

## REPORT FOR STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	27 January 2021
<b>Application Number</b>	20/01938/OUT
<b>Site Address</b>	Land at Semington Road, Melksham, Wilts
<b>Proposal</b>	Outline planning permission for up to 144 dwellings with informal and formal open space, associated landscaping and vehicular and pedestrian accesses off Semington Road. All matters reserved except for principal means of access.
<b>Applicant</b>	Hollins Strategic Land LLP
<b>Town/Parish Council</b>	Melksham Without
<b>Electoral Division</b>	Melksham Without South
<b>Grid Ref</b>	390421 163319
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Steven Sims

### Reason for the application being considered by Committee

The local Member, Councillor Nick Holder has requested that the application at Semington Road be called-in for the elected members of the committee to determine should officers be minded to approve planning permission for the proposed development citing the following concern:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design - bulk, height, general appearance
- Environmental or highway impact
- The parish council have objected as have many residents all on the above grounds

### 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.

### 2. Report Summary

The key issues for consideration are:

- The principle of development
- Impact on the character and appearance of the area
- Impact on the amenity of neighbouring residents
- Highway issues
- Ecology issues
- Drainage issues
- Other issues
- Planning obligations

### 3. Site Description

The application site comprises approximately 8.2 hectares of agricultural land (categorised as within mainly grade 3b agricultural land which is considered moderate quality land) separated into three irregular shaped fields divided by an existing access road that runs north from Shails Lane to the Bowerhill Sewage

Treatment Works. The site is located in close proximity and to the east of Berryfield, south of Melksham and west of Bowerhill. Residential properties bordering Semington Road are located to the west while the A350 borders the site to the east. Commercial development (Hampton Business Park) is located to the south on the opposite side of Shails Lane. New residential development for 150 dwellings (approved under application 16/00497/OUT and reserved matters application 17/12514/REM) is located to the north of the site. Bordering the site to the northeast is the Bowerhill Sewage Treatment Works. The main access to the proposed development would be taken from Semington Road, at the north-western corner of the site. Access into the water treatment works would be rerouted from Shails Lane to the south to the new access off Semington Road. Along the western boundary of the site is the route of the old Wiltshire and Berkshire Canal. The site is located within the landscape character area 'Open Clay Vale'. The site lies within the Sewage Treatment Works buffer zone. As the insert below illustrates, the site (edge red) is located outside any settlement boundary and abuts existing residential development to the west and mainly commercial development to the south. The site is in close proximity to the settlement boundary of Melksham and Bowerhill and the Small village of Berryfield, although it should be noted that since the aerial photo was taken, residential development has been approved and is well underway on the land to the north of this site, and also on the land to the south of the roundabout shown in yellow (Pathfinder Way)



*Application site adjacent Berryfield, Melksham and Bowerhill*

#### 4. Planning History



## 6. Local Planning Policy

Wiltshire Core Strategy (WCS) - Relevant policies include: Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 3: Infrastructure requirements; Core Policy 15: Spatial Strategy – Melksham Community Area; Core Policy 41: Sustainable construction and low-carbon energy; Core Policy 43: Providing affordable housing; Core Policy 45: Meeting Wiltshire's Housing Needs; Core Policy 46: Meeting the Needs of Wiltshire's Vulnerable and Older People; Core Policy 50: Biodiversity and geodiversity; Core Policy 51: Landscape; Core Policy 52: Green Infrastructure; Core Policy 57: Ensuring high quality design and place shaping; Core Policy 61: Transport and Development; Core Policy 62: Development impacts on the transport network, 67; Flood Risk.

West Wiltshire District Local Plan (saved policies) - U1a Foul Water Disposal, U4a Sewage Treatment Works, U5 Sewage Treatment Works Buffer Zone and I2 Arts

Melksham Neighbourhood Plan (MNP) – At regulation 14 stage

Supplementary Planning Guidance

Wiltshire Local Transport Plan 2011- 2026

National Planning Policy Framework 2019 (the Framework) – especially chapters: 2. Achieving Sustainable Development; 5. Delivering a Sufficient Supply of Homes; 8. Promoting healthy and safe communities; 9. Promoting Sustainable Transport; 12. Achieving Well-Designed Places; and 15. Conserving and enhancing the natural environment

## 7. Summary of consultation responses

### **Melksham Without Parish Council: Object**

'Whilst welcoming the applicant had taken on board the comments previously made with regard to the provision of equipment for older children and protection of the former line of the Wilts & Berks Canal, Members still **OBJECT** to this application and reiterated their previous comments, as well as making the following comments:

- The lack of school places, particularly primary, within safe walking distance of the site.
- Members felt that a 2 mile walk, traversing the busy A350 was not ideal and in recent months had been approached several times by residents concerned at how dangerous it was to use the crossing on the A350 to access the town and in particular Aloeric Primary School.
- Reference had been made to children on this site using Pathfinder Way Primary. Whilst a site has been earmarked for a new primary school, no plans have been submitted as yet and again Members felt this school would not be within safe walking distance, with people having to cross the busy A350.
- Members agreed to send the minutes of the various Highways Meetings where safety concerns in crossing the A350 had been raised to the Education Department as evidence of safety concerns.



- Some children may be sent to St Georges Primary School, Semington. A concern was raised people may be tempted to use a short cut and traverse the bus gate on Semington Road to access the school.

If this application were to be approved, the Parish Council would like to see:

- The provision of a MUGA on site, in addition to the gym equipment and teen shelter indicated.
- The removal of the access to Shails Lane to protect the 'private road' status of the lane. Concern was raised if this development were to go ahead, any new residents adjacent to Shails Lane would be tempted to create their own accesses onto the lane, in order to create a short cut to access facilities in Bowerhill, including schools such as Bowerhill Primary, Melksham Oak and a potential new primary on Pathfinder Way. Members felt it was important that measures needed to be put in place to prevent such actions from residents. It was noted that access from Shails Lane has been closed by the Coroner following a fatality on the A350.
- Access to the adjacent Bellway development in order that new residents can access the new village hall proposed for this site.
- A contribution to the new Berryfield Village Hall.

Previous comments made on 6 April 2020 ie:

- Outside the settlement boundary.
- Melksham has already exceeded its housing requirement up to 2026.
- Wiltshire Council have recently adopted the Housing Site Allocation Plan with no recommendation for housing in Melksham, given it has met its housing requirement up to 2026.
- As approval has recently been given for a new ring road in Chippenham this would release additional housing land in the Chippenham Housing Market (HMA), which includes Melksham therefore, it would be hard to argue that Melksham needs to take any additional housing proposed.
- The impact this development will have on the already stretched medical/education provision within the town.
- The site is remote and unsustainable, with limited access to local schools and facilities.
- Overdevelopment of the site, when considering the recent Bellway development next to this site. This development would double the size of Berryfield, which is classed as a small village in the Wiltshire Core Strategy.
- Lack of facilities proposed for the site.
- This site is more suitable for the expansion of Hampton Park West Industrial park adjacent to this site.
- The impact on local wildlife. This site is known to be a habitat for Great Crested Newts and bats.
- The impact this development will have on the ecology of the area, particularly to the hedge which forms the line of the former Wilts & Berks Canal.

If this application were to go ahead any houses should be set well back from the former line of the canal, in order to protect this hedge. The bund of the canal should also be made a feature of this development if it were to go ahead.

The impact this development will have on the environment/climate, as most residents would have to rely on their own vehicles to access facilities due to the remoteness of this site.

- The proximity of the adjacent sewerage works to this site and the potential impact this may have on new residents regarding noxious smells.
- The impact this development will have on the adjacent sewerage works in reducing the land available to extend their site, in order to cope with a future increase in demand.
- Whilst noting the plans are outline and therefore indicative, Plot 11 would appear to have no amenity space to the rear and is close to existing neighbouring properties.

