

**Wiltshire Council**  
**Southern Area Planning Committee**  
**7<sup>th</sup> February 2019**

Planning Appeals Received between 30/11/2018 and 25/01/2019

<b>Application No</b>	<b>Site Location</b>	<b>Parish</b>	<b>Proposal</b>	<b>DEL or COMM</b>	<b>Appeal Type</b>	<b>Officer Recommend</b>	<b>Appeal Start Date</b>	<b>Overturn at Cttee</b>
17/11250/FUL	Little Manor Nursing Home Manor Farm Road Milford, Salisbury Wiltshire, SP1 2RS	SALISBURY CITY	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home. (Little Manor.) Demolition of the recent (non-historically-significant) extensions to the rear, and construction of a Care Quality Commission (CQC) compliant replacement extension, increasing the capacity to 30 beds and alteration to existing access. Demolition of two small ancillary buildings, associated landscaping works.	SAPC	Written Representations	Refuse	07/12/2018	No
17/11681/LBC	Little Manor Nursing Home Manor Farm Road Milford, Salisbury Wiltshire, SP1 2RS	SALISBURY CITY	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home.	SAPC	Written Representations	Refuse	07/12/2018	No
18/02197/FUL	36B Choristers Square The Close, Salisbury Wiltshire, SP1 2EL	SALISBURY CITY	Demolition of existing timber traffic kiosk and erection of GRP traffic kiosk on the same site	DEL	Written Representations	Refuse	07/12/2018	No

Planning Appeals Decided between 30/11/2018 and 25/01/2019

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/04001/OUT	Land off Firs Road Alderbury Wiltshire	ALDERBURY	Outline application for residential development of up to 50 dwellings, associated parking and access (off of Firs Road) , open space and infrastructure; relocated guide hut, new pre-school building and land to extend existing primary school playing fields	SAPC	Inquiry	Approve with Conditions	Allowed with Conditions	07/12/2018	None
17/11250/FUL	Little Manor Nursing Home, Manor Farm Road Milford, Salisbury Wiltshire, SP1 2RS	SALISBURY CITY	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home. (Little Manor.) Demolition of the recent (non-historically-significant) extensions to the rear, and construction of a Care Quality Commission (CQC) compliant replacement extension, increasing the capacity to 30 beds and alteration to existing access.	SAPC	Written Reps	Refuse	Withdrawn	09/01/2019	None
17/11681/LBC	Little Manor Nursing Home, Manor Farm Road Milford, Salisbury Wiltshire, SP1 2RS	SALISBURY CITY	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home.	SAPC	Written Reps	Refuse	Withdrawn	09/01/2019	None
17/12401/OUT	Manor Farmhouse Butterfurlong Road East Grimstead SP5 3RT	GRIMSTEAD	Erection of detached dwelling (Access and layout only - all other matters reserved)	DEL	Written Reps	Refuse	Dismissed	10/12/2018	None
18/03084/VAR	Caddens, Lower Road Homington, SP5 4NG	COOMBE BISSETT	Variation of condition 2 of planning permission 17/07475/FUL to allow for the garage roof to be linked to the house and loft room created in roof void above garage	SAPC	House Holder Appeal	Approve with Conditions	Allowed with Conditions	17/01/2019	None



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## Appeal Decision

Inquiry Held on 13, 14 and 15 November 2018

Site visit made on 12 November 2018

**by Neil Pope BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 December 2018**

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**Appeal Ref: APP/Y3940/W/18/3200041**

**Land off Firs Road, Alderbury, Salisbury, Wiltshire.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Longford Estates against the decision of Wiltshire Council (LPA).
  - The application Ref. 17/04001/OUT, dated 24 April 2017, was refused by notice dated 14 December 2017.
  - The development proposed is residential development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building and land to extend existing primary school playing fields.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building and land to extend existing primary school playing fields on Land off Firs Road, Alderbury, Salisbury, Wiltshire. The permission is granted in accordance with the terms of the application ref. 17/04001/OUT, dated 24 April 2017 and subject to the conditions in the attached Schedule.

