

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	29 November 2023
Application Number	PL/2022/08155
Site Address	Land to the West of Semington Road, Melksham, Wiltshire
Proposal	Outline planning permission for up to 53 dwellings including formation of access and associated works, with all other matters reserved.
Applicant	Terra Strategic
Town/Parish Council	Melksham Without CP
Electoral Division	Melksham Without West & Rural (Cllr Seed)
Type of application	Outline Planning
Case Officer	Ruaridh O'Donoghue

Reason for the application being considered by Committee

The application is before the Strategic Planning Committee at the request of Councillor Seed. The 'call-in' is on behalf of Melksham Without Parish Council who have concerns regarding the principle of further development in this location. The PC's full concerns are set out in section 8 below.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved. The report addresses the concerns raised by the PC who requested that this application be determined by the Committee.

2. Report Summary

The main issues to be considered are:

- Whether the proposal constitutes EIA development
- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);

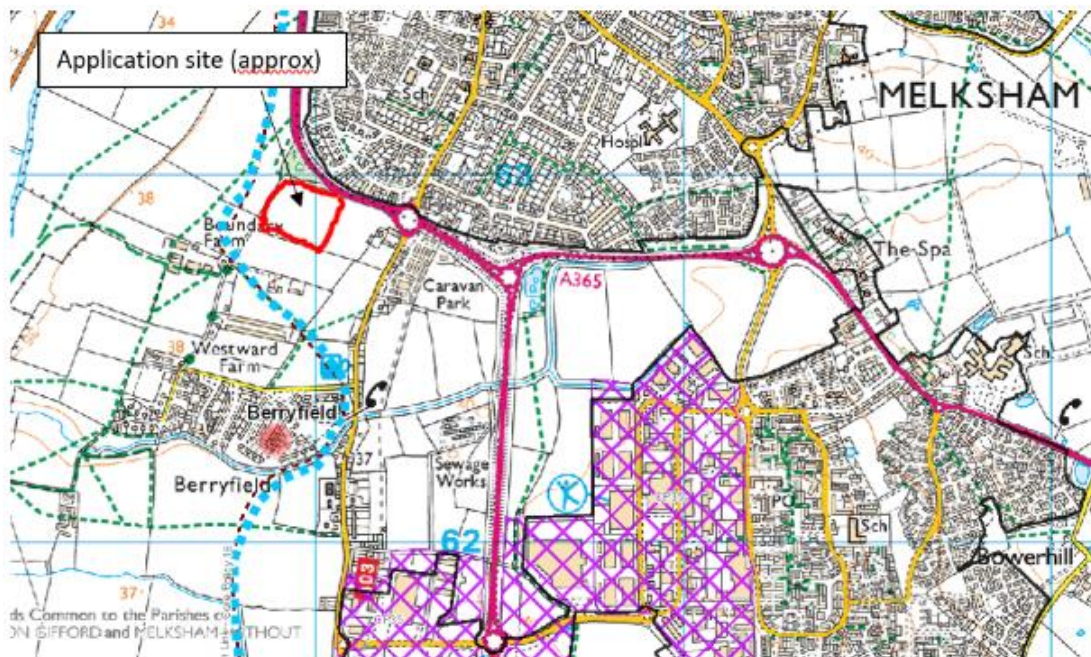
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)?
- Whether there will be any land contamination / air quality issues (CP 55)?
- Whether the proposal results in the loss of best and most versatile agricultural land (NPPF 170)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms?

3. Site Description and location

The site of approximately 2.6ha in area is located within Melksham Without Parish on land located to the south of the Market Town of Melksham (see figure 1 below). More specifically it lies on the southern side of the Western Way to the west of the Semington Road and the existing houses of Townsend Farm.

The application site is currently an agricultural field, unaffected by urban development, and is surrounded by popular Public Rights of Ways (PRoWs) and the Kennet and Avon Canal towpath / Sustrans Route (National Cycleway Route 4, from London to Fishguard) to the north (approximately 180m away), a recreational route and strategic right of way. The site forms an important transitional feature, and a visual and physical break between the developed part of the village and the open countryside beyond.

The site is generally flat. There are no Public Rights of Way that cross the site however, there are a number in close proximity notably, MELW116, MELW117 and MELW2.



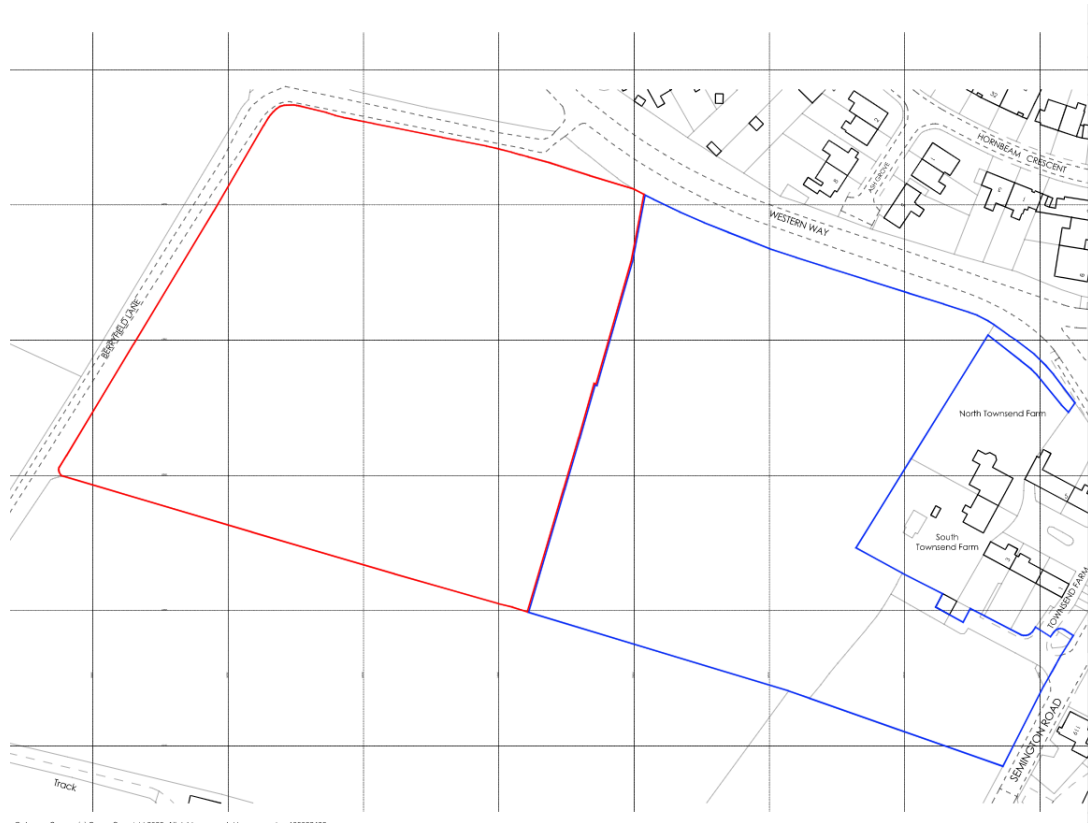


Figure 1 – Site Location Plans

The site is surrounded by some field hedging and trees however in places it is not complete and therefore, clear views are offered into the site from a number of vantage points. Furthermore, all the trees and hedging are deciduous and therefore, in the winter months the site is much more open in the landscape.

In terms of planning constraints, there are no landscape or heritage designations that cover the site. There are no TPOs on the site.

The site is located outside of the defined Limits of Development for the Melksham and therefore, in planning policy terms is considered to be in the open countryside.

Although the site is entirely located within Flood Zone 1, the Wiltshire Strategic Flood Risk Assessment (SFRA) mapping places shows that it is within an area at risk from groundwater flooding. According to the SFRA, groundwater levels on the site are between 0.025m and 0.5m below the ground surface.

4. Planning History

Reference	Description	Decision
17/01095/OUT	Outline planning application for residential development - formation of Access and associated works	Refused
18/04650/OUT	Outline planning application for residential development of 108 dwellings, formation of access and associated works.	Withdrawn
20/07334/OUT	Outline planning permission for up to 50 dwellings	Refused Allowed at appeal
PL/2023/00808	Approval of reserved matters following Outline application 20/07334/OUT approved under Appeal ref APP/Y3940/W/21/3285428 for up to 50 dwellings, (appearance, scale, layout and landscaping)	Pending determination

In respect of 20/07334/OUT, it should be noted that, at the time the appeal was allowed, the Council was unable to demonstrate a 5-year Housing Land Supply (5yr HLS). The absence of 5yr HLS meant that paragraph 11d was engaged. The application of policies within the framework did not indicate that development should be refused on the site. The provision of a 100% affordable housing scheme was considered to be a substantial benefit. The Inspector did not identify any significant material planning harm (the Council raised a landscape objection) other than it being located outside the limits of development (LoD) of Melksham. Any conflict with development plan policies was given limited weight and was judged to be outweighed by the substantial benefits identified.

Furthermore, limited weight was given to the conflict with the Melksham Neighbourhood Plan. The principal policy that the application conflicted with was Policy 6 which mirrors CP2 of the WCS – i.e. seeks to restrict development outside of the LoD. Given that the Inspector was already giving reduced weighting to CP2, it was considered that a similarly aimed policy in the NP should also be addressed in the same manner in terms of weighting.

5. The Proposal

This is an outline application with all matters reserved bar access for a development of up to 53 dwellings (of which 100% would be affordable) with access and associated works. It is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Flood Risk Assessment and Drainage Statement
- Surface Water Drainage Strategy
- Transport Statement
- Travel Plan
- Agricultural Assessment
- Tree Plan/Report
- Noise Impact Assessment
- Landscape and Visual Appraisal
- Ecological Impact Assessment

- Biodiversity Net Gain Metric
- Parameters Plan
- Illustrative Masterplan

Whilst the masterplan (see figure 2 below) is indicative (save for the access), it seeks to show a possible layout of how the housing could fit on the site in an acceptable and policy compliant manner.

This indicative layout shows that vehicular access would be connected to the Semington Road via the Phase 1 development to the east which is currently subject to ‘reserved matters’ application PL/2023/00808 (the layout of which is as detailed below in figure 2). The access would lead on to a central spine road which branches into cul-de-sacs. Public open space and landscaping is shown to be formed around the edges of the site with pedestrian access links into Phase 1 and on to Berryfield Lane. Attenuation features are shown around the edges of the site.



Figure 2 – Indicative layout

The below plan (figure 3) is a proposed Parameters Plan. This Plan would fix at outline stage certain parameters for the planned development (e.g. built development and green infrastructure) which, if approved, could not be altered at later reserved matters stage(s) (unless a variation to the outline consent is first applied for). The Plan shows green infrastructure (GI), attenuation features, the vehicular access point and principal routes, pedestrian connections and residential development areas. It also shows that the net developable area of housing would be approximately 1.6 ha. For the 53 dwellings, this equates to c. 33 dwellings/ha, which is comfortably within expected tolerances for an edge of settlement development in a relatively rural location. This mirrors the density of phase I. The plan shows approximately 1 ha of the site as GI.

