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| Date of Meeting | Wednesday 25 th September 2013 | | |
| Application Number | E/2013/0083/OUT | | |
| Site Address | Land at Coate Bridge, Adjacent to Windsor Drive, Devizes, Wilts | | |
| Proposal | Outline planning application for residential development of up to 350 dwellings, local centre of up to 700sqm of class A1 retail use, open space, access roads, cycleway, footpaths, landscaping and associated engineering works | | |
| Applicant | Mactaggart and Mickel Homes Ltd. | | |
| Town/Parish Council | ROUNDWAY | | |
| Electoral Division | Roundway | Unitary Member | Cllr Laura Mayes |
| Grid Ref | 401970 162313 | | |
| Type of application | Outline Planning | | |
| Case Officer | Jemma Boustead/Mike Wilmott | | |

Reason for the application being considered by Committee

This application is being referred to the Strategic Planning Committee as it is a large scale major development of up to 350 houses on a site not allocated for development and which raises issues of more than local importance as the proposal has implications for the future development of housing in Devizes, Roundway and Bishops Cannings town and parish areas. In addition, the divisional member, Cllr Mayes has asked that the application be presented to committee for the following reasons:

- Scale of Development
- Visual Impact upon the surrounding area
- Environmental/highway impact

1. Purpose of Report

The purpose of this report is to consider the application and the recommendation that planning permission be refused.

2. Report Summary

The main issues to consider are the principle of the development in relation to the policies of the development plan and the NPPF; and the impact of the proposal on other relevant material considerations, including highway and air quality; visual impact; drainage and ecology.

The application is opposed by Roundway Parish Council and the adjoining Bishops Cannings Parish Council and Devizes Town Council.

3. Site Description

The application site comprises a parcel of agricultural land immediately to the east of Windsor Drive on the edge and to the east of Devizes. The Kennet & Avon Canal and its towpath bound the site to the north and Coate Road bisects the site. The site itself is low lying and relatively featureless, with the southern edge on rising land and a derelict building adjacent to Coate Road.

A small section of the site adjoins the North Wessex Downs AONB and the site itself lies within the Landscape Setting for Devizes that is referred to in the emerging Core Strategy.

4. Planning History

There are historic applications which were refused on the site which were before the current Local Plan and are as follows:

K/79/0388 – Outline Residential Development

K/76/0011 - Residential Development including improvements to London Road, Coate Road, Coate Bridge and new residential distributor road

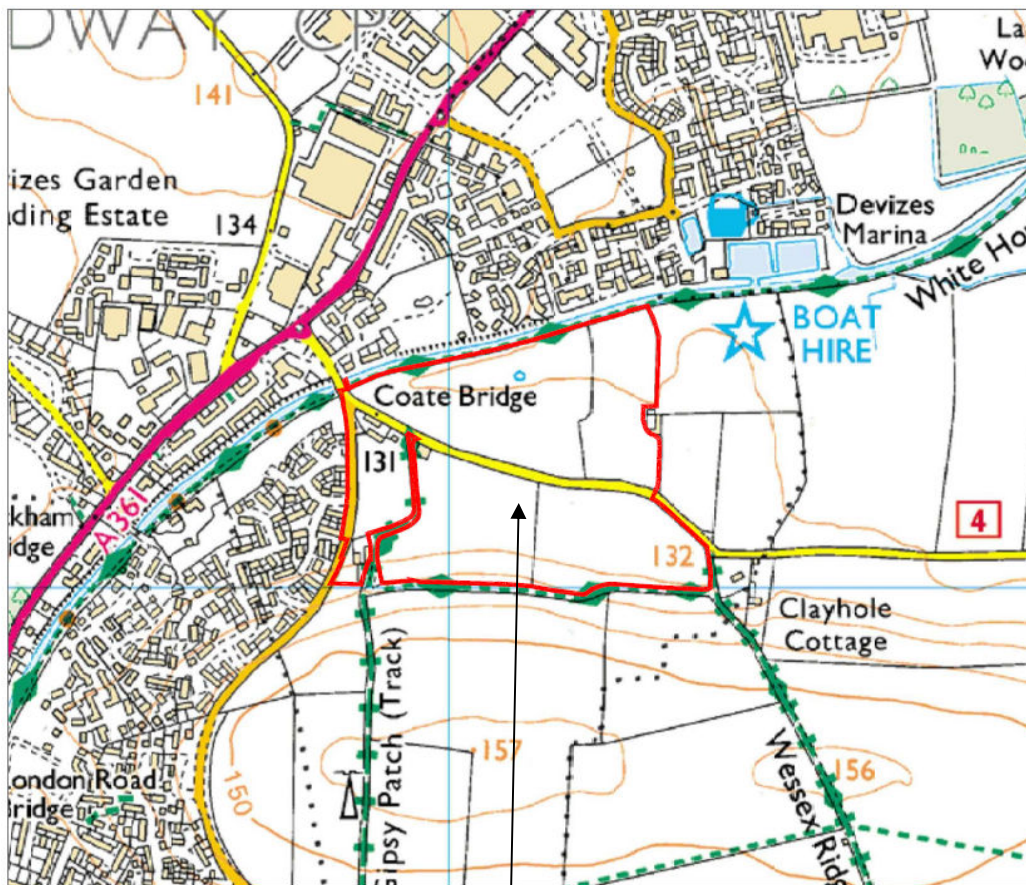
K80/0789 – Residential Development

K86/1124 – Residential Development

5. The Proposal

This application seeks outline planning permission for a residential development of up to 350 dwellings and a local centre of up to 700sqm of class A1 retail use, together with ancillary open space, access roads, cycleway, footpaths, landscaping and associated engineering works.

The outline is submitted in outline with only access for consideration at this stage. An illustrative masterplan is included which shows road connections to Windsor Drive and Coate Road.



