are relevant to this application include:

U1a (Foul Drainage/sewerage treatment) U2 (Surface Water Disposal).

Other

- Open Space provision in New Housing Developments – A Guide (Supplementary

- Planning Guidance)
- Affordable Housing Supplementary Planning Guidance adopted August 2004
 - Leisure and Recreation Development Plan Document
 - National Planning Policy Framework 2012
 - Planning Practice Guidance
 - Wiltshire Car Parking Strategy
 - Wiltshire Waste Core Strategy
 - Circular 06/2005 – Biodiversity and Geological Conservation
 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Wiltshire Council Waste Collection Guidance for New Development
 - Wiltshire Housing Land Supply Statement 2016
 - Hilperton Village Design Statement 2005

7. Consultations

Hilperton Parish Council – Object for the following reasons:

- The site is not allocated for housing and lies outside the limits of development
- Due to the conservation area, a full application should have been submitted
- The proposal fails to comply with CP1, CP2
- There is a requirement for a secondary school to the south east of Trowbridge which has not been constructed – this proposal would cause more cross town school traffic which is not sustainable
- The proposal does not enhance or preserve the Hilperton Conservation Area
- A buffer should be provided to the east of The Grange
- On-site parking is inadequate
- There have been flooding issues in the area which remains a problem when the highway drains are full to capacity
- Flats and three storey houses would be out of keeping with the area
- Provision should be made for the needs of vulnerable and older people

Wiltshire Council Highways – No objection

Wiltshire Council Ecologist – No objection as the application will not lead to adverse effects on the integrity of the Bath and Bradford on Avon Bats SAC alone or in combination with other plans and projects provided that planning conditions, informatives and a S106 agreement are secured.

Wiltshire Council Drainage – Supportive subject to conditions regarding surface water and foul water discharge

Wiltshire Council Public Rights of Way – Supportive

Wiltshire Council Archaeologist – No objection

Wiltshire Council Urban Designer – Supportive

Wiltshire Council Arboriculturalist – No objection

Wiltshire Council Public Protection Officer – No objection but would like the applicant to demonstrate what positive contributions the proposal would make to air quality

Wiltshire Council Affordable Housing Officer – No objection subject to 30% Affordable Housing being provided on site

Wiltshire Council Education Officer – No contributions required

Wiltshire Council Public Open Space Officer – On site open space and equipped play would be required via S106 Legal Agreement

Wiltshire Council Waste Officer- Supportive subject to a S106

Wiltshire Council Landscape Officer – No objection

Wiltshire Council Conservation Officer – No impact on the setting of any listed building. The layout is acceptable but the design of the properties to the north of the site will need to be assessed at reserved matters stage to ensure there is no harm to the adjacent conservation area.

Natural England – No comment

Wessex Water – No objection

Wiltshire Fire and Rescue Service – Building Regulations should be incorporated.

8. Publicity

The application was advertised by a site notice and neighbour notification letters. The deadline for any correspondence was 24th March 2016

18 letters of objection have been received with the following comments (summarised):

Principle

- Outside the settlement boundary
- The site is adjacent to a site that had planning permission refused for 15 dwellings –the reasons of which are applicable to this site
- It would join Hilperton and Paxcroft Mead
- Overdevelopment – too intensive
- The site is one of the last few green spaces in Hilperton which helps to retain the semi-rural identity of the Village
- Contrary to the Village Design Statement
- The density of 58 dwellings per hectare which is much more than the Government advice of 30-50 dwellings per hectare

Impact on Character and Appearance of the Area

- The removal of trees and bushes adjacent Devizes Road will leave the site open which is unacceptable
- The existing houses on Devizes Road are characterised by large plots which is not present in the proposed design
- There will be an impact on the Conservation Area
- Many trees (70%) and hedgerows are to be felled with no replacement or re-planting
- Is a Tree Preservation Order appropriate?
- Proposal may increase flooding issues on my property (NW corner)
- Impact on biodiversity
- The hazel coppice in the NW corner of the site is populated by dormice which is a protected species
- Render is not appropriate to Hilperton as shown by the recently completed building on Devizes Road

- Flats are not appropriate to Hilperton
- Will the dwellings be built in line with the eco green policies

Impact on Neighbouring Amenity

- Loss of amenity due to loss of hedges along Devizes Road – the replacement trees will take a long time to grow
- The proposed properties are too close to my property
- Increase in traffic will cause an increase in noise, light and exhaust pollution

Highways

- More dwellings would put pressure on Devizes Road
- Devizes Road is a rat run despite the opening of the Hilperton Gap bypass (including HGV'S)
- Many properties facing the development park on Devizes Road making access to and from the proposed site unsafe
- Parking restrictions around the entrance would penalise those residents in Devizes Road that have no off road parking
- More cars will result in more danger for pedestrians
- Inadequate parking facilities on site

Other

- Limited facilities in Hilperton (especially schools and doctors surgery)
- My property (128) is much closer to the boundary than shown – There is less than 3 metres to the boundary wall so the new properties would be 7 metres from my living room window

Since the application went to Committee one additional representation has been received making the following considerations (summarised):

- Do not understand why the application was not recommended for refusal due to CP29 – which states that greenfield land will only be supported once secondary school provision has been delivered at Ashton Park
- The adjacent site was recommended for refusal – why is it not the same for this site?