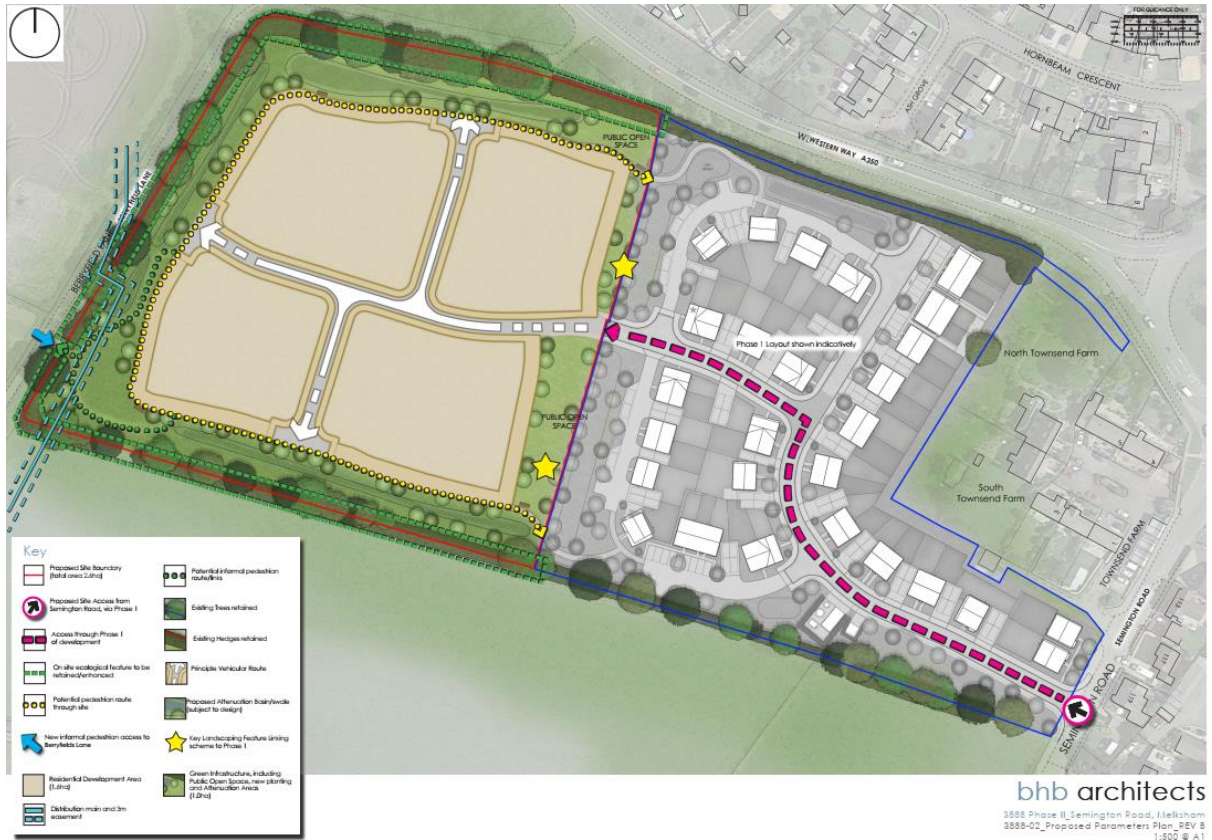


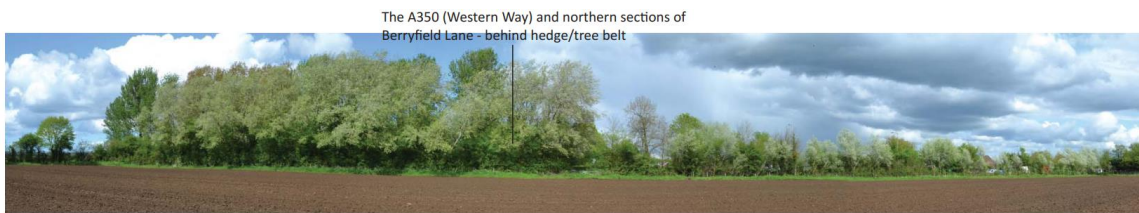
Figure 3 – Parameters Plan

The second Parameters Plan (see figure 4) deals with ecological matters. The Plan fixes other aspects of the GI with a more detail showing:

- The GI space that is fixed to enable biodiversity net gains to be secured on the site (including RPA's, tree and hedgerow planting);
- that light levels at the northern, southern and western boundaries would be maintained as existing to minimise the impact on protected species such as bats; and,
- vegetated garden spaces and the land taken up by the footprint of houses.



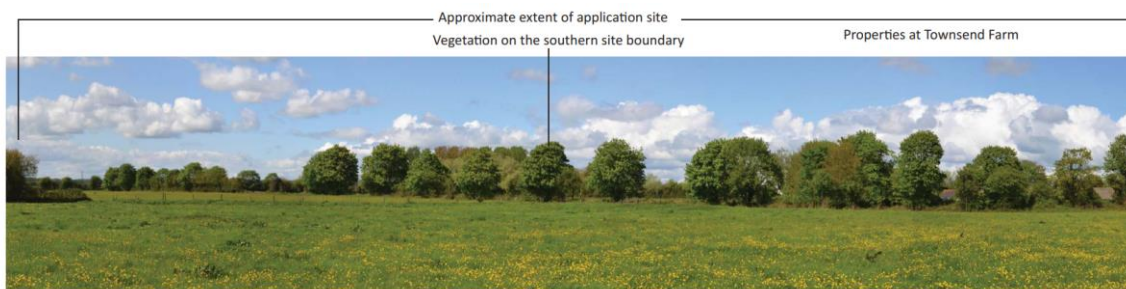
View looking south-west from Berryfield Lane, adjacent to A350 (taken from LVIA)



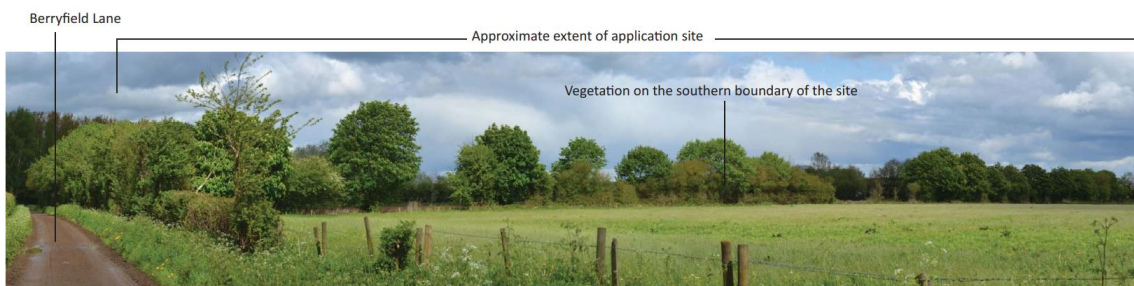
View from the middle of the field looking north towards the A350 (taken from LVIA for 20/07334/OUT)



View from the middle of the site looking west towards Berryfield Lane (taken from LVIA for 20/07334/OUT)



View Looking north-west to the southern boundary of the site (taken from LVIA for 20/07334/OUT)



View Looking north-west from Berryfield Lane to the southern boundary of the site (taken from LVIA for 20/07334/OUT)



View from Semington Road looking west at the point of access (© Google Streetview)

6. Planning Issues

The main issues to be considered are:

- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);
- Whether there would be any harmful impacts upon protected species or habitats(CP 50)?
- Whether there will be any land contamination / air quality issues (CP 55)?
- Whether the proposal results in the loss of best and most versatile agricultural land (NPPF 170)?
- Are there any other planning issues raised by the development?
- What planning obligations are required to make the development acceptable in planning terms?

7. Planning Policy

Wiltshire Core Strategy 2015 (WCS)

- CP1 – Settlement Strategy
- CP2 – Delivery Strategy
- CP3 – Infrastructure Requirements
- CP41 – Sustainable Construction and Low Carbon Energy
- CP43 - Providing Affordable Homes
- CP45 – Meeting Wiltshire’s Housing Needs
- CP48 – Supporting Rural Life
- CP50 – Biodiversity and Geodiversity
- CP51 - Landscape
- CP52 – Green Infrastructure
- CP55 – Air Quality
- CP56 – Land Contamination
- CP57 – Ensuring High Quality Design and Place Shaping
- CP58 – Ensuring the Conservation of the Historic Environment
- CP60 – Sustainable Transport

- CP61 – Transport and New Development
- CP62 – Development Impacts on the Transport Network
- CP64 – Demand Management
- CP67 – Flood Risk

Wiltshire Waste Core Strategy

WCS6 (Waste Audit)

Saved Policies for the West Wiltshire District Local Plan (1st Alteration)

- U1a Foul Water Disposal
- U2 Surface Water Disposal
- U4 Ground Source Protection Areas

Other

- The Wiltshire Waste Core Strategy (adopted 2009)
- Wiltshire Housing Site Allocations Plan (adopted Feb 2020)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework July 2021 (NPPF)
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)

8. Summary of consultation responses (including comments on the revised scheme where indicated as a second response).

Melksham Without Parish Council:

First response – Objection

- *The site is outside the settlement boundary and is in the village of Berryfield, which is classed as a “Small Village” in the Core Strategy. Please also refer to Policy 6: Housing in Defined Settlements of the made Melksham Neighbourhood Plan regarding development in the small villages of Beanacre and Berryfield.*
- *This site was previously turned down in May 2017 for 160 dwellings, and the reasons for that refusal still stand. Precedent is also set within the assessment of the principle of development for 16/11901/OUT on applications in the Semington Road area that do not fall under the existing built area of Berryfield or within the settlement boundary of Melksham Town. The site therefore conflicts with Core Policy 2 of the Wiltshire Council Core Strategy as it is outside the defined limits of development and has not been brought forward through the Site Allocations DPD or the Melksham Neighbourhood Plan.*
- *Whilst there currently is a lack of 5-year land supply, the Melksham area has exceeded the number of dwellings required by the Core Strategy by 2026 and the protection of paragraph 14 in the NPPF is valid with a current adopted Melksham Neighbourhood Plan less than 2 years old. This was confirmed by the Planning Inspector for the appeal at the adjacent site 20/07334/OUT; AP-36412.*
- *The development proposed is for 100% affordable housing, which conflicts with Wiltshire Council’s Core Strategy Policy 43 ie ‘the need for developing mixed, balanced and inclusive communities, affordable housing units to be dispersed throughout a development and designed to be high quality, so as to be indistinguishable from other*

developments'. On recently meeting Sovereign Housing at pre-app stage for the adjacent site (20/07334/OUT) they mentioned that the 50 dwelling site was about the right size for a wholly affordable housing site for themselves. On their proposed pre-app drawing for that development, it is shown as Phase 1, and this proposal is described as Phase 2 with a connecting road shown between them. The applicant is the same for both sites at outline stage.