Site Location Plan



Illustrative Layout

6. Planning Policy

Kennet Local Plan 2011 - Saved policies

- PD1 – Development & Design.
- NR6 – Sustainability & protection of the countryside.
- HC26 – Housing in the countryside.
- HC28 – Affordable homes target.
- HC30 – Affordable housing.
- HC34 – Recreation provision on large sites.
- HC37 – Demand for education.
- HC42 – Additional social & community needs.
- ED17 – Town centre development.
- AT1 – Transport appraisal process.
- AT10 – Developer contributions.

Wiltshire Core Strategy (WCS) - Pre-Submission Document (February 2012)

- Core Policy 2: Delivery Strategy
- Core Policy 12: Devizes Community Area
- Core Policy 38: Retail and Leisure
- Core Policy 41: Sustainable construction and low-carbon energy
- Core Policy 43: Providing affordable homes
- Core Policy 50: Biodiversity and geodiversity.
- Core Policy 51: Landscape.
- Core Policy 52: Green Infrastructure.
- Core Policy 55: Air Quality.
- Core Policy 57: Ensuring High Quality Design & Place Shaping.

Core Policy 61: Transport and Development

Core Policy 62: Development impacts on the transport network

Supplementary Planning Guidance

- Supplementary Planning Guidance 'Community Benefits from Planning' (March 2005).
- Kennet Landscape Conservation Strategy.
- Interim Development Control Policy 'Renewable Energy and New Development' (September 2007).
- Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – minimum residential parking standards.

Other Legislation

- National Planning Policy Framework (NPPF)
- Circular 06/2005 Biodiversity and Geological Conservation

7. Consultations

Bishops Cannings Parish Council – objects on the following grounds:

- The negative impact of increased traffic through small rural communities within the parish and traffic congestion throughout Devizes, with the associated further increase in pollution.
- Other infrastructure and services will be subject to unacceptable strain.
- The impact on local ecology – loss of habitat for barn owl and other species of fauna.
- This development is unnecessary as all housing requirement for the period 2006 – 2026 (covered by Wiltshire Core Strategy) can be met by small scale housing developments. These will have less direct impact on the environment and infrastructure of the Devizes area, and therefore should be considered preferable.

Devizes Town Council - objects on the grounds that this not a suitable location for a development of this size which would result in a negative impact on traffic, pollution and a lack of infrastructure.

Roundway Parish Council - objects on the following grounds:

- The development fails to address the Wiltshire Core Strategy;
- It is not part of the Neighbourhood Plan which is being worked on by the three parishes since July 2012 to find sustainable sites for future development;
- Two possible sites have been identified to date that meets our vision for Devizes and surrounding parishes;
- Members feel that the Coate Road site is close to a flood plain; and
- It compounds traffic problems already subject to heavy congestion in peak periods and currently above air quality limits on the A361 London Road.

North Wessex Downs AONB Unit – no objection subject to a number of detailed issues being resolved or agreed by planning condition. These issues can be summarised as follows:

- Building heights should not be up to 10m in height on the highest parts of the site and where closest to the AONB boundary. Heights should be restricted to 8m in these locations.
- The proposed landscape boundary (woodland) to the east of the site should include detailed management and protection proposals to ensure it is protected as a strategic and defensible boundary between the settlement, countryside and AONB. The land should not become part of private garden land where it may become eroded over time.
- Care should be taken at the detailed design stage to avoid suburbanisation to achieve a

successful transition from countryside into the development – for example using street lighting design and location, new landscaping within the development, materials and creating an interesting roofscape.

Attention is drawn to the North Wessex Downs AONB 'Position Statement on Setting'.

Canal & River Trust – no objections, subject to appropriate conditions and informatives and a S106 agreement to secure a contribution of £105,000 towards improvements on the canal bank and towpath in the vicinity of the site. This is in recognition of the role the Kennet & Avon Canal towpath will play in providing a sustainable transport route directly into the heart of the town; the funding will help upgrade the existing towpath in order to cope with the additional usage that the residents of the proposed houses will bring.

CPRE – objects to the principle of development on the grounds that the proposal lies outside of the Limits of Development for Devises and is contrary to policies HC2, HC26 & NR6 of the Kennet Local Plan 2011 and policies CP2, CP12 and CP51 of the emerging Wiltshire Core Strategy. There is also potential conflict with policies HC30 & HC42 of the local plan and policies CP43, CP46 and CP55 of the emerging core strategy. The CPRE rejects the applicant's arguments on most major issues, notably on traffic congestion, air quality, landscape impact, infrastructure and green space. As regards the access arrangements, the two accesses being proposed seem to be of adequate width, but they are likely to be busy junctions, so should have either protected turns or mini roundabouts to control usage.

Environment Agency – no objections subject to appropriate conditions and informatives regarding surface water drainage plan, scheme of water efficiency, a construction environmental management plan and a minimum target of Code Level 3 of Code for Sustainable Homes.

RSPB – no objection. The RSPB agrees with Section 4 (Recommendations and Mitigation) of the Ecological Surveys Report submitted with the application, regarding breeding and non breeding bird species during the demolition, construction and post construction periods of the development. It recommends that a Landscape/Wildlife Management Plan is made a condition of the consent if granted.

Wessex Water – no objection subject to a condition securing a foul and surface water drainage strategy. The following additional comments are made:

- There is a foul rising main crossing the site which requires protection or possible diversion as part of the foul drainage strategy.
- Wessex Water notes Option A in the applicant's suggested options for the foul drainage of the site in RPS "Utilities Assessment and Foul Water Strategy Options" (5 Foul Water Disposal Options). Unfortunately Option A will have to be discounted due to probable septicity / foul drainage storage issues. Option B is a possibility although alternative options will need to be considered through appraisal to ensure the most appropriate scheme is developed.
- The applicant has indicated surface water will be disposed of via SUDs arrangements which must be to the satisfaction of the Council.
- There is limited capacity within the water supply network to accommodate development. The applicant is invited to contact Wessex Water to initiate network modelling to determine the nature of recommended off site reinforcement. The developer will be expected to contribute to recommended improvements.

