

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	2 nd March 2022
Application Number	PL/2021/04258
Site Address	Land to the Rear of Arms Farm, High Street, Chippenham, Sutton Benger, SN15 4RE
Proposal	Erection of 4 dwellings and associated works
Applicant	Mr Inskip
Town/Parish Council	Sutton Benger
Electoral Division	Kington – Cllr Greenman
Grid Ref	394321 178521
Type of application	Full Planning
Case Officer	Charmian Eyre-Walker

Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Greenman to allow a decision by democratic vote.

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 authority is delegated to the Head of Development Management to **REFUSE** planning permission.

2. Report Summary

The key issues in considering the application are as follows:

- Principle of the development.
- Conflict with the emerging neighbourhood plan
- Impact on residential amenities of adjoining neighbours.
- Impact on character and appearance of the area.
- Impact on the setting of the listed buildings and Sutton Benger Conservation Area
- Previous appeal decision

Sutton Benger Parish Council object to the proposed development and 29 letters of objection have been received and 0 letters of support.

3. Site Description

The application site is located to the south-west of Sutton Benger, a village and parish within the Chippenham Community area of Northern Wiltshire. The site is located outside of the defined Settlement Boundary of Sutton Benger and only the access to the site is within the designated Conservation Area, using an access created by the permissions 16/04961/OUT and 18/01661/REM. The northern boundary is currently defined a bund and former compound for the construction of the adjacent site. There is then an area of paddock land between the proposed development and the converted barns at Arms Farm. The eastern boundary is predominately formed of the residential dwellings fronting the newly completed dwellings granted under 16/04961/OUT & 18/01661REM. The western and southern boundaries are formed by field boundaries, which abut open countryside.

On the Northern Boundary, beyond but immediately adjacent to the application site is Arms Farmhouse, a Grade II listed building. There is currently no public access to the Farmhouse, however, it is clearly visible from the High Street.

Attached to the south-east corner of the farmhouse's rear wing, and extending south east, is a low range of cow sheds which dates to the early 19th century and is considered to make a positive contribution to its setting through its group value as a component of the farmhouse's former yard complex. The building and its associated curtilage listed buildings have recently been refurbished and converted to residential use.

Arms Farmhouse and its associated outbuildings do not form part of the planning application site.

4. Planning History

N/05/01325/COU	Change of Use of Agricultural Land to Garden Planning Permission Refused
N/10/02090/FUL	Alterations to Farmhouse (2 Units); Alteration to Existing Outbuildings to Form Four Residential Units; Change of Use of Land to Domestic Garden; Detached Dwelling; Parking, Landscaping & Associated Works; Alterations to Access. Withdrawn
N/10/02091/LBC	Internal & External Alterations & Demolition to Farmhouse, Internal & External Alterations to Existing Outbuilding in Association with Change of Use to Form Four Residential Units, Demolition of Boundary Walls, Erection of New Walls & Gates & Landscaping. Withdrawn
N/11/02233/FUL	Alterations to Farm House, Alterations to Existing Outbuildings to Form Four Residential Units, Change of Use of Land From Agricultural to Domestic Garden, Erection of Detached Double Garage, Parking, Landscaping & Associated Works, Alteration to Access (Amendment to N/10/02090/FUL) Planning Permission Granted
N/11/02234/LBC	Internal & External Alterations & Demolition to Farmhouse, Internal & External Alterations & Demolition to Existing Outbuildings in Association With Change of Use to Form Four Residential Units, Demolition of Boundary Walls, Erection of New Walls & Gates, Plus Landscaping (Amendment to 10/02091/LBC) Listed Building Consent Granted
14/08888/OUT	Outline Planning Application for up to 28 Dwellings With Associated Access Work and Public Open Space.- Planning permission refused and appeal dismissed
16/04961/OUT	14 Dwellings and associated works - Approved
18/01661/REM	Reserved matters for 14 dwellings and associated works - Approved

5. The Proposal

The application seeks consent for up to 4 dwellings with associated works. Access will from the newly constructed access road for the adjacent dwellings. The red line plan was amended during the submission to include access along this road to the highway of High Street

6. Local Planning Policy

Wiltshire Core Strategy Jan 2015:

Core Policy 1-	Settlement Strategy
Core Policy 2-	Delivery Strategy
Core Policy 3-	Infrastructure Requirements
Core Policy 10-	Spatial Strategy: Chippenham Community Area
Core Policy 45-	Meeting Wiltshire's housing needs
Core Policy 50-	Biodiversity and Geodiversity
Core Policy 51-	Landscape
Core Policy 57-	Ensuring high quality design and place shaping
Core Policy 58-	Ensuring the Conservation of the Historic Environment
Core Policy 60-	Sustainable Transport
Core Policy 61-	Transport and Development
Core Policy 62-	Development impacts on the transport network
Core Policy 67-	Flood Risk

Saved Policies of the North Wiltshire Local Plan:

H4- Residential development in the open countryside

National Planning Policy Framework 2021

Section 5 Delivering a Sufficient Supply of Homes

Section 9. Promoting Sustainable Transport

Section 12 Achieving Well-Designed Places

Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.

