

## REPORT TO THE AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>15 September 2021</b>
<b>Application Number</b>	<b>19/12002/FUL</b>
<b>Site Address</b>	<b>Land Off Common Road, Corston</b>
<b>Proposal</b>	<b>Erection of 4 dwellings</b>
<b>Applicant</b>	<b>Warden and Freeman of Malmesbury</b>
<b>Town/Parish Council</b>	<b>St Pauls Malmesbury Without</b>
<b>Division</b>	<b>Sherston</b>
<b>Grid Ref</b>	<b>392347 184414</b>
<b>Type of application</b>	<b>Full</b>
<b>Case Officer</b>	<b>Lee Burman</b>

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

The application was called in for Committee determination by the former ward member (Cllr Thomson) to consider the principle of development and development plan compliance alongside Ecological and Drainage impacts. The new ward member (Cllr Smith) has re-confirmed the call in.

### **1. Purpose of Report**

To consider the proposals against the relevant policies of the plan and national guidance and in the context of all material planning considerations and site circumstances and the recommendation to grant permission subject to completion of planning obligation and the conditions set out below.

### **2. Report Summary**

Key issues include:-

Principle of Development/Development Plan Compliance  
Ecological Impact  
Drainage Impact  
Highways Impact  
Impact on the Character, Appearance and Visual Amenity of the Locality  
Impact on Residential Amenity

79 Representations from interested parties have been received but including multiple submissions by the same individuals

The Parish Council objects to the scheme proposals

### **3. Site Description**

The site lies on the northern fringes of the village of Corston which does not feature a defined settlement boundary and so is within the open countryside for planning policy purposes. The land is relatively flat, although with some changes in levels and featuring some mature vegetation at some of the site boundaries, others being more open with post and wire fencing. The site is bounded and accessed from Mill Lane and Common Road, the latter forming the northern extent of the site and to a large extent the village itself. Existing dwellings are situated to the west and east/north east. Open land including a pond and extensive mature vegetation and trees lies to the south, directly north is also principally open land. A property previously identified as builders yard and a substantial part of the village lies further to the south beyond the open field with pond.

There are some records of drainage constraints and flood risk in the immediate locality. Mill Lane to the immediate west is a Bridleway.

The land immediately to the south indicated as being a former quarry and featuring the pond and mature vegetation is a designated Local Nature Reserve and County Wildlife Site. Described as a disused limestone quarry managed as a community nature reserve, with mesotrophic open water, marginal swamp vegetation, species-rich calcareous grassland and scrub woodland. There are records of Badgers, Barn Owl, Common Kingfisher, Slow Worms, Grass Snake, North European Crested Newt, Bats (Chiroptera) and Eurasian Otter within the immediate vicinity including on the Local Nature Reserve/County Wildlife site.

#### **4. Planning History**

None of relevance to the proposals.

#### **5. The Proposal**

The application seeks full planning permission for the erection of 4 new dwellings, two of which will be affordable housing units, creation of an access and site landscaping.

#### **6. Planning Policy**

##### **Wiltshire Core Strategy**

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

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

Settlement Boundary Review & site allocations.

**Malmesbury Neighbourhood Plan (MNP) (Made Feb 2015)**

1.1.6 & 1.1.7 – Objectives and Policies  
Policy 1 – Back bridge Farm Allocation  
Policy 2 – Burton Hill Allocation  
Policy 4 – Local Need Assessment  
Policy 6 – Burnham House Allocation  
Policy 13 – Development in Accordance with MNP Volume II

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

H4: Residential Development in the open countryside  
NE14 Trees and the control of new development  
NE18 Noise and Pollution

**National Planning Policy Framework 2021**

Paragraphs; 2, 8, 11, 12, 14, 38, 47, 77, 110, 111, 130, 167, 169, 174, 180.

**7. Consultations**

There have been multiple rounds of full consultation. The following is a summary of the position reached following those processes and receipt of revisions and additional information; this is not intended to be a complete recitation of all advice and comments received. Where necessary and appropriate initial advice received is set out in the main body of the report.

