

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	27.05.2020
Application Number	19/11569/OUT
Site Address	Land south of Filands, Malmesbury
Proposal	Outline planning application (all matters reserved except means of access only in relation to a new point of access into the site) for residential development, including the construction of up to 71 dwellings, the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure
Applicant	Gleeson Homes
Town/Parish Council	MALMESBURY
Electoral Division	Malmesbury - Cllr Gavin Grant
Grid Ref	393564 188647
Type of application	Outline Planning
Case Officer	Nicole Gillett

Reason for the application being considered by Committee

Councillor Grant has requested the proposal be put before committee to examine; Nonconformity with the Malmesbury Neighbourhood Plan, the visual impact of development and the proposals' impact on local infrastructure.

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 the application be approved subject to conditions and prior completion of a S106.

2. REPORT SUMMARY

The key issues in considering the application are as follows:

- Principle of the Development
- Deliverability
- Character and appearance
- Impact on Residential Amenity
- Highway Impacts
- Sustainability
- Drainage / Flood Risk
- Ecology
- S106 contributions (Affordable Housing, Education, Public Open Space, Waste, Public Art)

Malmesbury Town Council raise objection to the proposed development. 18 letters of objection and 1 support letter have been received.

3. PROPOSAL

The application is for the outline planning permission for residential development with all matters reserved except for access. The proposals include the construction of up to 71 dwellings (40% affordable), the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children's play area, landscape planting, surface water attenuation and associated infrastructure.

The application is a resubmission of a previous application for the same scheme (16/07288/OUT). Following refusal in 2016 the applicants subsequently appealed but withdrew the appeal in 2017

EIA

The proposal is for 71 dwellings covering 3.63 hectares. The proposal is not;

- (i) development that includes more than 1 hectare of urban development which is not dwellinghouse development; or
- (ii) development that includes more than 150 dwellings; or

(iii) development that exceeds 5 hectares. greater than 5 hectares or consist of 1 hectare on non dwelling housing development.

The proposal would not therefore fall within any of the criteria set out within Schedule 2, subsection 10(b) of The Town and Country Planning Environmental Impact Assessment Regulations 2017. As such, an Environmental Impact Assessment is not required in this case.

4. SITE CONTEXT

The site is mostly open agricultural fields, with a drainage ditch running within the eastern extent. It is enclosed by hedgerows along northern and eastern boundaries. To the west of the application site is a detached two storey dwelling. Further to the west is a development of 180 residential dwellings, known as Filands View. The land directly to the south of the application site was identified and permitted for the creation of a primary school, as part of the approval for Filands View.

The geo-environmental desk study has highlighted the potential for contamination in the northeast corner of the site. The southern section of the site has areas with records of surface water flooding. The site is an area of archaeological potential as evidenced by previous archaeological work done within the site in 2014 and in the adjacent development area in 2015.

A public right of way (MALM 8) runs alongside the ditch in the eastern extent of the site, running from the B4014 footway to Reeds Farm estate to the south. A significant Oak tree is located within the rear garden of the detached dwelling to the west, this tree is protected by Tree Preservation Order (LPA ref: N/10/00010/ND), and adjoining the connection point within the site between the current proposal and Filands View.

The site is located outside of the framework boundary for Malmesbury and is not allocated within the Malmesbury Neighbourhood Plan (MNP) for residential development. The land has an agricultural land classification of 3.

5. **PLANNING POLICIES**

Wiltshire Core Strategy

- Core Policy 1: Settlement strategy
- Core Policy 2: Delivery strategy
- Core Policy 3: Infrastructure requirements
- Core Policy 13: Malmesbury Community Area
- Core Policy 43: Providing affordable homes
- Core Policy 45: Meeting Wiltshire's housing needs
- Core Policy 50: Biodiversity and geodiversity
- Core Policy 51: Landscape
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 58: Ensuring the conservation of the historic environment
- Core Policy 60: Sustainable transport
- Core Policy 61: Transport and new development
- Core Policy 62: Development impacts on the transport network
- Core Policy 63: Transport strategies
- Core Policy 67: Flood Risk

The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted 25 February 2020.

Wiltshire Council Waste Core Strategy 2009

WCS6 – Waste Reduction and Auditing

Malmesbury Neighbourhood Plan

1.1.6 & 1.1.7 – Objectives and Policies

- Policy 1 – Backbridge Farm Allocation
- Policy 2 – Burton Hill Allocation
- Policy 4 – Local Need Assessment
- Policy 5 – Assessment Against Approved Consents

Policy 6 – Burnham House Allocation

Policy 12 – Primary School Expansion and Timing of Development

Policy 13 – Development in Accordance with MNP Volume II

Saved policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006).

H4: Residential Development in the open countryside

NE14 Trees and the control of new development

NE18 Noise and Pollution

CF3 Provisions of Open Space

National Planning Policy Framework 2019

Paragraphs; 2, 8, 11, 12, 14, 38, 47, 73, 74, 76, 108, 109, 110, 127, 163, 165, 170, 175, 190, 192, 196 and 197.