Section 15 – Conserving and Enhancing the Natural Environment.

Section 16 – Conserving and Enhancing the Historic Environment.

7. Consultations

Sutton Benger Parish Council - Object to the above application:

1. *Conservation Area - the scheme would cause harm to the setting and heritage significance of the listed buildings at Arms Farm and would fail to preserve the character or appearance of the Sutton Benger Conservation Area. It would also harm the setting of the Conservation Area. This is in conflict with Core Policy 58 of the Wiltshire Core Strategy (the Core Strategy), which states that development should protect, conserve and, where possible, enhance, the historic environment.*

2. *The proposed location of the four dwellings would have an adverse impact upon the significance of the listed buildings by divorcing the barn in particular, and the farmstead in general, from its associated historic farmland from which it derives some of its significance. This undeveloped land with its open views to the south of the barn, is the principal rural aspect within the conservation area to the South of Sutton Benger.*

3. *Strategic Planning have already recognized that Sutton Benger has had a high level of growth - between 2006 and 2017, 99 new houses were completed in Sutton Benger, a growth of 27%, largely due to the redevelopment of the former Chicken Factory site. Since 2017 another 31 new houses have been approved and built or are in progress – this will increase the growth since 2006 to over 30%. There is no immediate need for additional housing in the local community and Sutton Benger has seen far more development than the other identified 4 large villages in the Chippenham Community Area.*

The development sits outside the Settlement Boundary and as such is in conflict with Core Policies 1, 2 and 10 of the Wiltshire Core Strategy 2015 (WCS).

3. *Sustainability - The development provides no employment opportunities or sustainable alternatives to private car use, contrary to Core Policies 1, 2, 60 and 61. The increase in road use will further diminish the rural tranquillity.*

4. *Impact on Infrastructure and Services – the development offers no additional services or facilities, contrary to Core Policies 1 and 48. The development is unable to be supported by current village infrastructure and services – there is no village shop, poor public transport, the primary school is at capacity with no expansion possible, the doctor's surgery is at capacity and the drainage and sewage pipes cannot cope with the current outflow.*

5. *Rural Life and Conservation -The development does not meet the requirements of Core Policy 44 (Rural Exceptions Sites) and is contrary to Core Policy 48 in that it does not support rural life and will impact on the Conservation Area contrary to Core Policy 58*

6. *Appearance: the current Arms Farm Development with its whitewash rendering to the South and West causes a glare for quite a distance and is very noticeable from the country footpaths. Development from that aspect should be Cotswold Stone.*

8. *We further request that the hard standing on the site be reinstated to greenfield.*

Council Highway Engineer – Following revised plans (25th November 2021) comments as follows:-

The Technical Note submitted to address the highway concerns raised in the previous highway consultation response of the 16th June 2021 includes a revised plan which now shows the provision of a turning head at the end of the access road. This turning head is shown, through swept path analysis, to accommodate the needs of a refuse vehicle, although a 2m footway or service margin will be required around the turning

head to account for the refuse vehicle overhang. I would comment that there is a presumption against the use of grassed verges as service margins, due to the maintenance liability, particularly where such strips are segregated from the front garden areas. The service margins should be of a bound tarmac surface.

The Technical Note has also demonstrated the means of access by refuse and agricultural vehicles at the junction with the existing access road of Arms Gardens can be gained successfully with the alignment proposed. A forward visibility splay should be provided to the southern side of the road bend, close to the junction with the Arms Gardens access road.

It is understood that the applicants are wishing for the access road to be offered for adoption, and that the field access is to be retained to serve as access to the agricultural field. With regard to the level of use expected of this access, the Technical Note states "On an average day agricultural movements from this access will be infrequent although it is acknowledged that there will be periods of activity during seasonal farming activities i.e. hay harvesting; however, movements from this access can still be considered to be low."

There has not been any clarification of the intentions of the retained plot at the end of the proposed access road, and it would be helpful to understand how this area will be treated, and who will assume future responsibility.