### **Highway Safety Concerns**

- Access to nearest schools ie Aloeric, Bowerhill Primary, St George's Primary, Semington and Melksham Oak are via the extremely busy A350. There have already been cases where pedestrians, including children have nearly been knocked over whilst using the crossing on the A350 from Berryfield, due to drivers not stopping in time for a red light.
- If students attend St George's Primary, Semington, drivers may be tempted to use the bus gate on Semington Road as a short cut, rather than the A350.
- The access to the site is very narrow, which could result in visibility problems for those exiting the site.
- The proposed access will also be shared with Wessex Water in order to access their facility adjacent to the site, which could cause conflict with larger vehicles and those accessing the development.
- Large vehicles for the sewerage works, if this application were to go ahead, may decide to access their site north of Berryfield, off the A350, thereby having to negotiate traffic calming measures installed along Semington Road.
- Proposed access for pedestrians/cyclists into Shails Lane. This is a private lane (and not a Public Right of Way) and would require the agreement of the landowners. Concern was raised that anyone using this lane would try to cross the busy A350 to access Bowerhill. Following a fatality not long after this road was opened, the Coroner recommended the access at the bottom of Shails Lane be blocked off. Pedestrians would also try to use this lane as a short cut to get to Semington from the development.

### **Other concerns**

- Whilst community allotments are proposed, the Parish Council already have 76 allotments located in Berryfield, with only one person on the waiting list and would prefer to see other community benefits.
- No indication the developers are making a contribution to the Wilts & Berks Canal Restoration Project or to community facilities, such as enhancing the village hall or providing a local shop.
- It is understood residents of the adjacent Bellway development (Bowood View) did not receive leaflets on proposals for this site as part of the public engagement process.

If Wiltshire Council are minded to approve this application, the Council would wish to be a signatory on any Section 106 agreement and involved in discussions on community benefit such as:

- Contributions to educational and medical facilities within Melksham area.
- Provision of a footbridge across the A350 from Berryfield.
- Maintenance contribution towards the new Berryfield Village Hall adjacent to this site.
- The provision of circular footpaths within the development.
- Equipped play areas and LEAPs (The Council would welcome discussions on who would be responsible for ongoing maintenance of these facilities)
- Public art.
- Provision of a community shop.
- Provision of equipment to accommodate not just young children, but teenagers, such as a teen shelter, gym equipment and MUGA. The area currently allocated to allotments would be an ideal location for these facilities.

The Council would also like to see the following:

- Bungalows provided and located near to the entrance to the site, as it is understood there is a need for these within the area, as well as additional footways installed or public rights of way to provide better linkages to the rest of the community and facilities, such as local schools including a potential primary school at Pathfinder Way.
- The provision of charging points on the development.
- The provision of additional landscaping and buffer to the south east of the site in order to protect the rural nature of Shails Lane and shield potential housing from the industrial site at Hampton Park.
- Social housing to be tenant blind.
- If shared surfaces within the scheme are proposed that different materials are used in order to delineated footpaths from road surfaces.

If the current public health situation changes, the Parish Council would like to revisit this application in order to have an opportunity to discuss this application with residents.

Wiltshire Councillor Nick Holder agreed to call this application in for consideration at committee.'

### **Melksham Town Council: Object**

'Whilst the proposed development is outside the boundary of Melksham Town the development will impact upon the town's facilities. The Town Council fully support the objections submitted by Melksham without Parish Council and confirm the reasons as follows:

1. It is outside the settlement boundary. Core Policy 1. paras 4.13, 4.14, 4.15,4.16
2. Melksham has met and exceeded its housing requirement up to 2026. Core Policy 15.
3. The development will have a detrimental impact on the already overstretched medical and educational provision in the town. *NPPF 8, Promoting Healthy and Safe Communities.*
4. The site is very remote and unsuitable for safe access to local schools and facilities by car and foot. Core Policy 6.2, 6.162, 6.164, 6.65. Meaning that residents would have to rely on their own vehicles to access facilities due to

the location of the proposed development. *NPPF 12, Achieving Well Designed Places.*

5. The development would double the size of Berryfield, which is classed as a small village in the Core Strategy, Core Policy 15.
6. The lack of infrastructure and facilities for this development. Core Policy 48, 6.70
7. It would have a detrimental impact on local wildlife. The site is known to be a habitat for Great Crested Newts and bats. There will also be a detrimental impact on the ecology of the area, particularly to the edge which forms the line of the former Wilts & Berks Canal. Core Policies, 50,51 and 52. *NPPF 15, Conserving and Enhancing the Natural Environment*

### **Highway Safety Concerns**

8. Access to local schools would be via the extremely busy A350.
9. Access to site is narrow which will result in poor visibility for road users who need to enter/exit the site.
10. The proposed access route will be shared with Wessex Water meaning commercial vehicles are in conflict with domestic vehicles and any pedestrians.

The Parish Council have expressed a wish to be involved in any S106 agreements if this development was to progress to a full planning application. The Town Council endorses that request.'

### **Wiltshire Council Highways Team:**

'I refer to the above planning application, and to the revised Sketch Layout plan received in August number SK (90)/001/L, also to the submitted Transport Note by Croft.

This response should be read in conjunction with my earlier highway recommendations dated 22<sup>nd</sup> June 2020 which deals with the traffic impact of the development upon the local highway network, and the transport sustainability aspects of the development.

A contribution has been agreed with the applicants to cover significant upgrading of the double pelican pedestrian crossing on the A350 located east of the A350 / Old Semington Road roundabout to a double toucan crossing with full cycle facilities. This scheme will provide improvements for pedestrians using the crossing as well as cyclists. The contribution will also enable works to the approaches to the crossings in particular widening the footway between Old Semington Road and the crossings, and further works to cover alterations to the western side of the roundabout to discourage pedestrians from using this unsatisfactory western route and thereby encouraging them to use the route via the improved crossings east of the roundabout (above).

Part of the first recommended highway refusal reason related to concerns that the development would lead to increased pedestrian use of the private Shails Lane including an increase in pedestrians crossing the A350 at the end of Shails Lane where the primary route traffic is fast and overtaking. The revised plan has deleted the direct pedestrian connection to Shails Lane and put forward an acoustic fence



along part of Shails Lane, both of which should reduce the amount of pedestrians using the lane. Given the attractiveness of the shorter route to Bowerhill area by crossing the A350 at the end of Shails Lane there is a likelihood that some pedestrians would still use that route by circumnavigating the acoustic barrier. To address this the applicant should be required to provide a fence on the A350 verge, set well back from the carriageway in the existing landscaping, running north and south of Shails Lane. Together with increased landscaping this should help to prevent regular use of this route, and encourage pedestrians to access Bowerhill by leaving the development vehicular access point, Old Semington Road, Hampton Park Road, and the formal crossings of the A350 near to the Hampton Park roundabout.

I remain of the view that overall, taking the concerns about pedestrian accessibility, distance and safety into account, together with the countryside location, at a location not allocated for development in the Local Plan, the development is not sustainable in transport terms.

I therefore recommend that this planning application is refused on highway grounds for the following reason:-

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is contrary to Core Policies CP2, CP60 and CP61 of the Wiltshire Core Strategy and Sections 7,8, 9, 102, 103, 104, 108 & 110 of the National Planning Policy Framework, which aim to reduce the need to travel, particularly by private car, and to encourage the use of sustainable transport alternatives.

