

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	12 March 2014
<b>Application Number</b>	13/03568/OUT
<b>Site Address</b>	Land at The Mead Westbury Wiltshire
<b>Proposal</b>	Up to 220 dwellings (C3) Creation of a new access from The Mead, creation of a new emergency/cycle and pedestrian access from Trowbridge Road, open space, drainage works and ancillary works.
<b>Applicant</b>	Gloucester Land Company Ltd
<b>Town/Parish Council</b>	WESTBURY
<b>Ward</b>	WESTBURY NORTH
<b>Grid Ref</b>	387267 152159
<b>Type of application</b>	Outline Planning
<b>Case Officer</b>	Jemma Boustead

### **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 220 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 Westbury, In addition Local Ward member Councillor Jenkins has requested that the application be called to the Planning Committee for the following reasons:

- Scale of Development
- Visual Impact upon the surrounding area
- Other: Housing Land Supply, Pressure on existing resources and infrastructure

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

To consider the above application and to recommend that planning permission be granted.

### **2. Report Summary**

The main issues to consider are:

- The principle of development at this location (issues relating to the site being unallocated in the development plan; and its relationship to the current Town Policy Limits)
- Heritage Assets
- Potential impact upon the wider local area
- Land quality and flood risk

- Ecology
- Highways
- Section 106 Obligations
- Other

### **3. Site Description**

The application site covers approximately 9.17 hectares and is located to the North East of Westbury. The site is bounded and enclosed by the embankment for the railway line to the north, the A350 to the east and Bitham Brook and an area of open space known as the Meads Ponds to the west and an existing housing development to the South.

### **4. Planning History**

There is no relevant planning history.

An EIA request was received by the Local Planning Authority who confirmed on 1<sup>st</sup> May 2013 that an EIA was not required.

### **5. The Proposal**

The proposal is an outline application for up to 220 dwellings with associated parking, a new access from The Mead, open space, drainage works on land that is currently in agricultural use.

The areas left for future determination under a reserved matters application include the appearance of buildings, layout of the proposed development, scale of buildings proposed and landscaping details.

The application is supported by several documents which include a Planning Statement, Design and Access Statement, Transport Assessment, Travel Plan, Flood Risk Assessment, Landscape and Visual Impact Assessment, Ecology Phase 1/Species Survey, Geo-Environmental Assessment, Archaeological Assessment, Air Quality Assessment, Utilities Statement, Site Survey, Arboricultural Assessment and a Statement of Community Involvement.

### **6. Planning Policy**

#### West Wiltshire District Local Plan – 1<sup>st</sup> Alteration

C1 Countryside Protection; C15 Archaeological Statement; C17 Conservation Areas;

C38 Nuisance; H1 Further Housing Development within Towns;

H2 Affordable Housing within Towns and Villages; H19 Development in Open Countryside;

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

I1 Implementation

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

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy;

Core Policy 3: Infrastructure requirements

Core Policy 32: Spatial Strategy – Westbury Community Area

Core Policy 38: Retail and Leisure

Core Policy 41: Sustainable construction and low-carbon energy

Core Policy 43: Providing affordable housing

Core Policy 46: Meeting the needs of Wiltshire's vulnerable and older people

Core Policy 50: Biodiversity and geodiversity

Core Policy 51: Landscape

Core Policy 52: Green Infrastructure

Core Policy 55: Air Quality

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring conservation of the historic environment

Core Policy 61: Transport and Development

Core Policy 62: Development impacts on the transport network

Core Policy 67: Flood risk

Core Policy 68: Water resources

Supplementary Planning Guidance

Wiltshire Leisure Services Strategy – Indoor Facilities Action Plan 2011 – 2025 adopted April 2012

Open Space provision in New Housing Developments – A Guide (Supplementary Planning Guidance)

Affordable Housing Supplementary Planning Guidance adopted August 2004

Leisure and Recreation Development Plan Document

Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – minimum residential parking standards.

Other Planning Policy / Legislation / Guidance

National Planning Policy Framework (NPPF)

Circular 11/95 – Conditions

Circular 06/2005 Biodiversity and Geological Conservation

## **7. Consultations**

Westbury Town Council: Object for the following reasons:

- It is outside the Town Policy Limit
- Appeal Decision for Land at Fairdown Avenue supports this
- H14 is the key site allocated in the Core Strategy
- Highway safety concern
- This development being windfall simply adds unnecessary pressure on resources and infrastructure

Wiltshire Council Archaeologist – No Objection - the applicants have undertaken trial trench evaluation at the proposed development site. This has revealed a couple of areas of archaeological interest mostly of which appear to be prehistoric in date. In line with the National Planning Policy Framework (2012), I therefore recommend that a condition is attached to planning permission for archaeological mitigation in the form of a programme of archaeological excavation and recording.