I would advise that the means of access to the application site through the development site, and to connect to the public highway, will need to be included within the red line application boundary.

Having regard to the above, and subject to the red line boundary including the means of access from the public highway, I would not wish to raise any highway objection, but would recommend that the following conditions be attached to any permission granted:-

No development shall commence on site until details of the estate road, footway/service margins, junction arrangement, street lighting, drainage, service routes, surface water outfall, vehicle overhang margins, visibility splays, carriageway gradients, drive gradients, car parking and street furniture have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate road has been constructed and laid out in accordance with the approved details.

Council Arboriculturalist – No objection since no trees affected.

Council Archaeologist - Objection

My colleague Michal Cepak was consulted on this proposal at the pre-application stage (20/07793/PREAPP) in September last year when he advised that:

'The proposed development is not insubstantial in size and would occupy what

appears to be a previously undeveloped parcel of land. The village of Sutton Benger is of Saxon origin and the surrounding landscape is relatively rich in heritage assets therefore there is potential for buried heritage assets to be encountered during the construction phase. I therefore consider that as part of any application resulting from the above PREAPP the applicant should submit a Desk Based Assessment (DBA) the content of which should include the findings of a site wide geophysical survey the results of which will inform if any further pre-determination or conditional archaeological work is required. '

I note from the supporting documentation that has been attached to the above application on the planning portal that no such Desk-Based Assessment has been prepared, nor does it appear that any geophysical survey has been carried out. As I am still largely in the dark as to the archaeological potential of the site, I would advise that a trial trench evaluation is carried out prior to the determination of this planning application. I would advise the applicant to engage the services of an archaeological contractor in order to carry out this work, beginning with the production of a Written Scheme of Investigation (WSI), setting out how this evaluation is to be undertaken. This WSI will need to be presented to Wiltshire Council Archaeology Service (WCAS) for review and approval prior to the commencement of any fieldwork.

The evaluation is to be carried out following the standards and guidelines for such works as required by the Chartered Institute for Archaeologists (CIfA). The costs of the work are to be borne by the applicant.

Council Drainage Engineer – No objection subject to conditions.

Conservation Officer – Objection

This is a proposal for yet more development on the fields to the rear of Arms Farm. The proposed four large dwellings with double garages and associated works would erode the rural setting of the designated heritage assets (which includes the conservation area and various listed buildings), subdivide the area and lead to cumulative harm to their setting and significance. The addition of this development would urbanise the rural surroundings, envelop the historic buildings and distort the linear built form that is characteristic of this village. These proposals would be contrary to section 66(1) of the Act, section 16 of the NPPF (paras 197, 199, 200, 202 and 206), the BS7913 as well as CP 58 of the Wiltshire Core Strategy. I cannot support these proposals.

Council Ecologist – No Objection

The applicant has submitted some revised information throughout the life of the development. The Ecologist has no objections subject to conditions

8. Representations

The application was advertised by neighbour letter & site notice. The application was re-started and re-advertised due to the red line being extended to include the access. The

consultation period expired on 25th February and any additional comments will be reported as Late Observations.

The application has generated over 17 household letters of objection and 0 letters of support. A summary of the comments is set out below:

- Impact on new property.
- Inadequate publicity and time to respond.
- Inadequate access – conflict with farm traffic. No speed limit.
- Construction traffic should not be allowed to park on access road.
- Loss of outlook
- Impact on wildlife
- Impact on conservation area and view of listed buildings
- Sutton Benger has had too much development over recent years (30% since 2006) – the school and GP surgery are at their limit
- Everyone will have to drive to jobs etc.
- Use of photos of private space to enhance application.
- Developing on this land would set a precedent for other spaces around the village.
- Lack of clarity on boundaries
- The site is in open countryside
- The work on the Sutton Benger NDP evidence base does not support this type of development.
- Potential impact on drainage
- The development sits outside the Settlement Boundary and creates no employment opportunities or sustainable alternatives to private car use and is therefore in contravention of Core Policies 1,2,60 and 61.
- The current Arms Farm development has already severely impacted on the rural features of the listed barn, the currently undeveloped land and surrounding Conservation areas and is considered to be in conflict with Core Strategy 58.
- The new development will be further encroaching upon the SSSI Sutton Lane Meadows Conservation area.
- The proposed development would be a gross intrusion onto the setting of at least the two grade II listed dwellings on the Arms Farm site (house and barn), as well as other aforementioned properties such as Tythe Barn and Gate Farm.
- Reasoning that a limited amount of hedging and trees severs a historical site does not take into account hedging has been used to divide agricultural land on farms (including the same farm) for centuries, and that access through such barriers is readily achieved and utilised as needed.
- If the village can take houses they should be entry level ones not 4 bedroom detached.
- Drip feed of applications to overcome appeal decision on a larger site. No material change in circumstances.
- The view from the High Street through the grounds of Arms Farm House and the Barn is the only remaining visual reminder of the rural setting of the village. These plans will remove that view and, in my opinion, that will be detrimental to our village.