Wiltshire Council Archaeologist – recommends refusal on the grounds that the applicants have not carried out an archaeological field evaluation. The application does contain enough information from the desk assessment to determine the likely impact of this development on the potential cultural heritage remains. A watching brief by condition would be entirely inappropriate. The request for pre-determination evaluation is fully justified and in line with national guidance (NPPF).

Wiltshire Council Climate Change Project Officer – recommends refusal unless a detailed energy strategy is submitted either to comply with the Kennet Local Plan or the Wiltshire Core Strategy or to demonstrate the NPPF requirement of “sustainable development”.

Wiltshire Council Drainage Engineer – recommends approval of the application subject to the requirements of Wessex Water being complied with.

Wiltshire Council Ecologist - no objection subject to conditions securing the submission of an ecological mitigation and enhancement strategy and a robust construction method statement that will ensure habitats and species are given due regard throughout the process.

Wiltshire Council Education Dept – requests a financial contribution of £1,900,051 towards education infrastructure in Devizes, broken down into £203,408 towards infants (Southbroom), £394,103 towards juniors (Southbroom) and £1,302,540 towards secondary (Devizes Academy).

Wiltshire Council Environmental Health (re. Air Quality) – no objection, subject to the following highway improvements being secured as part of the development:

1. Installation of traffic signals at the London Road/Windsor Drive junction
2. Improvements to the southbound approach at the Hopton Road/London Road roundabout

Wiltshire Council Environmental Services – no objection, providing that the following can be secured:

- Equipped Play Space: 2,604sqm
- Casual Play Space: 3,444sqm (the indicative layout fully meets this)
- Formal Sports/Pitches Commuted Sum: £212,450)

A further commuted sum would be required if the developer wishes to offer the creation space for adoption by the Council.

Wiltshire Council Highway Officer – no objections, the Transport Assessment has been examined and the Devizes traffic model has been run with the proposed development included in order to further assess the wider effects. The Highway Officer is satisfied that the proposed development will not have an unduly adverse effect on the highway network subject to the following being secured by means of a S106 legal agreement:

1. Installation of traffic signals at the London Road / Windsor Drive junction;
2. Improvements to the southbound approach at the Hopton Road / London Road roundabout;
3. A financial contribution towards enhanced public transport provision in the area.

The Master Plan is accepted and the Highway Officer is satisfied that a suitable internal highway layout can be achieved. Residential parking will need to be provided in accordance with the Council's minimum residential parking standards.

Wiltshire Council Landscape Architect – no objections, the submitted Landscape & Visual Impact Assessment is well considered and its overall findings are accepted. The illustrative landscape proposals satisfactorily address the points raised by officers during pre-application discussions, and adequately respond to important issues connected with landscape character and visual impact identified in the LVIA.

Wiltshire Council New Housing Officer – no objections subject to a 40% affordable housing contribution with a tenure mix of around 70% rented and 30% shared ownership. Full text of comments below:

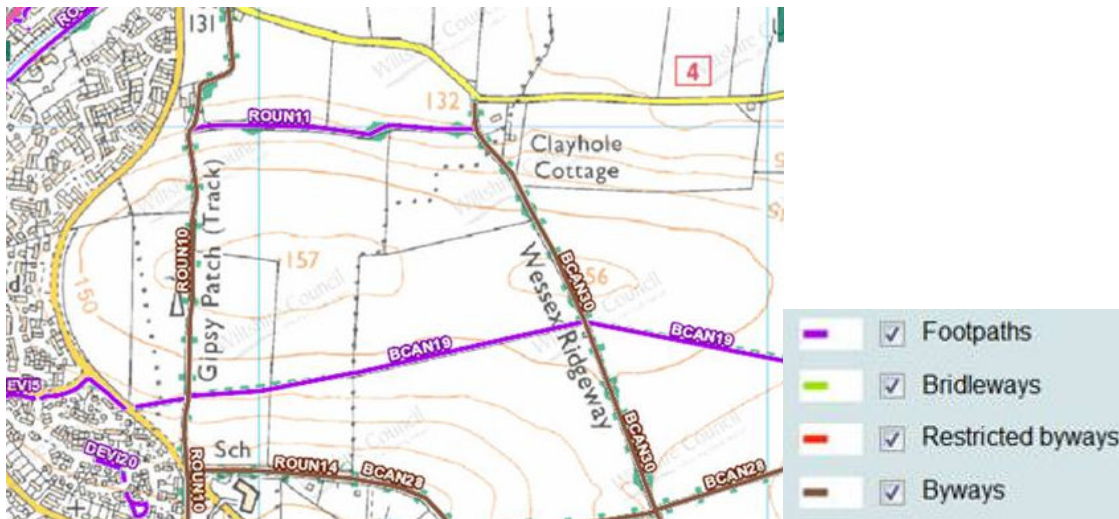
“Although the affordable housing policies of the Kennet Local Plan 2011 are extant, they

were underpinned in their requirement of a 50% affordable housing contribution by the assumption that grant funding would be freely available. This is no longer the case, either locally or nationally. I therefore consider it reasonable to have regard to the Draft Wiltshire Core Strategy in relation to affordable housing proportions, and suggest that a 40% affordable housing contribution may be appropriate.

“Setting aside the appropriateness in planning terms of the site itself, the outline application, whilst acknowledging the importance of affordable housing, appears to be silent on proportions. I would expect to see a 40% affordable housing contribution. I have looked at the data contained in the Wiltshire SHMA, I have also run an analysis of the Wiltshire housing register and am satisfied that there is sufficient demand to require a 40% affordable housing contribution on this site. I consider that it is essential that the proportion of affordable housing which would be provided is established at this stage.

“I would expect a tenure mix of around 70% rented and 30% shared ownership. All affordable dwellings would need to meet minimum design standards. Further details of these can be provided, along with details of Wiltshire council’s Registered Provider partnership members if requested.”