Supplementary Planning Guidance and Other Relevant Documentation

- Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – Minimum residential parking standards.
- Local Transport Plan 2011-2026 Cycling Strategy (March 2015) – Appendix 4
- Open Space provision in New Housing Developments – A Guide
- Wiltshire Council Waste Collection Guidance for New Development
- Wiltshire Housing Land Supply Statement April 2018 (published August 2019)
- Wiltshire CIL Charging Schedule May 2015
- Wiltshire Planning Obligations SPD May 2015

Emerging Policy

The Local Plan Review: Consultation on the Pre-Submission version is due in 2020. Due to the early stage in the process the Plan carries negligible weight.

6. CONSULTATION RESPONSES

Wiltshire Council Spatial Planning: The proposal is not in accordance with the development plan. The conflicts with planning policy are not limited as the applicant asserts and the material considerations require careful consideration. The Council is not able to demonstrate a 5-year land supply and the tilted balance is triggered (planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits). It is for the decision maker to weigh in the balance the conflict with the policies of the development plan together with all other material considerations.

Wiltshire Council Highways: No objection, but require some improvements and S106 contributions, matters which are fully outlined in their response.

Wiltshire Council Archaeology: Support, subject to conditions. An archaeological condition is required to be attached to any grant of consent to enable a programme of archaeological mitigation across the proposed development site.

Wessex Water: Confirmed that sewers can be adopted by agreement with Wessex Water and surface water discharge rates will be subject to the approval of the Lead Local Flood Authority.

Wiltshire Council Landscape: No objection, subject to conditions.

Wiltshire Council Education department: Require the following contributions, which can be secured via a S106.

Early years - £17,522 per place (£122,654 in total). * (Please refer to caveats available online as the cost multiplier quoted is to be updated very shortly).

Primary Schools £18,758 (but please see note * above), per place: 19 x £18,758 = £356,402 (subject to indexation).

Secondary Schools £22,940 (but please see note * above), per place: 13 x £22,940 = £298,220 (subject to indexation).

Wiltshire Council Urban Design: Support, subject to future design.

Wiltshire Council Open Spaces: No objection, subject to contributions. The leisure requirement should be provided as an off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.

Wiltshire Council Drainage: Support, subject to conditions.

Wiltshire PROW Officer: No objection, subject to MALM8 being upgraded to 2m where it crosses the site.

Wiltshire Council Public Protection: No objection, subject to conditions.

Wiltshire Council Tree Officer: No objection, subject to an arboriculture method statement condition.

Wiltshire Council Ecology: Support, subject to conditions.

Wiltshire Council Waste: No objection subject to contribution of £6,461.00 and a condition that does not allow commencement of development until details concerning how waste collections will function.

Wiltshire Council Conservation: Concluded that the proposal will result in no significant impacts on the wider setting of the Abbey and Conservation Area.

Malmesbury Town Council: Objected on the following grounds;

- Contrary to neighbourhood plan
- Harm localism
- Overdevelopment
- Harm to character and culture
- There is no demand for further housing above that already planned.
- There are no compelling other benefits.
- Disagree with applicant comments that the full complement of housing allocated in the Malmesbury Neighbourhood Plan has not yet been delivered. The Town Council believe the plan is in force until 2026. Thus the time to say whether its allocations have been delivered or not is 2026 not now.

7. REPRESENTATIONS

During the public consultation period 19 consultation responses were received from individuals; the Malmesbury and Saint Paul Without Residents Association (MSPWRA); Malmesbury Civic Trust and Wiltshire Swifts. 18 of these responses were in objection to the proposed development and 1 was in support.

One letter stated support for new housing, but conditions should require an emergency service building.

The 18 consultation responses in objection to the development can be summarised as follows:

- Contrary to the Malmesbury Neighbourhood Plan (MNP)
- The infrastructure effects of the MNP have yet to be assessed
- No need for additional housing to meet targets in Malmesbury
- Impact to infrastructure schools, doctors, leisure facilities etc
- Impact to highway safety and traffic
- Insufficient bus stops and street lighting
- Overdevelopment of Malmesbury
- Impact to Flood Risk
- Harm to visual amenities of the surrounding area
- Poor living environment provided
- Overdevelopment of the site
- Impact to Historic Abbey
- No material change since previous should be refused
- The Town and Parish views are supported
- The community and the revised MNP should allocate sites not developers
- Approving would harm localism
- Swift boxes should be used
- No one wants the homes
- What is the future of Filands School Site

- Piecemeal development should be refused
- Holistic schemes should take precedence over commercial gain

8. ASSESSMENT

8.1 Principle of Development

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLPL) 2011 (adopted June 2006), and the Policies of the Malmesbury Neighbourhood Plan.

Core Policy 1 of the Wiltshire Core Strategy (Settlement Strategy) identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Within this Policy Malmesbury is identified as a Market Town, which are defined as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities. Market Towns have the potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self-containment and viable sustainable communities.