Sutton Benger Neighbourhood Development Plan Steering Group comment as follows:-

The SB NDP Steering Group OBJECT to this application on the basis that it contravenes the following objectives in the emerging neighbourhood plan and disregards the Wiltshire Core Strategy.

NDP Objective: To identify, protect and enhance the Parish's designated and non-designated heritage assets and their setting.

This proposed would have a negative impact on the setting and heritage significance of the Arms Farm listed buildings and their setting within the conservation area.

It contravenes Core Policy 58 of the Wiltshire Core Strategy (the Core Strategy), which states that development should protect, conserve and, where possible, enhance, the historic environment.

NDP Objective: To maintain the Parish's rural setting, while retaining the openness between the settlements to protect their individual identity

The location of the proposed development has open views to the south of the barn and if it was developed then the village's rural environment would be significantly harmed.

The development sits outside the Settlement Boundary and so contravenes Core Policies 1, 2, and 10 of the Wiltshire Core Strategy.

NDP Objective: To seek opportunities wherever possible to maintain and enhance the social and economic vitality of the Parish by supporting and expanding the range of services and facilities.

This development will put additional pressure on existing services within the village which will cause an erosion of the quality of life for existing residents. No additional services or facilities are offered by this proposed development.

The development does not meet the requirements of Core Policy 44 (Rural Exceptions Sites) and is contrary to Core Policy 48 in that it does not support rural life and will impact on the Conservation Area contrary to Core Policy 58

NDP Objective: To ensure adequate levels of off-road parking provision are provided and locate new development such that it does not exacerbate existing traffic problems

The increase in village traffic from the development at Gate Farm plus developments at St Modwin and Birds Marsh will lead in a significant increase in traffic through the village. If this was to go ahead and given the proximity of the major development at Gate Farm then we would see additional turning traffic within a short stretch of road and we would feel this would exacerbate existing local traffic problems on the high street.

9. Planning Considerations

Principle of Development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Chippenham Area. The emerging Neighbourhood Plan is at an early stage and formal submission is some way off. Due to its limited progress to date, this document can only be afforded limited weight.

Important material considerations in this case include the requirement in the National Planning Policy Framework (NPPF) to assess whether the Council has a five-year housing supply for the north and west housing market area that includes Sutton Benger.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight.

Wiltshire Core Strategy CP1, CP2 and CP10 and Saved Policy H4

Policies CP1, CP2 and CP10 deal with the broad issues of settlement strategy and delivery.

Core Policy 1 and Core Policy 2 of the WCS set the foundations for how 'sustainable development' is defined and applied in Wiltshire. The strategy recognises the importance of delivering new jobs and infrastructure alongside future housing. The delivery strategy seeks to deliver future development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178 ha of new employment land and at least 42,000 homes.

Chippenham is identified within the WCS as one of the three Principal Settlements which act as a strategically important employment and service centres for a number of villages in the immediate area and beyond. Chippenham is to be a focus for development (Core Policy 1). The principal settlements will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure meeting their economic potential in the most sustainable way to support better self containment.

Sutton Benger is identified as a large village in the core strategy. Whilst a proposal of 4 units (together with the 14 properties built under 16/04961/OUT & 18/01661/REM) is lower than the 28 previously proposed, it remains the case that it is contrary to the Core Strategy and in particular core policies CP1 and CP2 which set out the overarching strategy for Wiltshire. According to CP1 'development at large Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.'. The development is in planning terms, in open countryside.

Paragraph 4.15 states:

'At the settlements identified as villages, a limited level of development will be supported in order to help retain the vitality of these communities. At Large Villages settlement boundaries are retained, and development will predominantly take the form of small housing and employment sites within the settlement boundaries. These settlement boundaries will also be reviewed as part of the Housing Site Allocations

DPD as set out in the Council's Local Development Scheme, in order to ensure they remain up to date and properly reflect building that has happened since they were first established.