St Paul Malmesbury Without Parish Council

Objections maintained. Fully support the comments of the Local Nature Reserve warden – Anne Skinner (available on the public record and summarised below). Concern raised at lack of Hydrological Study to assess groundwater flows to the LNR, especially given Natural England comment and advice (see summary below). Concerned as to the efficacy of the “Buffer Zone”. Inappropriate site for this development due to flooding and highways impact issues, lack of need for housing, ecological impact and unsustainable location. Seek assurances that concerns raised are addressed or mitigated.

Natural England

No objections and welcome buffer zone proposals but concerns raised as to the level of detail available as to the hydrological impact of development and consequences for the Pond in the LNR. Concern over future management of the LNR. Considers that national and local policy indicate a requirement to avoid harmful impacts to ecological interest and enhancing biodiversity.

Environment Agency

Objection withdrawn but recommend that the applicant undertakes a risk assessment on the basis of their dwelling foundation design and depth to groundwater. The advice explicitly does not propose a condition in this regard.

Wessex Water

No objection.

Ecology

No objection subject to conditions regarding management of the buffer strip, hedgerows and trees and open spaces.

### Highways

No objections subject to conditions and Informatives

### Drainage

No objections subject to condition requiring drainage facilities to accord with the foul surface water drainage strategy.

### Urban Design

No Comment to make on this minor development proposal

### Trees Officer

No objections subject to condition

### Affordable Housing Team

No objections, whilst the scale of development doesn't trigger a requirement for affordable housing the proposed provision is welcomed. Query raised as to proposed/intended registered social landlord. Applicant has confirmed and officers support.

### Public Protection

No objection subject to conditions

### Rights of Way

Comments on initial scheme raised issue regarding obstruction on Right of Way. This issue is now resolved as a result of amended drawing.

## **8. Publicity**

As noted above there have been multiple rounds of consultation and as a consequence several interested parties have made multiple representations. The following is a summary of all representations received and is not intended to be a recitation of all comments made.

- Impact on drainage and surface water flooding
- Impact on residential amenity
- Traffic generation
- Contrary to Wiltshire Council Core Policies and Framework
- Outside curtilage of village
- Impact on ground levels and water table
- Flooding associated with construction
- Overlooking 6 Quarry House
- Traffic and Highway issues
- Affordable housing used as bartering / not for Corston Families
- Housing need not demonstrated
- Exceeds Malmesbury Neighbourhood Plan housing numbers
- Package treatment highlight issues

- Harm to Ecological Interest / LNR through disruption of groundwater flows; construction activity and re-routing of surface water drainage. Consequent conflict with national guidance in the NPPF.

Wiltshire Wildlife Trust – Objection on the basis that the proposals have the potential to disrupt groundwater level, flow and quality compromising the pond in the LNR/CWS.

## **9. Planning Considerations**

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application and site consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); the Wiltshire Housing Sites Allocation Plan (February 2020) and the Malmesbury Neighbourhood Plan (Made February 2015).

### Principle of Development

The site is not allocated for the development proposed in the adopted development plan for this locality. Corston is defined a small village in the plan settlement hierarchy and does not feature a settlement boundary/limits of development and as such the site lies within the open countryside for planning policy purposes. In these situations, WCS CP2 restricts development to limited infilling. The development proposed does not meet one of the exceptions to the development strategy of the plan as set out at para 4.25 of the WCS or under the provisions of saved policy H4. The housing requirement for the Malmesbury Community area as set out in WCS CP13 has been met and exceeded. As such the proposal is in conflict with the development strategy of the plan as defined in this locality by CP1, CP2 & CP13, which must be read together alongside the relevant provisions of the MNP. However, it is arguable that the site could be considered as constituting limited infill development within the existing built form which is allowed for under the provisions of CP2 in villages without a settlement boundary. This limited to a location capable of accommodating a few dwellings and generally not more than 1 as defined in para 4.34 of the plan. However, at appeal up to 4 dwellings have been allowed under this policy in the past. As is discussed further below and in the site description above whilst on the outer fringes of the village the site features existing built form on at least two boundaries with Common Road to the north effectively forming a discernible boundary and limit to the extent of Corston.