Core Policy 2 of the Wiltshire Core Strategy states that in line with Core Policy 1, the delivery strategy seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178ha of new employment land and at least 42,000 homes, with a minimum housing requirement for the North and West Wiltshire HMA (which contains Malmesbury) of 24,740 dwellings for the plan period. Core Policy 2 also states that sites for development in line with the Area Strategies will be

identified through subsequent Site Allocations DPDs and by supporting communities to identify sites through neighbourhood planning.

Core Policy 13 of the Wiltshire Core Strategy relates to the Malmesbury Community Area and states that over the plan period (2006 to 2026), approximately 1,395 new homes will be provided of which about 885 should occur at Malmesbury. The latest housing land statement, published August 2019, shows that at 1 April 2018: of the 885 homes requirement for Malmesbury 758 homes had been completed and there were 331 homes committed and deliverable by 2026. As such, Malmesbury is set to exceed the requirement by circa 23%.

The Malmesbury Neighbourhood Plan became part of the development plan on 25th February 2015 and is now more than 5 years old. The MNP does not allocate the proposed site for development. The table on page 10 of the MNP outlines the 885-dwelling requirement for Malmesbury Town for the WCS Plan Period 2006-2026. It then states that there have been 483 completions between 2006-14 with 219 further sites with planning approvals (including 180 dwellings at Filands Phase 1 adjoining the site to the west). Therefore, 183 dwellings were required to be identified to meet the minimum requirements of the Core Strategy.

In order to achieve delivery of the required 183 dwellings, three housing allocations are made within Policies 1, 2 & 6, which respectively allocate the following:

Policy 1 – Backbridge Farm – 170 dwellings (application 16/06401/FUL submitted, pending decision)

Policy 2 – Burton Hill – 50 dwellings (16/11603/OUT approved 59 dwellings - 19/07095/REM submitted, pending determination)

Policy 6 – Burnham House – 50 dwellings (approved 14/08832/FUL)

Given the progress with the allocated sites, it is considered that the MNP follows a planned approach to residential development in Malmesbury and has already met the minimum requirements of the Wiltshire Core Strategy.

The applicant has stated in paragraph 6.35 of their statement that there are no policies within the MNP that resist development outside of the settlement boundary, which includes the application site. However, the MNP forms part of the Development Plan, but should not be read in isolation from the Core Strategy. Core Policy 2 of the Wiltshire Core Strategy states that other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25, development will not be permitted outside the limits of development, as defined on the policies map. The MNP also allocates land for residential development and supports limited infill development within the defined boundary of the town and thereby includes policies that define where new residential development is and is not acceptable.

The site falls outside of the limits of development for Malmesbury and does not comply with any of the exception policies listed under paragraph 4.25 of the WCS. Similarly, as it lies beyond the limits of development, it does not comply with saved policy H4 of the North Wiltshire Local Plan as it does not meet the exceptions set out in that policy also.

The proposed development seeks to provide 71 residential units on land which is outside of the settlement boundary for Malmesbury and has not been allocated for residential development under the MNP. Therefore, the development is considered to be contrary to Core Policies 1, 2, & 13 of the WCS and the policies of the MNP.

8.2 Material Considerations relevant to the principle of development

The Core Strategy was adopted in January 2015 and is now more than 5 years old. Both the Courts and Planning Practice Guidance make it clear that the policies of a development plan do not become out-of-date automatically after passage of 5 years. However, the NPPF makes it clear that housing land supply must now be assessed against Local Housing Need for the whole of Wiltshire, rather than the previous Housing Market Areas, as per para 73 of the NPPF.

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5

years' worth of housing land supply. The NPPF makes it clear that where this cannot be demonstrated, relevant policies for the supply of housing (which in this case would include CP1, CP2 and CP13 in relation to limits of development) cannot be considered up to date, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the position of the Planning Inspector who considered an appeal at Purton Road.

Following the Purton Road appeal decision, it has become apparent Wiltshire has 4.62 years of housing land supply. In these circumstances, NPPF Paragraph 11d advises that policies which are most important for determining the application should not be considered up to date. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The proposal is within an area covered by a Neighbourhood Plan. Paragraph 14 of the Framework applies in situations where paragraph 11d is triggered because a proposal conflicts with a Neighbourhood Plan. In these circumstances paragraph 14 advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided 4 criteria apply. These are examined below.

NPPF paragraph 14 states;

“in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three-year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years."

As the Malmesbury Neighbourhood plan is five years old it fails criteria a). The MNP satisfies criteria B-D as the MNP has allocated a sufficient number of homes to meet its requirement, the local planning authority can demonstrate more than 3 years of land supply and housing delivery is above 45% for the last three years.

As criteria a) is failed the policies relating to housing in the MNP are considered out of date and therefore it for the decision maker to assess the weight of the MNP in decision making.

It can be seen therefore that Core Policies 1, 2 & 13, saved Policy H4 and the housing policies of the MNP are all important for determining the application and under the provisions of the NPPF are all to be considered out of date.