Core Policy CP2 states that development outside of the limits of development of existing settlements will only be permitted in exceptional circumstances, or if the site is identified for development through a site allocation document or a Neighbourhood Plan. The exceptional circumstances are set out in paragraph 4.25 of the Core Strategy. In this case, the site lies outside of the limits of development for Sutton Benger. The proposal does not meet any of the exceptional circumstances identified in WCS paragraph 4.25 where development outside limits of development is acceptable. Similarly, as it lies beyond the limits of development, it does not comply with saved policy H4 of the North Wiltshire Local Plan as it does not meet the exceptions, such as agricultural needs, set out in that policy. The proposal is therefore in conflict with the development plan in this respect.

The application site is located outside the settlement boundary for Sutton Benger. The proposal for 4 dwellings and cumulatively with the adjacent site exceeds the level of development envisaged for large villages such as Sutton Benger i.e. Small housing sites involving less than 10 dwellings. The settlement boundary for Sutton Benger was not amended in the recently adopted Wiltshire Site Allocations Plan (WHSAP) (Adopted February 2020), demonstrating that the Council did not see this site as suitable for additional residential development.

The context provided through the Core Strategy specifically for large villages around Chippenham is that an element of growth is possible and can be accommodated due to the desire to improve self containment of settlements and thus reduce the need for out commuting. The village of Sutton Benger has, in recent times, delivered a significant number of residential units and permitting further development prior to the adoption of the Neighbourhood Plan would be, strictly speaking contrary to the Core Strategy. This is a matter that weighs against the proposal in the planning balance.

The proposed development would be located in open countryside, outside any recognised development limits, resulting in the formation of residential development in the countryside. This is contrary to policies CP1 and CP2 of the WCS and Saved Policy H4 of the North Wiltshire Local Plan 2011 as well as the NPPF. The proposal for new dwellings in this location would not comply with the settlement strategies of the development plan, the WCS & North Wiltshire Local Plan 2011. Development should be refused if it does not comply with the development plan, unless there are material considerations or circumstances that would indicate otherwise.

Housing Land Supply

Sutton Benger is a Large Village as defined in CP2 of the WCS and as such residential development is restricted to within the limits of development as defined on the policies map. The site lies adjacent to but outside the defined limits of development and the residential element is therefore contrary to adopted policy. The Council cannot currently demonstrate a supply of deliverable housing land equivalent to that required by the NPPF. For this reason, paragraph 11d) of the NPPF is engaged.

The proposal site is not in an area covered by a Neighbourhood Plan and therefore Paragraph 14 of the Framework does not apply. Such a situation does not render relevant policies as carrying no weight and it is for the decision maker to judge the particular circumstances of each proposal for development and the weight that can be attributed to them.

Whilst it is acknowledged that the Council has a shortfall in its housing land supply, in a recent appeal dated 5th January 2022 at Filands, Malmesbury (APP/Y3940/W/21/3282365) (Filands Decision) this was agreed at 4.41 years, which is equivalent to some 90%+ of the total five-year requirement..

In the appeal decision letter, the Inspector described this as being on a flat trajectory and did not view the shortfall as persistent, being relatively modest at 0.59 years. He stated that the action plan, whilst not yet yielding concrete results, showed a genuine willingness to engage with the problem and to find a resolution. This recent decision is material to the considerations on this application.

The proposal offers to make a contribution of 4 houses to this supply. This is not considered to be a significant contribution that, given the other factors described elsewhere in this report that weigh against it, would make any meaningful contribution to the supply and should carry limited weight.

Indeed, Court judgments have established that:

- a) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in Suffolk Coastal District Council v Hopkins Homes Ltd. [2017] UKSC 37), and
- b) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in Hallam Land Management v SoS DCLG [2018] EWCA Civ 1808).

The application of these two judgements means that, logically, the greater the shortfall in housing supply, the less weight that should be given to the policies in the development plan. Conversely, the closer the housing supply gets to five years, the weight to be afforded to the development plan policies should increase accordingly. At the point of five years supply and over, full weight should be given to the policies in the development plan, unless other material considerations indicate otherwise.

Given that the shortfall identified at the Filands Appeal is only 0.59 years and is not regarded as being persistent, given the above court judgements have concluded that out-of-date policies are still capable of being material consideration, so must the extent that the policies remain consistent with the updated NPPF also be material to the decision-making process, even when housing supply falls below the five year requirement.

So, whilst paragraph 11d) of the NPPF is engaged, the contribution that 4 dwellings makes to that shortfall is not significant and does not overcome the clear policy conflict.