### Preliminary Matters

2. Other than the means of access, all other matters of detail have been reserved for subsequent consideration. I have treated the masterplan and the proposed land use plan as illustrative only.
3. Prior to the LPA's determination of the application the description of the development was modified (as set out above) to specify the location of the proposed access. As contained within the Statement of Common Ground (SoCG), dated 1 October 2018, that has been agreed by the appellant and the LPA, the proposal includes the change of use of land to school playing fields.
4. In determining this appeal I have also taken into account the contents of the separate SoCG, dated 9 November 2018, relating to housing land supply (HLS), as well as a further SoCG in respect of education contributions.
5. In submitting the appeal the appellant failed to serve the requisite notice on one of the parties with a legal interest in the land. The appellant wrote to that party in September 2018 notifying it of the appeal. That party subsequently made representations supporting the principle of the proposed development. This was made available to both main parties in advance of the Inquiry opening. I consider that the interests of no party has been prejudiced by this

late notification/representation and I have taken it into account together with all other representations, including those made to the LPA at application stage.

6. A completed agreement, under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended), has been submitted. This includes: provision for at least 22% of the proposed residential units to be affordable dwellings; arrangements for transferring ownership of the playing field extension land; the provision of open space/play area (including arrangements for its upkeep and maintenance) and; a financial contribution towards the cost of waste and recycling. I shall return to this agreement below.
7. The proposed new pre-school building would occupy a very small part of the existing primary school playing field. Sport England (SE) was not consulted on the planning application but was notified of the appeal shortly before the Inquiry opened. SE's response on the application/appeal was received on 29 November 2018. The appellant and the LPA have commented on SE's response. I closed the Inquiry in writing on 6 December 2018.

### **Main Issue**

8. The main issue is whether the LPA is able to demonstrate a five year supply of housing land and if not, whether any adverse impacts of granting planning permission, having particular regard to any conflict with the spatial strategy of the development plan and any harmful impact upon local services and facilities, would significantly and demonstrably outweigh the benefits of the proposal.

### **Reasons**

#### *Planning Policy*

9. The development plan includes the Wiltshire Core Strategy (CS), adopted in 2015, and the 'saved' policies of the Salisbury District Local Plan, adopted in 2003. The most relevant development plan policies to the determination of this appeal are CS policies 1 (settlement strategy), 2 (delivery strategy) and 23 (spatial strategy Southern Wiltshire Community Area [SWCA]).
10. I note from the introduction to the CS that this development plan document, amongst other things, aims to set out a flexible and realistic framework, contribute to the achievement of sustainable development and manage future development to ensure that communities have an appropriate balance of jobs, services, facilities and homes.
11. The appeal site lies within the SWCA. Amongst other things, the CS identifies: a minimum housing requirement of 10,420 dwellings in this part of Wiltshire and; Alderbury as a Large Village with a settlement boundary. The site lies outside but is adjacent to the adopted village settlement boundary.
12. The settlement boundaries were drawn many years ago to cater for the housing needs of the former Wiltshire Structure Plan and formed part of the Salisbury District Local Plan. The mere age of these boundaries do not render them out-of-date and they remain part of the development plan. However, as set out within part of the LPA's evidence base<sup>1</sup> for the CS, the settlement boundaries "*are out of date and do not reflect the current urban form*" and "*will need to be reviewed later to ensure that they are fit for purpose.*"

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<sup>1</sup> Page 45 of Topic Paper 3: Settlement Strategy (2012).

13. As I saw during my site visit, the adopted settlement boundary for Alderbury excludes numerous areas where development has taken place since this boundary was identified. It was drawn to take account of a very different housing requirement to the CS and no longer reflects the evolved urban form of the village. In 2016 it was found<sup>2</sup>, in respect of land adjacent to part of the southern edge of the appeal site (Wagtails), that there was *“limited evidence to demonstrate that the boundary in this locality is reflective of the current urban form or that it reflects current local and national policy.”* The LPA has not identified any new evidence that would justify reaching a different conclusion.
14. The divisional Member and the Parish Council’s representative both informed me that they consider the adopted settlement boundary for Alderbury to be out-of-date. I also note that this boundary was, in effect, set aside by the decision of the LPA to grant planning permission in 2017 for 28 dwellings and a health centre on land at Matrons College Farm (ref. 13/02543/OUT)<sup>3</sup>.
15. I note the findings made by Inspectors on some other sites<sup>4</sup> in Wiltshire where the respective settlement boundaries were deemed not to be a constraint to development. However, the above noted admission by the LPA during the CS examination and the subsequent decisions at Matrons College Farm and Wagtails, as well as the current urban form of the village, significantly undermine the LPA’s argument that the adopted settlement boundary for Alderbury is not out-of-date.
16. I concur with the appellant, the local Member and the Parish Council’s representative that the Alderbury settlement boundary is now out-of-date. Both main parties informed me that such a finding would engage the tilted balance, as set out within paragraph 11 (d) (ii) of the National Planning Policy Framework (the Framework<sup>5</sup>).
17. My attention has been drawn to the Consultation Draft Wiltshire Housing Site Allocations Plan (SAP) that was published in 2017 and the emerging Wiltshire Local Plan Review (eLP). Amongst other things, the SAP includes a revised settlement boundary for Alderbury<sup>6</sup>. This Plan is at an early stage of the plan-making process and carries limited weight. As the eLP is at an earlier stage of preparation, I agree with both main parties that it carries very limited weight. Neither the SAP nor the eLP are determinative to the outcome of this appeal.