- If Wiltshire Council are minded to approve this application, please refer to the published Housing Needs Assessment undertaken for the review of the Melksham Neighbourhood Plan to give a steer on the mix of type and tenure that are needed in the Neighbourhood Plan area, and in fact broken down into smaller settlement areas within the NHP area - https://www.melkshamneighbourhoodplan.org/_files/ugd/c4c117_4c8411b64439472fbf cf8e856799e2c9.pdf
- The loss of Grade 2 agricultural land (Best Most Versatile land). It is noted that it is suggested within one of the developer's submission documents that this particular parcel of land was unsuitable for agricultural use and was fallow. The parish council do not want to see the loss of good quality land from agricultural use. Residents from the neighbouring Townsend Farm development confirm that this year rapeseed had been grown and cultivated in the field and for the last 15+ years there had always been either crops or animals on the land.
- Highway safety concerns with regard to access to the site as Semington Road is quite narrow where the access is proposed. In addition, the highway safety for residents in terms of accessing facilities in the town with them having to cross the busy A350. Whilst the light controlled crossing to the east had recently been upgraded as part of the Active Travel project by Wiltshire Council, there was still an informal, desire line across the east of the A350 roundabout to access the town centre and Aloeric school. The proposed site entrance is very close to the entrance to the Mobile Home Park and in addition to the road calming measures already in place this could lead to congestion and traffic issues, especially on the Semington Road roundabout at the A350. The A350 is a primary route, with some 20,000 vehicles using it per day.
- Access to schools and lack of school places. Whilst Aloeric School may be the nearest, this requires people having to cross the busy A350. The proposed primary school at Pathfinder Place, Bowerhill is not yet built and there is no footpath proposed from Berryfield to Pathfinder Place for those wishing to access the school on foot. St George's Primary School in Semington is some distance away and for access by vehicle would require a circuitous route via the A350 due to the Bus Gate at the entrance to Semington Village from the Semington Road. It was noted that there is no pre-school provision at Aloeric school and this needed to be borne in mind for any potential walking route being assessed for early years children. The parish council raised concerns about the recent Road Safety Report for 20/01938 of which children would be using the same route to school. This contradicted itself by saying that the route was safe as children would be accompanied by an adult, and elsewhere reported that the assessor witnessed an unaccompanied child on a scooter en route to school. In addition, children may be accessing other primary schools at Bowerhill and the proposed school at Pathfinder Place
- The application makes no reference to a contribution to the proposed Melksham Link canal restoration by the Wilts & Berks Canal Trust (12/01080).
- The erosion of the rural buffer and visual green gap between the town of Melksham and the small village of Berryfield.

Should Wiltshire Council be minded to approve this application the Parish Council would like to see the following conditions included in the Heads of Terms for the S106 Agreement:

- There are practical art contributions.

- A LEAP (Local Equipped Area of Play) is provided which includes bins and benches as well as public open space and the regular emptying of bins to be reflected in any future maintenance contribution.
- The Parish Council wish to enter into discussions on being the nominated party for any equipped play area for the site, and the associated maintenance contribution.
- Bus shelters to be provided in Semington Road with WiFi connectivity to provide Real Time Information.
- The road layout is such that there are no dead ends in order that residents and refuse lorries do not need to reverse out of roads.
- There is a visible delineation between the pavement and the road.
- As no community facility is being provided from this application, that a contribution is made towards the running costs of the new village hall being provided as part of planning application 16/00497/OUT on Semington Road.
- A contribution is made to public transport.
- A contribution towards the canal scheme.
- Equipment is provided for teenagers, such as a teen shelter with WiFi connectivity.
- The provision of circular walking routes with the provision of benches and bins
- The provision of bird, bat and bee bricks, reptile refugia and hibernacula in order to increase biodiversity and wildlife in the development

Further to the following comment previously made, the parish council request additional weight is attributed to this comment due to the proposals in the Government's current NPPF consultation to be implemented in Spring 2023 that more weight is attributed to recognise the food production value of the farmland.

The loss of Grade 2 agricultural land (Best Most Versatile land). It is noted that it suggested within one of the developer's submission documents that this particular parcel of land was unsuitable for agricultural use and was fallow. The parish council do not want to see the loss of good quality land from agricultural use. Residents from the neighbouring Townsend Farm development confirm that this year rapeseed had been grown and cultivated in the field and for the last 15+ years there had always been either crops or animals on the land.

Second response – maintain objection

We have reviewed the documentation submitted and have no further comments to make at this time. We would refer both the planning officer and application back to our previous comments dated 31 January 2023 which remain current and valid.

Wiltshire Council Spatial Planning: Comments

The proposal is not supported in principle as it would not accord with the strategy and pattern of development anticipated by the WCS and Joint Melksham Neighbourhood Plan. Therefore, from a strategic policy perspective, the proposal would not constitute sustainable development and thereby also conflict with the principle aims of the National Planning Policy Framework.

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

However, whilst the Council are currently unable to demonstrate a 5 year HLS, it can demonstrate a 3 year HLS and NPPF paragraph 14 is relevant with regards to the Joint Melksham Neighbourhood Plan with all four criteria being met. Therefore, for applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

Wiltshire Council Highways: no objections subject to conditions to cover:

- Compliance with the Residential Travel Plan
- Access to the development provided to base course level with visibility splays prior to occupation.
- Submission of a Construction Traffic Management Plan
- Pedestrian connection to Berryfield Lane prior to occupation of 20th dwelling.
- Landscaping scheme to include impenetrable boundary to north to prevent indiscriminate access onto the A350 where there are no pavements.

And planning obligations to cover:

- Travel Plan monitoring for 5 years
- Payment of green travel vouchers to each household
- A time limited and index linked contribution towards improving walking and cycling routes in the vicinity of the development.

Wiltshire Council Lead Local Flood Authority: no objection

After submission of additional information requested by the drainage officer, no objections to the development subject to conditions.

Wiltshire Council Climate Team: comments

Advice and guidance based on current planning policy with regards to addressing climate change with the development. Positive weight should be given on the planning balance should a development take an ambitious approach to sustainable construction.

Wiltshire Council Affordable Housing: no objection subject to affordable housing provision

Should it be decided that this site is suitable for residential development, under the relevant Core Policies of the Wiltshire Core Strategy, on-site affordable housing provision would be required. Their consultation response sets out the obligations placed upon the developer should they decide to deliver the scheme as 30% nil subsidy with the remainder (70%) of the affordable housing with subsidy or as 100% granted funded/with subsidy.

Wiltshire Council Education: No objection subject to financial contributions towards early years education places. There is sufficient capacity at primary and secondary level to accommodate the pupils from this development.

Wiltshire Council Landscape Officer: Comments

The hedge along Berryfield Lane will require substantial 'gapping up' and reinforcement to create a strong screening edge to the west. Also expect more street trees to be included in any proposed detailed application to ensure the plans are in accordance with the NPPF para 131 'treelined streets'. No community orchard planting is shown on the scheme which could be planted up in the PoS between phase 1 and phase 2. Again, this is a requirement within the NPPF para 131.

Rain gardens and bio-retention swales to be considered in accordance with both CIRIA best practice guidance on SUDs and the recently released Natural England Green Infrastructure Design Guidelines.

Should it be decided to approve, the following also required:

- 1 - a Detailed Planting plan noting species, densities, and specifications (To National Plant Specification)
- 2 - A Landscape and Ecology Management Plan setting out how the planting will be maintained from installation through to maturity.
- 3 - A Tree / utilities coordination plan showing how street trees and utilities including street lighting have been properly coordinated to ensure no clashes between root growth and that trees have enough room to grow to maturity both above and below ground without impacting on services.

Wiltshire Council Archaeology: no objection / comments

This application area forms part of a larger site that has been the subject of a geophysical survey and a trial trench evaluation. This evaluation identified an area of later prehistoric and Romano-British field systems and possible settlement activity that straddles the current application as well as application 20/07334/OUT located immediately to the east. Following discussion between the County Archaeologist and the applicant's archaeological consultants it was agreed that the area of archaeological activity identified by the evaluation could be explored via an open area excavation. This excavation would effectively mitigate the impact of the development upon the archaeological resource. The outcomes from a Written Scheme of Investigation (WSI) are awaiting following commencement of the excavation.

As the excavation would address the archaeological issues in both the western and eastern parts of the site, there are no other comments.

Wiltshire Council Waste and Recycling: No objections subject to the payment of £101 per dwelling to cover the cost of waste and recycling containers for each new dwelling.

Details of standards expected for access to waste collection services provided for detailed design at RM stage.

Wiltshire Council Public Open Space: no objection

The requirements for POS for this proposal would be as follows-

- 1851.18 sq.m of Open Space to be provided on site
- 93.81 sq.m of Play to be provided on site
- 1250.80 sq.m of Sports to be provide on site where possible if this was not the case a monetary contribution of £12,508.80 would be required to upgrade existing sports provisions in the local area.

Wiltshire Council Public Protection: No objections subject to conditions to cover the submission of a Construction and Environmental Management Plan, the undertaking of an Air Quality Screening Assessment, submission of a contaminated land report and to ensure development is carried out in accordance with the noise assessment report.

Wiltshire Council Ecology: no objection subject to conditions

Wiltshire Council Urban Design:

First response - Comments / objections

Fundamentally the application appears to demonstrate poor quality design, because the Outline plans use an out of date/misleading indicative layout for Phase 1 which it is proposing to be an extension to integrate with; yet a REM submission (PL/2023/00808) has been simultaneously made, which contradicts the design concept proposed on this Outline, and no mention of the revised proposed detailed is made in the DAS for this outline. The DAS is intended to explain the design rationale in a reliable way.

There is one telling example of how poor design processes such as this impacts the quality of the design, and how piecemeal development which the applicant is pursuing is also at odds with high quality design: the adjacent proposed REM layout actually omits the POS and equipped play feature in its N-W corner, which this Outline application implied it will utilise and link into. and even such an implication is wrong, as the POS officer has responded that equipped play is expected on this site. My advice is that this requirement be determined on the basis of the total housing potential of the sites, not each site in isolation. And whilst the LPA will naturally object to the non-compliance of the REM with its own Outline, it is inexplicable that the applicant is submitting such contradictory proposals and narratives at the same time.

Also that REM application seeks to create a new hedge to deliberately sever the two sites, whereas the concept underpinning this Outline application shows the two sites integrating across a shared linear POS.