9. Planning Considerations

9.1 The Principle of Development - Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved, form the relevant development plan for the area. The Wiltshire Housing Sites Allocation Plan is an emerging plan but can only be afforded very limited weight at this stage of its preparation. In this particular case, it is important to record that at the present time, the Council cannot demonstrate having a 5-year housing land supply in the North & West Housing Market Area, and the current calculation is that the Council has a 5.13 years supply compared to the 5.25 years requirement; In these circumstances, NPPF paragraph 49 advises that policies relevant for the supply of housing should not be considered as up to date. As a result, the presumption in favour of sustainable development as set out in paragraph 14 of the framework is engaged directing that planning permission should be granted for residential development unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits”*.

A recent court ruling – Suffolk Coastal District Council v Hopkins Homes Ltd [2016] EWCA

Civ 168 has provided a useful direction and understanding that when Council's find themselves unable to demonstrate a 5-year housing land supply, whilst adopted housing policies and any associated restrictive policies relating to housing development should be considered "out of date", they should not be wholly ignored, but cannot be relied upon by themselves as reasons for refusal. It is necessary for decision makers, as directed by paragraph 14 of the NPPF, to weigh up the benefits against any identified harm.

Core Policy 1 (CP1) of the Wiltshire Core Strategy sets out the settlement strategy for Wiltshire identifying four tiers of settlement, namely: Principal Settlements, (2) Market Towns, (3) Local Service Centres and (4) Large and then Small Villages. The limits of development of the Principal Settlements, Market Towns, Local Service Centres and Large Villages, as defined by former District Local Plans have been carried forward into the Core Strategy and retained. These settlement boundaries will be reviewed as part of the Wiltshire Housing Site Allocations Development Plan Document (DPD), as set out in the Council's Local Development Scheme, in order to ensure they are up to date and can adequately reflect changes which have happened since they were first established. It will also be the prerogative of the community to review settlement boundaries through a neighbourhood plan. This approach was supported by the Core Strategy Examining Inspector in his report published in December 2014.

Core Policy 2 (CP2) sets out the delivery strategy and advises that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages. The Core Strategy advises that a number of sources of supply have been identified for new housing in Wiltshire across the plan period including allocations within the Core Strategy, existing commitments, windfall sites, those sites identified through the future Site Allocations Development Plan Document and neighbourhood plans. The delivery strategy seeks to prioritise the re-use of previously developed land and supports the development of sites within the limits of development. It requires a plan led approach to the identification of new development sites on the edge of settlements outside of the limits of development to allow local people to shape their communities and consider alternative sites. The Hilperton Village Design Statement confirms that development outside of the Village would not be supported, but in the current circumstances, this statement too in relation to housing limits would be considered by the NPPF to be out of date.

The Limits of Development of Hilperton run to the north and west of the proposed site. The proposed site is therefore outside of the limits of development but adjacent to it. Hilperton is identified in the Core Strategy as a Large Village, classed as a "*settlement with a limited range of employment, services and facilities*". Hilperton has a range of local services including a village hall, primary school, church, doctors surgery, business facilities (meeting rooms, office space, and hot desking). A Neighbourhood Plan has started to progress in the Village, however as it is not well advanced it holds no weight.

CP29 sets out the strategy for Trowbridge and its community area and identifies an indicative requirement of approximately 7000 new dwellings. The Policy states:

"At Trowbridge, approximately 5,860 dwellings will be delivered and will involve an area for strategic growth to the south east of the town (Ashton Park), which extends towards the A350 to the south and the railway line to the west. An additional 950 dwellings will then be developed at the town only once improved secondary school provision is in place towards the end of the plan period and there has been further assessment of effects on protected bat species and their habitats to ensure that they are properly safeguarded".

CP29 goes onto say that: "Approximately 165 homes will be provided in the rest of the

Community Area over the plan period” and the “development proposal in the Trowbridge Community Area will need to demonstrate how the relevant issues and considerations listed in paragraph 5.150 will be addressed”.