### *Benefits*

18. The proposed market housing would increase the choice, mix and supply of residential accommodation within this part of Wiltshire. At the Inquiry, the Council informed me that there was a substantial unmet need for affordable housing. I also note from its records that eight households in affordable need have registered Alderbury as their first preference choice. The proposed market and affordable housing is a benefit that can be given substantial weight in the overall planning balance.

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<sup>2</sup> APP/Y3940/W/16/3157162.

<sup>3</sup> At the Inquiry I was informed that it was no longer possible to provide the health centre and instead a financial contribution of about £200,000 towards the cost of the village hall had been offered.

<sup>4</sup> APP/Y3940/W/16/3162997 and APP/Y3940/W/16/3162581.

<sup>5</sup> The Framework is an important material consideration that carries substantial weight.

<sup>6</sup> This identifies many changes to more accurately reflect the urban form of the village. It includes a small part of the appeal site within the settlement boundary but does not entail any changes around Wagtails or Matrons College Farm.

19. Occupiers of the proposed dwellings would help support and sustain local services and facilities, including potentially increasing the number of pupils attending Alderbury and West Grimstead CE Primary School, which is currently under-subscribed. This can be given moderate weight in the planning balance.
20. The proposed extension of the school playing fields would fall short of achieving the Department for Education's guidelines for play space area requirements. Nevertheless, it would result in a significant increase (2,109m<sup>2</sup>) in the amount of useable playing field space. I concur with the appellant that SE's response is not based on a full appreciation of the current position<sup>7</sup>.
21. Wiltshire Council is prepared to accept a freehold interest in the playing field extension and the school's Estates Manager supports the principle of this element of the proposals. The additional playing field space would benefit pupils attending the school and would accord with the provisions of paragraph 97 of the Framework. This element of the proposals can also be given moderate weight in the planning balance.
22. Alderbury Pre-School building is a very modest facility that accommodates 29 children and which provides an important service to parents/carers and children, including a breakfast club and an after-school club for the adjacent primary school. It offers childcare for children aged 12 months to 11 years. The existing building is no longer adequate to cater for the needs and demands of this local service. The proposed new pre-school building would provide additional space for staff, children and their families and, in so doing, benefit the local community. This element of the proposals carries moderate weight.
23. All other claimed benefits, including support for the construction industry, relocation of the guide hut with dedicated parking, the proposed landscape planting and bat and bird boxes carry limited weight.
24. The totality of the above noted social, economic and environmental benefits weigh heavily in support of an approval in the overall planning balance.

### *HLS*

25. At the start of the Inquiry the LPA argued that it could demonstrate 5.09 years HLS. This was based upon the CS housing requirement<sup>8</sup> of 10,420 dwellings over the period 2006-2026 and using the 'Liverpool approach' to cater for the shortfall in housing supply. On the second day of the Inquiry the LPA informed me that it was no longer arguing that 15 units could be delivered at Bulbridge. This has the effect of reducing its claimed HLS to 5.06 years (headroom of 36 dwellings). The LPA's HLS witness informed me that this allowed for very little margin of error in its assessment.
26. Part of the appellant's case is that the overall CS housing requirement of 42,000 dwellings was based on an objectively assessed need that did not provide for the higher 'policy-off' economic scenario. As a consequence, it is

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<sup>7</sup> The LPA accepts that the provision of land owned by the appellant to the school to enable the creation of additional school play space and facilities is a benefit. Permission has also previously been granted for a change of use of land for recreational purposes, the erection of a new sports club pavilion, proposed access, parking and associated drainage works on neighbouring land (ref. S/2011/0029). The appellant's agent contacted the LPA in 2014 to state that a material start had been made to that development. This was not disputed by the LPA at that time. I agree with the appellant that this neighbouring development would provide replacement sports facilities that would be far greater in quantity and quality than the facilities on the appeal site.