Also that adjacent Outline had committed to deliver a tree-lined avenue which this Outline would be expected to continue. Despite that fact that the subsequent REM on that site appears to be attempting to remove that feature (which the LPA will no doubt object to) there is no justification for this Outline to suppose it would not be expected to commit to deliver it also.

With the applicant's design process appearing to be uninformed, uncoordinated and unreliable, it is just not possible to give positive, constructive urban design feedback on this Outline. Perhaps once the adjacent REM is resolved, the applicant can make some more coherent proposals which do not contradict with what is permitted in the adjacent field.

Aside from this fundamental concern, the parameter plan and indicative layout can already be shown to be inadequate and incompliant with CP57 and the National Design Guide. I have attached an annotated version of these to highlight some (not all) of the problems and reserve the right to provide a more comprehensive UD response if and when a revised design proposal is submitted.

Second response – no objections

I have no objections in principle to this proposal and would at this stage only seek to advise upon the next stage regarding more detailed architectural design and detailing.

On page 12 of the Design and Access Statement there are some rather alarming photographs of ornate barge/fascia boards. These should not be replicated in any form on the new houses, nor should PVC canopies over front entrance doors be considered.

This site is a long way from the historic core of Melksham and therefore there is no obligation to try and reflect the historic architecture and townscape that can be seen on the High Street. There is no justification to produce “traditional elevational design”, as stated in paragraph

12.2.1 of the D&AS. Doing so will only lead down the road to ubiquitous pastiche standard houses types that are seen everywhere, but are representative of nowhere.

A sentence in paragraph 12.3.1 states “Any reserved matters scheme should look to avoid pastiche and seek to embrace modern interpretations of local character”. This paragraph is a lot more reassuring. I would clarify things further by strongly recommending that the proposed house elevations should have a modern aesthetic, but be constructed of traditional materials, principally brick, real stone and render.

With regards to the roofing materials, the sort of high-quality scheme that we all wish to see here will be best achieved by using small unit sized clay or natural slate quarry tiles. Large unit sized concrete tiles should be avoided.

Wessex Water:

First response - Objection

The Illustrative layout, drawing ref 3888-03, submitted in support of the application shows what appears to be an attenuation pond in the southwest corner of the site that is in direct conflict with the existing 6” public water main, this is not acceptable to Wessex Water and as such the applicant will need to amend the site layout to ensure that required easement is maintained.

With this in mind we would request a holding objection on the layout until the applicant has demonstrated how they propose to accommodate the 3m easement required either side of the water main and unfettered access

Alternatively, the applicant may wish to consider diverting this water main, application for water main diversion (at the developers cost) can be permitted but the developer must prove satisfactory hydraulic conditions and that there will be no loss in capacity within the diverted main, all new water mains must be constructed to the current adoptable standards. Early consultation with our Sewer Protection Team is advised.

9. Publicity

The application was advertised initially by way of a site notice and neighbour notification letters. An advert was also placed in the press for the application. There have been a series of amendments to the application which were advertised by way of neighbour notification letters. 10 letters of objections to the development have been received and no support letters. The material planning considerations that have come out of all of this are summarised below
–

Need

- The only reason the adjacent site was successful at appeal was because of a last minute change to the housing type to 100% affordable homes. This application has 30% affordable homes so would not meet the inspector's requirement regarding the previous appeal.

Ecology / Environment

- Access road cuts through a wildlife haven and will therefore destroy it.
- Development of this field will further destroy the wildlife in the area.
- Loss of Grade 2 best and most versatile agricultural land contrary to paragraph 112 of NPPF.
- Salisbury & Wilton Swifts has reviewed this outline planning application as we believe all new developments should provide habitat opportunities for those species such as swifts who prefer, or can adapt to, the built environment.

Loss of Green Space/Congglomeration

- The Planning Inspector allowed the 50 houses on the adjacent site as he stated in his report: “...*this amount of development would still allow a transition between Melksham to the North and open rural land to the South*”. This application would mean that this would be lost.

Location/Sustainability

- The site is in an unsustainable location, far away from any facilities and goes against the published Melksham Neighbourhood plan for where the residents of the town want housing development to be earmarked. It has not been brought forward through the proper channels and the site is outside of the settlement boundary limits.

Infrastructure

- Impact on local infrastructure – lack of school and doctor surgery places is already an issue.
- This development and its counterpart offer nothing to the existing local community in terms of facilities or infrastructure, but will instead create further pressure on our already over-subscribed medical facilities, schools and pre-school facilities, and erode our existing quality of life.
- Melksham is currently overpopulated considering the existing public resources and infrastructure. Ad-hoc planning applications should be turned down unless they significantly contribute to the community or town at large.

Pollution

- Concern was also expressed about the increase in particulates and other emissions from car exhausts, causing a rise in the pollution of the air we all breathe especially when there are queues around all our homes. This can only become worse because of the extra cars joining and queuing along Semington Road.
- As the proposed site is lower than the A350 then I would have thought that this would have a detrimental impact on the quality of air for future residents.

Contrary to Development Plan

- It would conflict with the Wiltshire Core Strategy on Housing, as the site is in open countryside outside the limits of development defined for Melksham and thus contrary to Core Policy 1, 2 and CP15.

Contrary to National Policy

- The published Melksham Neighbourhood plan means that the less than 5-year land supply issue of recent times is reduced to 3 years. The Council housing supply number is well over 4 years currently so this means that all elements of WC's Strategic plan and the National Planning Policy Framework should apply to this proposed development.

Contrary to Neighbourhood Plan

- This area has not been identified for development as part of the Melksham Neighbourhood plan.
- We do have a Melksham Neighbourhood Plan, which was brought about after consultation with local residents and organisations. It is an iterative process, with land being brought forward for consideration for future development. This application is not plan-led; it is speculative, and allowing it would simply demonstrate that whatever the local residents, organisations and businesses plan for a sustainable and well thought out future for the town and its surrounding villages, in the end developers can use loopholes in the law to force through applications.

Highways Safety/Parking

- Traffic congestion as cars queue up to join the A350 from this scheme and all the other developments recently allowed along the Semington Road.
- There have been recent works to improve and add a cycle lane to the pedestrian crossing across Semington Road near the roundabout with the A350, and to improve the crossing for pedestrians and cyclists across bypass on the east side of the roundabout. However there is still a pedestrian path leading west of the roundabout, and to cross on this side is simply dangerous, albeit appealing in that it appears to be the quicker route when walking to the Aloeric School or into town.
- Semington Road is now marked and signposted as part of the National Cycle Network - so to introduce another road leading onto Semington Road (and very near to the crossing), with over 200 cars using it (as indicated by the number of parking spaces on the two planning applications) is reckless to say the least. How can one organisation suggest that a route is safe for cyclists while another allows hundreds more cars to use it?

Other

- This development if allowed would encourage additional applications along the west side of Semington Road - further destroying agricultural land and leading to coalescence of Melksham Town with Berryfield village.
- This development makes no contribution to the Wilts and Berks enabling development.

10. Planning Considerations

10.1 Principle of Development

The NPPF advocates the primacy of the development plan stating that, first and foremost, decisions must be made in accordance with the development plan unless material considerations indicate otherwise (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). Any conflict identified with the development plan policy must be given weight on the planning balance.

10.1.1 Wiltshire Core Strategy and Joint Melksham Neighbourhood Plan –

The Wiltshire Core Strategy (WCS) sets out a ‘Settlement Strategy’ and ‘Delivery Strategy’ for development across the County. WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – ‘Principal Settlements’, ‘Market Towns’, ‘Local Service Centres’, and ‘Large and Small Villages’. Within the Settlement Strategy, Melksham is defined as a Market Town. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including Melksham – and further states that housing should not be permitted outside the limits except in the few circumstances explained at paragraph 4.25, none of which apply in this case. Core Policy 2 continues that the limits of development may only be altered through the identification of sites through a site allocations DPD or a neighbourhood development plan.

The Council adopted the Wiltshire Housing Sites Allocation Plan (WHSAP) in February 2020. It does not allocate further land for development at Melksham.

WCS Core Policy 15 sets out the Council’s sustainable plan-led approach to delivering development that responds to and reflects economic, social and environmental needs for the Melksham Community Area. Paragraph 5.82 of the WCS states that the strategy for

Melksham is “... to ensure an appropriate and balanced mix of housing and employment growth is managed to provide contributions to town centre improvement and delivery of enhanced services in the town”.

The Joint Melksham Neighbourhood Plan 2020-2026 (NP) was ‘made’ in July 2021. It sets out principles for new housing and good design through Policies 1 and 6; to a larger extent Policy 6 relies on the WCS to define the settlement boundary and the circumstances under which new housing will be permitted in the NP area. This said, standalone Policy 7 allocates land at Middle Farm, Whitley for approximately 18 residential units.

The application site is not allocated in either the WCS or the WHSAP (nor the NP). Therefore, as the site lies outside of the limits of development and none of the exception policies apply, the proposal does not accord with the WCS Core Policies CP1, CP2 and CP15, and the general principles set out in the Neighbourhood Plan.

10.1.2 Five-year housing land supply and relevant appeal decisions –

The above said, the Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land, and this is a significant material consideration. According to the most up to date Housing Land Supply Statement (dated April May 2023 (base date: April 2022)), the number of years deliverable supply is 4.6 years (since ‘agreed’ to be 4.59 yrs following a more recent appeal decision). This means that the ‘tilted balance’ flowing from paragraph 11d)ii of the National Planning Policy Framework(NPPF) is engaged; it says the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the proposed development in terms of it delivering housing – that planning permission should be granted. The other ‘non-impacts’ of the development are discussed later in the report.

In a recent allowed appeal decision relating to a proposal for 200 dwellings in countryside on the edge of Devizes the Inspector considered the housing land supply position, and concluded as follows –

“The proposal would help boost the Council’s supply of deliverable housing sites through a mix of market units next to a second-tier settlement that offers accessible facilities and

services. The proposed units could be delivered in the short term, and they would help address the persistent shortfall of housing in Wiltshire when there is not a plan-led mechanism to address this until the DPD is potentially adopted. Against this backdrop, I do not consider the shortfall to be modest, regardless of the number of permissions which the Council have granted and the Council's performance on the Housing Delivery Test. The extent of the shortfall has largely been flat in recent times despite the Council's briefing notes. I therefore attach substantial weight to this social benefit in the context of the Framework's aim to significantly boost the supply of housing."

In another recent (July 2023) allowed appeal relating to a site in the countryside on the edge of Holt for up to 90 dwellings (ref. PL/2022/03315), the Inspector said the following –

"When considering other appeals across Wiltshire, I am aware that Inspectors have given varying weight to shortfalls of this scale. In my view, even the Council's position of 4.59 years cannot be termed a moderate shortfall. Rather, I see it as being significant, as it constitutes an appreciable deficiency when compared to what the supply should be. Furthermore, it would appear the earliest this could be resolved through the adoption of a revised Local Plan is the end of next year, though I fully accept such timetables have a habit of slipping and the adoption date could be further into the future."