The housing target is expressed as a 20 year target covering the period from 2006 to 2026. The most recent Housing Land Supply Statement 2016 identifies an indicative requirement for 6,975 dwellings in the Trowbridge Community Area with an indicative remaining requirement of 2,017 dwellings in the Trowbridge Area. The Housing Land Supply Statement 2016 confirms that there is no indicative remaining requirement for additional dwellings in the Trowbridge Community Area; however footnote 56 of the WCS confirms that housing numbers for Trowbridge include those planned for the village of Hilperton. Therefore there remains a requirement for additional dwellings in the Trowbridge Area (including Hilperton).

Paragraph 5.150 of the WCS sets out a series of specific issues to be addressed in planning for the Trowbridge Community Area. The concern raised by the Local Ward Councillor in particular is the provision of secondary school provision. Paragraph 5.150 in relation to this concern states:

“there is a requirement to provide a site for a secondary school to the south east of Trowbridge, to serve the proposed urban extension and linked by a new road to recent developments at Paxcroft Mead and other planned development to the east of Trowbridge. This would help to address cross town traffic which is currently a problem as the only secondary schools are located to the west and south west of the town. A new primary school will also need to be delivered as part of the permitted development on land south of Paxcroft Mead and two further primary schools delivered as part of the Ashton Park strategic allocation.”

The above commentary makes it clear that the required improved secondary school provision is to serve the proposed urban extension and not other developments that may come forward such as that subject of this application. Furthermore as detailed in Section 9.10 of this report the Education Officer is of the opinion that a contribution through CIL would be sufficient to meet the education needs of this development. Furthermore, although a planning application has been submitted for Ashton Park (the proposed urban extension in Trowbridge), no decision on this application has been made and the development has not commenced. Therefore the sequential approach to delivering housing growth at Trowbridge over the plan period has not materialised and the requirement for improved secondary school provision in CP29 cannot be relied upon as a reason for refusal.

The settlement strategy set out in CP1 supports development in Large Villages. As noted above, at the present time, the Council cannot currently demonstrate a 5 year housing land supply in the North & West HMA, and the current calculation is that the Council has a 5.13 years supply. The relevance of this is that at present the restraints imposed by CP2 alongside other housing delivery policies (such as CP1, CP2 & CP29) cannot be relied upon per se as a reason for opposing this particular development.

When using the Housing Land Supply Statement 2016, there is a requirement for a further 2,017 dwellings over the plan period in the Trowbridge Area and although this proposal is only for up to 26 units, it would still make an important contribution to the identified housing need and therefore in line with the previous inspectors report which was for an outline application for 15 dwellings, the need for both market and affordable housing carries significant weight in favour of the proposal.

The conclusion that can be drawn from this analysis is that the principle of the

development of this site should be considered acceptable at present unless there are significant adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal, including the benefit of helping address the shortfall in housing land supply. The remainder of the report addresses the relevant issues relating to this proposal.

Concerns raised by the public include density/overdevelopment and coalescence. With regards to density, Paxcroft Mead which is located to the south of the proposed site is a relatively modern estate that has a higher density than those existing houses along Devizes Road which see houses in large plots which is not mirrored in the proposed illustrative layout. However the previous Inspector was of the opinion when assessing the adjacent development which was approximately 15 dwellings per hectare formed “*a reasonable transition from that of Paxcroft Mead to that of Devizes Road*”. It is therefore considered that the proposal which could see approximately 21 dwellings per hectare is also considered to be a reasonable transition between Paxcroft Mead and Hilperton and as such would not warrant a reason to refuse the application.

Coalescence between Hilperton and Trowbridge has been raised as a concern but the previous inspector was of the opinion that coalescence has already occurred with Trowbridge at the eastern and western ends of Hilperton and as such did not find that this was a reason to refuse the development.

9.2 Archaeology - CP58 states that development should protect, conserve and where possible enhance the historic environment. The Wiltshire Council Archaeologist has confirmed that the site lies in an area of high archaeological potential however evaluation immediately to the east of the site revealed nothing of archaeological interest. The Historic Environment Record shows traces of medieval/post medieval ridge and furrow across the site and the centre of settlement during the medieval period lay to the northwest of the site along Church Street. The early Ordnance Survey mapping shows that the southern part of the site was an area of orchard during the late 19th century, likely to be part of “The Grange” to the west of the site. Based on the results of the adjacent evaluation the indication is that the proposed development site is in a localised area with little activity prior to the medieval period when it appears mostly to be activity of an agricultural nature on the periphery of the main settlement. It has therefore been considered by the Wiltshire Council Archaeologist that no archaeological investigations are necessary in relation to the proposed development and as such the proposal is considered to comply with the NPPF and relevant criteria of CP58.