Impact on Heritage Assets

Though the site lies approx 50m south of the Sutton Benger Conservation Area. The buildings to the north of the site, also approx. 50m, are Grade II Listed farm buildings and a main farmhouse. The buildings have recently been converted and restored and are now an attractive small scale development, but one which retains the character of the original farm setting.

The Conservation Officer objects to the proposal on the grounds that the proposal would cause harm to the setting of the Heritage Assets, principally the Grade II listed buildings of Arms Farm and the Sutton Benger Conservation Area. She considers that the proposal would lead to a urbanising development on land that contributes positively to the setting of both these heritage assets. In relation to the Grade II Listed buildings of Arms Farm, historically their setting would have been the open farmland that is associated with the workings of the farm. The development of the adjacent residential development of 14 houses was permitted because it allowed the association with the open land to remain and did not obscure the views away from the Listed Buildings. Similarly, in relation to the Conservation Area, the open views of the countryside to the open farmland associated with the former farm are considered to be inherent and important to its setting in this area. The addition of this development would urbanise the rural surroundings, envelop the historic buildings and distort the linear built form that is characteristic of this village. Views of the site are seen from various vantage points from the conservation area.

There has also been local concern raised in relation to harm to the setting of the listed building and conservation area. Furthermore, in dismissing the previous appeal the Planning Inspector agreed in their summation and concluded that the proposal, for 28 dwellings would harm the setting of the listed building and the public benefits did not outweigh the harm. This is an important material consideration and one that must be considered when determining this application.

The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66) as well as giving special attention to preserving or enhancing the character or appearance of the conservation area (s.72).

Paragraph 195 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 201 and 202 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. Core Policy 57 requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

The House of Lords in *South Lakeland District Council v Secretary of State for the Environment* case decided that the "statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.

The Council's Conservation Officer has confirmed that the proposed development would result in some harm to the setting of the listed buildings and conservation area. She states that the development would erode the rural setting of the designated heritage assets, subdivide the area and lead to cumulative harm to their setting and significance.

For the purposes of determining the application, Core Policy 58 is relevant. It states:

Development should protect, conserve and where possible enhance the historic environment.

Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance

The wording of Core Policy 58 and the supporting text to the policy is quite clear that if harm is identified it is in conflict with the policy. As the proposal fails to conserve or enhance the setting of the heritage asset the development is in conflict with CP58. This is a matter that weighs against the scheme in the planning balance. Harm has been identified in relation to both the setting of the listed buildings and to the Sutton Benger Conservation Area.

Failure of the proposed development to comply with CP58 is not necessarily fatal to the acceptability of the proposed development. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF is a significant material planning consideration and paragraph 202 states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal

The process of determining the degree of harm, which underlies paragraph 195 of NPPF, must involve taking into account the significance of the heritage asset in question. In considering harm it is also important to address the significance of the asset, and then the effect of the proposal on that significance. Not all effects are of the same degree, nor are all heritage assets of comparable significance, and it is for the decision maker to assess the actual significance of the asset and the actual effects upon it.

It is agreed that the principal adverse effects concerning the historic environment detailed within this application site concern the loss part of the existing rural fields associated with and forming part of the setting of the Arms Farm Complex and the Sutton Benger Conservation Area. The associated visual change that will ensue would be the extension of Sutton Benger into the countryside. The area of proposed development is key in that it is the land which is directly behind the listed barns and very much forms its agricultural and associated setting.

As a farm complex the existing fields that surround the listed farm are linked to the special and historical interest of the building and its setting. This fact/matter was confirmed when the inspector issued his decision on the previous appeal for 28 dwellings under 14/08888/OUT in 2015 on land to the rear of Arms Farm. The Inspector agreed with the Council's case and concluded the following:

The Arms Farm complex comprises the Grade II listed stone built farmhouse and the imposing Grade II listed stone barn to the south of it. Immediately to the east, essentially connecting the farmhouse and barn, is what the List Entry describes as a stable range. Together these buildings are arranged as a u-shaped unit around a farmyard/crewyard, to form a traditional historic farmstead. The yard is further delineated by a low stone wall, which runs across the frontage with High Street and along the western boundary.

These buildings, like those of other farmsteads, do not have a grand, planned setting. However, the yard forms an undisputed part of the immediate setting to, and significance of, the listed buildings, being an historic, functional area of the farmstead as a unit. In addition, in my judgement, the way that the undeveloped field to the south of the complex flows up to the immediate edge of the barn, without any form of curtilage definition, is a characteristic feature of an historic agricultural unit. This longstanding association between the buildings and their farmland setting, directly accessible from the yard, is key to defining them, and understanding their significance,

as a farmstead.