There have been 26 appeals since 2019 where 5-year land supply has been a principal material consideration. 19 of the appeals have been allowed, with 12 of 15 allowed in the last 16 months. Those few appeals that were dismissed had, in the main, other technical objections which tipped the balance the other way (for example, ecology, highway safety, loss of a country park, etc.). There are no technical objections relating to this application.

In order to address the housing supply shortfall the Council has issued two briefing notes, in September 2020 and April 2022. In section 6 – *What can we do to restore a five-year housing land supply?* – the note states that the Council will:

iii) Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.

In the Holt appeal decision the Inspector stated the following in relation to this Briefing Note:

"I afford significant weight to this Briefing Note, as it is a realistic attempt to address the shortfall and, as such, I also attach significant weight to this stated intention in paragraph 6.1. To my mind, this case falls under this intention, for although I found harm to the character and appearance of the area, that harm was primarily due to the effects of placing a housing estate on a field and so commonly arises when the site is outside a settlement. As such, while that is a policy objection I do not consider it to be a major one. Overall, I attach significant weight to the content of the Framework in relation to the need for a 5- year supply and the consequences that flow from failing to identify that quantity of housing land. I also attach significant weight to the delivery of 90 dwellings, as it would make an appreciable contribution to addressing a shortfall of this size"

A further appeal decision of relevance to this specific application site is 20/07334/OUT which relates to the land to the immediate east (that is, the other half of the same field). This appeal – for up to 50 affordable housing units – was allowed in May 2022 when the Council did not have a 5 yr HLS. The decision letter, again, sets out the weight to be attributed to a development plan in these circumstances. It also sets out how much weight was/(should) be given to the provision of affordable housing, and it more specifically addresses the Joint Melksham NP policies. In the appeal, the location of the development at the edge of the limits of development of Melksham, the fact that the Council had allowed housing development to

the south, and the accessibility of the site to services and facilities by means other than the private car, were determinative factors. The inspector stated that:

“...in terms of accessibility of the proposed scheme to local services I accept that the appeal scheme conflicts with Policies CP1, CP2 and CP15 and JMNP 1 and 6. However, the level of harm would be limited given its location which allows good access to services by a genuine choice of transport modes.”

As it was a scheme comprising solely affordable housing (AH), the Inspector gave substantial weight to the provision of this. The Council’s delivery record of AH and the pressing needs within the Melksham community area were also determinative in the conclusion. The Inspector stated at paragraph 77:

“I conclude, therefore, that there is a pressing need for affordable housing and the appeal scheme is not in conflict with Policies CP43 and CP45. As with all the other main issues this is a matter for the planning balance.”

Turning to the current application, the proposal is for a similar level of housing (53 vs the 50 allowed on appeal within the same field). The current application is also proposing 100% affordable housing as per the scheme allowed at appeal. The Council is still unable to demonstrate a 5yr HLS some 12 months on from the appeal decision. All of these points allude to a very similar set of circumstances for the current application.

In addition, it is also of note that since the appeal was determined pedestrian improvement works have been undertaken to the Semington Road roundabout making it safer and easier for people to access Melksham town centre on foot or by bicycle. This is an enhancement to the accessibility credentials of the site that were found acceptable by the appeal Inspector in any event.

In light of these circumstances, it is considered the weighting the appeal Inspector applied to the WCS and Melksham NP policies when determining the application on the other half of the field should also be applied to the current application. This is not just a matter of consistency in decision making but is also in view of the very similar circumstances of the two sites – understandable given that they are part of the same field. Whether or not the conflict with development plan policy is considered to outweigh the benefits is a matter for the planning balance. However, in view of paragraph 11d being engaged, and furthermore in view of the presumption in favour of sustainable development applying, it would be necessary to demonstrate significant other harm in the event of a resolution to refuse planning permission.

Objections have been received regarding Melksham already having more housing than previously identified and that the Melksham Community Area has already met its indicative housing figures. However, this is a scheme for 100% affordable housing and the appeal decision referred to above also addresses this at paragraph 99, where it states:

“Despite the achievement of housing requirements for Melksham, delivering affordable housing remains a pressing need for the whole Council. The fact that the Council has specific requirements for community areas has still resulted in a need to increase substantially the supply of land for affordable housing. The Council’s suggested Action Plan designed to improve management arrangements, lacks additional resources and for this reason, is unlikely to deliver a step change in affordable housing delivery as would be required to fully address this issue.”

In view of the age of the Wiltshire Core Strategy it is a necessary requirement of the NPPF to assess housing need at the county level and not locally – and in accordance with the appeal

Inspector's conclusions quoted above. As already set out, at the county level Wiltshire Council is presently unable to demonstrate the required 5-year housing land supply.

Whilst the Melksham NP may allocate additional housing, it was not considered by the appeal Inspector that this addressed the acute need for affordable housing within the Melksham Community Area. At paragraph 75 the Inspector said the following:

“Although 534 affordable dwellings have been completed between 2009/10-2020-21 and around 277 units are in the pipeline or being delivered, the level of affordable housing need is acute. In contrast on this single issue the inclusion of just 6 affordable dwellings in the single housing allocation of the JMNP does not readily reflect the extent of housing need in the area.”

10.1.3 Principle of development – conclusion

The Council does not currently have a 5-year supply of housing, and accordingly WCS Core Policies CP1, CP2 and CP15 cannot be given full weight. In the context of a lack of any detailed objections from statutory consultees, the NPPF 'tilted balance' favours the application as *“any adverse impacts of granting permission”* cannot demonstrably outweigh the benefits, the main benefit being the supply of housing, which in this case would be 100% affordable.

Notwithstanding the site's location in 'countryside', it is considered to be reasonably accessible being adjacent to the existing edge of the town. Whilst there would be some undoubted change to the landscape at and around the site, it is not considered that there would be sufficient 'harm' arising from this to warrant a refusal decision under WCS Core Policy 51 (Landscape). There are no other 'policy obstacles' (as highways, drainage, ecology and other detailed issues are all satisfactorily addressed in the application – these are addressed later in the report).

Regarding the relevance of the Joint Melksham Neighbourhood Plan (NP), paragraph 14 of the NPPF provides guidance, stating the following –

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

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

The NP was made in July 2021 meaning that it became part of the development plan more than two years ago. It follows that in accordance with paragraph 14, the policies of the NP cannot significantly and demonstrably outweigh the benefits of the proposal in supplying housing. And in any event, as the NP relies to a certain extent on the WCS housing delivery policies which are now out of date in the context of the NPPF – and in view of the conclusions in the appeal decision for the adjacent land about the importance of affordable housing – less weight can be afforded to the NP policies anyway.

10.2 Design

The detailed considerations in respect of design are not for consideration under this outline application i.e., the layout, scale, appearance, and landscaping of the development are points to be determined as part of a later Reserved Matters application(s). However, it is still necessary to look at these issues at a higher level to ensure that the figure of 53 dwellings can be accommodated on the site whilst ensuring a high standard of design can be achieved.

The Urban Design Officer (UDO) originally objected to the application on the basis that the originally submitted documentation did not adequately demonstrate that the scheme would comply with the requirements of Core Policy 57 to secure high-quality design. The detailed points can be seen within the UDO's comments and so they are not repeated here.

The scheme has since evolved with a revised indicative layout, Design and Access Statement (DAS) and parameters plan. Upon further consultation with the UDO they did not wish to raise any specific objection to the proposal only to highlights areas that ought to be addressed as part of a reserved matters submission.

Turning to the indicative layout plan which shows one possible way in which 53 dwellings could be accommodated on the site, the following points are noted:

- The dwellings and their gardens appear to be appropriately scaled.
- Policy compliant levels of parking are shown on the indicative layout.
- Policy compliant levels of public open space have been demonstrated with sufficient gaps left for strategic planting to mitigate against any possibly visual effects.
- Sufficient space appears to have been left for attenuation and the safeguarding of Wessex Water infrastructure that crosses the southwest corner of the site.
- An appropriate level of space appears to have been left to ensure no net loss to biodiversity and to ensure that enhancement can take place.
- It shows a suitable level of cycle and pedestrian connectivity into and around the site and appropriate levels of integration with the phase 1 scheme to the east.
- Buildings are shown to face the public realm to give natural surveillance to streets and also to provide a continuous frontage to the street scene.

With the above points in mind and noting that the proposal equates to 33 dwellings per hectare, the scheme is not considered to constitute an overdevelopment of the site. A scheme is therefore capable of being brought forward on the site in a policy compliant manner that would accord with the principles enshrined within the NPPF and to that of Core Policy 57 of the WCS which seeks to deliver high quality design.

The DAS shows some analysis of local context has gone into the consideration of the proposal and the indicative layout and parameter plan largely reflects the layout approved as part of the phase 1 development.

The parameters plan will need to be conditioned as a 'fixer' to the layout that is presented at reserved matters stage. This is necessary to ensure an appropriate amount of space is left to provide public open space, landscaping, biodiversity enhancements, attenuation and statutory easements to Wessex's infrastructure. It is also required to ensure the right amount of pedestrian and cycle connections are delivered throughout the site.

Given the commitments in the DAS – and on the assumption that planning permission is given – it would be prudent to condition this document so that development is carried out in general accordance with it to ensure its positive features are carried forward to the reserved matters stage, such as, the proposals to address climate change that would be built into the development, and the emphasis on the Reserved Matters scheme avoiding pastiche architecture and instead seeking to embrace modern interpretations of local characteristics.

10.3 Landscape, Open Space and Visual Impact

The decision to allow up to 50 dwellings on land to the east of this site but within the same field is a significant material consideration as it represents an important landscape change. The baseline assessment of the land within this application must now include the permission for 50 dwellings on the eastern half of the field. It should also be acknowledged that the

principle of allowing residential development in part of this field has already been set. The landscape considerations under this application are centred on what, if any, the additional impacts of 53 dwellings would have on the character and appearance of the area, and whether any identified impacts would be adverse or not.

The principal conclusions on landscape impacts by the Inspector for the above-mentioned appeal are seen in paragraph 47 and 48 of the decision letter. Whilst the Council raised an objection on landscape grounds, the Inspector did not agree with the Council's conclusions on the matter. In the paragraphs referred to above, the Inspector stated that:

“The appeal scheme conflicts with Development Plan policies. Policies CP1, CP2, CP15, CP51 and CP57 and JMNP policies 1, 6 and 17 are consistent in seeking to resist development beyond settlement boundaries and the protection of the countryside. However, although I find conflict between the appeal scheme with these policies, the level of harm arising would be localised by its relationship to surrounding development, the configuration of the site, its limited extension west within the main field boundary and the strength of existing boundary hedgerows which could allow the base for effective landscape mitigation. I therefore conclude that there would be Modest/Negligible harm to the landscape character and appearance of the area arising from the appeal scheme.