9.3 Flood Risk and Drainage - A Flood Risk Assessment has been submitted with the application which demonstrates that the site is located in Flood Zone 1 where there is a low risk of flooding. The submitted application form confirms that foul sewage will be to the main sewer. Wessex Water have confirmed that there is adequate available capacity within the existing foul sewer network to accommodate the predicted foul flows and that there is also available capacity within the existing water supply network. All of these areas would require further applications and agreements with Wessex Water.

The Wiltshire Council Drainage Officer has confirmed that the location of main foul and storm drainage systems are likely to require third party land crossing which would need to be gained by the applicant. If such an agreement was not possible, the applicant could requisition the sewerage undertaker to provide suitable drainage connections to the boundary of the site which would result in the undertaker using its powers of entry to achieve such a connection. The Council's Drainage Officer has requested conditions requiring details to be submitted for the discharge of foul water and surface water which are considered to be appropriate.

In conclusion, the Wiltshire Council Drainage Officer and Wessex Water have raised no objections to the scheme subject to conditions. The proposal is therefore considered to comply with CP52 and Saved Policies U1a and U2.

Concerns have been raised by objectors regarding flooding in the area. Whilst this application is not able to solve existing problems, the Wiltshire Council Drainage Officer and Wessex Water are of the opinion that the existing facilities are capable of serving the additional dwellings.

9.4 Impact upon the character and appearance of the area - A Landscape and Visual Impact Assessment (LVIA) was submitted with the application which addresses the constraints and opportunities of the site and makes reference to the Hilperton Village Design Statement. The LVIA correctly confirms that there are no landscape designations on the site but the Hilperton Conservation Area adjoins the Western boundary of the site.

The existing site access is provided by an existing drive into The Grange from Devizes Road. The entrance is flanked by stone walls that are approximately 1 metre high. The eastern wall continues along Devizes Road. There is an existing overgrown field gate in the north east corner of the site. The northern boundary (along Devizes Road) has an existing belt of mature and over mature trees many of which are in poor condition. There is also some with a scrub/shrub land which is approximately 5-8 metres wide. The proposal sees the retention of the majority of the existing wall (albeit the proposed access) and a 6 metre vegetated boundary with replacement tree planting

The eastern boundary sees a mixed deciduous, unmanaged hedge which is approximately 3-4 metres in height. An existing ditch also runs alongside the hedgerow. The proposal sees the retention of a managed hedgerow on this boundary and the provision of a centrally located open space with new tree planting.

The southern boundary sees a belt of unmanaged young trees, shrubs and scrub which also includes a small wetland/pond. The proposal sees retained, reinforced planting on this boundary which includes a wildlife zone and SUDS area which will be fenced off by a 1.2 metre high post and wire fence.

The western boundary includes a line of varied semi-mature and mature trees alongside shrubs along the Southern half and an open boundary with scattered small trees along the edge of the drive. The proposal sees the retention of the majority of the trees along this boundary.

An arboricultural survey was carried out on the site and of the 56 trees, 7 were graded as category B trees "worthy of protection" with the remainder graded as category C "not worthy of retention" and as such are being removed. The LVIA confirms that the proposal will provide a tree replacement strategy which will see new tree planting along the road frontage and within the proposed open space area. The Wiltshire Council Landscape Officer has advised that this strategy should include some advanced nursery stock particularly along the Devizes Road boundary. A suitable tree replacement strategy can be requested via a condition.

The Village Design Statement (VDS) requires the following from new developments: *the landscape including flora and fauna features to be respected, enhanced and protected and existing hedgerows should be retained and enhanced to maintain the character of the village.* When assessing the proposal it is accepted that the majority of the trees are to be removed from the site but existing hedgerows and trees that are worthy of being kept are to be retained and managed and a new replacement tree strategy is proposed. As such

the proposal is considered to comply with this element of the VDS.

The proposed development would maintain landscape boundaries and it is accepted that the proposed access would form a substantial break in the existing northern boundary and its associated wall and that the tree replacement strategy will take time to grow, however it is worth stating that none of the trees on the site have a Tree Preservation Order nor are they considered worthy of being protected, furthermore the site is not located in a conservation area and therefore all of the trees and hedgerows on the site could be removed at any time without the need for consent from the local planning authority.

It is accepted that the proposal would result in a change from an open paddock/green gap to an area of residential dwellings and associated development which would have an impact upon the character and appearance of the immediate area. The proposed development would therefore be contrary to the VDS, however due to the existing development north and the proposed development to the east of the site, it is considered that this harm would not warrant a reason to refuse the application.

Illustrative Layout - The application submission includes an amended illustrative layout. Whilst layout is a matter that has been reserved, some statutory consultees have commented on the proposed amended layout, some of which warrant an informative to be included on any recommendation of approval.