It is also necessary to consider what if any material considerations would justify a decision otherwise than in accord with the strategy of the plan. In this context there are several matters that must be taken in account. Firstly, the Council cannot currently demonstrate an NPPF compliant available and deliverable supply of land of housing for the requisite 5 year period plus buffer. The latest HLS statement identified that the shortfall is 4.56 years. As such the policies of the plan most relevant to the determination of the application are considered to be out of date and para 11(d) of the framework is engaged. In this context the MNP is over two years old so the relevant period for HLS provision remains 5 years and not 3 and para 14 of the framework is not engaged.

As set out in Supreme Court of Appeal decision *Suffolk Coastal District Council v Hopkins Homes Ltd & Anor* [2017] UKSC 37 even where paragraph 11(d) of the Framework is triggered through a lack of five year housing land supply, the weight to be given to the relevant development plan policies and the NPPF remain questions of planning judgement for the decision-maker. The weighting of those will vary according to the particular

circumstances of each case. This can include consideration of the extent of the shortfall of housing supply, as confirmed most recently by *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808; the actions being taken by the local planning authority to address any shortfall, and/or the particular circumstances of the restrictive policy. In these respects it must be noted that the shortfall is relatively limited as was confirmed by the Planning Inspector considering the Purton Road appeal (Ref APP/Y3940/W/18/3202551 - Land at Purton Road, Swindon - 17/08188/OUT) which was tested through the courts and found to be sound by multiple justices. It is also material to note that the Council has an action plan in place for addressing the shortfall and is taking steps to do so. Importantly this has included granting permission for development on sites where no significant site specific harm arises; there is reasonable access to services, facilities and employment opportunities by virtue of good connectivity by a range of modes of transport and proximity to major settlements; and the scale of development proposed is proportionate to adjacent settlements. Indeed this plan of action has already resulted in the grant of consent on land in nearby settlements in this housing market area and community area; and a team of officers meets regularly to keep under review other potential sites. Other actions include dedicating additional resource and priority to unlocking stalled strategic allocated sites such as Rawlings Green, Chippenham. The Wiltshire Housing Sites Allocation Plan has also been adopted since the Purton Road appeal decision identified the shortfall in housing and this will deliver additional sites in this housing market area.

It is also material to note that the Council cannot demonstrate that affordable housing needs in Wiltshire and in this locality are being met.

The planning balance is considered later in this report, site specific impact considerations and related development plan policy and framework guidance compliance/conflict assessments are addressed under issue specific headings below.

### Ecological Impact

The application proposals have generated extensive submissions of objection in relation to potential harm to the adjacent County Wildlife Site / Local Nature Reserve (CWS/LNR). Particular concern has been raised as to the impact of development on drainage in the immediate locality and to the pond which is at the heart of the CWS/LNR. Other concerns have been raised as to the scope of development at the northern boundary to have direct and indirect impacts to the LNR/CWS and its long term management.

In response to the issues raised the applicant team has made detailed submissions as to the drainage proposal for the development, which is discussed in further detail below, and proposals for a 10m wide landscape buffer strip between the development proposed and the LNR/CWS. In the latter respect the land is offered for management as part of the LNR/CWS or via alternate means such as a management company. The proposed Planning Obligation/S106 agreement will address this matter and it is considered most likely that this will be through a management company. The applicant has agreed these heads of terms.

Given the introduction of the landscape buffer zone and the positioning and layout of the proposed development in relation to the CWS/LNR it is not considered that the development will result in direct impacts to the Ecological interest and value of the site such that harm arises. The proposals involve no actual built development on the CWS/LNR and permitted development rights associated with the residential development can be controlled by use of condition to ensure harm does not arise in this context. The landscape zone between the dwellings and the CWS/LNR as the terminology indicates acts as a buffer between the development and the Ecological habitat. This is a common tool to minimise and mitigate impacts and the extent of the area involved at 10m in depth is generally taken as the appropriate and sufficient quantum for protecting ecological sites from impacts such as

domestic animal predation, domestic planting overgrowth, domestic lighting disturbance, refuse & domestic detritus overspill and residential curtilage creep.