Wiltshire Council Rights of Way – no objections subject to upgrades to the surface of the public footpath bounding the southern edge of the site (Roun11) and the Gipsy Patch byway linking Coate Road with Brickley Lane Primary School to the south (Roun10). Full comments below:



“The site has several rights of way running past/through it:

1. On the south side it is bounded by footpath Roun11.
2. A byway open to all traffic links through the site down to near Nursteed School, Roun10. BOATS can be used by walkers, cyclists, horse riders, carriage drivers and motorised vehicles (eg cars and motorbikes).
3. Bcan30 is another byway open to all traffic, it runs down the east side of the site.

“Currently these are rural rights of way but a development here would drastically change how the rights of way were used and what people’s expectations/requirements of the routes would be.

“Roun10 is a direct, safe link to Nursteed School. It would be expected that, due to parental choice, some parents would want their children to go here and some would go to Southbroom School. Residents of the development could reasonably expect their children to be able to cycle along Roun10 to school. There would only be the occasional motorised user. Currently the surfacing is acceptable for its rural byway use but it would not be good

enough as an attractive route to the school – particularly in the longer term. We would therefore require the developer to tarmac the route. If we did not get the developer to do this now, the residents would demand it was done. Although vehicles can legally drive the byway residents should be discouraged from doing so, so any links from the development onto the path should be only for pedestrians and cyclists.

“Roun11 can get muddy in places at times. While this is acceptable for rural routes, again, this new housing would greatly increase usage – considerably exacerbating the situation to the point it would be difficult to use for much of the year. We would want to see the surface of this route stoned. This would be less of a priority than the above but we still feel it is essential.

“There are also many deal elm trees around the byway where the development would take place. It would be inappropriate to have these around the housing so work would also be required to clear some of these.”

Wiltshire Council Spatial Planning – The proposal does not accord with the emerging development plan as it is outside the defined limits of development for Devizes and it has not been identified through a community led planning document. The Council can demonstrate a sufficient supply of housing when considered against the emerging Core Strategy.

Wiltshire Council Spatial Planning (Waste Policy) – no objections, the submitted Site Waste Management Plan covers the main aspects of policy WCS6 of the Waste Core Strategy, with the exception of criterion h) which relates to the steps to be taken to ensure maximum waste recovery (e.g. recycling and composting) once the development is completed/occupied.

Wiltshire Council Urban Designer – no objection. The urban designer provides a useful analysis of the illustrative layout and picks up on a number of detailed points which can be addressed at the reserved matters stage.

Wiltshire Fire & Rescue Service – Provides general guidance and requests a developer contribution of £26,981.50 towards infrastructure.

8. Publicity

The application has been publicised via site notice, press advertisement and neighbour notification letters to nearby properties. 63 representations of objection have been received raising the following issues of concern:

- a. The site is not allocated for housing development;
- b. This is a greenfield site, there are more suitable brownfield sites in and around the town;
- c. The site lies outside of the Limits of Development and beyond the existing urban boundary;
- d. Development is premature before the community has been consulted on its Neighbourhood Plan;
- e. The Government has pledged to devolve more decision making to local levels. This is an era of Localism and therefore the community's wishes should be listened to;
- f. The Wiltshire Council 2012 Area Board meeting said that no additional high density development would be allowed in Devizes and therefore the application in question should be fully and finally declined by the Council;
- g. Development is not sustainable;
- h. This development is far too large for the area; the town does not need any more developments on this scale. There is no evidence that the housing is needed;.
- i. Devizes does not have the infrastructure to cope with a development of this size. The hospital is closed, health & education services are overstretched and people have to travel miles (20-30 miles) for the nearest A&E department and maternity unit. The scheme will also have a significant impact upon competition for school places. There are

insufficient school places in the town;

- j. This part of Devizes has seen its fair share of development in recent years and cannot cope with the traffic it already has. London Road is heavily congested at peak times and air pollution targets are not being met;
- k. Development would exacerbate traffic congestion and no amount of traffic lights or junction improvements will help, there is simply too much traffic for the roads to cope with at peak times. Traffic already backs up a long way along Windsor Drive and the town is gridlocked at certain times of day;
- l. Traffic problems in Devizes need to be solved before we add such a huge development to one corner of this town. Smaller developments can be integrated more easily;
- m. Has the scheme been tested against the Devizes traffic model?
- n. Speed would need more control on Windsor Drive.
- o. Development would exacerbate an existing air pollution problem which is already above legal limits, particularly along the London Road corridor.
- p. Windsor Drive marks a clear natural boundary for the eastern Limits of Development and should not be breached. To do so would leave this area open to urban sprawl.
- q. It sets a dangerous precedent for further developments in the area.
- r. The Core Strategy housing requirement can be met via small scale housing developments which will have less direct impact upon the environment and infrastructure of Devizes.
- s. Development will harm the rural setting of the town.
- t. The countryside will be spoilt and the rural character of the area harmed.
- u. The site borders onto the AONB, the setting of which will be adversely affected.
- v. The proposal will result in the loss of agricultural land.
- w. The site is unsuitable for building. It is a water meadow, it is low lying and already gets very wet and floods. The southern parcel of land also floods, taking water from the rising land. Surface water has spread across Coate Road and stayed for months.
- x. There would be a significant loss of wildlife habitat. There are hares, owls and bats on the site. Retaining trees is not enough.
- y. The desktop archaeological assessment does not adequately assess the site's archaeological potential. An excavation is required.
- z. The site is too far from the town centre.
- aa. Devizes cannot provide employment for the increase in working population. Workers would end up commuting or displacing existing employees who would in turn commute.
- bb. A quiet stretch of canal would become a lot busier and this would result in more pollution in and around the water.
- cc. Drivers will use the villages of Coate, Little Horton, Bishops Canning and Etchilhampton as rat runs and this is dangerous (as Roundway village has suffered in recent years). Country lanes cannot support this higher level of traffic.
- dd. There is no benefit the local community, only a small handful of local landowners and a property developer from the opposite end of the country.
- ee. The applicant has consulted the community and has ignored its wishes.
- ff. The Government has pledged to devolve more decision making to local levels. This is an era of Localism and therefore the community's wishes should be listened to.
- gg. The main London Road going into Devizes from this area is gridlocked already – no way can it take a further 500 plus cars
- hh. The air pollution levels are already in excess of the limit imposed by the European Union and the addition of 350 homes will exacerbate this problem
- ii. We expect developers to achieve their planning permissions by default when, on appeal against rejection of their initial application, local authorities claim to be unable to afford legal representation in that appeal process.
- jj. It is inappropriate for the planning authority to be afraid to fight this proposal on the basis of the cost involved when central government overrule
- kk. If approved the residents will petition the European Union to take action against the Council on the increased excessive levels of air pollution we will have to endure.
- ll. Walking routes will be reduced
- mm. Loss of ecology – it would be environmentally very wrong to destroy habitats that have