Should, despite this objection, the development proceed towards permission there should be obligations and planning conditions as follows:-

#### Planning obligations

£200,000 index linked and time limited for the upgrading of the double pelican crossing on the A350 east of the A350 / Old Semington road roundabout to a double toucan crossing with associated footway and cycleway improvements, and measures to reduce the attractiveness to pedestrians of the pedestrian route on the western side of the roundabout between Old Semington Road and Melksham.

The provision of 100m anti-pedestrian fencing and additional landscaping along the A350 western side, 70m north and 30m south of Shails Lane to assist in prevent pedestrians from crossing the A350 in this area.

£4000 index linked and time limited for the improvement of pedestrian signing between the development and the Melksham town centre, and the development and the formal A350 crossings near Hampton West roundabout.

#### Planning conditions

No pedestrian or vehicular access to be made from the development to Shails Lane.

No development shall commence until a Travel Plan based on the submitted Framework Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied prior to the implementation of the Travel Plan, (or implementation of those parts capable of being implemented prior to occupation). Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein, and shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of reducing the amount of private car movements to and from the development.

Prior to first occupation the access shall have been provided, including 2 metre wide footways to either side of the access, all as detailed on plan number 1979-F01/E, including visibility splays of 2.4 x 43 metres in each direction to the nearside at a height not exceeding 600mm above carriageway level.

Reason: In the interests of safe and convenient access to the development.

Prior to first occupation the existing narrow bus layby on Old Semington Road just north of the access position shall have been removed over its entire length and replaced by footway incorporating raised bus stop kerbs, a new bus stop flag sign, and new bus stop markings, all in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of safe and convenient access to the development

Prior to occupation of the 50<sup>th</sup> dwelling the northbound bus layby on Old Semington Road, near to the development shall have been improved by the provision of a cantilever bus shelter including perch seat and bus stop sign flagpole, adjustments to the footway width to enable provision of the shelter, incorporation of raised bus stop kerbs, and new bus stop markings, all in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of providing safe and convenient access to public transport for occupiers of the development.

Prior to occupation of the 50<sup>th</sup> dwelling the existing zebra crossing on Old Semington Road near to the development shall have been improved by replacement road markings, and new LED belisha beacons all in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of improving pedestrian accessibility in the area of the development.'

Recommendations dated 22<sup>nd</sup> June 2020:

In summary recommend the development for refusal -

The proposed development of about 144 dwellings would increase the number of pedestrians crossing the western arm of the Western Way A350 roundabout where there is no formal crossing facility, and such a crossing facility could not be safely provided due to the proximity of the roundabout and the general road layout. Visibility to the west is restricted, the carriageways are wide, and for westbound traffic 2 lanes of traffic are merging into 1 at the point of crossing. The location is the most direct route for pedestrians to and from the development accessing town centre facilities and the nearest primary school. The proposed development would therefore be detrimental to highway safety at this busy location on the primary road network and would be contrary to NPPF 8, 91, 109 and 110, and to CS policies CP57 and CP61.

The proposed development of about 144 dwellings would lead to increased numbers of pedestrians to and from the Bowerhill employment area and Bowerhill primary school crossing a derestricted section of the A350 primary route at a point where speeds are high, regular overtaking occurs, and there are no pedestrian crossing facilities. The development would therefore lead to conditions of significantly increased danger on the highway contrary to NPPF sections 8, 91, 109 and 110, and to CS policies CP57 and CP61.

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is contrary to Core Policies CP2, CP60 and CP61 of the Wiltshire Core Strategy and Sections 7,8, 9, 102, 103, 104, 108 & 110 of the National Planning Policy Framework, which aim to reduce the need to travel, particularly by private car, and to encourage the use of sustainable transport alternatives.

**Wiltshire Council Road Safety Officer:** Following a 'walked route assessment' concluded the route to Aloeric Primary School was safe for a child accompanied by a responsible adult. However concerns were raised with regards the walking route from Shails Lane.

**Wiltshire Council Public Open Space Officer:** No objections subject to provision of a MUGA (outdoor gym equipment area) which has been provided (see amended plan sketch plan)

**Wiltshire Council Drainage Engineer:** Support subject to conditions

**Wiltshire Council Housing Team:** On site provision of 30% affordable housing would be required to be secured by s106 agreement

**Wiltshire Council Public Arts Officer:** Support subject to an indicative public art contribution of £300 per dwelling

**Wiltshire Council Archaeology:** Following receipt of amended plans the council's archaeologist has no objection to the scheme subject to conditions

**Wiltshire Council Urban Design Officer:** Suggested additional amendments to the design of the scheme that can be dealt with at reserved matters stage.

**Wiltshire Council Ecology Officer:** No objection subject to conditions

**Wiltshire Council Rights of Way Officer:** Requires a contribution of £500 per dwelling towards reinstatement of the adjacent Wilts & Berks Canal

**Wiltshire Council Public Protection Team:** No objection

**Wiltshire Premises Team School Buildings & Places:** Contributions required for early years and primary school provision. No contribution required for secondary school provision.

**Wiltshire Spatial Planning Team:** The proposal is not in accordance with the development plan, in that it lies outside of the settlement boundary defined for Melksham and Bowerhill and is therefore in the open countryside. The site has not been brought forward through the plan led process outlined in Core Policy 2 of the WCS. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the starting point for decision making - proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

The latest published Housing Land Supply Statement (HLSS)<sup>4</sup> shows that of the 2,240 dwelling indicative housing requirement for Melksham and Bowerhill, 2,592 dwellings have either been completed or are developable commitments. This is a significant increase with 6 years of the Plan period remaining, with possible detrimental effects on the spatial strategy, as Melksham delivers increased levels of housing to make up for a lack of delivery in other areas, notably in Chippenham and Trowbridge

However, this has to be set against other material considerations, the most pertinent of which is the current housing land supply position. Whilst the Council are unable to demonstrate a 5YHLS, careful consideration should be given to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations on a case-by-case basis. This will need to include consideration of what weight to assign to the most important policies.

**Natural England:** No objection

**NHS Wiltshire:** No objection subject to contribution to provide a capital sum of £137,000 to support primary care capacity

**Wessex Water:** No objection following amendments to the scheme

**Environment Agency:** No objection subject to conditions

## **8. Publicity**

This application has been publicised via press advertisement and site notices and individual posted letters that were sent to all neighbouring properties within close

proximity of the site. As a result of the publicity, 29 representation letters have been received raising the following concerns:

- Drainage issues/surface water flooding in area
- Additional traffic at entrance to Semington Road/junction with Berryfield/along Semington Rd
- Lack of community services such as schools, doctors, sports/community centres
- Lack of independent shops in town centre
- Existing schools, doctors and dentists in the area already over subscribed
- West Wiltshire District Plan safeguarded sewage treatment plant/does not allow for expansion of sewage works
- Highway safety issues/danger of pedestrians trying to cross A350
- Within treatment works buffer zone
- Melksham has already exceeded its housing requirements
- Loss of natural habitat/site is habitat for deer, bats, toads, great crested newts, slow worms and badgers
- Loss of trees along Shails Lane
- Wildlife corridors will be inadequate
- Increased pollution
- Infestation of rats
- Land could be better used
- Shails Lane is a private road
- Loss of green space/hedgerows/trees
- Development is in open countryside
- Use of swift bricks
- Increased footfall along narrow and badly kept pavement
- Noise and dust from building site
- No details of boundary treatment
- Inaccuracies and discrepancies with submitted details
- Land ownership issues in particular with regards to the site entrance onto Semington Road and rear of 491-496 Semington Road
- Already one development for 150 houses in area
- No public consultation by developer
- Erecting a building for teenagers would create gatherings producing noise and encouraging drug use and antisocial behaviour

## **9. Planning Considerations**

### **9.1 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, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan in respect of this application is as follows; the Wiltshire Core Strategy (WCS), adopted 20th January 2015, and saved policies of the West Wiltshire District Plan 1st alteration (2004) as outlined in Appendix D of the WCS and Adopted minerals and waste development plan documents

The Joint Melksham Neighbourhood Plan steering group are engaged in developing a neighbourhood plan, covering the area of Melksham Town Council and Melksham Without Parish Council. The neighbourhood area was originally designated on 14th July 2014. The neighbourhood plan is progressing, but is not at an advanced stage of preparation and currently can only be afforded only very limited weight in the planning process.