The Wiltshire Council Landscape Officer advised that there are large garden trees to adjacent existing properties within the Conservation Area close to the site boundary one of which has TPO status. The proposed dwellings on the illustrative layout lie close to these trees, existing dwellings and the Conservation Area and as such a landscaped buffer should be incorporated along this edge. This can be advised via an informative on a recommendation of approval.

The amended illustrative layout indicates that the proposed dwellings would be two storey, built with a rubble stone or roughcast render finish, however the VDS refers to Bath Stone as the predominant material and recommends its use in new developments. The VDS also states that rendered finishes should only be applied to buildings where render is already present. The materials would therefore need to be re-assessed at the reserved matters application and an informative can be attached to a recommendation of approval ensuring that the proposed materials are reflective of the local character.

The Wiltshire Council Urban Designer has commented on the amended plans and has raised no objections to the proposal subject to the heights being limited to two-storey and a suitable material strategy to include surfacing which reflects the local character to be submitted at the reserved matters stage. The Officer has also suggested other elements to be included at the reserved matters stage which include character, position of buildings, design of corner plots, boundary materials, street furniture, lighting and landscaping all of which can either be conditioned or advised through an informative on a recommendation of approval.

9.5 Heritage Assets - The NPPF deals with determining planning applications that affect heritage assets in paragraphs 128 to 135. Paragraph 132 sets out that *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.* Significance is defined in the NPPF as *the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.* It goes on to note that *significance can be harmed or lost through alteration or destruction of the heritage asset or*

development within its setting and notes that substantial harm to or loss of designated heritage assets of the highest significance, including SAMs and Grade I & II Listed Buildings should be wholly exceptional. The setting of a designated heritage asset is defined in the Framework as the surroundings in which a heritage asset is experienced.*

Paragraph 133 goes on to note, that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss.

In *Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd* [2012] EWHC 4344 (Admin), it was accepted that substantial harm is an impact which would have such a serious effect on the significance of an asset that its significance was either removed altogether, or very much reduced.

The site is located adjacent to a Conservation Area and therefore the impact the proposed development would have on its setting has to be taken into consideration when assessing this application. The Grange which is located to the west of the proposed site is identified in the VDS as an interesting landmark that is a feature on entering the old village from Paxcroft Mead. The Wiltshire Council Conservation Officer has confirmed that this building would be considered a non-designated heritage asset and therefore the impact the proposed development would have on its setting also needs to be addressed.

The Wiltshire Council Conservation Officer has considered the application in association with the submitted Heritage Assessment and illustrative layout and is of the opinion that if the reserved matters application delivers the claimed attributes in the said documents, then he would raise no objection as the proposal would not significantly adversely affect the setting of the conservation area and The Grange. This would be subject to a variety of informatives ensuring that the proposed development is carried out in broad accordance with the design principles submitted as part of the application. However the detailed assessment of the impact the design of the houses in the proposal would have on the setting of the Conservation Area and The Grange would be considered during the reserved matters application once the detail of the proposed dwellings and their exact locations and materials were known.

The Conservation Officer has confirmed that the proposal would result in no harm to the setting of nearby Listed Buildings which are located over 150 metres from the site and around a corner.

9.6 Ecology and Landscape - The application includes the following statements and plans that are relevant to this appropriate assessment:

- Ecological Appraisal (NPA, December 2015)
- Supplementary Ecology Statement (NPA, September 2016)

The site is located approximately 1km in radius from Green Lane Wood and approximately a 2km walk by foot.

An Ecological Appraisal has been submitted with the application which confirms that the site is of low ecological value. The key ecological features of the site are the existing hedgerows on the boundaries which due to their age and type have low habitat value. No bats, badgers, great crested newts were found on the site.

Additional tree planting will be located on the boundaries to provide screening for existing properties and 10 commemorative trees are due to be planted to remember the 10 casualties in World War I from the village. The proposed swales will also provide opportunities for biodiversity enhancements.

The Ecologist has confirmed that there is some need for compensatory habitat provision to replace the section of northern boundary hedgerow that would be lost to the new access. The proposal provides new hedgerow on the boundaries of the site but also within the site and as such there would be a significant addition to habitat creation.

The Judgement of Likely Significant Effects (JLSE) completed by the Council Ecologist on 12/08/16 concluded there could be impacts with other planning applications and developments on the Bath and Bradford on Avon Bats SAC due to:

- a) the uncertainty over future functioning of the north, east and western boundary features used by SAC bats, particularly horseshoe bats but also possibly Bechstein bats,
- b) the in-combination effects of development of recreational pressure at Green Lane and Biss Woods on Bechstein's bats.