Furthermore, there are no specific Development Plan policies which seek to protect the Gap between Melksham and Berryfield and the proposed development would not significantly erode it.”

The applicants have submitted a Landscape and Visual Impact Assessment (LVIA) which seeks to address the level of landscape harm associated with the development. It assesses the baseline landscape and visual context of the site and appraises the development's impact upon them, including from any sensitive visual receptors. The Council's Landscape Officer does not raise any objections to the methodology employed in the LVIA nor to the conclusions on the baseline assessment and appraisal of landscape and visual sensitivity.

The LVIA concludes overall at paragraphs 7.20 and 7.21 that:

“The development envelope also retains key areas of green infrastructure and open space along the site's boundaries, serving a variety of functions in terms of mitigation, including the formation of a robust boundary to development, which is sufficient to retain separation between Melksham and Berryfield village to the south, and allow a transition between the man-made and natural landscape.

Overall, the proposed development incorporates such a strategy which is based on a generous proportion of green infrastructure, open space, and landscape planting, situated across the site at points where it will serve best to avoid or reduce potential impacts.”

The Council's Landscape Officer has not disagreed with the central conclusions of the LVIA.

Whilst the comments of third parties and the Parish Council are noted in respect of landscape considerations, given what has been set out above, the level of harm that would arise from this scheme would not amount to significant harm that would warrant an objection under Core Policies 51 and 57 of the WCS, and to the policy of the NPPF to take account of the intrinsic value and beauty of the countryside.

However, the Landscape Officer's conclusions are based upon conditions which would require:

1. A Detailed Planting plan noting species, densities, and specifications (To National Plant Specification)
2. A Landscape and Ecology Management Plan (LEMP) setting out how the planting will be maintained from installation through to maturity.
3. A Tree / utilities coordination plan showing how street trees and utilities including street lighting have been properly coordinated to ensure no clashes between root growth and that trees have enough room to grow to maturity both above and below ground without impacting on services.

With regards the above suggested conditions, this is an outline application where all matters (bar access), including landscaping are reserved. It would be expected at REM stage that a detailed planting scheme is submitted, and a tree / utilities plan can also be submitted at that stage. Should sufficient details not be supplied at REM stage, then the LPA can choose to refuse that reserved matter or if appropriate, request the details via planning conditions. As such, it is not necessary to insist upon those conditions as part of an OUT consent. However, the condition relating to the submission of a LEMP is considered reasonable and necessary at this stage and can therefore form part of any permission given.

That said, this application does include a parameter plan which sets aside sufficient land as green infrastructure to deliver, amongst other things, landscape mitigation. It is considered that the parameters plan sets aside sufficient space to enable a reserved matters scheme of up to 50 dwellings to come forward with the appropriate level of landscape mitigation. As such, there is an appropriate level of details within this OUT consent to enable the 'in-principle' landscape matters to be considered and a judgement reached that the scheme is considered to comply with the requirement of Core Policy 51 of the WCS. It should be noted that this policy allows for harm to be mitigated through robust landscaping proposals which would come forward at REM stage. The LPA would be able to refuse an REM layout that does not accord with the parameters plan submitted at OUT stage or indeed, one that does not provide sufficient landscape mitigation/controls.

10.4 Heritage Impact

This application area forms part of a larger site that has been the subject of a geophysical survey and a trial trench evaluation. This evaluation identified an area of later prehistoric and Romano-British field systems and possible settlement activity that straddles the current application as well as application 20/07334/OUT located immediately to the east. Following discussion between the County Archaeologist and the applicant's archaeological consultants it was agreed that the area of archaeological activity identified by the evaluation could be explored via an open area excavation. This excavation would effectively mitigate the impact of the development upon the archaeological resource. The County Archaeologist has subsequently reviewed and approved a Written Scheme of Investigation (WSI) for these works and they currently awaiting the commencement of the excavation.

There are no above ground heritage assets that stand to be affected by this outline proposal and, in light of the above, the County Archaeologist is not objecting to this proposal. In principle, therefore it is considered that a scheme for up to 53 dwellings can be delivered at REM stage without giving rise to any harm to above or below ground heritage assets. As such, the requirements of Core Policy 58 are met.

10.5 Agricultural Land

The site is considered to be a Grade 2 arable field and is, therefore, defined as 'best and most versatile' agricultural land. An Agricultural Appraisal report was prepared for the earlier application 17/01095/OUT to assess the quality of the land for residential development across the whole field. The overall amount of land that is being lost is not significant in area (Natural

England are generally concerned where areas greater than 20ha are being lost). The application site falls well below that threshold. Whilst the loss of Grade 2 agricultural land is a factor to be considered on the planning balance, it is not in this case a matter to which significant weight can be afforded in the context of the housing supply shortfall.

10.6 Flood Risk and Drainage

Paragraph 159 of the Framework says that:

“... inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”.

Paragraph 161 goes on to states that:

“All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

- a) applying the sequential test and then, if necessary, the exception test as set out below; ...”*

The NPPF is clear at paragraph 162 of the Framework when it states that:

“Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”

The below map (figure 5) is taken from the Strategic Flood Risk Assessment (SFRA). Although the site is located within Flood Zone 1, this map shows that the site is within an area of ground water flooding.

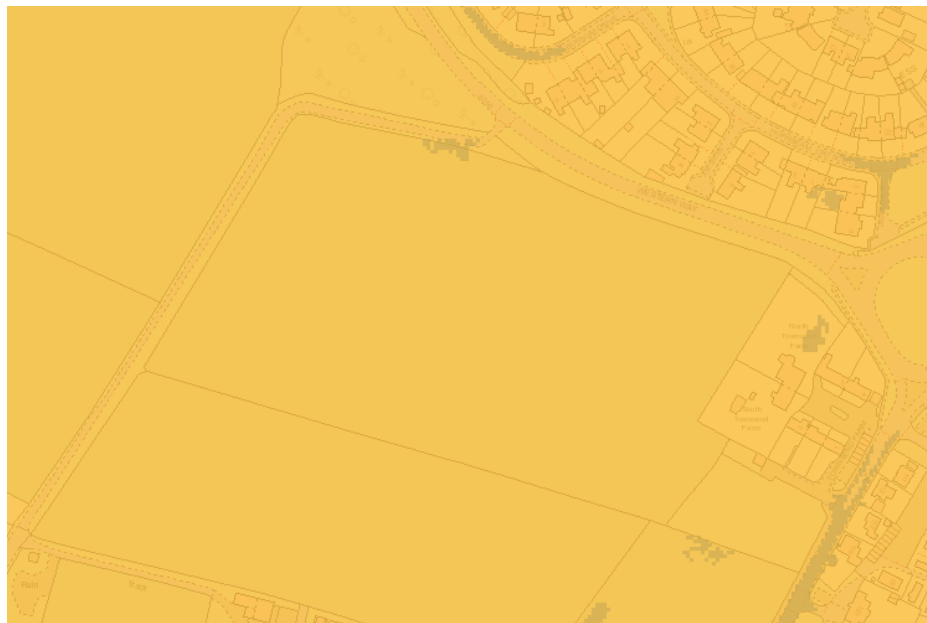


Figure 5 – Ground water Flooding Map

The SFRA sets out what is classified as a High Risk source of other flooding. On page 54 it states that these are sites where:

- *More than 10% of the site is at risk from surface water flooding in the 1 in 1,000- year event*
- *More than 10% of the site is within highest risk category in JBA Groundwater map (groundwater is <0.025m below the surface in the 1 in 100-year event) [Red layer Appendix G SFRA 2019]*
- *More than 75% of the site is within the second highest risk category in JBA Groundwater map (groundwater is between 0.025m and 0.5m below the surface in the 1 in 100-year event) [Orange Layer Appendix G SFRA 2019]*

It is noted from the above map extract that the site in question is covered by more than 75% of the second highest risk category in the Groundwater map. In light of this, the SFRA mapping is indicating that sequential testing should be applied to the development, in line with the requirements of the Framework as the site is within an area of ground water flood risk and the application is for a development type that is not exempt from the test, as specified in footnote 56 of the Framework.

However, it is noted that the SFRA is only one source of evidence that can be used to assess whether the site is in fact within a groundwater vulnerable area. The applicants have submitted their own flood risk assessment. In addition to this, they have also submitted a groundwater flooding technical note and a response note to the groundwater flooding issue that was raised by officers. All of these documents have been reviewed by the Lead Local Flood Authority (LLFA) and – as is evident from its final response in October 2023 – there are no objections to the FRA or the notes, subject to conditions.

As such, there is no need for sequential testing on this site as it is accepted that levels of ground water flooding are not within the high-risk categories where such testing is mandated. In the light of the LLFA comments, it can be concluded that ‘in principle’ the development can proceed without increasing flood risk elsewhere. The conditions suggested by the LLFA are both necessary and reasonable in order to ensure flood risk is not increased elsewhere.

Wessex Water have infrastructure in the southwest corner of the site (a distribution main) and, as per its policy, will not accept any building over it or within the 3m statutory easements either side of it. They also require unfettered access to their infrastructure. As a result of their comments, the applicants have amended the parameters plan which now shows the infrastructure on the plan and satisfies the requirements of Wessex Water in terms of easement and access. Wessex Water’s latest comments (18 October 2023) reflect this position. As such, Wessex Water has removed its initial holding objection to the application.

In its earlier response dated 31 January 2023, Wessex Water confirmed that it had infrastructure that could be connected to – to accommodate new mains water and foul sewerage. It also confirmed agreement in principle to the discharge of surface water run-off from the site to an existing surface water sewer network to the northwest of the site.

Given that the site is within an area (Wessex Water) identified by the EA as subject to serious water stress it is prudent to ensure water efficiency opportunities are maximised to mitigate the impacts of climate change, in the interests of sustainability and to use natural resources prudently in accordance with the NPPF. To this end, and in the event of planning permission being given, a condition is required to ensure the optional requirement Building Regulation standard Part G for water consumption limited to 110 litres per person per day.

10.7 Ecological Impact

The Council's Ecologist's final comments confirm that there are no ecology objections to the development subject to conditions. This was upon submission of further details requested by the Ecologist.

The conditions are to cover the following:

- Restriction on the installation of external lighting
- Compliance with the Ecological Parameters Plan, BEMP and BNG Assessment.
- To ensure the biodiversity mitigation and enhancement measures are carried out
- The submission of a Landscape and Ecological Management Plan (LEMP)
- The submission of a construction and Environmental Management Plan (CEMP)

These conditions are reasonable and necessary to ensure that matters of ecological importance relating to the site are not impacted upon by the development both during the construction and operational phase.

With the plans and documents supplied to date on ecological matters and with the above conditions in place, it is considered that the development would not have an adverse impact on protected species, priority habitats or the ecology of the area more generally. As such, the scheme is considered to accord with Core Policy 50 of the WCS and to the relevant paragraphs of the NPPF (notably, 180 requiring biodiversity net gains).