The Wiltshire Core Strategy (WCS), adopted in January 2015, identifies six key challenges which informed the development of a vision, objectives and strategy for the county, and sets the context of planning for sustainable development at community area level. The spatial strategy in the plan recognises that reducing levels of out-commuting from many of Wiltshire's settlements is perhaps the most important strategic challenge for Wiltshire and includes in its spatial vision that 'market towns and service centres will have become more self-contained and supported by the necessary infrastructure with a consequent reduction in the need to travel'.

The proposed site lies in a countryside location between Melksham and the village of Berryfield. Berryfield is designated in the WCS as a 'Small Village' where only a limited amount of infill development is supported to meet local needs. Melksham and Bowerhill is designated as a Market Town in the WCS, based on an assessment of its role and function. Market towns are defined as settlements that have the ability to support sustainable patterns of development through their current levels of facilities, services and employment opportunities. Market towns have the potential for significant development that can improve self-containment.

The site is adjacent to the existing built area of Berryfield village and residential development along Semington Road. The site is adjacent to Hampton Park West to the south and the A350 to the east. There is a new residential development of 150 dwellings just to the north of the site (approved under reserved matters application 17/12514/REM) which is adjacent to Berryfield village. This development would not be meeting the local needs of the 'Small Village', but the housing needs of Melksham and the wider area of the county.

The site is outside of the settlement boundary of Melksham and Bowerhill, as revised in the Wiltshire Housing Site Allocations Plan (WHSAP). The principle of a settlement boundary approach is justified in terms of providing plan led clarity to what development may go where. This approach was endorsed by the Inspector who examined the Core Strategy in his final report, stating ...'by such means the Council intends to provide clarity on what forms of development may be carried out where in a manner consistent with the Framework'. The Inspector acknowledged that settlement boundaries in Wiltshire need to be reviewed and this review has now been completed through the adopted WHSAP.

WCS Core Policy 2 allows development outside settlement boundaries only where it is permitted by other policies of the plan, or where they are brought forward through a neighbourhood plan or a site allocations DPD. The proposal site is not proposed for allocation in the emerging neighbourhood plan and is not allocated in the WHSAP, given the fact that the indicative housing requirement for Melksham and Bowerhill for the plan period up to 2026 has been significantly exceeded and there is



no further need for any housing site allocations. The proposal does not comply with policies that allow for an exception to development within the settlement boundary. However, as detailed below, the Council cannot demonstrate 5 years' worth of housing land supply and as such policies, including Core Policy 2, in relation to settlement boundaries and housing requirements, and Core Policy 15 (Melksham Spatial Strategy), cannot have full weight applied to them in the decision-making process, as the 'tilted balance' outlined in paragraph 11d of the NPPF applies (see below).

### Five year housing land supply

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 a supply of specific, deliverable sites sufficient to provide five years' worth of housing land supply. The NPPF makes it clear that, where this cannot be demonstrated, the most important policies for determining the application are considered to be out-of-date, and planning permission should be granted unless;

- i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The Council's latest Housing Land Supply Statement (HLSS), published in December 2020, indicates that there is a 4.56-year land supply in the county. As a result, the Council have accepted that it cannot demonstrate the requisite 5-year deliverable supply in Wiltshire (the Council's strategic housing policies are now over five years old and, under the provisions of NPPF paragraph 73, the requirement to be used in the 5-year housing land supply calculation is now the Local Housing Need which is set out at an authority level).

In these circumstances, this application for housing should be considered in the context of the presumption in favour of sustainable development as outlined in paragraph 11d of the NPPF. The implications of the Council's 5-year housing land supply position, and in particular, 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 how it has arisen, the actions being taken to recover the shortfall, and the potential for the proposal to deliver housing to help remedy the current shortfall should also be taken into account in the balancing exercise.

The presumption in favour of sustainable development does not mean that all applications for housing should be permitted. However, it does mean that the most important policies, including Core Policy 2 in relation to settlement boundaries and housing requirements, and Core Policy 15 (Melksham Spatial Strategy), should not have full weight applied to them in the decision-making exercise. The weight to be attributed to such policies is a matter of judgment and is considered in the section 'Conclusion (Planning Balance)' at the end of this report.

Applications where adverse impacts would significantly and demonstrably outweigh the benefits can, and should, still be refused. However, where applications are being considered for sites at settlements but outside the defined settlement boundaries there may be the opportunity to improve housing supply by favourably considering proposals, if appropriate.

WCS Core Policy 15 (Melksham Spatial Strategy) shows that an indicative amount of housing in Melksham and Bowerhill of 2,240 dwellings is required in the plan period to 2026. The latest HLSS shows that of the 2,240 dwelling indicative housing requirement, 2,592 dwellings have either been completed or are developable commitments. Three large housing sites in Melksham are now under construction - Land north of Semington Road, Land south of Western Way and Land east of Spa Road. This shows that a high number of the developable commitments are reaching delivery stage which will help meet the indicative requirement to 2026; this is an important material consideration.

### Deliverability

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 assurance the site can come forward within a few years. This is relevant and of material importance in accordance with the NPPF and demonstrates the applicant's intention to deliver the site quickly. This is a material consideration of substantial weight in the context of the current housing land supply position.

### Conclusion

The proposal is not in accordance with the development plan, in that it lies outside of the settlement boundary defined for Melksham and Bowerhill and is therefore in the open countryside. The site has not been brought forward through the plan led process outlined in Core Policy 2 of the WCS. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the starting point for decision making - proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

However, this has to be set against other material considerations, the most pertinent of which is the current housing land supply position. Whilst the Council are unable to demonstrate a 5YHLS, careful consideration should be given to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations on a case-by-case basis. This will need to include consideration of what weight to assign to the most important policies and which is considered at the end of the report in the section 'Conclusion (Planning Balance)'.

## 9.2 Impact on the Character and Appearance of the Area

Core Policy 51 'Landscape' outlines that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character. The policy requires applications to demonstrate how development proposals conserve and where possible enhance landscape character through sensitive design, landscape mitigation and enhancement measures. Core Policy 57 'Ensuring High Quality Design and Place Shaping' requires a high standard of design in all new developments and states that development should respond positively to the existing townscape and landscape in terms of building layout, built form, height, mass, scale, building line, plot size, design, materials and streetscape.

The application site covers approximately 8.2 hectares of agricultural land comprised of mainly semi-improved grassland fields, bound by hedgerows and tree lines located to the east of Berryfield, south of Melksham and west of Bowerhill. Residential properties bordering Semington Road are located to the west while the A350 borders the site to the east. Commercial development (Hampton Business Park) is located to the south on the opposite side of Shails Lane. New residential development for 150 dwellings (approved under reserved matters application 17/12514/REM) is located to the north of the site. There are no landscape designations constraining the site although it is within the Open Clay Vale land classification in the West Wiltshire Landscape Character Assessment.