<sup>8</sup> As contained within CS policy 2 for the South Wiltshire Housing Market Area (SWHMA).

argued, with reference to case law and best practice which has emerged following the publication of the CS Inspector's Report, that the housing requirement relied upon by the LPA is out-of-date.

27. I understand the appellant's argument on this matter. However, it appears to me that following the publication of new guidance during the examination into the CS, the CS Inspector adopted a pragmatic stance towards the housing requirement. His findings/reasons were set out in his detailed report and there was no successful challenge to the adopted CS. Whilst the need for an early review of aspects of various housing policies is set out within the CS Inspector's report, it would be tantamount to re-running a major part of the CS examination if the housing requirement was to be revisited in this appeal.
28. Moreover, if a different housing requirement to the one specified in a development plan that is less than five years old was to be used without considering all evidence that underpins such assessments, it would be likely to result in inconsistencies in the decision-making process. A section 78 appeal is not the appropriate procedure for determining this complex matter, especially where the main parties agreed that only three sitting days would be required.
29. Even if the appellant is correct in arguing that the housing requirement is out-of-date, the Framework, amongst other things, requires LPA's to identify and update annually a supply of specific deliverable sites against their housing requirement set out in adopted strategic policies. In Wiltshire, the housing requirement in the adopted strategic policy (CS policy 2) is for at least 42,000 homes, of which a minimum housing requirement of 10,420 dwellings should be derived from the SWHMA. In the circumstances, it would be inappropriate to rely upon anything other than the adopted minimum housing requirement of 10,420 dwellings for this part of the district.
30. The CS uses the 'Liverpool approach' to cater for the shortfall in housing supply. In accepting this approach the CS Inspector was mindful of government advice (which at that time expressed a preference for the 'Sedgefield approach'), as well as the LPA's intention of a planned early review of the CS, Strategic Housing Land Availability Assessment updates and proposed Strategic Housing Market Assessment work which would allow it to review the effectiveness of existing and proposed delivery intentions. My reading of the CS Inspector's report is that it is not a ringing endorsement of the 'Liverpool approach' or for its use throughout the whole of the plan period.
31. In comparison to establishing the housing requirement, the appropriateness of the 'Liverpool approach' v 'Sedgefield approach' is something that is easily capable and appropriate to test at Inquiry. This is evident from the numerous appeal decisions that have been drawn to my attention by the main parties.
32. Some of these previous decisions involve sites elsewhere in Wiltshire and where the use of the 'Liverpool approach' was upheld<sup>9</sup>. However, these all relate to sites outside the SWHMA with a different housing requirement and where, unlike the SWHMA, housing delivery is still reliant upon strategic allocations. In the only example of an appeal decision<sup>10</sup> within the SWHMA that has been drawn to my attention and where this matter arose, the Inspector appears to endorse the use of the Sedgefield approach.

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<sup>9</sup> APP/Y3940/W/15/3132915, APP/Y3940/W/16/3150514, APP/Y3940/W/16/3162997 & APP/Y3940/W/16/3162581

<sup>10</sup> APP/Y3940/W/17/3173509. (The Council has argued that only limited evidence was submitted on HLS.)