Existing development on Chestnut Grove, Gregory Close and Lee Crescent to the east impinges on this setting to some extent. Nonetheless, this is not sufficient to undermine the dominant sense of rurality that the undeveloped field still provides or to interfere with the clear linkage between the listed buildings and the associated farmland behind them. This association is readily apparent in views from the farm complex itself, from High Street.

The indicative layout submitted with the appeal scheme shows an area of open space immediately to the south of the barn, before the dwellings commence. Notwithstanding that this drawing is indicative only, the size of this open space is limited. This, combined with the mass of dwellings to the south and those on the eastern edge of the open space, does little to retain any real sense of connection between the barn and its rural setting.

The Court of Appeal in *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 (“Barnwell”) makes clear that the duty imposed by s72 (1) meant that when deciding whether harm to a conservation areas/listed buildings was outweighed by the advantages of a proposed development the decision-maker should give particular weight to the desirability of avoiding such harm. There is a “strong presumption” against the grant of permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the conservation area/listed building. For the reasons set out above the proposal is in conflict with Core Policy 58 of the Core Strategy, it would also be in conflict with the NPPF unless the benefits of the scheme clearly outweigh the harm.

Significant weight must therefore be given to the harm in the planning balance and determining if planning permission should be granted.

Moving onto the Sutton Benger Conservation Area which lies approx. 50m to the north of the application site, some harm would be caused to its setting by disrupting the views through the listed farmhouse and barns’ yard, out to the fields and countryside beyond. What is currently open behind, will be significantly interrupted by modern built development. This harm would, however, be less than substantial on the mid lower level.

The Inspector dealing with the appeal set out above concluded that:

“In addition, the adverse effect of the appeal proposal upon Arms Farm, which is clearly visible from High Street, could not fail to detract from the character and appearance of the Conservation Area. Such harm would be less than substantial.

In addition, as noted above, I consider that the field to the immediate south of Arms Farm is an integral part of the setting of the listed barn. I also consider that this undeveloped land forms part of the setting to, and significance of, this part of the Conservation Area. I am in no doubt that the built impact of up to 28 dwellings on this site would be seen as an incursion into the open countryside that would cause harm, albeit less than substantial, to the setting of the Conservation Area”.

Less than substantial harm to the setting of Arms Farm Grade II Listed Buildings and the Sutton Benger Conservation Area has been identified, the proposal is therefore in conflict with both Core Policies 57 & 58 of the Core Strategy and the NPPF. Significant weight must therefore be given to the harm in the planning balance and determining if planning permission should be granted.

The agent has argued that the setting of the barn and the wider conservation area has changed dramatically since the appeal decision in 2015, but whilst it is acknowledged that some change has occurred, this is not considered to outweigh the harm being caused.

The balancing exercise in these respects is undertaken in the Conclusion section at the end of this report.

Highways and access

Access to the development would be taken from Arms Close, the recently constructed road built to serve the 14 new dwellings to the east of the site. The extra arm of the road would also serve as an access to the agricultural land beyond to the south.

The red line has been amended since the original submission to include the access road from the High Street.

The Council's Highway Engineer does not object subject to conditions and thus in this regard, the proposal is considered to be acceptable and accord with policies CP57, CP60 and CP61 of the WCS and advice in the NPPF.

Impact on residential amenities

The proposed dwellings are all large detached 3 & 4 bedroom properties with double garages. They are set to the west of the recently completed Arms Close but are set back a sufficient distance (approx. 25m) from those dwellings so that direct overlooking of windows is not considered to be an issue. However, the rear boundary treatment of those new homes is currently hedging. This hedging was approved as the boundary treatment to give a rural transition to fields beyond and help retain an open character that would help preserve the setting of the listed farmyard buildings.

Whilst this boundary would be protected by requiring planning permission for a fence over 1m in height adjacent to a highway (the access road), it is considered that there would be significant pressure to alter the boundary treatment to something more substantial to afford greater privacy.

Notwithstanding this, as the access road and a significant area of amenity space exists adjacent to these boundaries, it is considered that an unacceptable loss of amenity and privacy would occur to those residents. This is considered to be contrary to policy CP57 of the WCS

Ecology

The Council's ecologist requested additional information regarding translocation of reptiles from the adjacent site; great Crested Newts survey and a revised design to include enhancements to the western boundary/ditch line with the southern boundary ditch-line into the site design, which was all provided.

The element that has not been received is a Small Sites Metric to demonstrate no net biodiversity loss.