As noted above concern has been raised by multiple parties that the development has the potential to substantially alter the hydrology of the locality resulting in harm to the LNR/CWS by altering and potential substantially reducing water flow to the pond which is a significant part of the ecological habitat. Whilst these concerns are appreciated the applicant has submitted drainage assessment and supporting strategy details for surface and foul water which show discharge to the Wessex Water infrastructure in the locality in the latter respect and on-site attenuation and flow control mechanism in the former. The proposals secure a betterment upon brownfield run off rates with a tolerance included for predicted climate change/1:100 year storm events.

The submitted details as revised and supplemented have been the subject of full consultation with all interested parties. The Council's Ecologist raises no objections subject to conditions (the relevant matters will however largely be addressed by use of planning obligation). Similarly, the Environment Agency and Natural England do not raise objection. Wessex Water raise no objection. Indeed it should be noted that Natural England has granted a provisional Great Crested Newt District Level Licence given the presence of ponds in the near vicinity, past records of GCNs and survey findings of presence of newts in the locality and the principle of compensatory conservation payment being agreed.

On this basis it is not considered that the proposals result in significant harm to ecological interests and consequent conflict with the relevant policies of the plan and provisions of the framework or other relevant legislation.

#### Drainage Impact

As noted above extensive submissions have been made in respect of the application proposals and objections raised as to the drainage and flood risk related impacts. Also as noted above the applicant has submitted details assessing impacts and proposing foul and surface water drainage strategy. The submissions address hydrology and hydrogeology of the site/locality and the risks of flooding from fluvial, pluvial, groundwater, overwhelmed systems and artificial sources.

The submitted assessment and strategy identifies the following key conclusions:-

- The site area is 0.6145 hectares and classified as a greenfield site.
- Current Environment Agency flood risk mapping identifies that the site is located in Flood Zone 1
- Flood risk from all sources has been reviewed.
- Development proposals are appropriate for the flood zone classifications and flood risk vulnerability.
- A viable surface water drainage strategy is shown for the site which implements SuDS.
- Surface water discharge from the site is to be restricted to 3l/s for all storm events which provides a significant betterment on existing brownfield runoff rates.
- Surface water is proposed to discharge to the ordinary watercourse located to the north of the site
- The implementation of a drainage strategy and permeable paving and ponds /detention basin reduces the surface water flood risk of the site by the effective management and attenuation of surface water flows.
- Foul drainage is proposed to discharge to the Wessex Water sewer to the north of the site subject to agreement with Wessex Water

As noted above in respect of surface water the SUDS hierarchy of preferred measures has been considered in the context of assessed site conditions. Due to groundwater levels infiltration is not viable and on site attenuation with use of flow control devices to limit discharge to the nearby watercourse, which will also be culverted, will be necessary. The strategy identifies the need for ongoing management and maintenance and this will need to be addressed in the management company provisions for the site/development which are to be agreed through the Planning Obligation/S106 agreement. The applicant has agreed to these heads of terms.

The revised and additional submissions have been the subject of full consultation with all interested parties. The Council's Drainage Engineers raise no objections to the scheme proposals subject to conditions requiring development takes place in accord with the drainage strategy details. Wessex Water similarly raise no objections subject to such conditions. The Environment Agency raises no objections but recommends use of an informative. The applicant has agreed use of conditions.

On this basis and subject to use of condition as recommended below and the planning obligation provisions it is not considered that significant harm arises in respect of increased on or off site flood risk. As such it is considered that the proposals accord with the relevant policies of the plan. The Framework has been recently revised and application of the sequential test in respect of sites subject of groundwater flood risk has been introduced. Whilst the locality like much of the north of Wiltshire is subject to high groundwater levels this site is not one that is subject of identified groundwater flood risk constraints. As such the proposals are still considered to accord with these provisions of the framework.