As noted above, it is acknowledged that recent planning approvals and commitments in Malmesbury mean that the indicative housing requirements for Malmesbury (up to 2026) have been met. However, it is important to consider that housing supply, consistent with the NPPF, is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. Whilst the fact that the indicative requirements have been met in this community area is a consideration, given the circumstances of this application, including the scale of development proposed and the identification of Malmesbury as a market town in the settlement hierarchy, it is not considered that this can be determinative in this instance.

Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that:

(i) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37).

(ii) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).

The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period of 1 April 2018 – 31 March 2023 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise. In this regard, it is pertinent to note that when the Council previously had a shortfall in housing land supply in this housing market area in 2016, the Inspectorate allowed an appeal for 60 dwellings outside but adjacent to the limits of development at Bradford on Avon, where the Inspector found that the negative impacts of doing so (conflict with development plan policy, change to character and appearance of area) would not be so harmful as to significantly and demonstrably outweigh the benefits of boosting land supply and providing affordable housing. Like Malmesbury, Bradford on Avon is designated as a market town in the settlement hierarchy of the WCS. (Application 14/07689/OUT – copy attached as an appendix to this agenda)

Appeal and court decisions confirm that ultimately it will be up to the decision maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date'. Therefore, consideration of the weight which can be provided to the above policies is considered in the balancing exercise at the end of this report.

Deliverability

The NPPF requires sites to be included in the council's five-year supply to be deliverable. The definition of deliverable is set out in NPPF glossary as follows:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”

The applicant has provided a deliverability statement that outlines, if permitted, the site would be exchanged to a developer in November 2020 with a reserved matters application being submitted and approved by December 2021. The applicant anticipates work on site commencing on March 2022 with first occupation in December 2022. The applicant states the site is likely to be completed by March 2024, and even within a year's slippage to March 2025, the document states the site will deliver within five years.

Further, the applicant considers the site will be delivered quickly for the following reasons;

- Single family landowner, multiple parties should not slow down disposal

- There are no technical constraints on site (e.g. contamination or remediation)
- The size of the site makes the site attractive to both medium sized house builders and the larger PLCs
- The provision of 40% affordable will accelerate delivery on site as it will allow higher absorption given there is an identified need for affordable homes
- There is already market interest in the purchase of the site if planning permission is to be granted.
- The size of the scheme lends itself to a relatively short build out period.

The applicant states they believe the site is viable based on their current understanding of the S106 contributions, conditions, and site constraints. The applicant confirms when the site is marketed, the full costs associated with the permission will be known and reflected in the land price ultimately agreed. Further, there are no abnormal infrastructure costs or large land requirements (resulting in constrained land) associated.

The applicant has agreed to shorter commencement conditions, which state reserved matters will be submitted within one year from the date of outline consent and work on site will commence one year from reserved matters approval. Consequently, there is further assurance the site can come forward within the five-year period. This is relevant and of material importance in accordance with the NPPF. The document demonstrates the applicant's intention to deliver the site quickly, and this is a material consideration of substantial weight in the context of the current housing land supply position.

8.3 Heritage assets

The Council's archaeologist has reviewed the proposal and noted that most of this proposed development site has already been subject to archaeological evaluation done within the site in 2014 and in the adjacent development area in 2015. The Archaeologist recommends, if permission is granted, a condition be used to secure a programme of archaeological mitigation across the proposed development site.

The proposed development would be sufficiently distanced from the Grade I Listed Malmesbury Abbey to ensure no harm to its setting would occur. The Conservation

Officer concluded that the proposal will result in no significant impacts on the wider setting of the Abbey and Conservation Area. Any views of the Abbey from site are limited and the development would not obscure any important views of the abbey. The proposal is therefore in accordance with CP58, as there is no harm to the heritage assets.

8.4 Character and appearance

The application is in outline with all matters reserved, therefore, the final appearance and impact on visual amenity cannot be fully determined until reserved matters stage.

However, Volume II of the MNP provides a number of design principles which the illustrative layout needs to be considered against, to ensure the proposed development would be brought forward in a manner which complies with Core Policy 57 of the WCS and Volume II of the MNP.

The Council's Urban Design Officer has reviewed the illustrative masterplan and raises no objections to the development, subject to detailed design. The final compliance with Volume II of the MNP will need to be considered at reserved matters stage.

The application has been submitted with an LVIA to consider the impacts to the wider visual receptors from outside the site. The LVIA concludes that there would be some harm from the public right of way MALM8. However, this harm would be negated by the public open space which would separate the right of way from built form within the site. However, once again, it must be considered that limited harm would also occur to the views from the public right of way and adjacent road. Further, the report concludes that the impacts to the Cotswold AONB to the east would be negligible, given the topography, vegetation and built form, between it and the site and this is considered to be an acceptable conclusion, given that the AONB is set 1.4kms to the west with the Filands View and Dyson Expansion between it and the application site.

The loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. There would be adverse visual effects, particularly for nearby residents. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on

landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. At this stage the proposal is considered to comply with CP51 and CP57 as the effects of the scheme can be mitigated through appropriate landscaping and urban design can be examined at reserved matters stage. Further, the management of the public open space could be controlled by a Landscape Management Plan via a S106 agreement.