The amended illustrative sketch layout plan (drawing no. 001) indicates a development consisting of a cluster of housing located to the east of existing residential development off Semington Road and north of commercial development off Shails Lane with vehicular and pedestrian access to the site off Semington Road. The existing access to the Bowerhill Sewage Treatment Works would be re-routed to use this new access. A habitat protection area forming a landscape buffer of up to 15 metres would be created to the west adjacent the rear gardens of properties fronting Semington Road and partially along the southern boundary of the site adjacent Shails Lane. Enhancements to the existing buffer along the northern boundary of the site are also proposed. Areas of open space are proposed throughout the site, including an area of unmanaged natural open space to the north east and a green wildlife corridor running through the site north to south.

The proposed low density of the scheme (approx. 17 houses per ha) is considered appropriate for the site and would not be considered as overdevelopment. The detailed layout would still need to be considered at the reserved matters stage should outline planning permission be granted along with the scale, design and appearance of the development. In advance of such an application and to secure certain commitments from the applicants, the Council's Urban Design officer provided a series of recommendations to ensure a high-quality designed scheme is submitted for consideration at the reserved matters stage. Although there would clearly be a change in the character and appearance of the area, this would be mitigated to some degree by the proposed buffer zones and areas of open space. Officers are satisfied that the revised illustrative sketch layout would deliver an acceptable development of a maximum of 144 houses that could be satisfactorily accommodated on site in terms of landscape, character and visual impact.

It is acknowledged that the loss and redevelopment of the agricultural land would result in some harm to the character and appearance of the area. However, the site is enclosed by urban development, with housing to the north and west, the A350 to the east and the employment land to the south. This means that any impacts are localized and the development does not have significant adverse impacts on the wider landscape or setting of Melksham. There would be minor adverse visual effects, particularly for nearby residents and people using Shails Lane to the south. However the negative impacts of the development would be mitigated as far as possible and as required by policy, through the inclusion of landscape features such as the addition of buffer zones on the boundary of the site and additional landscaped open space. As such the extent of adverse visual impacts would not be widespread and there would be only limited harm to the landscape setting of the local area. This harm is not considered to be significant enough to warrant a reason for refusal.

### 9.3 Impact on the Amenity of Neighbouring Residents

Core Policy 57 'Ensuring High Quality Design and Place Shaping' requires development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter).

Existing residential development to the west of the site fronting Semington Road comprises mainly of detached dwellings with large rear gardens while new development of mainly semi-detached properties would be located to the north. This application seeks outline planning permission only at this stage; however the illustrative layout plan dwg no. 001 demonstrates that the site is capable of being developed with acceptable property separation and having a clear plan on how to avoid detrimentally affecting the amenities of adjacent residents.

Although the application is outline with all matters reserved except access, the indicative plan includes sufficient distance between the existing properties fronting Semington Road and the new development to the north (approved under reserved matters application 17/12514/REM) and the proposed development that officers are satisfied that the scheme as illustrated would not result in significant impacts on the living conditions of neighbouring residents in terms of loss of privacy or overlooking or loss of light and overbearing impact. The nearest residential properties to the new development are located at 491A and 492 Semington Road adjacent the proposed access and 513B Shails Lane to the south. However, as detailed on the sketch layout plan, due to the proposed separation distances and potential design of any dwellings (a subject to be dealt with at reserved matters stage), the scheme would not result in harm to the living conditions of the occupiers of these properties.

The Bowerhill Sewage Treatment Works are located to the northeast and adjacent the site. As such there are concerns that odour omissions from the facility would harm the amenity of future residents of the site. An odour assessment was therefore undertaken by the applicants that concluded that predicted odour concentrations were below the relevant benchmark level at all proposed residential property locations for all meteorological data sets. As such emissions from the Bowerhill

wastewater treatment works would not harm the amenity of future residents. The Council's Public Protection Officer agrees with the assessment.

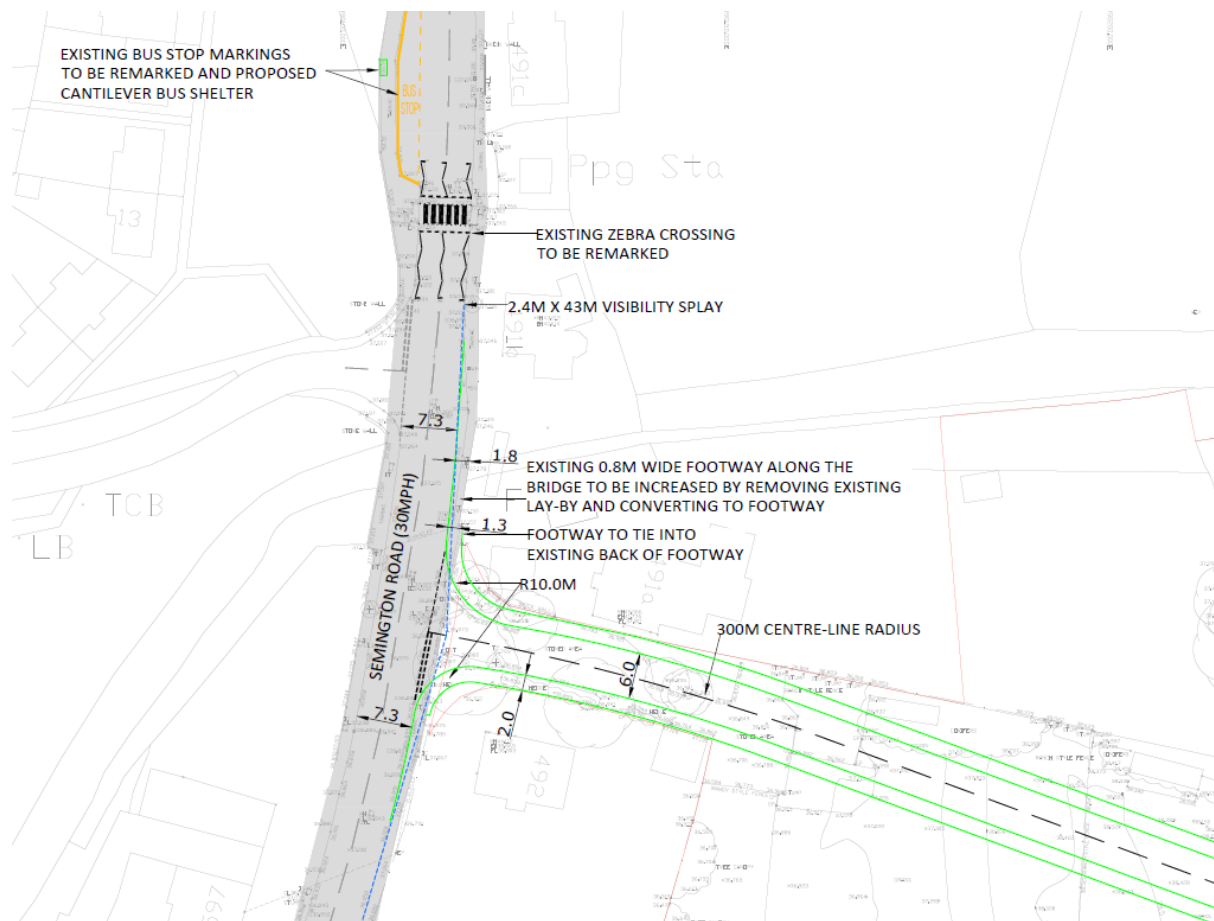
In light of the above, officers are satisfied that the scheme would not have a significant adverse impact on the living conditions of neighbouring residents and the proposal is considered policy compliant.

#### 9.4 Highway issues

Core Policy 61 'Transport and Development' seeks to ensure that all new developments are capable of being served by safe access to the highway network.