#### Highways Impact/Parking/Accessibility & PROW

It is noted that following the initial submission and consultation in that regard significant concern was raised by interested parties as to the sustainability of the site, adequacy of the access and traffic generation and public rights of way impacts. Similarly, the Council's Highways Officers and Public Rights of Way Team identified objections as to the impact to PROW and concerns as to the access arrangement given change in levels between the site and Common Road, the presence of a drainage ditch/watercourse and visibility splays. Highways Officers also raised concerns as to the sustainability of the site given its location and likely reliance on the private vehicle for most day to day journeys and requirements.

Additional details and revised submissions as to site layout and the access arrangement were submitted and have been the subject of full consultation with interested parties. The concerns of the PROW team have been addressed by the revisions. The revised access details are considered to demonstrate an acceptable and safe vehicular site access by highways officers and no objection is raised in this regard subject to use of conditions as recommended below and which are agreed by the applicant. On site parking is considered by Highways Officers to meet Council standards.

Highways Officers have raised some concerns which reflect those of some other interested third parties as to the sustainability of the location for the development and reliance on private vehicle for most journeys. Officers have indicated that this would usually attract an objection but as with other such applications defer to the case officer on matters of principle such as this and any other material considerations which may need to be weighed in the balance. This is addressed in the conclusion to the report but it should be borne in mind that the scale of development is limited at 4 dwellings and so vehicular movements are similarly limited in scale. Whilst limited there is some level of services and facilities within the village including the public house and a church. The market town of Malmesbury is not especially distant from Corston and the two settlements are linked by Public Transport (No 92 Buse Service), which onward connects to Chippenham also. The site is connected to the village by



a Public Right of Way that runs directly adjacent. It should also be noted that public protection officers have recommended use of condition to secure a scheme of Ultra Low Energy Vehicle infrastructure and this is proposed and this would provide some mitigation of the impact of vehicular movements. The condition is agreed by the applicant. The site arguably could be construed as limited infill and broadly in accord with the exception allowed for at small villages under CP2. The Council cannot identify a framework compliant supply of land for housing. The Council has received some appeal decisions recently for small scale development 1 - 2 dwellings which have allowed permission in such circumstances.

Whilst concerns are noted here and there is some impact in terms of unsustainable transport movement it is not considered that the harm is so substantial as to support a defensible basis for refusal on these grounds and the related conflict with the policies of the plan or provisions of the framework. In short the cumulative impact on highways conditions is not considered to be severe and there are considered to be other material considerations that weigh against a refusal on this basis.

### Impact on the Character, Appearance and Visual Amenity of the Locality

The application site does not fall within a designated landscape but is within the open countryside for the purposes of planning policy given the absence of a defined settlement boundary for the village. The land is currently open and undeveloped and is in a visually prominent location in the immediate locality with Common Road and a public right of way directly adjacent. The application would result in irreversible change to the current character resulting in the loss of openness through urbanisation/addition of substantive built form. Irrespective of the landscaping and planting proposed there would be a clear change in character that is perceptible from the public realm. The impact would be localised and it is noteworthy that the Council's Trees officer raises no objections subject to conditions but nonetheless there is some degree of harm and conflict with the relevant policies of the plan and the provisions of the framework in this regard.

### Other Matters

#### Residential Amenity

The application proposals are considered to secure an adequate level of amenity for future occupiers of the proposed dwellings. Given the revised positioning and layout of the site, the degree of separation to neighbouring properties, scale bulk and mass of the dwellings and the positioning and form of proposed fenestration it is not considered that significant harm to existing residential amenities of neighbouring properties arises such that consent ought to be refused on this basis.