existed for years

- nn. Where will the children go to secondary school as there is only one in Devizes – bussing children out to neighbouring towns will not be an attractive option
- oo. There are no clothing, furniture, hardware or white good stores to meet the needs of existing occupiers of Devizes who have to go to Swindon. More people will only exacerbate this problem
- pp. An extra 350 homes will put pressure on existing water and sewer facilities
- qq. What will the prices of these homes be – will they be able to be bought by local people

An objection was also received from AMEC who are the applicants for a current application at Lay Wood in Devizes for up to 260 dwellings (13/01243/OUT). They have the following comments to make:

- a) The Crown Estate has been promoting its land at Lay Wood through the plan making process and consultation has started with Wiltshire Council and the Town and Parish Councils
- b) The Crown Estate has submitted a planning application at Lay Wood to enable an informed debate about the options available to Devizes
- c) The proposed application at Lay Wood will round off and improve the existing harsh urban edge with strong landscaping and linking to the wider canal network as well as the proposed employment land to the north. It will also provide a much improved gateway into Devizes
- d) The Coate Bridge application subject of this report should not be determined until the Council and the wider community has the opportunity to properly consider the proposals for Lay Wood and for both schemes to be put through the Devizes Transport Model.
- e) The Transport Assessment for Coate Bridge appears to be deficient – there is no assessment of junctions to the north east of Windsor Drive when at least 1/3 of the development traffic is predicted to use London Road. The traffic on London Road is also considered to be underestimated.
- f) AMEC have concerns that the level of proposed discharge from the proposed site is too high and the provision of surface water storage capacity on site is too low. This would negatively impact on the site at Lay Wood whether it is developed or not given that the canal discharges water via a sluice at Lay Wood when water levels are too high. It therefore has the potential to impact on the culvert under the canal in this location.

9. Planning Considerations

9.1 Principle of Development

Planning law requires that decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. The first principle is therefore to establish what the development plan states.

In terms of this proposal, the adopted development plan policies are those set out as 'saved' policies in the Kennet Local Plan 2011. In this plan, whilst Devizes is identified as a settlement where new housing development will be concentrated, the site proposed in this application lies outside of the Limits of Development defined for Devizes. The plan suggests that new large scale housing proposals outside of settlements such as Devizes '*should only come forward as part of a review and roll forward of the plan's housing policies*'. Policy NR6 restricts new development to locations within the Limits of Development defined for the town, unless it is demonstrated to be of benefit to either the rural economy in the locality or to the social well-being of the rural community in the locality. It is therefore evident that a proposal for up to 350 houses on this site, as envisaged in this proposal, is not in accordance with the policies that govern the location of new housing development in the Kennet Local Plan.

However, a number of saved policies of the Kennet Local Plan will be replaced in the foreseeable future by the Wiltshire Core Strategy. The Core Strategy is yet to be adopted, but it is now well advanced and has been the subject of Public Examination by an Inspector. In this more advanced stage, the policies of the emerging Core Strategy can be accorded an increasing degree of weight in decision making, particularly as the relevant policies are considered by your officers to be consistent with the policies in the NPPF. The Inspector's report is awaited and is anticipated later this year. In the Core Strategy, Devizes is not one of the principal settlements (the first tier towns) identified in the County as a primary focus for growth. The Town's role is identified as that of a market town that has a role in providing for significant development that will sustain the services and facilities that it provides to the town residents and those of its hinterland. (Policy CP1). The existing Limits of Development identified in the Kennet Local Plan are carried forward. Development of this nature outside of these limits is permitted only where the site has been identified through community-led planning policy documents, including neighbourhood plans, or a subsequent development plan which identifies specific sites for development. (Policy CP2). A neighbourhood plan for the Devizes area is currently being developed. A steering group has been formed with the specific aim to identify sites for new housing at Devizes in the most suitable and sustainable location(s) to meet the housing requirement of the Core Strategy for Devizes. The plan is being developed in cooperation for the administrative areas of Devizes Town and the neighbouring parishes of Roundway and Bishops Cannings. The councils have submitted a neighbourhood area designation application for the plan area and have commenced the process of selecting appropriate sites for development. At this stage, all that can be said of the emerging Core Strategy and the emerging Neighbourhood Plan is that the Limits of Development (LoD) for the town are not scheduled to change and that no additional sites for residential development have yet been brought forward outside the LoD in Devizes. However, it should be noted that a variety of windfall sites continue to come forward at the town within the LoD suggesting that the LoD are not currently constraining opportunities for new homes to be brought to the market at Devizes.

The strategy for development at Devizes is expressed in Core Policy 12 (CP12) of the Core Strategy. CP12 states that development proposals at the Devizes Community Area will need to demonstrate how the relevant issues and considerations listed in the community area strategy section will be addressed. These include the need to address traffic congestion, air quality and reduce the rate of development in Devizes compared to recent trends to enable infrastructure and traffic congestion issues to be addressed. Many of these issues and considerations are considered in this report under the normal range of material considerations i.e. transport and air quality etc – see below in Sections 9.2 onwards. CP12 identifies that a further 405 homes are required at the town over the remaining plan period (up to 2026).

In terms of the development plan policies that guide new development in and around Devizes, the proposal as it stands is clearly in conflict with them as it proposes a large residential development outside of the limits of development on a site that has not been identified for housing through any community-led or development plan document.