The application seeks outline planning permission with detailed consideration given to the means of 'access'. It is proposed that access to the site would be achieved by creating a new vehicle access onto Semington Road. The access would consist of a standard priority junction with a carriageway width of approximately 6 metres, with footways of 2 metres on each side, which will tie into the existing provision on Semington Road. This would achieve visibility splays of 2.4 metres by 43 metres, which are commensurate to roads subject to a 30mph speed limit and which satisfies the current design guidance in Manual for Streets (MfS). The internal access road would be designed to accommodate waste and delivery vehicles so that they can enter the site, turn around and exit in a forward gear. The access road would also deliver a new access to the Bowerhill Sewerage Treatment Works, as the existing access off Shails Lane would be closed off to vehicular traffic. In order to reduce the potential use of Shails Lane to the south of the site to access the Bowerhill area on foot to the east an amended scheme has been submitted (dwg no. 001 rev L) that alters the internal layout of the site removing any direct pedestrian and cycle links to Shails Lane via use of an acoustic fence.

The development could achieve a satisfactory vehicular access point to Semington Road as indicated by the access plan detailed below and within the application documents (dwg no. 1979-F01 rev G). The access road has also been designed to accommodate articulated vehicle traffic to and from the treatment works. Some loss of vegetation to the south of the access point would be required to achieve the correct visibility. This vegetation is either in the control of the applicants or within the highway and as such its removal can be conditioned. There is an existing lay-by immediately north of the proposed vehicular access in use as a bus stop. The lay-by would need to be removed if the development were to be permitted, as vehicles within the lay-by would block access visibility. As such the applicant has agreed to convert this section of the carriageway to footway increasing the width of the footway to 1.8 metres thereby removing the lay-by and increasing the width of the pavement. It is not considered that the removal of the lay-by would inconvenience buses, as they will only be stationary for a short time. The applicant had also agreed to remark a zebra crossing just north of the access as well as provide improvements to the nearest north bound bus stop by providing a new cantilever bus shelter. These works would be secured by condition.



*Proposed new access Semington Road (dwg no. 1979-F01 rev G)*

Whilst this application seeks outline consent with all matters reserved accept access, the submitted documentation and sketch plan would indicate that sufficient car parking can be provided on site to comply with Wiltshire’s Council’s Car Parking Standards. In terms of proposed cycle parking and visitor parking, details would be submitted as part of a reserved matters application and through the discharge of planning conditions.

The nearest bus stops to the site with access to Melksham town centre are located to the north of the proposed new access and within a short walk from the centre of the site. In terms of walking distances the nearest train station is Melksham station located approx. 2 miles from the centre of the site whilst Aloeric Primary School is within a mile and Bowerhill Primary School is located approx 1.5 miles to the east and Melksham Oak Community School a similar distance also to the east. It is considered the site is accessible.

Concerns have been raised with regards to the crossing of the A350 to the north of the site by pedestrians accessing Melksham town centre facilities and Aloeric Primary School. It is stated the proposed development would increase the number of pedestrians crossing the western arm of the Western Way A350 roundabout where there is no formal crossing facility and where visibility to the west is restricted.

In order to overcome these issues the developer has agreed to contribute £200,000 to improvements to convert the existing signal controlled crossings on the A350



north of the application site (both directions) to modern Toucan crossings that allow their use by cyclists which would include widening the footway on the south side of the A350 from 2 to 3 metres width. In addition the developer has agreed to contribute to the removal of the footway between the Zebra crossing and the western splitter island and use of barriers and areas of anti-pedestrian paving in order to reduce the likelihood of pedestrians using this point as a crossing point over the A350. It should also be noted the council's road safety officer travelled the route from the application site to Aloeric School and concluded the walking route to the Primary School from the application site is safe to use for children of primary age accompanied by a responsible adult.

It should also be noted that based on accident statistic provided by the applicants for a five year period 2014 to 2018 along the A350 to the north and west of the site of the 9 incidents recorded within the study area none were related to incidents involving pedestrians or cyclists. In addition the highways officer had no objection to the scheme at Land East of Semington Road for 150 dwellings (16/00497/OUT) which, although located closer to the centre of Melksham, pedestrians walking from the site would have faced similar issues accessing north of the A350 as the current scheme.

Concerns have also been raised with regards the crossing of the A350 to the east with third parties stating the proposed development would lead to increased numbers of pedestrians using Shails Lane to cross the A350. Although there is no right of way here, it in theory the shortest route to and from the application site to Bowerhill employment area and Bowerhill primary school, crossing a section of the A350 at a point where speeds are high, regular overtaking occurs, and there are no pedestrian crossing facilities. In order to overcome this issue and reduce the potential use of Shails Lane to access the Bowerhill area on foot an amended scheme has been submitted (dwg no. 001 rev L) that details a layout that removes any direct pedestrian and cycle links to Shails Lane by use of an acoustic fence. In addition the applicant has agreed to erect a secure fence approx. 2 metres high and 100 metres long with additional landscaping on the A350 verge adjacent the eastern end of Shails Lane in order to make crossing the A350 at this location by pedestrians very difficult. This fence would be secured by s106 agreement.

Although the scheme would result in the new entrance to the site off Semington Road being shared by vehicles accessing the sewage treatment works, the access road has been designed to accommodate articulated vehicles and amended plans received have set back the proposed residential properties from the access road by use of lay-bys, as such the impact of vehicles movements from the works would be less likely to be impeded by parked traffic. It should also be noted that vehicle movements to and from the water treatment works, although daily are mainly associated with maintenance and other onsite operations, articulated movements however are usually only twice a day (to and from the works). As such the impact of vehicles movements associated with the treatment works would not result in significant harm to highway safety in the area.

The site is considered to be a sustainable location within reasonable walking distance of local shops and schools. There are bus stops approximately 300 metres from the site on Semington Road that link the site to the town centre. The application

is supported by a detailed Transport Statement which considers the impact of the proposed development on the local highway network and shows the need to maximise opportunities for walking, cycling and public transport use to reduce reliance on the car. The statement concludes that the development would have only a minimal impact on the operation of the local highway network and there is no evidence to suggest that the proposals would have an adverse effect on highway safety in the immediate area.

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.

Following receipt of amended plans and agreement from the developer to contribute towards highway safety measures along the A350 and improvements at the new entrance to the site it is considered a highway safety refusal reason would not be warranted in this case.

### 9.5 Ecology issues

Core Policy 50 'Biodiversity & Geodiversity' of the WCS requires that all development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term. Furthermore, the policy specifies that all development should seek opportunities to enhance biodiversity. Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services.

The majority of the site is comprised of semi-improved grassland fields, bound by hedgerows and tree lines, with pole and wire fencing. One field located within the north west of the site and was grazed by livestock. Mature broadleaved woodland borders the site to the east, separating the site and the A350.

Evidence of greater crested newts (GCN) was found in water bodies within the 50 metres of the site in particular to the south and west. Buildings on site were assessed to have low potential for roosting bats while trees located on the boundary of the site were found to have negligible bat roosting potential. The boundary features (i.e. hedgerows, stream and woodland) are anticipated to be used by commuting and foraging bats within the local area and the site is well connected via surrounding tree lines and hedgerows. No bat roosts are located within the site. No badger setts were located on site or within 30 metres of the site boundary however the wider landscape was assessed as having suitability for the species and the species may infrequently use the site for foraging and commuting. In terms of water vole and otters the site itself has negligible value due to no waterbodies or features being located within the site itself. Numerous bird species were recorded during site surveys however these represented common species associated with the habitats on site. In addition Grass snake and slow worm were identified utilising the site and the site was assessed as supporting populations of both.