The Ecologist does not wish to pursue this matter further and has removed their objection subject to conditions

Archaeology

The Council's archaeologist has requested trial trenching surveys ahead of the determination of this application. However, it is noted that on the recently developed site adjacent, a condition was added which required survey and recording of any archaeological remains prior to commencement of the development. It is therefore considered that in this case there is not a requirement to do any archaeological works ahead of determination.

Flood risk and drainage

The Council's Drainage Engineer raises no objection to the proposed scheme, subject to conditions. In the context of new residential development of this scale, it is considered reasonable to control such matters through the imposition of appropriately worded planning conditions. Accordingly, and subject to such conditions, the proposal is considered to meet with the requirements of Policy CP67 to the Wiltshire Core Strategy.

10. Conclusion (The Planning Balance)

It can be seen from the analysis in the body of the report that a number of Development Plan policies are offended by the proposal and that the proposal, not least because it is beyond settlement limits and in an area classed as countryside, is not Development Plan compliant. However, as also noted, the Council's Housing Policies are deemed out-of-date and Paragraph 11d) of the NPPF is engaged so that permission should be granted *"unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework when as a whole"*.

The benefits of the scheme are the provision of 4 family homes. The fact that the council is not delivering development as envisaged by the Core Strategy and is unable to demonstrate a 5YHLS, adds to these benefits. However, being only 4 dwellings this contribution is not considered to be significant. So, whilst this can be regarded as a benefit, that benefit is considered to only be small. Additionally, weight can also be attached to the economic benefits immediately associated with the proposal in terms of job creation and/or maintenance and spend in the local economy. Again this benefit is considered to be relatively minor and largely short-lived.

Set against these benefits there is acknowledged harm to the heritage assets of the grade II listed farm complex of Arms Farm and the Sutton Benger Conservation Area that falls into the category of less than substantial. Significant weight must be attached to that harm, and particularly given the view of the Inspector in dismissing the previous appeal on a site of which this is part (but most importantly noting it is the land directly behind the listed buildings), it is considered that this harm outweighs the benefits.

In addition, weighing against the proposal is the effect of the proposal on the residential amenity and privacy of the occupiers of the adjacent houses, which have only a hedge as their rear boundary.

Whilst it is acknowledged that the Council has a shortfall in its housing land supply, in the Filands Decision set out above this was agreed at 4.41 years and the Inspector agreed that it was relatively modest at 0.59 years.

In contrast, the provision of 4 market houses is considered to constitute a very modest contribution to the shortfall in housing in Wiltshire. Indeed, Sutton Benger has received a significant amount of new housing in recent years, not least the adjacent newly completed development. It is therefore not considered that a development of 4 houses is of sufficient magnitude to make up any significant shortfall in housing that would outweigh the identified harm and thus it is not proven that the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework when as a whole. The application should therefore be refused

RECOMMENDATION: The application be REFUSED for the following reasons :-

1. The site is located in the countryside outside of the limits of development of Sutton Benger as defined on the Policies Map and by virtue of its scale and location would conflict with the sustainable development strategy of the plan as expressed in Core Policies 1, 2 and (community area strategy policy) of the Wiltshire Core Strategy. The proposed residential development does not fall to be determined under any of the 'exception policies' defined at paragraph 4.25 of the plan within Core Policies 10 & 44 of the Core Strategy, or relate to a site allocated in the development plan for residential use. It would therefore constitute unsustainable development in the countryside.
2. The proposal would result in the loss of open farmland which is considered to historically and positively contribute to the setting and significance of the Grade II listed Buildings forming the Arms Farm complex, contrary to Policies CP57 and CP58 of the Wiltshire Core Strategy and to section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, section 16 of the NPPF (paras 197, 199, 200, 202 and 206) and BS7913. The harm caused is not considered to be outweighed by the public benefit of providing 4 detached dwellings.
3. The proposal would result in the loss of views from the conservation area out to the countryside beyond, particularly through the Arms Farm complex to the open farmland to which it is historically connected. This is contrary to policies CP57 and CP58 of the Wiltshire Core Strategy and to section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and section 16 of the NPPF (paras 197, 199, 200, 202 and 206 in particular). The harm caused is not considered to be outweighed by the public benefit of providing 4 detached dwellings.
4. The proposal would cause an unacceptable loss of amenity and privacy to the residents of Arms Close, adjacent to the site, by reason of loss of privacy given the close proximity of the access road and front gardens that are proposed to serve the new dwellings. It is considered that the proposal is contrary to Policy CP57 in this respect.