The Supplementary Ecology Statement was submitted following the JLSE to demonstrate additional commitments and measures that can be secured to avoid impacts to flight and foraging routes across the development site.

Increased recreational pressure from this development could lead to a deterioration of woodland habitat used by Bechstein's bats and negatively affect their roosts due to the close proximity of fire pits, disturbance and vandalism of bat boxes. This development for comparatively few dwellings is at the outer limits of the distance where residents may be expected to visit the woodlands on a frequent basis. The Core Strategy allocates 5860 dwellings for Trowbridge town, of which 2526 have been completed. Developable commitments up to the year 2026 number 2649 dwellings which includes the strategic allocation of 2600. The two applications which comprise the allocation have yet to be determined and the HRA for the largest (2500 dwellings at Ashton park) will provide a strong steer for the development strategy for the area. While it is not possible to rule out an in-combination effect, approval for this application of 26 dwellings at The Grange is unlikely to trigger loss of integrity given the applications for other closer and much larger developments are still pending.

The Supplementary Ecological Statement demonstrated that measures could be put in place to provide greater certainty that replacement planting and ongoing management of the boundary features could be achieved in such a way as to avoid affecting bats. The Ecologist has recommended conditions which include a Landscape and Ecology Management Plan, a Construction Management Plan, lighting and a landscaping plan which are all considered to be acceptable. The proposal subject to these conditions is considered to comply with CP50 and CP51.

9.7 Sustainable Construction - CP41 of the Wiltshire Core Strategy identifies how sustainable construction and low-carbon energy will be integral to all new development in Wiltshire. In doing so this policy sets the framework for meeting a number of national and local priorities (for example Part L of the current Building Regulations) that seek to achieve sustainable development and conserve natural resources. This policy will help to reduce Wiltshire's contribution to climate change through improved design and construction methods. As a requirement of this policy if this application were to be recommended for approval a condition would be required to secure all new homes to reach an equivalent

energy performance level the same as Code Level 4 (in full) of the Code for Sustainable Homes.

9.8 Impact upon neighbouring amenity - Due to the application being in outline, the impact of the proposed development upon neighbouring properties in terms of overlooking and overshadowing cannot be assessed as the location of dwellings including heights and location of windows are yet to be determined. If this outline application were to be approved then these matters would be assessed in the subsequent reserved matters application.

Due to there being existing neighbouring properties near the site it would be important to request conditions on any approval requiring a dust management plan to cover the construction period to ensure that existing residential properties are not subject to dust nuisance. Conditions requiring no burning on site and construction hours to protect the amenity of existing neighbouring dwellings would also be appropriate at this stage.

A concern has been raised regarding a neighbouring property being incorrectly shown on the submitted plans and therefore the proposals would impact upon the amenity of the occupants. As neighbouring amenity is not being assessed during this outline application, the agent and applicant have both been made aware of the concern raised and will address it in any future reserved matters application.

9.9 Highway Impacts - The proposal sees the construction of a new access off Devizes Road to serve the new development which has been considered by the Wiltshire Council Highways Officer to be sufficient to serve the proposed development and the existing business centre at The Grange.

The previous Inspector was of the opinion that the appeal site located north of this site was in a sustainable location as it was located close to the local centre in Paxcroft Mead which has a general store, smaller shops including a hot food take-away, a public house, a nursery and a community centre, good public transport links (reasonably good bus service on weekdays with a more limited service on Saturdays and no service on Sundays) and a good network of cycleways and pedestrian routes to the south of the appeal site that extends beyond the local centre through Paxcroft Mead. There is also an existing primary school located between the site and the local centre. However in contrast, all three secondary schools in the Trowbridge area are located to the West of Trowbridge and are some distance from the site and therefore any future occupants are unlikely to walk to school. When assessing this, the previous Inspector indicated that *bus fares are reasonably prices for school aged children and a range of bus services that would link the site with these secondary schools at the start and end of the school day*. The Inspector continued by saying that *the same could be said for accessing a range of services, facilities and employment opportunities in and around the Town Centre*. The Inspector concluded that *the site had good access to a good range and quality of local services. Furthermore there is a range of other services, facilities and employment opportunities available in the wider urban area and links to these via modes of transport other than private motor vehicles are reasonably good*. The proposal is therefore considered to comply with CP60, 61 and 62.

There are no public footpaths on the site that would be affected by the proposal.

The illustrative layout details sufficient off street parking facilities in accordance with the Wiltshire Car Parking Strategy however this would be assessed in the reserved matters application.

Concerns have been raised regarding the loss of parking along Devizes Road for nearby

residential properties. Devizes Road does not have allocated parking and therefore the loss of parking for these properties is not a material consideration when making a decision on this application. The impact of these parked cars on the proposed access has also been raised as a concern, but there is an existing access that is not impacted upon by the existing situation.