Mitigation measures include the creation of a 'Habitat Protection Area' in the south western corner of the site to receive translocated GCN and reptiles and provision of a minimum 5 metre buffer zone between the adjacent stream (along the northern boundary) and the development. In addition the majority of the hedgerow and woodland would be retained to ensure habitats remain connected, with the inclusion of wildlife corridors through the central aspect of the site and on the eastern and southern boundaries, including additional tree planting and creation of wildflower areas. The public open space would also include an attenuation pond. Layout of the site would also be designed to minimise light spillage onto the site's northern and southern boundary.

The proposals within this application could potentially affect European protected species (great crested newts). In light of ODPM Circular 06/2005 (para 116) and the Conservation of Habitats and Species Regulations 2017, the 3 "derogation" tests, as set out in Regulation 55 must be considered in reaching a recommendation.

The 3 tests are:

1. The activity ... must be for imperative reasons of overriding public interest or for public health and safety (IROPI)
2. There must be no satisfactory alternative
3. Favourable conservation status of the species must be maintained.

In this case, the LPA has sufficient information to be able to consider the third test and it is considered that favourable conservation status of great crested newts can be maintained, subject to securing the mitigation measures within section 7.2.3 Ecological Impact Assessment should the application be approved. In terms of the second test there are no suitable alternative sites available to develop which would necessarily cause less harm and achieve the same level of development. In terms of the first test the development would provide 144 dwellings of which 30% would be affordable housing providing both a social and economic benefit to the local community.

The Council's ecologist concludes that the development, subject to the implementation of the mitigation measures proposed in the Ecological Impact Assessment which includes the creation of a 'Habitat Protection Area' would result in no net loss. Appropriate management of the mitigation areas as well as other habitats to be retained and created on the site would be included within a Landscape and Environmental Management Plan (LEMP). Management of the open spaces and mitigation buffer areas would be the subject of a legal agreement, and on this basis no ecology-based objection is raised.

#### 9.6 Drainage issues

Core Policy 67 'Flood Risk' 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.

Wessex Water has not objected to the scheme and the council's drainage team support the development subject to conditions. The applicants have submitted a comprehensive Flood Risk Assessment (FRA) to support their application.

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. In this case, the site is recognised as being flood zone 1 – land that has the lowest probability of flooding and there are no known land drainage constraints which cannot be addressed.

The site is not currently served by a foul drainage network, although there is a public foul water sewer running north along to the east boundary of the site. As such it is proposed that foul flow is discharged to the public foul sewer within the east of the site subject to Wessex Water approval. In addition a condition is recommended, if the scheme should be approved, requiring details of surface water drainage – which should be submitted before works on site commence.

### 9.7 Other issues

Concern has been raised by third parties that the developer did not engage in community involvement. However the applicant has submitted a Statement of Community Involvement detailing public consultation that was undertaken in February 2019. Whilst officers encourage developers to positively engage with local communities prior to a formal planning submission, such involvement cannot be forced upon a developer.

Third parties have raised the issue of land ownership however such issues carry very little weight in the planning balance and the Council does not get involved with such issues.

Concern has been raised by third parties with regards increased pollution in particular during the construction phase of the development however the applicants submitted an Air Quality Assessment report that concluded as long as best practice measures were implemented any impacts during the construction phase of the development would not be significant.

Third parties have also raised issues of increased vermin and pests in the area however these issues would be dealt with under other legislation.

Concern has also been raised with regards erecting buildings for teenagers in relation to noise and other anti social behaviour however should these concerns become an issue they are also dealt with under of other legislation.

## **10. S106 contributions**

The site generates a requirement for the provision of 30% on-site affordable housing, to be provided in an integrated manner as agreed at the reserved matters stage. The type and tenancy mix will be negotiated with the Council's housing officers to ensure a 'best fit' for local housing needs applicable at the time of the agreement.

Under WCS Core Policy 3, the proposal generates a requirement for the provision of on-site public open space proportionate to the final housing mix. The development would generate a modest increased population in this area, placing additional

demands on local education provision. The summary heads of terms for the s106 for this application are as follows:

- On site affordable housing of 30% (43 dwellings)
- Onsite open space contribution (approx 3.52ha) including provision of an outdoor gym and a Local Equipped Area for Play (LEAP)
- Early years contribution of £297,874
- Primary education contribution of £337,644
- Waste and recycling facilities for the site charged at £91 per residential unit
- A contribution of £500 per dwelling towards reinstatement of the adjacent Wilts & Berks Canal
- A public arts contribution of £300 per dwelling
- NHS Wiltshire – a contribution to provide a capital sum of £137,000 to support primary care capacity
- Highways contributions:
  - £200,000 index linked and time limited for the upgrading of the double pelican crossing on the A350 east of the A350 / Old Semington road roundabout to a double toucan crossing with associated footway and cycleway improvements, and measures to reduce the attractiveness to pedestrians of the pedestrian route on the western side of the roundabout between Old Semington Road and Melksham.
  - The provision of 100m anti-pedestrian fencing and additional landscaping along the A350 western side, 70m north and 30m south of Shails Lane to assist in prevent pedestrians from crossing the A350 in this area.
  - £4000 index linked and time limited for the improvement of pedestrian signing between the development and the Melksham town centre, and the development and the formal A350 crossings near Hampton West roundabout.

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

The application site is located in close proximity to Melksham, Bowerhill and Berryfield. The site measures approximately 8.2ha in size and consists of a plot of agricultural land located to the east of Berryfield. Existing residential development lies to the west while commercial development lies to the south and the site borders the A350 to the east. The application site is located outside any settlement limits.

In the determination of planning applications, the first issue to consider is whether the proposal accords with the relevant provisions of the development plan (the WCS). If it does not then the issue arises as to whether other 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 the Council has continued to promote development in the housing market area at sustainable locations. Following the publication of the latest Housing Land Supply Statement, the Council have accepted that it cannot demonstrate the requisite 5-year deliverable supply in the Wiltshire LPA (the housing land supply calculation has now changed from housing market areas to county wide). The current position is 4.56 years supply. 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 with the development and the level of weight which may be attributed to them in the planning balance.

In terms of the positive benefits of the scheme the development would provide 144 new dwellings of which 43 would be affordable. This can be afforded considerable weight in the planning balance. In order to deliver the scheme within a short time period the applicant has agreed shorter commencement times and, given the current 5-year land supply position in Wiltshire, this can also be given significant weight. There would also be some short terms benefits during the construction phase of the development through direct and indirect job creation and householders would pay council tax which can be given limited weight.

In terms of neutral impacts, the supporting information demonstrates that the proposed residential development would be a sufficient distance from neighbouring residential properties and officers are satisfied that the site can accommodate 144 dwellings without adversely impacting on the living conditions and amenities of the occupants. The density of the scheme is considered appropriate for the site the revised illustrative layout suggests that the level of development proposed could be satisfactorily accommodated on site in terms of landscape, character and visual impacts. The Council's ecologist has concluded that the development, subject to conditions, would result in no net loss of biodiversity. The development would be served by a safe access to the highway network and the scheme would not result in severe cumulative harm to highway safety or result in harm to pedestrian safety. Sufficient parking could be secured and drainage issues can be adequately dealt with.

The scheme would result in some negative impact on landscape character and there would be some loss of grade 3b agricultural land. However the negative impacts of the development would be mitigated as far as possible and as required by policy, through the inclusion of landscape features such as the addition of buffer zones on the boundary of the site and additional landscaped open space. As such the extent of adverse visual impacts would not be widespread and there would be only limited harm to the landscape setting of the local area.

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 covering the areas identified in section 10 above.