33. The most recent of all of these other Wiltshire decisions is dated December 2017 and they all pre-date the latest changes to the Government's Planning Practice Guidance. This now establishes a default position in respect of the 'Sedgefield approach'. Moreover, as explained by the appellant's HLS witness<sup>11</sup>, the CS housing requirement is disaggregated into different HMAs and there would be no inconsistency if the 'Sedgefield approach' was used for the SWHMA. Approximately four years after the CS Inspector's report was received the LPA has yet to meaningfully review the effectiveness of the 'Liverpool approach' in catering for the shortfall in supply across the district. I consider it appropriate to now use the 'Sedgefield approach' in the SWHMA.
34. The LPA accepts that if the 'Sedgefield approach' is adopted it is unable to demonstrate five years HLS. Under its own trajectory from sites there would only be about 4.8 years HLS. (If the appellant's trajectory is accepted there would be about 4.3 years HLS.) As a consequence, policies for the supply of housing within this part of the district are out-of-date. This also results in the engagement of the tilted balance.
35. Amongst other things, the Framework seeks to significantly boost the supply of homes and it is important to consider the extent of any shortfall in supply. In this regard, the main parties disagree in respect of two specific sites (Fugglestone Red and Kings Gate) and the windfall allowance. Whether 4.3 or 4.8 years HLS exists considerable weight should be given to the shortfall.
36. Fugglestone Red is a strategic allocation, owned by a single developer with outline consent (in part) and detailed permission (in part) for 324 dwellings. The LPA's trajectory tempers the developer's predicted delivery rates to 125 dwellings per annum (dpa) and is based on average build rates on other large sites in the area. However, none of the historic build rates relied upon by the LPA reveals that an average of 125 dpa has been achieved. The highest average build rate from these other sites is only 117 dpa.
37. Moreover, there is no cogent evidence to support the LPA's argument that these historic rates include 'wind up' and 'wind down' years and actual delivery rates have been slower than assumed by the LPA. There is no clear evidence to substantiate the LPA's assumed delivery rate on this site. Instead, there is greater strength in the appellant's argument that a lower number of homes would be delivered over the five year period (156). (Even if the 'Liverpool approach' is used the LPA would be unable to demonstrate five years HLS.)
38. Kings Gate has detailed permission for 216 units and delivery is underway. The LPA relies on information provided by the developer and I agree with its argument that this developer's national build rate is of little assistance in assessing the likely delivery rate on this particular site. Local circumstances are likely to be different to the country as a whole and I note that achieved rates on other parts of this site have exceeded the appellant's predicted delivery rate. However, commencement did not occur until several months after the developer's predicted date and delivery has been delayed accordingly. I concur with the appellant that some reduction should be made for this delay. (In itself this would not remove the 'headroom' under the 'Liverpool approach' but the LPA's claimed HLS position would be marginal in the extreme.)

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<sup>11</sup> This witness was previously an officer of the LPA and was heavily involved with the CS examination at the time.



39. In respect of the windfall allowance there is a difference of 100 dwellings between the main parties. In reaching its figure the LPA has departed from the method it used in the preparation of the CS and which was found to be sound by the CS Inspector. There is nothing to now prevent the LPA using a different methodology and the alternatives were not criticised by the CS Inspector.
40. However, the approach now adopted by the LPA is based on historic trends and relies upon a continuous supply of a decreasing capacity of large windfall sites. The number of windfall permissions has broadly declined since 2009 and there is no cogent evidence to show that the LPA's figure is a conservative and reliable quantum to use for the purposes of assessing HLS. There is greater merit in using the appellant's lower figure, which is based on the CS methodology and has been shown to be robust by the appellant following an interrogation of the figures in the LPA's 2017 Housing Land Supply Statement.
41. Whether using the 'Liverpool approach' or the 'Sedgefield approach' the LPA is unable to demonstrate five years HLS for this part of Wiltshire.