8.5 Impact on Neighbour Amenity

The main considerations would be the impact to the adjoining dwelling to the west, Braemore, and the dwellings on the eastern edge of the Filands View development. Whilst the impacts to residential amenity will require further consideration at reserved matters stage, the illustrative layout shows how 71 units could be provided within the site without resulting in significant harm to residential amenity through a loss of light, loss of outlook or sense of dominance. The final impacts to privacy would be determined once the location of habitable rooms windows is known.

Likewise, the level of residential amenity afforded to future occupiers would be considered at reserved matters stage. However, the illustrative layout raises no concerns that an acceptable living environment for future occupiers could not be achieved.

A construction management plan has been requested by the Environmental Health Officer and has been conditioned as part of this permission to ensure amenities are safeguarded during construction.

8.6 Highways Impacts

Representations received raised concerns with highway safety and traffic. The Highways Officer has not raised an objection in these respects. However, the Highways Officer has requested several improvements to ensure the proposal supports walking and cycling.

The proposed development seeks the creation of a new access into the site from the highway of the B4014. The proposed layout would provide a ghost priority right hand turn

lane junction with associated footways. The Highways Officer has reviewed the proposed access arrangement and considers them to be a safe access into the site.

The Highways Officer has also requested that the development should secure an upgrading of the whole site frontage from the site entrance in an easterly direction to the roundabout of the B4014/ A429, to a width of 3m. This would entail an upgrading of the surface, slight widening and improvements to wearing course. The developer has agreed to this by way of condition and would enter into a S278 agreement with the Local Highway Authority to pay for and undertake these works.

The Highways Officer has also requested S106 contributions towards a Rights of Way conversion order to convert Malms8 to a shared use path where it crosses the site. The Council use this contribution to convert the PROW to a shared use path where it crosses the site. The developer has agreed to the contribution and will be secured by way of S106. Further, the developer will upgrade the PROW where it crosses the site by providing the details through a condition attached to this permission.

Paragraph 109 of the NPPF states development should only be prevented or refused on highways grounds if the cumulative impact on capacity would be severe, or a highway danger created. The Highways Officer has not raised an objection on highway safety grounds. The developer has agreed to the various contributions and improvement works. It is not considered a highway safety refusal would be warranted on this basis.

8.7 Transport Sustainability

Core Policy 60 of the WCS states that the council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

It is acknowledged that the site is located outside of framework boundary for Malmesbury. However, the site adjoins the Filands View site which provides 170 residential dwellings in

close proximity to the application site. In the determination of this appeal the Local Planning Authority concluded that the Filands View site was a suitable and accessible location for residential development. Whilst the application site is set further east along the B4104, the site is within close proximity to Filands View, alongside Dyson (as the major employer in the town) and Waitrose (as the major supermarket). Therefore, the Council would not consider the location of the site to be so remote from employment and services as to make it substantially worse than the adjoining Filands View site, where no objection was raised on sustainable transport grounds and found acceptable by the inspector.

8.8 Flooding and Drainage

Core Policy 67 of the Wiltshire Core Strategy states that all new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable.

The Drainage Officer does not object to the proposal and recommends a condition to provide detail regarding surface water drainage. The drainage system at this point is acknowledged to have capacity issues and has historically flooded during times of adverse weather. As this is an existing capacity issue, it would not be for this development to improve capacity at this location, only to ensure the development would not make this issue worse. Therefore, the proposal would not make the capacity issue at Powell Rise any worse than the existing and the submitted details have demonstrated compliance with Core Policy 67 of the WCS, subject to final details secured by way of a pre-commencement condition.

8.9 Ecology

The Council's Ecologist was consulted on the proposal and raises no objection to the development.

The site is comprised predominately of species-poor grassland of limited ecological value, however boundary features including species-rich hedgerows, a ditch and mature trees are all of local value. Short sections would be lost and the general network would be fragmented by proposed access. Although the scheme is in outline, it is clear that the ecological value of these features would also be degraded by the proximity of roads, buildings, residential gardens and parking. These will all lead to some negative, permanent ecological effects of the development; however these are relatively minor in the context of existing approved developments. The development has the potential to create some ecologically valuable habitats on the margins of the site, particularly associated with SUDS and landscaping in the east of the site.

The site supports an assemblage of foraging bats typical of agricultural land in this part of the county; the value of the site would be degraded for these populations through habitat degradation and artificial lighting, however there would also be some beneficial effects through the SUDS and landscaping in darker areas of the site.

A low population of grass snake is present on the site; however this is unlikely to be significantly affected by the proposals subject to some precautionary construction measures, due to the relatively limited area of suitable habitat within the site and mobile nature of this species.

Local populations of birds, hedgehogs, invertebrates and brown hare would be affected by the proposals; however, these would all be relatively minor effects and there may be some benefits for some of these species through SUDS and landscaping proposals. Therefore, subject to conditions relating to a construction environment management plan, landscaping and drainage, the development is considered to comply with Core Policy 50 of the WCS.

8.10 Other matters

The Environmental Health Officer requests conditions to secure low energy vehicle infrastructure such as electric car charging points. The applicant has agreed to this suggested condition.