9.10 Other Matters - Concerns raised by the public include the loss of a green space in Hilperton. The site is not protected as public open space and therefore is not able to be safeguarded as such.

The Environmental Health Officer raised no objections to the proposal but did raise a concern regarding air quality and suggested that the applicant could demonstrate what positive contributions they could make such as travel alternatives, tree planting and contributing to local air quality actions groups. Some of this information has already been submitted as part of the application but the remainder would not warrant a reason to refuse the application.

The Parish Council were of the opinion that as the proposal was adjacent to a conservation area, a full application should have been submitted and not an outline application, however the Applicant is at liberty to submit an outline application and as such this would not warrant a reason to refuse the application, especially as the site is outside of the conservation area and not within it.

9.11 Section 106/S38 Legal Agreements - Core Policy 3 advises that all new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 204 of the National Planning Policy Framework 'The Framework'

The infrastructure items listed below are those that are relevant to the Application site and are required in order to mitigate the impact of the proposed scheme. The Applicant has agreed to provide the following:

Affordable Housing

CP43 requires on sites of 5 or more dwellings, affordable housing of at least 30% will be provided and requires them to be subject to an appropriate legal agreement. 30% of 26 would equate to 8 affordable dwellings being required on this site. Based on current housing need figures for this area these should be a mix of 2 and 3 bed dwellings with a tenure split of 60% Affordable rent (5 units 3 x 2 bed houses, 2 x 3 bed houses) and 40% Shared Ownership (3 units 2 x 2 bed house and 1 x 3 bed house).

Education

The designated schools are Hilperton CE Primary School and Clarendon College and John of Gaunt in Trowbridge at a secondary level. At a primary level, 7 places would be required and at a secondary level, 5 secondary places would be required by this development. Due to the pooling restrictions in place which only allow a Local Planning Authority to combine no more than 5 contributions to the same project, the required places would be sought via CIL by the Education department. Therefore no financial contributions towards education would be required from this development.

Open Space and Play Provision

Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport recreation provision

an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhance open spaces which will be included within the S106.

The proposal requires 954 sq.m of public open space of which 46 sq.m should be equipped play provision. Due to the badger sett, equipped play would not be able to be provided on the proposed green and therefore £6,718 would be required towards existing play facilities at Lacock Gardens. The on-site open space will be managed by a private management company and as such this detail will also need to be included within the S106.

Refuse

A contribution of £2,730 would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development.

Ecology

The Habitats Regulations Assessment relies upon a commitment by the Applicant on land within the blue line of the application site (retention of trees, planting of additional trees) which would see the management of this area and communal areas of the application to be undertaken by a management company and in accordance with an approved LEMP. This would ensure the proposal complies with CP50 and the HRA Regulations. A contribution will also be secured towards a project included in the Council-led mitigation strategy which is being designed to avoid or offset a significant increase in the total number of visits to Green Lane and Biss wood. At the current time the size of this contribution is unknown but the S106 will not be finalised until this is resolved.

10. Conclusion

The proposal is not in accordance with the development plan, in that it lies outside of the limits of development and has not been brought forward through the plan led process outlined in policy CP2. However, section 9.1 of this report clearly explains why at the time of decision making, the existing limits of development are not considered to be up to date and it details the latest position on the five year housing land supply. The conclusion that can be drawn from Section 9.1 of this report is that the principle of the development of this site should be considered acceptable at present unless there are adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal as CP2 cannot be relied upon by itself as a defensible housing policy due to the Council being unable to demonstrate a five year housing land supply.

The proposal would see the erosion of an existing green gap between Hilperton and Trowbridge, however it has been considered that this does not amount to an adverse impacts that would significantly and demonstrably outweigh the benefits that this particular development in this location on the edge of a sustainable settlement identified for sustainable growth that is within walking distance to services and facilities would bring. Such benefits would include the provision of affordable housing, improved play equipment, increased housing supply and the financial benefits of the community infrastructure levy. The Council tried and failed to convince an Inspector to refuse the application to develop the adjacent land to the east, but lost because of the then demonstrated lack of a five year land supply. As a similar situation in terms of lack of land supply exists again, the Council cannot expect to win an appeal in this location for this proposal based on an out of date limit of development.

RECOMMENDATION: Defer and delegate to the Head of Development Management to grant outline planning permission subject to the prior completion of a section 106

Legal Agreement to secure the planning obligations set out in section 9.11 of this report and subject to the conditions set out below.

If the legal agreement is not completed within six months, then the application may be refused on the grounds that it fails to provide the necessary affordable housing, mitigation and infrastructure to provide for an acceptable development in accordance with the policies of the Wiltshire Core Strategy.