### *The Spatial Strategy and the Impact upon Local Services and Facilities*

42. Under CS policy 1, development at Alderbury is intended to be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. CS policy 2 provides that outside the defined settlement limits development will not be permitted other than in circumstances permitted by other policies in the Plan. CS policy 23 requires development to be in accordance with CS policy 1 with approximately 615 new homes over the Plan period, of which about 425 homes are to be provided outside Downton in the 'rest of the Community Area'. Proposals need to demonstrate how the relevant issues and considerations listed in paragraph 5.126 of the CS would be addressed.
43. The appellant accepts that the proposed development would be at odds with the provisions of CS policy 2. This conflict with a main policy of the development plan weighs against granting planning permission. However, I have already found above that the settlement boundary for Alderbury is out-of-date and the LPA is unable to demonstrate five years HLS in this part of the district. This diminishes the weight that I give to the conflict with CS policy 2.
44. The affordable housing element of the proposal would help to meet the housing needs of the local community/settlement. Nevertheless, the supporting text to CS policy 1 states that development will predominantly take the form of small housing sites (fewer than 10 dwellings) within settlement boundaries. I cannot think that the authors of this policy would have intended schemes for up to 50 dwellings outside the settlement boundary of a Large Village to be policy compliant when it was formulated. However, CS policy 1 was derived on the basis that the LPA would be able to demonstrate five years HLS. Given my findings above in respect of this matter, it is important to consider the aims of the CS in order to properly determine whether the proposal would conflict with the spatial strategy and amount to unsustainable development.
45. An integral part of the LPA's reason for refusing planning permission was that the conflict it had identified with CS policies 1 and 2 would constitute an unsustainable form of development that would place an undue strain on the limited services and facilities within the settlement. However, the LPA has not submitted any evidence to demonstrate that the proposal would harm any local

services and facilities. It is also no part of the LPA's case that the development of this 3.3 ha site would adversely affect the quality of the local landscape / environment, or result in any unacceptable loss of countryside, or harm the significance of any heritage asset, or have any adverse impact on nature conservation interests. In my experience, it is rare to discover that a proposed scheme of residential development outside a settlement boundary would not adversely affect one or more of these important planning matters.

46. The LPA also accepts that: the proposal would not change the function or alter the position of Alderbury within the settlement hierarchy; the appeal site is sustainable in transport terms and the proposal would not conflict with any policies in respect of accessibility, including those aimed at reducing the need to travel by car; Alderbury has a good level of services<sup>12</sup> for a Large Village; there is no evidence to indicate that the development would prejudice the redevelopment of any previously developed land or regeneration and; the proposal would not offend any of the considerations listed in paragraph 5.126 of the CS. Its planning witness also informed me that there is no evidence to demonstrate that the proposal would result in any imbalance between homes and jobs or that the ensuing increase (15% to 26%) above the prescribed housing requirement for the 'rest of the Community Area' would be harmful.
47. Given the above, including the flexible framework provided by the CS and its indicative and minimum housing requirements, I consider that the proposed development broadly accords with the provisions of CS policies 1 and 23. However, even if I am wrong on this matter there is nothing of substance to demonstrate that the proposal would undermine the aims of the spatial strategy or amount to unsustainable development. This site, which is located towards the centre of the village and where there is no cogent evidence of any harmful impact, is suitable for the proposed development.
48. Each case must be determined on its own merits and my decision does not turn on the approval that was given at Matrons College Farm. Nevertheless, this permission reveals that in applying the above noted settlement policies and spatial strategy the LPA accepts that there is scope for sizeable housing developments outside the Alderbury settlement boundary. As acknowledged by the LPA's planning witness, withholding permission for the appeal scheme exposes some inconsistency within its decision-making process in the SWHMA.
49. Although the appeal scheme would be at odds with CS policy 2 it would not conflict with the objectives of CS policies 1 and 23, or undermine the spatial strategy or harm any local services and facilities. When the development plan is read as a whole the proposal would amount to sustainable development.
50. The LPA is unable to demonstrate a five year supply of housing land and there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits of the proposal.

### *Other Matters*

51. My attention has been drawn to many appeal decisions, including proposals / sites elsewhere within England. I have had regard to the findings within those decisions and I have already noted above that each case must be determined on its own merits. There are material differences between these other

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<sup>12</sup> These include a primary school, recreation ground, village hall, convenience store, police station, chapel, church, pubs, post office, business park, various sports clubs and a regular bus service.

proposals / sites and the circumstances before me in this appeal. These include the HLS situation, the housing requirement, the extent of the proposed benefits, the location / characteristics of the site and the absence of any harm to important planning interests. None of these other decisions set a precedent that I must follow.

52. I note the concerns of some interested parties regarding the highway and drainage impacts of the proposed development. However, there is no cogent evidence to substantiate these concerns and refute the findings within the appellant's Transport Statement /highways evidence or Flood Risk Assessment/ drainage evidence. The proposal would not compromise highway safety interests or result in any significant increase in congestion or increase the risk of flooding. I note that the LPA's transport and drainage officers did not object.