The Council's Environmental Health Officer has noted that the site appears to be predominantly free from former uses of a potentially contaminative nature, however one polygon of unknown filled ground is identified which may be of significance to the proposed development. Therefore, they have requested that a condition be attached to any approval to ensure the submission of site investigation and any remedial work, prior to the commencement of development.

The Council's Environmental Health Officer requested a condition to ensure future dwellings meet internal and external noise standards. However, it is considered this is a matter covered by other legislation in terms of insulation from building regulations and statutory nuisance under Environmental Health legislation.

9. S106 contributions

Wiltshire Council has a Planning Obligations Supplementary Planning Document. This should be read in conjunction with the WCS (primarily Core Policy 3) and the Wiltshire CIL charging schedule. This SPD identifies the planning obligations that will be sought by the council for development that generates a need for new infrastructure and should be a material consideration in planning applications.

In addition to this, Wiltshire Council has adopted CIL. This would be calculated at Reserved Matters stage.

The Council is also mindful of the tests for s106 legal agreements that are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Any requests that do not meet the above tests will not be actively sought by the Council.

Recreation Provision

The Open Spaces Officer stated the leisure requirement should be provided as an off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Early Years / Education Provision

There are currently 3 nurseries and 4 childminders within a two-mile safe walking route of this proposed development. This provision is operating at high capacity. The Local Authority has a duty to provide sufficient childcare for working parents under Section 6 of the Childcare Act 2006.

Therefore, any increase in population as a result of this development will require additional childcare provision. The council therefore require £17,522 per place (£122,654 in total). * (Please refer to caveats available online as the cost multiplier quoted is to be updated very shortly).

Primary Schools that would serve the area are at capacity and will be for the foreseeable future. Consequently, the council require a full developer contribution based upon the current cost multiplier of £18,758 (but please see note * above), per place: $19 \times £18,758 = £356,402$ (subject to indexation).

Secondary Schools have no capacity based on the housing applications already approved/registered. Therefore, the council requires a full developer contribution towards the 13 places that this development generates a need for. Using the current cost multiplier of £22,940 (but please see note * above), per place: $13 \times £22,940 = £298,220$ (subject to indexation).

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 40% on-site affordable housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within the 40% Affordable Housing Zone, which the site is within. There is therefore a requirement to provide 28 affordable units within a scheme of 71 dwellings. This would meet the policy requirement and would assist in addressing the need for affordable housing in the Malmsbury Community Area.

The Affordable Housing Officer advised to meet the need the affordable housing units should be provided with a tenure mix of 60% of the units (17 units) being for Affordable Rented housing, and 40% of the units (11 units) being provided for shared ownership

The application proposes the minimum 40% affordable housing with the mix indicative and subject to negotiation. The mechanism for delivery of affordable housing is set out in Core Policy 43 where it states that it will be subject to an appropriate legal agreement. Such a legal agreement is considered to meet the CIL tests.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

Waste and Recycling

The submitted Waste and Recycling audit by Terence O'Rourke 2019, states the collection of recycling and waste from residents will be undertaken by the local authority. The Waste and Recycling Management Team require the cost of the provision of waste and recycling containers for each residential unit to be absorbed by the applicant / developer. The current cost is £91 per dwelling which is indexed linked. The total sum for 71 dwellings would be therefore £6,461. Core Policy 3 listed waste management services such as recycling and collection facilities as priority theme 1 infrastructure and the cost to the Council is a direct impact of the development. It is therefore a reasonable request to

make that the developer bears these costs. The Council contends that this request meets the tests set out under 122 and 123 of the CIL regulations.

The applicant has confirmed acceptance to the above contributions, and these would be secured via S106.

10. The Planning Balance and Conclusion

As stated above, in the determination of planning applications the first issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS and MNP). If it does not then the issue arises as to whether material considerations, including relevant policies in the NPPF, mean that the development can be regarded as sustainable and that permission should be granted despite conflict with these policies. Ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out of date' and attract reduced weight, and the NPPF guidance intended to boost housing land supply where the development can be judged sustainable.

Importantly, paragraphs 11d and 14 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and the weight given to such policies is not dictated by the NPPF and, as noted above, will vary according to circumstances on a case by case basis. It is also important to consider the extent to which the land available for housing in Wiltshire falls short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. In this regard and since the refusal of the last application the Council has continued to promote development in the housing market area at sustainable locations. Nevertheless, since the last refusal paragraph 14 has been added to NPPF, providing clarification on weight to be assigned to Neighbourhood Plans when they became part of the development plan two years or less before the date on which the decision is made. Further, the housing land supply calculation has now changed from housing market areas to county wide, which has altered the figure. In their decision on the Purton Road appeal the Inspector noted that the shortfall is modest (para 21).