However, in terms of principle, this is not the end of the matter. The National Planning Policy Framework (NPPF) requires an assessment to be made as to whether the housing market area within which Devizes sits has a five year supply of housing land. If this cannot be demonstrated, then the policies in the development plan relevant to the supply of housing cannot be considered to be up to date. In these circumstances, unless any adverse impacts would significantly and demonstrably outweigh the benefits, proposals should be considered favourably for permission. (NPPF paragraph 14). The adequacy or otherwise of a 5 year land supply in the East Wiltshire Housing Market Area within which Devizes is located is therefore a material consideration in the determination of this application, alongside the relative benefits and disbenefits of this scale of development on this site at this time.

The amount of housing land available varies over time as new sites come forward and are granted planning permission and other sites are built out. It is thus a 'moving target'. In a 31st July 2013 Planning Inspector's decision on a site located within the LoD in Devizes and allocated for

employment use (Bureau West – E/2012/0268/FUL) an Inspector granted planning permission for 25 new dwellings after concluding that the Council could not ‘*convincingly demonstrate a five year land supply*’ based on the evidence presented during the hearing. However, the Bureau West appeal decision should be read in context. At this appeal, housing supply was seen by the Council as tangential to the primary issue relating to the loss of employment land. As a result, and as the matter was dealt with by way of a hearing, the accuracy of statements made about housing supply was not subject to the rigours of cross-examination. Furthermore, the Inspector did not conclude that the Council did not have a 5 year land supply, he simply stated that at that hearing, the Council could not ‘convincingly demonstrate’ one. Since that appeal was heard in June 2013, the Council has gone back and reassessed its figures for the 5 year land supply in East Wiltshire. These were published in August 2013 and submitted to the Core Strategy Inspector. They show that the East Wiltshire Housing Market Area has a 5.7 year land supply, in excess of the 5 years required by the NPPF. In these circumstances, the Council can still give significant weight to its existing development plan policies for the supply of housing. (It should also be pointed out that the Council could, if it considered that the benefits of developing this site for housing outweighed the conflicts with the development plan, grant planning permission. The NPPF encourages such flexibility if it is seen as being in the interests of the planning of an area and any adverse impacts were outweighed by the benefits, although such a decision would first have to be referred to the Secretary of State as a departure from the development plan).

Having established that the principle of the development is in conflict with the existing development plan and the emerging Core Strategy, and that a 5 year land supply exists, it is also necessary to consider the normal range of material considerations that have to be taken into account when determining a planning application. These are set out below.

9.2 Landscape & Visual Impact

The application site comprises undeveloped land on the edge of the built-up area of Devizes. The site carries no statutory or local landscape designations, although the North Wessex Downs Area of Outstanding Natural Beauty abuts the site at its eastern end. Policy NR 6 of the Kennet Local Plan has been addressed above. In the emerging Core Strategy, Policy CP51 states that development should protect, conserve and where possible enhance landscape character and must not have an unacceptable impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

The application is accompanied by a Landscape & Visual Impact Assessment (LVIA). The Council’s Landscape Advisor advises that the assessment is well considered and he agrees with it overall findings. In his opinion the illustrative landscape proposals satisfactorily address the points raised by officers during pre-application discussions, and adequately respond to important issues connected with landscape character and visual impact identified in the LVIA.

It might be viewed as unfortunate that the proposed development will breach the hard edge to the town created by the Windsor Drive distributor road. Nevertheless, the site is well contained in landscape terms with rising land to the south, existing urban development to the north and west and the potential to create a new landscape buffer on its boundary with open countryside to the east. The development will be viewed as an urban extension, much the same as recent developments at Wayside Farm and Brickley Lane. There will be changes to localised views, notably from the base of Windsor Drive, but this could not be described as harmful *per se* and would be no different to other urban extensions. There is an important distinction to be made between change - which is the inevitable result of development - and harm which would be significant enough to justify a refusal of planning permission.

The proposed development would extend the built up area of Devizes to the edge of the AONB and therefore would be regarded as within its setting and therefore has the potential to result in harm to the character, qualities and enjoyment of the AONB. It has been considered by the AONB Officer that with suitable design measures, the impact upon the setting of the AONB can be satisfactorily mitigated. These design measures include buildings on the highest parts of the site and where closest to the AONB boundary should not exceed 10 metres in height, street lighting

design and location, new landscaped areas within the development, materials and creating an interesting roofscape which all assist in mitigating the harm to the AONB and can be requested through the reserved matters stage. All of which is considered to be appropriate.

In short, the conclusion is that if development were found to be acceptable here in policy terms, the landscape impact could be satisfactorily addressed.

9.3 Impact on Ecology

The application is accompanied by an Extended Phase 1 Habitat Survey and various protected species surveys, supported by a comprehensive desk study. The Council's ecologist confirms that the survey work to date has been thorough and of a level appropriate to the site and to the proposed development.

There are no statutory designated sites within close proximity to the application site that could suffer adverse impact as a result of the proposals. However, the Kennet & Avon Canal which runs adjacent to the proposed development carries the non-statutory designation of County Wildlife Site for its open water habitat. It is important to retain and where possible enhance the canalside habitats and provide a buffer to the development which will minimise any disturbance to ecology.

Field surveys were carried out at a sub-optimal time of year and further work will be required to fully predict the potential impacts of the proposed development on species of nature conservation value. However, Phase I habitat surveys do not rely on optimal seasons since identification of habitat type can be made at any time of year. The Council's ecologist agrees that the applicants have correctly interpreted the potential of the habitats on site to support the species they have listed. She also notes that the habitats within the site, and within a reasonable zone of influence adjacent to the site, have historically been managed as cultivated arable and semi-improved grazed pasture, both of which are classified as low conservation value, since they are not irreplaceable.

Accordingly, the Council's ecologist raises no objections to the proposals, subject to further survey work by the applicant and the imposition of conditions on any outline planning permission to secure the following (as required by Core Policy 50, Paragraphs 118 to 122 of the NPPF and guidance found in Circular 06/2005)

- An ecological mitigation and enhancement strategy;
- A robust construction method statement that will ensure habitats and species are given due regard throughout the process.