### *Planning Conditions*

53. I have considered the suggested agreed conditions having regard to the provisions of paragraph 55 of the Framework.
54. In the interests of certainty a condition would be necessary specifying the approved plans. As the proposed residential development is required to help address the shortfall in HLS and to secure the timely delivery of housing, it would be necessary to require shorter timescales for the submission of the reserved matters and the commencement of development. I agree with the timescales that were agreed by both main parties at the Inquiry.
55. To secure an appropriate programming, phasing and orderly pattern of development conditions would be necessary requiring the new pre-school building and the relocated guide hut to occur through timely delivery. To safeguard the character and appearance of the area conditions would be necessary regarding tree protection works and the submission of a landscape management plan. In the interests of highway safety and to ensure adequate highway works are provided within the site conditions would be necessary to prevent any future vehicular access onto Junction Road and requiring the submission of the internal estate roads and other highway details.
56. To ensure the relocated guide hut remains available as a facility to the local community a condition limiting its use to Class D2 of the Town and Country Planning (Use Classes) Order would be necessary. Conditions would also be necessary to ensure adequate land drainage, to safeguard archaeological interests and to mitigate any harm to nature conservation interests.
57. To safeguard the living conditions/amenity of neighbouring residents conditions would be necessary requiring the development to be undertaken in accordance with a construction management plan and to limit the hours of demolition / construction. To ensure adequate living conditions for residents of the proposed dwellings a condition would be necessary preventing any harmful road traffic noise.
58. The appellant has given written agreement to the various pre-commencement conditions that both main parties agree would be necessary.
59. The suggested conditions relating to landscaping and materials are matters that should be addressed at the reserved matters stage. It would therefore be inappropriate to include them as part of an outline permission. In the interests of clarity and concision I have modified some of the suggested conditions.

### *S106 Planning Agreement*

60. Given the substantial unmet need for affordable housing and the contents of the appellant's Viability Report, the proposal includes necessary provision for affordable housing and at a rate that is fairly and reasonably related in scale and kind to the development. The affordable housing provisions of the Agreement would also be directly related to the development.
61. In addition to the above, the mechanisms for securing the transfer of the ownership of the playing field extension land and for the provision of open space/play area, as well as the financial contribution towards the cost of waste and recycling (£4,550) arising from the likely demands of the proposed development also accord with the provisions of paragraph 56 of the Framework. Both main parties also agree that none of these obligations would exceed the 'five obligation limit' to which Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) applies.
62. I have taken the S106 Planning Agreement into account.

### *Planning Balance / Overall Conclusion*

63. As set out within the Framework, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, the purpose of the planning system is to contribute to the achievement of sustainable development. I have found conflict with a main policy of the development plan and one which forms part of a suite of policies intended to steer development to the most sustainable locations.
64. However, the settlement boundary for Alderbury is no longer fit-for-purpose, the LPA is unable to demonstrate five years HLS within this part of the district and the proposal would deliver a package of benefits, including some much needed affordable housing, as well as a significant increase in the amount of useable playing field space for use by pupils at the local primary school. Alderbury can also be conveniently accessed by means other than the car. These important material considerations justify granting permission that is at odds with CS policy 2.
65. Even if CS policy 2 was not out-of-date, there is nothing of substance to demonstrate that the proposal would amount to unsustainable development. There is no evidence of any harm to important planning interests, including the role and function of Alderbury within the settlement hierarchy and nothing to indicate there would be any imbalance of homes, jobs, services or facilities. The CS is intended to provide a flexible and realistic framework with minimum housing requirements as well as some development on greenfield sites.
66. Given all of the above and having regard to local circumstances, including the character and needs of the area, I arrive very firmly at the position that the proposals comprise sustainable development. The appeal scheme accords with the overall aims of the development plan and the objectives of the Framework. I therefore conclude that the appeal should succeed.