**RECOMMENDATION:**

Defer and Delegated to the Head of Development Management to APPROVE subject to the conditions set out below and the prior completion of a Section 106 legal agreement.

1. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

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 and to ensure the prompt delivery of the site in order to meet the need for housing land supply that has justified the granting of planning permission on this occasion.

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 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of 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:

Location Plan scale 1:1250 dwg no. LoC001 rev 01

Sketch Layout scale 1:2000 dwg no. 001 rev L

Parameters Plan scale 1:2000 dwg no. 002 rev B

Proposed Site Access Plan scale 1:1000 dwg no. 1979-F01 rev G

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

Highways

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

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

6. 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.

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

REASON: In the interests of highway safety.

8. No development shall commence until a Travel Plan based on the submitted Framework Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied prior to the implementation of the Travel Plan, (or implementation of those parts capable of being implemented prior to occupation). Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein, and shall continue to be implemented as long as any part of the development is occupied.

REASON: In the interests of reducing the amount of private car movements to and from the development.

9. Prior to first occupation the access shall have been provided, including 2 metre wide footways to either side of the access, all as detailed on plan number 1979-F01 rev G, including visibility splays of 2.4 x 43 metres in each direction to the nearside at a height not exceeding 600mm above carriageway level.

REASON: In the interests of safe and convenient access to the development.

10. Prior to first occupation the existing narrow bus layby on Old Semington Road just north of the access position shall have been removed over its entire length and replaced by footway incorporating raised bus stop kerbs, a new bus stop flag sign, and new bus stop markings, all in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of safe and convenient access to the development.

11. Prior to occupation of the 50<sup>th</sup> dwelling the northbound bus layby on Old Semington Road, near to the development shall have been improved by the provision of a cantilever bus shelter including perch seat and bus stop sign flagpole, adjustments to the footway width to enable provision of the shelter, incorporation of raised bus stop kerbs, and new bus stop markings, all in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of providing safe and convenient access to public transport for occupiers of the development.

12. Prior to occupation of the 50<sup>th</sup> dwelling the existing zebra crossing on Old Semington Road near to the development shall have been improved by replacement road markings, and new LED belisha beacons all in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of improving pedestrian accessibility in the area of the development.

#### Drainage

13. No development shall commence on site until a scheme for the discharge of surface water from the site, including 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.

REASON: To ensure that the development can be adequately drained without increasing flood risk to others.

#### Environment Agency/Ecology

14. No commencement of clearance or construction works development shall take place, including demolition, ground works, vegetation clearance until a Construction Environment 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. Measures which will be used to avoid or reduce impacts during construction on reptiles and amphibians, birds, water vole, otter and hedgehogs etc.

- b. The location and timing of sensitive works to avoid causing harm to biodiversity features.
- c. The times during construction when specialist ecologists including Ecological Clerk of Works, will be present on site to oversee works
- d. The Location of “Biodiversity Protection Zones” and protective fences, exclusion barriers and warning signs,
- e. 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.

REASON: To ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats in accordance with submitted ecological reports.

15. Prior to commencement of clearance or construction works, a detailed *Landscape and Ecological Management Plan (LEMP)*, including long term objectives, management responsibilities and maintenance schedules for all areas of imbedded mitigation will be submitted to and approved by the Local Planning. The LEMP shall be carried out in accordance with the approved details. It will integrate all the recommendations for mitigation and management given in the Ecological Impact Assessment (E3P. 21/02/2020) and will include specific prescriptions that will protect and enhance habitat for great crested newts, reptiles, water voles, otter, nesting birds and hedgehog. Enhancements should consist of new features and habitat to benefit these species/ groups. In terms of habitats particular focus should be given to habitat adjacent to Berryfield Brook, hedgerows, attenuation ponds and areas provided to benefit target species including the Habitat Protection Area (H) and Green Wildlife Corridor (G). The plan must include a table of those responsible for management, together with mechanisms for monitoring and for altering individual management prescriptions that are shown to be ineffective. It should also include a site plan annotated with management prescriptions for each habitat type or retained/created feature within the site.

REASON: To ensure adequate protection and mitigation for protected species and to secure net biodiversity gain in accordance with NPPF.

16. Prior to construction commencing, a lighting strategy for the site will be submitted for approval, including a lux plot that shows that a level of 0.5 lux can be achieved at the edge of any sensitive habitat area, specially hedgerows, trees and the riparian vegetation within 10 metre of the top of the river bank.

REASON: Many species active at night (bats, badgers, otters) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation.

Public Protection

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

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

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

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

18. If evidence of contamination is found on site, a detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

If the report submitted indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: In order that the development is undertaken in an acceptable manner, to ensure that land contamination can be dealt with adequately.

19. Before the development hereby approved is occupied the recommendations of the Noise Impact Assessment dated February 2020 by E3P (section 5 and 6) shall be implemented in full.

REASON: To ensure a satisfactory standard of amenity.

20. No development shall commence above ground floor slab level 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.

### Landscaping

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

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

### Archaeology

22. No development shall commence on site until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, including a long-term management plan for Area 4 (page 6 'An Archaeological Desk Based Assessment' dated February 2020 by SLR) that clearly sets out a strategy for protecting this part of the site during development has been submitted to and approved by the Local Planning Authority, and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

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

INFORMATIVE TO APPLICANT:  
Wessex Water:

The developer states in their response that 10% allowance for urban creep has been added to the calculations. However, this wasn't clear from the calculations provided. Developer to confirm how urban creep has been applied to the calculations.

The applicant should note that new Sewerage Sector Guidance (published 1st April 2020) enables Water Companies to adopt SuDS features as part of the surface water drainage network. Policies and Guidance on this can be found at <https://www.wessexwater.co.uk/services/building-and-developing/sector-guidance-on-sewerage-and-water-adoption-agreements>. If the intention is to offer the drainage scheme up for adoption the applicant will need to consult with Wessex Water, prior to the submission of any drainage scheme details to the local planning authority, to ensure compliance under the new adoption codes and to formally commence the adoption process. Applicants should contact Wessex Water through [planning.liaison@wessexwater.co.uk](mailto:planning.liaison@wessexwater.co.uk) for further information/ discussion.

In order to discharge the condition 10 the developer needs to provide the following: The exceedance overload flows on the plan provided are currently showing in some locations that the flows are directed towards the buildings e.g. plot 121, 49. We recognise that the developer stated that the finished floor levels will be higher than 37.25mAOD, however we cannot confirm that this is sufficient to discharge the comment. The developer needs to ensure that finished floor levels and the proposed gradients are away from the building towards the roads to ensure properties are not affected during large storms over the capacity of the proposed drainage system.

#### INFORMATIVE TO APPLICANT:

Environment Agency:

Whilst we note that your application is in flood zone 1, the proposal has failed to put the finished floor levels at an appropriate height. These should be amended to be above the 1 in 100 plus an appropriate level of climate change.

#### Flood Risk Activity Permit

This development may require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated 'main rivers'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission and it should not be assumed a permit will be for. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-riskactivities-environmental-permits>. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity. Please contact [Blandford.frap@environment-agency.gov.uk](mailto:Blandford.frap@environment-agency.gov.uk) with details of permitted works and include the planning application reference.

#### INFORMATIVE TO APPLICANT:

The long-term archaeological management plan for Area 4 (condition 22) should state clearly that this part of the site will not be subject to any ground working, will be fenced off from all plant movement during development and will continue to remain as open ground following the completion of the development.

**INFORMATIVE TO APPLICANT:**

This Scheme shall be informed by and designed in accordance with a clearly-defined 'Urban Design & Landscape Framework Plan' (or Strategy) which should be submitted with the reserved matters design/landscaping application.