9.4 Impact upon Archaeology

The applicant has submitted a desk-based heritage assessment which concludes that there is limited potential for archaeological remains within the site. The Council's archaeologist disagrees with this conclusion on the basis that the Historic Environment Record records a number of earthworks within the site boundary. She considers that an archaeological field evaluation is required prior to determination of the planning application. She considers that this approach is fully justified and in line with paragraphs 128 and 129 of the NPPF as the desk assessment does not provide enough information to determinate the likely impact of this development on the potential cultural heritage remains and a watching brief would be entirely inappropriate.

It is worth noting that the need for an evaluation was first identified in September 2012 at the pre-application stage so this is not a last minute requirement. The applicant has continually declined to carry out the work and therefore a refusal of planning permission is recommended on archaeological grounds. This could be accompanied by an Informative indicating that it may be possible to overcome this objection if the evaluation is carried out and does not reveal anything that may lead to a need to reconsider the principle of development of this site for archaeological reasons.

9.5 Highway Issues & Air Quality

Kennet Local Plan Policy AT1 requires all development proposals to provide the provision of off-site highway or public transport improvements in the locality where extra traffic generated by the development would have identifiable adverse effects on highway safety. This Policy is supported by Core Policies 61 and 62 and paragraph 32 of the NPPF. Core Policy 55 also states that developments 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. Mitigation measures should demonstrate how they will make a positive contribution to the aims of the Air Quality Strategy for Wiltshire.

The applicant has submitted a Transport Assessment and an Air Quality assessment as part of the application. The Devizes traffic model has also been run with the proposed development included in order to further assess the wider effects. The Highway Authority is satisfied that the proposed development will not have an unduly adverse effect on the highway network, subject to the following being secured by means of a S106 legal agreement:

- Installation of traffic signals at the London Road / Windsor Drive junction;
- Improvements to the southbound approach at the Hopton Road / London Road roundabout;
- A financial contribution towards enhanced public transport provision in the area.

The installation of further traffic signals and improvements to the roundabout will help improve the air quality issues that currently exist in Devizes

The Highway Authority accepts the submitted master plan and is also satisfied that a suitable internal highway layout can be achieved. Residential parking will need to be provided in accordance with the Council's current minimum residential parking standards. This element of the scheme will need to be considered at the reserved matters stage as layout is not for consideration as part of the current outline application.

Concerns have been raised regarding the loss of safe walking routes. The public footpaths that run from the site (ROUN10 and ROUN11) will remain in situ alongside the existing towpath. Therefore the proposed development would not result in the loss of a public footpath. Furthermore, the sustainability of the site is enhanced by its proximity to the Kennet and Avon canal towpath with its traffic-free route that runs close to the town centre, between 1 and 1.4 miles distant.

9.6 Renewable Energy & Sustainable Construction Issues

The interim development control policy on on-site renewable energy, adopted by the former Kennet District Council, requires major developments such as this to provide sufficient on-site renewable energy to reduce CO₂ emissions from users of the development by a minimum of 10%. This requirement can often be met using solar photovoltaic technology, or air source heat pumps.

Emerging policy contained in the Wiltshire Core Strategy (Core Policy 41) takes a wider approach, looking at sustainable construction as a whole which is supported by paragraph 96 of the NPPF. It requires the submission of a Sustainable Energy Statement with planning applications and expects developments to achieve minimum levels against the Code for Sustainable Homes standard (Code Level 4 from 2013 and Code Level 5 from 2016).

The current application does not include a Sustainable Energy Statement and it contains very limited information on how the development will meet the Council's targets for sustainable construction and CO₂ emission reductions. This is in part due to the fact that the application is submitted in outline and there are no details of layout or building design to consider. It is considered that the Council's objectives could be secured through the use of planning condition(s)

requiring the submission of details as part of the reserved matters. It is not considered that a refusal of planning permission would be justified on these grounds in this case.

9.7 Design & Layout

The current application is submitted in outline with only access for consideration at this stage. The reserved matters would cover the issues of layout, scale, appearance and landscape. The application is accompanied by an illustrative layout plan which shows how the site could be developed. Officers consider that the principles shown on this plan are acceptable should the site be considered suitable for development and that it could form a good basis around which to prepare reserved matters. The Council's Environmental Services team is satisfied in principle that the indicative layout could accommodate the necessary equipped and casual play space.

The proposed local centre which could see a potential shop is considered to be appropriate as it would serve a local need and it is not considered to be a threat to the vitality and viability of Devizes Town Centre. It is important to note the NPPF in paragraph 25 states that the sequential test and impact assessment as set out in Core Policy 38 should not be applied to applications for small scale rural development or if the floorspace is below 2,500 square metres

9.8 Drainage

The site is located within Flood Zone 1 meaning that the site has a low probability of flooding from main rivers. A Flood Risk Assessment (FRA) has been submitted with the application and states that flooding from the Kennet and Avon Canal is minimal due to the existing footpath and an existing canal embankment. Sewer flooding can occur during heavy periods of rainfall but the site is not currently served by storm water sewers. Surface water flooding also occurs during intense rainfall events. The proposed development is therefore providing a Sustainable Urban Drainage System (SUDS) which in principle is considered to be appropriate. However detailed information regarding these SUDS would be requested to be submitted with any reserved matters application. The Environment Agency, Wessex Water and the Wiltshire Council Drainage Officer have raised no objections to the scheme and it is therefore considered that the flooding and drainage mitigation measures highlighted in the FRA are appropriate and could be dealt with by suitable conditions if the site was considered to be acceptable in principle.

9.9 S106 Contributions

The infrastructure items listed below are those that are relevant to the application site and would be required in order to mitigate the impact of the proposed scheme, in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 204 of the NPPF. The applicant has agreed to provide the following items via a Section 106 Legal Agreement.

Education.