Planning Conditions

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

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

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

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The internal vehicular and pedestrian routes within the site.

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

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

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

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

4. No development shall commence on site until a scheme of hard and soft landscaping that is in accordance with the Supplementary Ecology Statement (NPA, Sept 16) has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- * location and current canopy spread of all existing trees and hedgerows on the land;
- * full details of any to be retained, together with measures for their protection in the course of development;
- * a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- * finished levels and contours;
- * means of enclosure;
- * car park layouts;
- * other vehicle and pedestrian access and circulation areas;
- * all hard and soft surfacing materials;
- * minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc.);
- * proposed and existing functional services above and below ground (e.g. drainage,

power, communications, cables, pipelines etc. indicating lines, manholes, supports etc);

* retained historic landscape features and proposed restoration, where relevant.

* tree(s), of a size and species and in a location to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

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 a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 as well as any required offsite works to allow connection to existing main sewer, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: 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 and to ensure that the development can be adequately drained

6. No development shall commence on site until a scheme for the discharge of foul water from the site, including any required offsite works to allow connection to existing main sewer, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the foul 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, in the interests of suitable drainage.

7. No development shall commence on site until a Tree Replacement Strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: 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.

8. No development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved by the local planning authority. The development shall then be managed and maintained in accordance with the measures set out in the LEMP in perpetuity.

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 and to ensure appropriate management of priority habitats and mitigation for protected species.

9. No development shall commence on site until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the local planning authority. The CEMP shall provide details of the measures that will be implemented during the construction phase including the precautions that will be undertaken to avoid harm to protected species, hedgerows and trees. Development shall be carried out in full accordance with the approved plan.

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 and to ensure adequate protection and mitigation for protected species, priority habitats and Bechstein's bats.

10. No development shall commence on site until details of the material to be used for the access walls 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.

11. No walls associated with the access hereby approved shall be demolished or constructed on site, until a sample wall panel, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

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

12. No part of the development hereby approved shall be first brought into use until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interest of highway safety.

13. No part of the development hereby approved shall be occupied until the access has 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 interest of highway safety.

14. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage demonstrating through the use of lux plots that bat flight lines will receive no greater than 0.1 Lux from artificial lighting, have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: 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 and in the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

15. 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.

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

Site Location Plan received on 25th February 2016

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

Planning Informatives:

1. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [NB: DATE TO BE INSERTED ONCE S106 IS SIGNED].

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

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

3. The Reserved Matters application shall take into account the following as the illustrative layout provided as part of this outline application has not been considered to be appropriate:

- a) The design of the proposed properties (especially in the northern part of the site) must take into account local vernacular features including size, scale, design and materials.
- b) Heights of the proposed dwellings should be limited to a maximum of 2 storeys
- c) A suitable material strategy (including surfacing) which reflects the local character and complies with the Hilperton Village Design Statement and Core Policy 57 of the Wiltshire Core Strategy should be submitted
- d) The character and position of distinctive buildings, the design of corner plots, boundary materials, street furniture and lighting should be clearly detailed.
- e) There are some large garden trees to properties within the Conservation Area close to the site boundary - one has TPO status. The proposed dwellings are close to these trees and the existing dwellings within the Conservation Area. Therefore a landscaped buffer should be incorporated along this edge.

- f) The Tree replacement strategy should include some Advanced Nursery Stock, a list of native species and details of retained hedgerows including densities and sizes particularly along the Devizes Road boundary.
- g) The location of the proposed properties should take into account the Wiltshire Waste Supplementary Planning Guidance and ensure that residents will be able to use the standard waste collection service (carry distances). Internal roads should also comply with this guidance with details showing vehicle tracking to demonstrate that refuse vehicles can move through the development and turn.
- h) Details of how the proposal complies with the Wiltshire Council Car Parking Strategy should be submitted alongside details of estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, and a timetable for provision of such works.
- i) Any landscaping plans will need to ensure that they comply with the Supplementary Ecology Statement (Sept 16)
- k) Any external lighting should demonstrate the use of lux plots and ensure that bat flight lines will receive no greater than 0.1 L7ux from artificial lighting.
- l) Whilst this application is for up to 26 dwellings, a reduction in the number of units may be required to ensure that boundary features can be retained in a suitable condition so they are not harmed and can be protected so they can continue to be used by horseshoe bats and Bechstein bats while not affecting the amenity of adjacent properties.
- m) The road layout in the Illustrative Proposed Site Layout is unlikely to be acceptable due to the effect of lighting on the western boundary and associated impact on horseshoe bats unless the developer can demonstrate that road lighting will not be required by the Highways Authority.

4. The applicant/developer is advised to 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.