#### Design Character

The proposals are for two detached 5 bedroom dwellings with detached garages and two semi detached 2 bedroom dwellings, the latter being the affordable units. The proposals have been the subject of revisions following initial consultation and officer comments. The revised proposals have been the subject of further consultation. The proposals are considered to accord with the provisions of CP43 WCS in terms of meeting local needs and the Council's Housing Team raise no objections in this respect. As noted above the site layout has been revised to address a range of requirements including drainage, highways, residential amenity, landscaping and ecology. The design character of the proposed dwellings themselves are considered to be achieve a good quality using a palette of materials that draws inspiration from the locality including natural stone. The properties feature use of chimneys, lintels porches and dormer windows. The proposed designs are considered to accord with and respect the design character of properties in the locality and not result in a development that is wholly out of character or results in a discordant form of development such that consent ought to be refused on this basis. Alongside the use of

conditions to restrict permitted development rights and the form and nature of planting and landscaping proposed it is considered that the proposals meet the Government's objectives for higher quality design as set out in the latest revisions to the framework.

#### Land Contamination

The locality is one of filled ground but with unknown material in the form of part of the infilled quarry intersecting with part of the site. As such the Council's Public Protection Officers have identified the risk of land contamination including ground gas. No objections are raised by officers in this respect but use of condition to investigate matters is recommended and this is considered reasonable and necessary and is agreed by the applicant.

### **10. Conclusion**

The site is not allocated for the development proposed and falls within the open countryside for planning purposes. The development strategy of the plan seeks to direct most new development to higher order settlements within the defined hierarchy where a wider range of employment opportunities, services and facilities are located and there is greater scope for self-containment. The proposals do not constitute a form of development identified in the plan that would be supported in this location as an exception to the strategy of the plan.

The proposals result in some site specific harm in terms of the change to the character appearance and visual amenity of the locality though the urbanisation of the site and its loss of open character. Also, as the proposals will generate a degree of journeys by private vehicle. There are related conflicts with the development plan and national guidance in these respects.

It is therefore necessary to consider what, if any, material considerations should be taken into account and which may support a decision otherwise than in accord with the provisions of the plan. Firstly, it should be noted that CP2 allows for limited infill development in small villages which do not feature a settlement boundary. The application site lies between existing residential properties that form a part of the village and to the south of Common Road which forms an outer boundary of sorts to the northern extent of the village. Whilst open to the south where the LNR/CWS is located a significant part of the village does lie immediately beyond that feature. A public right of way linking to the village also borders the site. The plan defines limited infilling as a few dwellings, generally not more than 1. Appeal decisions have however allowed up to 4 dwellings under this policy in the past. On balance it is considered that in this instance it could be argued that the proposals do constitute limited infilling.

Secondly it is established in the Council's latest housing land supply statement that a framework compliant available and deliverable supply of land for housing cannot be demonstrated. The tilted balance is therefore engaged and development should therefore be approved unless the harmful impacts of doing so clearly and demonstrably outweigh the benefits of development. The proposals will deliver additional housing to add to the supply and this is a benefit of development that is given substantial weight at appeal.

Thirdly the proposals include the provision of 2 affordable housing units and the Council's housing officers have advised that it cannot be demonstrated that identified and assessed housing needs in this locality and Wiltshire have been met. The provision of affordable housing is a benefit of development that is given substantial weight at appeal.

Finally, whilst this is a small village with a limited range of service, facilities and employment opportunities it is serviced by public transport linking it to larger settlements with a wide range of such facilities. The development site is not considered to be isolated or remote and in these circumstances given the tilted balance some recent appeals decisions have

supported small scale residential developments on the basis that the conflict with the plan and national policies does not constitute harm that clearly and demonstrably outweighs the benefits of development. This is a matter of judgement for each application but the location of the site and site circumstances alongside other material considerations indicates that is also the case in this instance.

It is considered that the proposals have been amended and supplemented to address several issues identified by interested parties and consultees, including in respect of site access, public rights of way impact, impact to neighbours, drainage and ecological impacts; and that alongside the use of conditions recommended below and completion of a planning obligation/S106 agreement sufficient and appropriate mitigation is proposed such that significant harm and related plan conflict would not arise in respect of these site specific considerations.