In the assessment of the previous application in 2016 it was considered that the degree of conflict with the at the time up to date Neighbourhood Plan, despite a 4.25-year housing land supply in the HMA, was afforded considerable weight, which outweighed any benefits of the proposal. Further, at the time the 4.25-year housing land supply figure was anticipated to improve as an Inspector noted in 2016 the figure should be *“viewed in the light of more recent evidence about the Council’s performance and in particular the evidence of recent planning permissions of 700 units which had been granted in the Melksham area. Those permissions are likely to make a substantial contribution both to the current monitoring year’s annualised requirement and the overall supply.”* However, the context for this resubmitted application is materially different, as paragraph 14 criteria a) of Framework requires the Neighbourhood Plan to have become part of the development plan two years or less before the date on which the decision is made for its housing related policies to be considered up to date and for conflict with the Neighbourhood Plan to be considered to significantly and demonstrably outweigh any benefits. As a result the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Therefore, of key consideration are the benefits and harms associated to the development and the level of weight which may be attributed to them in the planning balance. The applicant has highlighted the following economic, social and environmental benefits from the scheme:

Noted by the applicant;

- 28 affordable housing units
- 71 new dwellings
- Homes to match increasing employment provision and increase self-containment, contributing to reducing travel demand and addressing climate change issues.
- Additional open space and biodiversity gain
- Construction activity

- Increase in Council tax receipts
- Deliverable within five years

In summary the Council considers the benefits as follows:

Provision of Affordable Housing

Additional affordable homes in Wiltshire is afforded considerable weight.

Provision of open Market Housing

Given the current lack of a 5-year land supply position in Wiltshire it is considered 71 dwellings is afforded considerable weight.

Homes to match demand

Given the current 5-year land supply position in Wiltshire it is considered 71 dwellings is afforded considerable weight.

Additional open space

The field is already used by residents using the PROW as open space to walk dogs and enjoy the countryside. There is a requirement to provide public open space on major housing developments and this would be secured via a s106 agreement. It is not therefore a benefit of the scheme but rather mitigation against the impacts of the development i.e. to provide recreation space for the occupants of the development.

Net biodiversity gain

The outline application does not contain the specific details of how biodiversity is increased on the site and is required by CP50 and the NPPF. Therefore, this is given limited weight.

Creation of construction jobs

In the context of housing construction 71 dwellings is a small development and therefore, will not generate substantial amounts of construction jobs over a long period of time. There will be a short-term gain. Limited positive weight is given to this point.

Council tax

Limited positive weight is given to this

Deliverability

Given the modest shortfall in housing land supply, the deliverability statement indicating likely occupation in December 2022 and conditions on the permission stating reserved matters to be submitted within one year and commencement one year from reserved matters approval. The sites ability to contribute to the modest shortfall relatively quickly is given considerable weight.

Harm

The site is acceptable in terms of ecology, transport and flooding, and no other site constraints are identified that make this site unsuitable for development. As examined above, it is considered there are no site-specific harms arising from the proposal other than the loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. However, as noted in the previous applications report, any negative impacts would be mitigated as far as possible through sensitive design and landscape measures. Consequently, the only harm identified is conflict with Core Policies 1, 2, & 13 of the WCS and the policies of the MNP.

Given the conflict with the policies of the development plan, the key test is whether the adverse impacts of granting permission significantly and demonstrably outweigh the benefits. The latest housing land supply position shows a modest shortfall that will in part be met by this development and an affordable housing need in the Malmesbury which will be directly addressed by this development. Although there is some harm identified to landscape these harms are considered limited and can be mitigated. There are no other site-specific harms. Conditions placed upon this permission and Section 106 contributions ensure the scheme is fully mitigated to ensure infrastructure is in place to support the development.

On balance, it is considered that the adverse impacts identified do not significantly and demonstrably outweigh the benefits that the development would provide. Accordingly, it is recommended that planning permission be granted, subject to the prior completion of a

Section 106 legal agreement

RECOMMENDATION:

It is recommended that authority be delegated to the Head of Development Management to **GRANT** planning permission, subject to conditions listed below and subject to the prior completion of a S106 legal agreement covering the areas outlined below in the Heads of Terms, within six months of the date of the resolution of this Committee.

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

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

Heads of Terms for Section 106 legal agreement to secure the following:

- 40% Affordable Housing 60% of the units (17 units) being for Affordable Rented housing, and 40% of the units (11 units) being provided for shared ownership.
- £6,000 000 for a Right of Way conversion order to convert Malms8 to a shared use path where it crosses the site.
- Off-site contribution of £19,759.30 to upgrade the sports pitches at the Red Bull Football Ground, Malmesbury Cricket Club and Malmesbury Victoria Football Club.
- Open space and landscape management provision

- £6,461.00 Waste Contribution

Education (subject to indexation);

- Early years - £17,522 per place: £122,654
- Primary Schools £18,758 per place: £356,402
- Secondary Schools £22,940 per place: £298,220

CONDITIONS

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

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

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

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

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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

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

4. The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

Boundary Plan BMD.15.019.DR.001.P2 received 4th December 2019

Illustrative Masterplan BMD.15.019.DR.002.P2 4th December 2019

Proposed Site Access Arrangement with Share Use Footway drawing I

TB11080-GA-014 received 26th March 2020

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

5. Notwithstanding the details set out in the description of development, the development hereby approved shall comprise no more than 71 dwellings.