Kennet Local Plan policy H37 requires that developments of 25 or more dwellings should be satisfied that the education needs of the population of the new development can be met by existing school infrastructure - or improvements to existing school infrastructure will be sought. This is supported by paragraph 72 of the NPPF. The site based on 40% affordable housing would result in a requirement of 95 primary places and 68 secondary with a total cost of £1,900,051 at current prices. The designated schools for improvements are Southbroom Infants and Juniors and Devizes Academy at a secondary level.

Highways

Kennet Local Plan Policy AT10 states that contributions that are reasonably related in scale and kind including public transport, pedestrian and cycle facilities will be sought by way of planning agreements to ensure convenient access via alternatives to the motor car. The following measures are considered to meet this criteria:

- £30,000 per annum for five years towards public transport (total £150,000);

- Installation of traffic signals at the London Road / Windsor Drive junction;
- Improvements to the southbound approach at the Hopton Road / London Road roundabout;

A contribution of £105,000 is also required to go towards improvements on the canal bank and towpath in the vicinity of the site. This is in recognition of the role the Kennet & Avon Canal towpath will play in providing a sustainable transport route directly into the heart of the town. The funding will help upgrade the existing towpath in order to cope with the additional usage that the residents of the proposed houses will bring through cycle, pushchair and pedestrian use. This is supported through paragraph 75 of the NPPF that states that Local Authorities should seek opportunities to provide better public facilities for users.

Affordable Housing

Core Policy 43 of the draft Wiltshire Core Strategy is the most up to date Policy regarding affordable housing and therefore Policies HC28 & HC30 of the Kennet Local Plan in terms of amount and percentage requirements are considered to be out of date. Core Policy 43 requires a level of 40% affordable housing. The application does not specify an amount of affordable housing and there is a strong demand in the Devizes area. Therefore 40% is considered to be an appropriate amount to request with the following mix: 70% rented & 30% shared ownership.

Open Space & Leisure

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 73 of the NPPF Policy. HC34 of the Kennet Local Plan requires developments of over 20 dwelling units to provide recreational open space in the form of equipped play space, casual play space and formal sport pitches. Core Policy 52 supports this by stating that accessible open standards should be in accordance with the adopted Wiltshire Open Space Standards. The proposed development would therefore require 2,604 sq metres of equipped play space, 3,444 sq metres of casual play space and a commuted sum of £212,450 to be put towards formal sports pitches for sports facilities at Green Lane, Devizes. Further monies would also be payable if the developer wanted the Council to adopt the open space

9.10 Other Matters

The Fire and Rescue service have requested a commuted sum of £26,981.50 to go towards the cost of hydrants and water supplies for fire fighting. They have also requested sprinklers to be inserted into the homes. There is no policy to request the sum of money above and therefore is not considered to be CIL compliant. The issue of sprinklers would be dealt with at a later stage through the Building Regulations. There is also no policy on making commuted sums towards health infrastructure and as such it would be unreasonable for the Local Planning Authority to request such monies.

Concerns raised by the general public including value of homes decreasing, types of shops that are currently available, employment opportunities, people making money out of the scheme are not material planning considerations when making a decision on this application. Concerns were also raised regarding the Local Planning Authority not being confident in defending appeals or not defending appeals due to a lack of money. The Local Planning Authority will make recommendations and decisions on applications they feel can be suitably defended at appeal.

AMEC are of the opinion that a decision should not be made on this application until their own application at Lay Wood is also able to be discussed. Every application is based upon its own merits and therefore it is considered unreasonable for the Local Planning Authority to hold up a current application on this basis.

9.11 Conclusion

The key issue here is considered to be the principle of the development. The site lies outside of the Limits of Development defined in the Kennet Local Plan and carried forward into the emerging Core Strategy. Where the Council is satisfied, as it is in this case, that it has an identified five year land supply for the Housing Market Area, the emerging Core Strategy details a variety of sources to bring forward the proposed housing requirement, with policy CP2 stating that new sites outside of the LoD should be brought forward through community-led planning policy documents, including neighbourhood plans, or a subsequent development plan which identifies specific sites for development. A Neighbourhood Plan is being prepared for the Devizes Area and to approve an application for a major development of this number of houses in this location at this time would undermine this process. Furthermore, as discussed above, sites within the LoD continue to come forward to provide choice at the town. Accordingly, the application is recommended for refusal for the reasons set out below.

RECOMMENDATION

Refuse the application for the following reasons:

1. The site lies outside of the limits of Development defined for Devizes in the Kennet Local Plan 2011. In this location, new development is restricted to that which is of benefit to the rural economy or the social well-being of the community. The Council does not consider that a housing development of this scale would support the rural economy or benefit the social well-being of the rural economy. The proposal would therefore conflict with policy NR6 of the KLP.
2. The Draft Wiltshire Core Strategy, through CP2, requires development outside of the Limits of Development for Devizes to be identified through community-led planning policy documents including neighbourhood plans, or a subsequent development plan document which identifies specific sites for development. This site has not been identified through this process and it would therefore conflict with policy CP2 if planning permission were to be granted.
3. The Council is satisfied that there is no overriding need to bring forward this site outside the Limits of Development for residential development at this stage as it is satisfied that there is adequate land available to meet the Government requirement expressed in the NPPF for a 5 year land supply.
4. The site includes within its boundaries potential heritage assets with archaeological interest, including a number of earthworks recorded on the Historic Environment Record. The Council considers that in these circumstances, and in accordance with paragraph 128 of the NPPF, an archaeological field evaluation is required to properly inform the Council of the impact of the development on archaeological remains. No such evaluation has been undertaken on the site and the proposal is therefore considered to be premature as the Council is unable to assess properly the impact on any potential archaeological heritage asset on the site.

INFORMATIVE: The applicant is advised that it may be possible to overcome the 4th reason for refusal by undertaking the necessary archaeological field evaluation conducted by a professional qualified archaeologist following discussion with the Council's County Archaeologist.

Appendices: None

Background Documents Used in the Preparation of this Report: Wiltshire Core Strategy Documents; Planning application file E/2012/0268/FUL