*Neil Pope*

Inspector

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Z Simons of Counsel                      Instructed by Mr F Cain, Head of Legal Services,  
Wiltshire Council

He called

Mr C Roe MSc, MRTPI                      Spatial Planning Manager for Monitoring &  
Evidence

Mr A Smith MA, MRTPI                      Associate, Geraint John Planning

### FOR THE APPELLANT:

Mr S Lyness of Counsel                      Instructed by Mrs A Whalley of Pegasus Group

He called

Mr N Tiley BSc (Hons), ARTPI              Associate, Pegasus Group

Mrs A Whalley BA (Hons),  
DipTP, MRTPI                                  Associate, Pegasus Group

### INTERESTED PERSONS:

Cllr R Britton                                  Member of Wiltshire Council (Alderbury and  
Whiteparish division)  
Cllr E Hartford                                  Chairman Alderbury Parish Council  
Mrs C Niven                                      Local resident  
Mrs R Owen                                      Manager, Alderbury Pre-School

### LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1                                  Opening Submissions on behalf of the appellant  
Document 2                                  Opening Submissions on behalf of the LPA  
Document 3                                  Cllr Hartford's Statement  
Document 4                                  Representation from Alderbury Guide Hut  
Management Committee  
Document 5                                  Mrs Niven's notes  
Document 6                                  Missing pages to Appendices 14 and 15 of Mrs  
Whalley's proof of evidence  
Document 7                                  Bus timetables  
Document 8                                  Mr Tiley's Note – windfall calculation  
Document 9                                  Proposed revised Alderbury settlement boundary  
showing 'Wagtails' site  
Document 10                                  Housing Land Supply Statement April 2014  
Document 11                                  SoCG – Education Contribution  
Document 12                                  Draft S106 Agreement – track changes  
Document 13                                  Closing Submission on behalf of the LPA  
Document 14                                  Closing Submissions on behalf of the appellant

Document 15	Completed S106 Agreement
Document 16	SE's comments
Document 17	The appellant's response to SE's comments
Document 18	The LPA's response to SE's comments

*(Documents 15-18 were submitted whilst the Inquiry was adjourned.)*

## SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission.
3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan ref. L.0340\_3H-1 and access arrangements plan ref. L007-15A.
5. No more than 25 market dwellings comprised in the development hereby permitted shall be occupied before construction works to provide the new pre- school building and the relocated guide hut building and associated parking are completed and made available for their intended uses.
6. No construction works shall commence to provide the new pre-school building and guide hut building until schemes for their delivery have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved schemes of delivery.
7. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority (LPA). Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any retained tree is removed, uprooted or destroyed or dies within five years following the occupation of the last dwelling, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as may be specified in writing by the LPA. No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the LPA, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the LPA.

(In this condition 'retained tree' means an existing tree which is to be retained in accordance with the landscape/layout plans as part of the reserved matters.)

8. No dwellings shall be occupied until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting or amending that Order with or without modification), no vehicular access shall be made direct from the site to or from Junction Road.
10. No development shall commence within any given area of the 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, for that area of the site have been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be undertaken in accordance with the approved details, including the timetable, unless an alternative timetable is agreed by the LPA.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the area of the site and the proposed building referred to as the Guide Hut shall be used solely for purposes within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).
12. No development shall commence within any given area of the site until a scheme for the discharge of surface water from the site (including surface water from access/driveways), incorporating sustainable drainage details, for that part of the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use/first occupied until surface water drainage has been constructed in accordance with the approved scheme.
13. No development shall commence until a written programme of archaeological investigation, which shall 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. The development shall be undertaken in accordance with the approved programme/details.
14. The development hereby approved shall be undertaken in accordance with section 7 of the submitted Ecological Assessment (Ecology Solutions Ltd, April 2015). All documents submitted for reserved matters applications shall demonstrate how the recommendations of the above report will be

implemented in so far as it is relevant to the development.

15. No development shall commence within any given area of the site until a construction management plan for that part of the site has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:
- a) the movement of construction vehicles;
  - b) the cutting or other processing of building materials on site;
  - c) wheel washing and vehicle wash down facilities;
  - d) the transportation and storage of waste and building materials;
  - e) the recycling of waste materials (if any);
  - f) the loading and unloading of equipment and materials;
  - g) the location and use of generators and temporary site accommodation;
  - h) pile driving (if it is to be within 200m of residential properties)

The construction/demolition phase of the development shall be carried out fully in accordance with the construction management plan at all times.

16. No residential development shall commence on site until a scheme for protecting the future occupants against road traffic noise has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before any dwelling is occupied and shall be maintained at all times thereafter. In discharging this condition the appellant/developer should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment report according to BS8233: 2014 (or subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 of BS8233:2014. The report shall also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.
17. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays. No burning of waste shall take place on the site during the construction phase of the development.