REASON: The maximum number of dwellings is required to be stated in order to ensure the development can be provided in an acceptable manner to ensure high quality design is delivered.

6. No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure the finished levels are acceptable in the interests of visual amenity.

7. The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local

Planning Authority. The content of the LEMP shall include, but not necessarily be limited

to, the following information:

- a) Description and evaluation of features to be managed;
- b) Landscape and ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including long term objectives to ensure management in perpetuity on land outlined in red on boundary plan 15.019.DR.001.P2;
- d) Appropriate management options for achieving aims and objectives as set out in points a)-c) above;
- e) Prescriptions for management actions for the site outlined in red on 15.019.DR.001.P2
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures which shall include measurable targets;
- i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery.

The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. A report shall be submitted to the local planning authority annually detailing the works undertaken and performance against the targets set.

The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed in writing with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species and priority species.

8. No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity and tree protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialists ecologists need to be present on site to oversee works
- f) Responsible persons and lines of communication
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority every three months from the start of the development until the completion of the final planting.

REASON: 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 adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

- 9. Prior to the submission of the first reserved matters application a written programme of archaeological investigation including a timeframe for onsite work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority. The programme shall be carried out in accordance with the approved timeframe.

REASON: To enable the investigation of the presence of heritage assets at the site,

incorporation of any mitigation measures and recording of any matters of archaeological interest.

10. All soft landscaping comprised in the approved details of landscaping, as required by the reserved matters applications and details required by conditions within this decision notice shall be carried out in the first planting and seeding season within or following the completion of each phase, first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

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

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

j) drainage arrangements during the construction works;

k) vehicle routing for construction vehicles.

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

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

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of

the area in general, detriment to the natural environment through the risks of pollution and

dangers to highway safety, during the construction phase.

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

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and

extent of any contamination (including asbestos) on the site, whether or not it originates

on the site. The investigation and risk assessment must be undertaken by competent

persons and a written report of the findings submitted to and approved in writing by the

Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant

linkages;

- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

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

Step (ii) Submission of Remediation Scheme:

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

Step (iii) Implementation of Approved Remediation Scheme:

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

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation

is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out .

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

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.

REASON: Development proposals will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

14. No part of the development hereby permitted shall be occupied until the ghost priority right hand turn lane junction, footways, 3M cycleway across site frontage and secondary access has been completed in accordance with the details shown on the approved plans.(drawing ITB11080-GA-014).The visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 0.6 above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

15. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

16. By the occupation of the 10th dwelling a Residential Travel Plan will be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

17. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

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

18. No development shall commence on site until full details of a cycleway/shared use path' across the whole site frontage from the site entrance in an easterly direction to the roundabout of the B4014/ A429, have been submitted to and approved in writing by the Local Planning Authority. The footway improvement scheme shall provide a 3m width and shall upgrade the existing surface. The scheme shall be provided in accordance with the details approved in writing by the Local Planning Authority. .

REASON: In the interests of highway safety.

19. No development shall commence on site until full details of the route and design of the up-graded MALMS8 (where it crosses the site) has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the route of the PROW is maintained as part of the development.

20. No development shall commence on site until a scheme for the discharge of surface water from the site /phase, including SuDS (sustainable drainage systems) and all third-party approvals, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority and the sewerage undertaker. Scheme details shall include any required off-site capacity improvements needed to allow the site/phase to be served, and to include a programme allowing sufficient time for the delivery of any required improvements.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy and to ensure that the development can be adequately drained without increasing flood risk to others.

21. Prior to the installation of any lighting a 'Lighting Design Strategy for Biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy will cover both construction and operation phase and shall:

1. Identify those features/ routes that are important to light sensitive/ nocturnal species such as bats, badgers and hedgehog and to be retained within dark corridors.
2. Show full details of proposed construction and operational lighting, including lux plots to show there is no lighting impact to the features/ routes identified. Lux plots should be presented on a scaled site drawing and the light levels must be shown at ground level and at 2m above the ground (horseshoe bats fly typically within this range). The light levels should also be shown as "from new", not as normally calculated levels after some months or years of use.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other lighting be installed without prior consent from the local planning authority.

REASON: As required by Core Policy 50 to ensure the long-term functioning of wildlife corridors and Core Policy 52 the retention and green infrastructure.

22. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation

to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:

- A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;
- A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
- A schedule of tree works conforming to British Standard 3998: 2010;
- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure;
- A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- Details of all other activities, which have implications for trees on or adjacent to the site. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

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 order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

INFORMATIVE

The provision of the (1) right hand turn lane (2) upgraded Malmesbury 8 'footpath improvement scheme', shared use path, crossing point and carriageway widening will be subject to a S278 Agreement under the Highways Act 1980. Full construction details will be required to be approved. Please note that until detailed drawings are provided the extent and specification of the works cannot be finally agreed.

INFORMATIVE: The applicant is advised to contact Wessex Water directly regarding sewers adoption.