10.8 Environmental Impact

The Council's Public Protection team have no objection to the development provided the following elements are covered:

- Submission of a Construction and Environmental Management Plan (CEMP)
- Undertaking of an Air Quality Screening Assessment.
- A condition to cover any unexpected land contamination issues that arise on site.
- That the recommendations of the Noise Impact Assessment noted in chapter 5 are applied.

These conditions are reasonable and necessary to make the development acceptable in planning terms. Notably, in respect of the CEMP as the development backs on to existing dwellings.

However, it is noted the Phase I Desk Study by Georisk lists at Section 9 of that report what further work is required in any Phase II Ground Investigation study. It is reasonable, therefore, to request compliance with Section 9 of that report as opposed to applying the WC standard contaminated land condition. Furthermore, the Phase I study does not identify any geo-constraints that would preclude development or warrant significant remedial action.

10.9 Highways / Rights of Way

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

Paragraph 111 of the July 2021 NPPF states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

In summary, the Local Highways Authority (LHA) have reviewed all the relevant information (access plans, Transport Assessment and Travel Plan) and do not have an objection to the scheme subject to a number of conditions and s106 contributions towards improving walking and cycling routes in the vicinity of the development, monitoring of the Travel Plan and provision of green travel vouchers.

With regards to the conditions, these are to cover the following matters:

- Implementation of the Travel Plan
- Provision of the vehicular access onto the Semington Road (granted under 20/07334/OUT) to base course level prior to occupation.
- Provision of a construction traffic management plan prior to commencement in the interests of highways safety
- Provision of 2m wide walking link onto Berryfield prior to occupation of the 20th dwelling
- That the landscaping scheme provides impenetrable landscaping on the northern boundary to prevent indiscriminate access onto the A350.

These conditions are both reasonable and necessary to ensure the development can proceed in an acceptable manner.

In light of the comments from the LHA, it is considered that the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development.

It should also be noted that improvement works have been carried out to the Semington Roundabout to encourage pedestrians to cross at the eastern rather than western arm of the roundabout. This has addressed earlier objections that were raised by the LHA in relation to the development of this field. Furthermore, whilst it is appreciated application 20/07334/OUT was only for 50 dwellings, the Inspector in deciding that appeal raised no 'in principle' objections on highways grounds that would prejudice this further quantum of housing from coming forward.

10.10 Community Infrastructure Levy (CIL)

The new dwellings would be liable for CIL. The site would fall under charging zone 2 where the sum equates to £85 per square metre of residential floor space created. Floor space calculations can only be provided at detailed design stage and thus CIL calculations would be required at reserved matters stage.

In addition to CIL payments, further financial obligations towards infrastructure specific to a development proposal are secured through section 106 contributions.

11. S106 contributions

Core Policy 3 advises that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework. These are:

- Necessary to make the development acceptable in planning terms

- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The infrastructure items listed below are those that are relevant to the Application site and are required in order to mitigate the impact of the proposed scheme. Whilst there may have been some differentials were the site to be delivered as one, rather than 2 phases, the changes would be very subtle in nature and not raise any concerns with officers that would question the recommendation it has decided to make. The Applicant has agreed (see Appendix A) to provide the following (the calculation is based on the net addition of dwellings which is 53):

Affordable Housing

CP43 states that on sites of 5 or more dwellings, affordable housing provision of at least 30% will be provided and transferred to a Registered Provider. The above policy requires affordable housing to be secured via a legal agreement. CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people.

The applicant is proposing 100% AH and so the policy requirement of 30% is met. This would need to be delivered as 30% nil subsidy with the remainder (70%) of the affordable housing with subsidy or as 100% grant funded/with subsidy.

Recreation and Open Space

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 98 of the NPPF. With regards to the development plan, Policy LP4 of the Leisure and Recreation Development Plan Document 2009 (LRDPD) requires a contribution to open space and sports facilities. Core Policy 52 of the WCS supports this by stating that accessible open space standards should be in accordance with the adopted Wiltshire Open Space Standards. Open space is listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS.

To comply with the above policy it is necessary to secure on-site public open space to ensure the health and well-being of the future occupants of the development site. The increase in population caused by the development would have an impact on existing leisure facilities and, it is therefore necessary to upgrade a local facility to cater for the likely increased demand.

The proposal generates a public open space requirement of 1,851.18m² public open space with 93.81m² of this as equipped play all of which should be secured in perpetuity.

A leisure contribution of £12,508.80 is required towards the upgrade of Bowerhill Sports Field at Lancaster Road and/or upgrade of playing pitch and/or ancillary services within the vicinity of the site. This is considered a reasonable request as existing sports facility within the vicinity of the site are likely to be used by residents of the new development.

The provision of open space is to serve the needs of the future occupants of the housing scheme and thus its provision on-site is directly related to the development. The improvements to off-site leisure facilities directly relates to the increase to the local population caused by this development.

The respective amounts are considered to be fair and reasonable and are based on the Council's current standards set out in Policy LP4 of the LRDPD.

Education

The NPPF (paragraph 95) encourages Local Authorities to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. In order to

ensure this, Core Policy 3 lists the provision of education as a priority 1 theme where it is required due to the impacts of a development proposal.

Early Years - A contribution of £70,088 is required to go towards the funding of 4 pre-school places within the area at a cost of £17,522 per place. The Early Years Officer has advised that the existing Early Years provision will not be able to support the needs of additional families requiring Early Years and Childcare in this area as they are all operating at high capacity.

Refuse

The Wiltshire Core Strategy at para 4.41 Core Policy CP3 identifies sustainable waste management facilities as essential components of daily life and therefore critical to delivering our strategic goal of building more resilient communities. Waste management is listed as place shaping infrastructure under priority theme 1 of Core Policy 3 of the WCS.

A contribution of £5,353 (£101 per dwelling x 53) would be required to provide the new dwellings with adequate waste and recycling bins. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development.

The provision of bins, and the services required to support waste collection, is a burden on the Council that is directly related to new developments. The sum requested here directly relates to the size of development proposed. £101 is the cost of purchasing the necessary waste and recycling containers for a single dwelling in Wiltshire and so the costs are considered fair and reasonable.

Public Art

An indicative public art contribution figure (based on £300 per dwelling) for the applicant to deliver the integration of public art for this site would be £15,900 for 53 dwellings. It is expected that no more than 10% of this figure should be spent upon the production of a public art plan.

Art and design in the public realm will help to mitigate the impact of development by contributing to good design, place-shaping, infrastructure and engage communities with the development.

The above contribution is considered reasonable and necessary in line with the following policies of the development plan:

- Core Policy 3 promotes and defines public art as a type of place-shaping infrastructure and states that the cost of providing infrastructure can be met through the use of planning obligations.
- Core Policy 57 promotes “the use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm.”
- Saved West Wiltshire District Plan 1st Alteration Policy I2 also makes reference to The Arts.
- The Planning Obligations Supplementary Planning Document (October 2016) refers to the 2011 guidance note of art and design in the public realm.

In addition, the NPPF recognises that cultural wellbeing is part of achieving sustainable development and includes cultural wellbeing within the twelve core planning principles that underpin both plan-making and decision-taking. The PPG complements the NPPF and states that “*Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using.*”

Highways

Core Policy 60 of the WCS seeks to reduce the need to travel particularly by private car, and supports and encourages the sustainable, safe and efficient movement of people and goods within and through Wiltshire. CP 61 states that where appropriate contributions will be sought towards sustainable transport improvements and that travel plans will be required to encourage the use of sustainable transport alternatives. Such requests are also listed under Core Policy 3 as infrastructure priority theme 1. The following planning obligations are sought by the LHA:

In order to maximise walking and cycling from the development site, to increase the sustainability of the site and, to offset the vehicle travel impacts of the development, a contribution of £74,200 (£1400 per dwelling) is sought towards active travel enhancements in the local vicinity (notably, the provision of a route to the planned school at Pathfinder Way). This is based on the contribution provided by phase 1 (20/07334/OUT) comprising 50 dwellings where £70,000 has been secured in the legal agreement towards the costs of improving pedestrian accessibility in the vicinity of that development. That sum was considered to meet the three tests set out in paragraph 57 of the Framework by the appeal Inspector.

A contribution has been requested towards a Travel Plan Monitoring fee of £1,500 per annum for 5 year period, totalling £7,500.

A payment of £200 for green travel vouchers to each household. This would total £10,600 based on a scheme of 53 units.

Such contributions are necessary to mitigate the impacts of the development on the surrounding highways network and to encourage more sustainable travel movements to and from the development.

12. Conclusion (The Planning Balance)

At the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In this context, the Wiltshire Core Strategy is not up-to date as the Council finds itself without a 5yr HLS. As such paragraph 11d (the 'tilted balance') of the NPPF, is engaged. No technical policies of the NPPF that protect areas or assets of particular importance have provided a reason for refusing the proposed development. As such, the tilted balance has effect under paragraph 11d)ii and 'footnote 8' which requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when assessed as a whole.

The 'harms' –

The site lies outside the Limits of Development of the 'Market Town' of Melksham contrary to Core Policies 1, 2 and 15 of the WCS which are strategic policies that all seek to establish and control where new housing proposals in Wiltshire will be acceptable.

The proposal also conflicts with the Melksham Neighbourhood Plan Policy 1 which aims for a carbon neutral future, through amongst other matters, reducing dependency on private transport and requiring development within settlement boundaries (Policy 6).

It is clear therefore that the scheme does not conform with the development plan when taken as a whole. However, whilst these policies are predicated on the principles underpinning the Framework, the policies cannot be afforded full weight given the housing land supply position of c. 4.6 years.

Nonetheless, the level of harm against these policies is only considered to be limited, for the following reasons:

- the size of the scheme is appropriate for Melksham as a market town which is capable of significant growth as identified by CP1 of the WCS.
- although outside of the LoD, it is noted that the site is located just outside and therefore, its proximity to the town centre allows access by a genuine choice of transport modes.

However, the conflict with the development plan is still harm which militates against the grant of planning permission.

No other harm has been identified against this proposal that is not otherwise capable of being addressed through the use of planning conditions or via planning obligations as part of a s106 agreement.

The benefits –

Provision of entry level AH / housing to address 5yr HLS shortfall –

Given the lack of a 5YRHLS within the county, the widely acknowledged nationwide housing crisis, the further shortage of affordable housing both locally and nationally, and the provision of a 100% AH scheme comprising 53 units, this is a matter which must be given substantial weight.

Expenditure on construction and investment in the area / creation of construction jobs –

Paragraph 81 of the NPPF states that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

In light of the above – and bearing in mind the size of the scheme (53 units is not a large site) – moderate weight should be attributed to this benefit. The development would provide a boost to the economy through the provision of construction jobs associated with a housing development. It is noted that the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally. The same weighting can be attributed to the economic expenditure from future occupants of the development within the local economy.