In these circumstances the framework directs that consent should be forthcoming.

## **RECOMMENDATION**

It is recommended that authority be delegated to the Head of Development Management to GRANT planning permission, subject to conditions listed below and completion of a Planning Obligation/Section 106 legal agreement covering the areas outlined below, within six months of the date of the resolution of this Committee.

In the event that the applicant makes clear that they will not complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the reason set out below. This alternate provision to be subject to consideration of any other factors outside the control of the applicant and the Council that may result in unavoidable delay. If such circumstances are assessed by officers to arise then to allow for completion of the agreement after the 6 month period under delegated authority:-

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing and landscape and drainage maintenance and management) required to mitigate the direct impacts of the development and thereby fails to comply with CP3 CP43 CP50 & CP52 of the Wiltshire Core Strategy, Saved policy CF3 NWLP, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

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

Affordable housing provisions  
Landscape Buffer Strip, Open Spaces, Trees, SUDS Management and maintenance provisions

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan 01 A4 Received 03/12/2019  
Street Elevation & Site Plan 50 A1 E Received 15/06/2020  
Site Layout 51 A1 E Received 30/04/2020  
Proposed Schemes – Plots 2 & 3 53 A1 B Received 30/04/2020  
Proposed Schemes – Plots 1 & 4 54 A1 03/12/2019  
Plot 1 – Proposed Garage 55 A1 A Received 19/03/2020  
Plot 4 – Proposed Garage 56 A1 A Received 19/03/2020  
Plot 1 – Outbuilding 57 A1 Received 03/12/2019  
Plot 4 – Outbuilding 58 A1 Received 03/12/2019  
Proposed Site Layout with Visibility Splays 59 A1 C Received 30/04/2020  
Drive Section 60 A1 A Received 13/07/2020  
Topographical Survey by D & H Surveys 03/12/2019

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

3. The development hereby permitted shall be carried out in accordance with the Approved Drainage Strategy SDS Consulting Ref 5340-RP01 and plan reference 5340-C-001. No dwelling shall be first occupied until the approved surface water drainage and sewerage details have been constructed and fully implemented in accordance with the approved details and plans.

REASON: To ensure that the development is provided with a satisfactory means of drainage.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the roofslope(s) of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no garages, sheds, greenhouses and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans.

REASON: To safeguard the character and appearance of the area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General

Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.

REASON: To safeguard the character and appearance of the area.

8. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those detailed on the approved drawings and application form.

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

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

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

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

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner.

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

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

REASON: Core Policy 55; Development proposals, which by virtue of their scale, nature or location are likely to exacerbate existing areas of poor air quality, will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

11. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from

previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more 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.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be 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: Core policy 56, To reduce the risks associated with land contamination

12. Hours of construction shall be limited to 0730hrs to 1800hrs Monday to Friday, 0730hrs to 1300 hrs Saturday and no working on Sundays or Bank Holidays. There shall be no burning on site at any time.

REASON: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

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

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

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

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

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

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

14. No part of the development shall be first occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

15. The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

16. Any gates shall be set back 5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

17. No part of the development hereby approved shall be first occupied until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

18. No part of the development hereby permitted shall be first 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.

19. INFORMATIVE TO APPLICANT:

The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a

license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) for further details.

**20. INFORMATIVE TO APPLICANT:**

The applicant is requested to note and consider the recommendation of the Environment Agency that it would be sensible for the applicant to conduct a risk assessment on the basis of their foundation design and the depth to groundwater in order to consider any potential impacts to groundwater flow.

**21. INFORMATIVE TO APPLICANT:**

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

**22. INFORMATIVE TO APPLICANT:**

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

**23. INFORMATIVE TO APPLICANT:**

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

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

**24. INFORMATIVE TO APPLICANT:**

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

**25. INFORMATIVE TO APPLICANT:**

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

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

**Appendices:**



**Background Documents Used in the Preparation of this Report:**

**Application submissions**