Financial contributions towards off site infrastructure –

Whilst these contributions are required to make the development acceptable in planning terms, some of the contributions would be of benefit to the local population and, without the development, would be less to happen. In this case, a contribution to provide improvements to an off-site sports facility would not only be of benefit to future occupants of the development who may choose to use these facilities, but to many locals who already use them. Some limited positive weight can be attributed to this point.

Neutral impacts –

The lack of identified harm against technical policies of the WCS is not a benefit of the development but would be a neutral aspect of it. The lack of technical objections and the conformity with the development plan are therefore neutral points on the balance.

Conclusion –

It is considered that the adverse impacts of granting planning permission (the conflict with CP 1 2 and 15 of the WCS as well as Melksham NP policies 1 and 6 (the development plan)) would not be significantly and demonstrably outweighed by the benefits (notably provision of 100% affordable housing and economic benefits), when assessed against the policies in this Framework taken as a whole.

RECOMMENDATION:

Defer and Delegate to the Head of Development Management to grant full planning permission subject to first completion of a Section 106 legal agreement to cover the matters set out in Section 11 of the report, and subject to the following conditions –

Conditions:-

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

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

- 2 An application for approval of the reserved matters specified in Condition 3 below, must be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

- 3 No development shall commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- a. The scale of the development;
- b. The layout of the development;
- c. The external appearance of the development;
- d. The landscaping of the site.

The development shall be carried out in accordance with the approved details. The reserved matters shall be submitted as a single phase, unless otherwise agreed by the Local Planning Authority.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Dwg Reg: 3888 - 01A - Location Plan
- Dwg Ref: MSW-BWB-ZZ-XX-DR-YE-0001_Ecological Parameters Plan_S2_P02 - Ecological Parameters Plan
- Dwg Ref: 3888 - 02 Rev B - Parameters Plan

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

5 The development hereby permitted shall be carried out in general accordance with the design and layout principles in the following:

- Design and Access Statement dated August 2022

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

6 The development hereby permitted shall make provision for the following:

- (a) Up to 53 dwellings;
- (b) Public open space to be sited, laid-out and equipped in accordance with the West Wiltshire Leisure and Recreation DPD (or any subsequent replacement DPD); and to include at least 1851.18 sq m of general public open space and at least 93.81 sq m of equipped play space.

The 'layout of the development' (as to be submitted and approved under condition no. 3) shall accommodate the above in broadly in accordance with the Parameter Plan (no. 3888-02 Rev B).

Prior to commencement of the development, a programme, or phasing plan, for the delivery and completion of the dwellings and the public open space(s) shall be first submitted to, and approved in writing by, the local planning authority. The dwellings and the public open space(s) shall then be delivered and completed in accordance with the approved programme.

REASON: To ensure the creation of a sustainable development which is in character with its surroundings and in accordance with the terms of the planning application.

7 No development shall commence on site until the following details have been submitted to and approved in writing by the Local Planning Authority:

- a. a sensitivity analysis has been undertaken on the network considering surcharged outfall conditions;

- b. overland exceedance routes have been shown on a drainage plan for flows in excess of the 1 in 100 year plus climate change (40%) rainfall event;
- c. clear arrangements are in place for ownership and ongoing maintenance of SuDS over the lifetime of the development;
- d. submit calculations which demonstrate that the proposed drainage design provides a sufficient level of water treatment; and,
- e. Additional groundwater monitoring should be undertaken during the winter months to establish peak seasonal levels.

REASON: To minimise the risk to people and property during high return period storm events, to ensure that the surface water drainage performs as designed, to avoid flooding due to lack of maintenance and to prevent pollution of the receiving watercourse.

- 8 Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include:

- a) Long term objectives and targets in accordance with the Calculation of Biodiversity Net Gain using Defra Metric 3.1 report (Biodiversity Net Gain Assessment, Document Number: MSW-BWB-ZZ-XX-RP-LE-0004_BNGP2, Rev: P02, Date: October 2023 by BWB Consulting).
- b) Management responsibilities and maintenance schedules for each ecological feature within the development for a period of no less than 30 years from the commencement of the scheme as identified in:
 - Ecological Parameters Plan, Drawing ref: MSW-BWB-ZZ-XX-DR-YE- 0001, Rev: P02, Date: 26.10.2023 by BWB Consulting
 - Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWB-ZZ-XX-RP-LE-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting
- c) The mechanism for monitoring success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheet(s).
- d) A procedure for review and necessary adaptive management in order to attain targets.
- e) Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

- 9 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;
- iv. Site working hours and a named person and telephone number for residents to contact;

- v. Detailed Site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details regarding dust mitigation;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
- x. Details of how surface water quantity and quality will be managed throughout construction;
- xi. Details of the safeguarding measures to deal with the following pollution risks:
 - the use of plant and machinery
 - wheel washing and vehicle wash-down and disposal of resultant dirty water
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds
 - the control and removal of spoil and wastes
- xii. Details of safeguarding measures to highway safety to include:
 - A Traffic Management Plan (including signage drawing(s))
 - Routing Plan
 - Details of temporary/permanent Traffic Regulation Orders
 - pre-condition photo survey - Highway dilapidation survey
 - Number (daily/weekly) and size of delivery vehicles.
 - Number of staff vehicle movements.
- xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
 - Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of TBMS zones A and B and predevelopment provision of hedgerow mitigation/ translocation along Firs Hill A361.
 - Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
 - Method statement to include pollution prevention measures for construction of causeway over Lambrok Stream to minimise harm to the watercourse and protected and notable species with regular monitoring.
 - Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, otter, water vole, badger and dormice with regular monitoring.
 - Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0730 to 1800 hrs Monday to Friday, 0730 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, and detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and in compliance with Core Strategy Policy 62.

- 10 No development shall commence on site until a Phase II Ground Investigation report has been submitted to and approved in writing by the Local Planning Authority. The report should address the issues raised in Section 9 of the Phase I Desk Study by Georisk Management dated July 2022.

REASON: In order to reduce the risks associated with land contamination in accordance with Core Policy 56 of the Wiltshire Core Strategy.

- 11 Prior to the commencement of construction, an Air Quality Assessment (AQA) or Screening Assessment must be submitted to and approved in writing by the Local Planning Authority. This must quantify the effect of the development on existing local authority air quality monitoring locations and sensitive receptors as well as the proposed development. It must also identify and make adjustments for all core strategy-based development in the development's locality. Use of CUREd data in the AQA is expected along with any other currently accepted approaches to AQA.

REASON: In order to comply with Core Policy 55 which states that 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.

- 12 The development shall be carried out in accordance with the mitigation measures detailed in Section 5 of the submitted Noise Impact Assessment by BWB dated 22nd August 2022 and maintained as such in perpetuity.

REASON: To protect the amenities of the future occupants of the development site from noise generated by the A350 (Western Way).

- 13 No residential unit shall be occupied until those parts of the Residential Travel Plan capable of being implemented prior to occupation have been implemented. Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied. The Residential Travel Plan Co-ordinator shall be appointed and carry out the identified duties to implement the Residential Travel Plan for a period from first occupation until at least 2 years following occupation of the last residential unit.

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

- 14 No residential unit shall be occupied until the vehicular access to Semington Road granted approval under planning permission 20/07334/OUT has been provided to base course level including its visibility splays. The access shall have been completed to wearing course level prior to occupation of the 50th dwelling served by it.

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

- 15 Prior to the occupation of the 20th dwelling unit hereby approved, a walking link 2 metres wide shall be provided between the roads on the development and Berryfield Lane, The link so provided shall thereafter be maintained and kept available for use.

REASON: In the interests of good pedestrian accessibility.

- 16 The landscaping scheme submitted for the development shall include intensive and impenetrable landscaping on the northern boundary.

REASON: To prevent indiscriminate access from the public open space on the northern side of the development to the A350 with its high traffic flows and lack of pedestrian facilities.

- 17 The dwellings shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.

REASON: The site is in an area of serious water stress requiring water efficiency opportunities to be maximised, to mitigate the impacts of climate change in the interests of sustainability, and to use natural resources prudently in accordance with the National Planning Policy Framework.

- 18 No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of conserving biodiversity.

- 19 The development will be carried out in strict accordance with the following documents:

- Ecological Parameters Plan, Drawing ref: MSW-BWB-ZZ-XX-DR-YE-0001, Rev: P02, Date: 26.10.2023 by BWB Consulting
- Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWBZZ-XX-RP-E-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting
- Biodiversity Net Gain Assessment, Document Number: MSW-BWB-ZZ-XX-RP-LE-0004_BNGP2, Rev: P02, Date: October 2023 by BWB Consulting

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

- 20 The biodiversity mitigation and enhancement measures will be incorporated into the development in accordance with:

- Biodiversity Enhancement Management Plan (BEMP), Document Number: MSW-BWB-ZZ-XXRP-LE-0003_BEMP, Rev: P02, Date: 19/10/2023 by BWB Consulting

The installation of these features will be supervised by a professional ecologist and this part of the condition will be discharged when photographic evidence of installed features have been submitted to and approved in writing by the local planning authority. These measures will continue to be available for wildlife for the lifetime of the development.

REASON:

To mitigate for impacts to biodiversity arising from the development.

Informatives:

Protected Species

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

Artificial Lighting

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

Drainage MADD Factor

Within the calculations, the MADD factor / Additional storage volume must be set to zero. If a value other than 0m³/ha is selected for the MADD value, the applicant will need to provide quantitative evidence to demonstrate that this is appropriate.

APPENDIX A

S106 HEADS OF TERMS

PL/2022/08155 – Lane West of Semington Road HEADS OF TERMS (Based on 53 Dwellings)

SUBJECT	REQUEST	AMOUNT	AGREED
Affordable Housing (AH)	On site delivery of 30% at nil subsidy with the remainder (70%) of the AH with subsidy or as 100% granted funded/with subsidy.	53 Units	X
Public Open Space	Delivery of 1,851.18m ² of public open space, of which 93.81m ² is to be equipped play space	N/A	X
	Upgrade of Bowerhill Sports Field at Lancaster Road and/or upgrade of playing pitch and/or ancillary services within the vicinity of the land	£12,508.80	X
Waste & Recycling	Provision of waste and recycling containers @ £101 per dwelling	£5,353	X
Education	Early years provision x 4 places	£70,088	X
Public Art	Public art scheme to be delivered on site (£300 per dwelling) x 53 units	£15,900	X
Highways	Active travel enhancements in the local vicinity ((notably, the provision of a route to the planned school at Pathfinder Way).	£74,200	X
	Travel Plan Monitoring Fee for 5 years @ £1500 per annum	£7,500	X
	Green Travel Vouchers @ £200 per dwelling	£10,600	X
TOTAL SUM OF MONEY		£196,149.80	X