Wiltshire Council Urban Design Officer – Look at linkages with the Town Centre & railway station and consider appropriate public realm enhancements. The development should also create an appropriate setting for the town.

Wiltshire Council Open Space Officer - No Objection subject to the appropriate amount of space on the site being allocated to open space, play space and a contribution to offsite pitch provision

Wiltshire Council Environmental Protection Officer – No Objection subject to the details that would be submitted following outline approval include site layout, orientation of the dwellings and facade treatments and ventilation schemes designed to minimise the effect of both road and rail noise.

Wiltshire Council Land Contamination Officer – No Objection subject to conditions regarding land contamination.

Wiltshire Council Drainage Officer – No Objections but a land drainage consent will be required.

Wiltshire Council Ecologist – No Objection as the development will cause no likely effects on the Bath and Bradford on Avon SAC provided conditions are applied to any approval.

Wiltshire Council Rights of Way Officer – No Rights of Way over the site but we should seek connectivity between the new housing estate and the lakes at The Mead

Wiltshire Council New Housing Team – 30% affordable housing is required from the scheme.

Wiltshire Council School Premises Officer – A contribution towards primary and secondary school education is required. Details of this are set out in Section 9.7 below.

Wiltshire Council Highways Officer – No Objection subject to conditions and a commuted sum

Environment Agency – No Objection subject to conditions and informatives

Natural England – No Objection – the proposal is unlikely to affect any statutory protected sites or landscapes

Wessex Water – No Objection - The site will be served by separate systems of drainage constructed to current adoptable standards. Wessex are currently working with the developer for a foul drainage strategy which will have minimal impact on the downstream network. There is adequate capacity within the existing water supply network to supply the proposed development. The proposed site is also located within the odour consultation zone of Westbury Sewage Treatment Works but we do not believe that the risk of nuisance is sufficient to warrant an objection.

Wiltshire Police – Do not wish to formally object to the proposals at this time however applicants should aim to achieve Secured by Design award which has a proven history of reducing crime and generally improving the quality of life within communities.

Arts Development Officer – Recommends a contribution of £66,000 for public art of which 10% should be spent upon the production of a public art plan.

## **8. Publicity**

The application was advertised by several site notices, press notice and neighbour notification. The consultation date expired on 8<sup>th</sup> November 2013.

Twenty two letters of objection have been received with the following comments which have been summarised:

### Principle

- Need to protect the countryside
- Very disappointed that Wiltshire Council are even entertaining the application
- Council already has a 5 year Housing Land Supply
- Local Plan shows the site allocated for tree planting
- Affordable homes and community benefits do not outweigh the risk of approving the application
- Lots of other brownfield sites within the town are available – build on them first
- Not enough school places
- If approved, more developers will jump on the band wagon and apply for development in the countryside
- If approved it will promote further development on Council owned land opposite the Co-op or is this where the proposed and equally unwanted campus would be built with the help of S106 money from this development
- Affordable Housing is rented to people who usually have no interest in respecting or looking after property or gardens and will encourage young lads to race around not picking up litter
- Designed to get maximum profit with no consideration to the town

- There are plenty of properties for sale in Westbury
- Where will further employment come from?
- Loss of open space – dog walking on the land has been stopped
- Design & Impact upon the character and appearance of the area
- Design gives no thought to the local environment – 3 storey properties are not common in Westbury and will be an eyesore
- Ground suffers from flooding
- Increase in surface water leading to localised flooding
- If approved trees and shrubs that are removed should be replaced with bird friendly trees
- Children play facility is located in the wrong place – it should be near houses
- Phasing of the project is unacceptable to local residents – surely it doesn't take 4 years to build 220 homes. We will have to live with muddy roads and deliveries for 4 years

### Neighbouring Amenity

- Increase in noise from traffic
- Already have excessive noise from the railway network
- Noise from existing traffic is unbearable between 6am and 10pm
- Views of the White Horse will be lost
- Flats and houses will overlook my garden (Hampshire Gardens)

### Highways

- The Mead suffers from excessive traffic both from domestic and heavy vehicles
- No existing traffic calming measure
- Single access to the site is ridiculous
- Existing road infrastructure should be improved
- Layout of access will increase road traffic accidents
- Increase in traffic on A350 which is at full capacity and in need of re-surfacing and lead to a greater need of an unwanted bypass
- Increase in traffic will be a danger to children walking to Bitham Brook School
- Does Westbury have an existing cycle network for the proposed network to link up to?

### Other

- Tourists will be put off coming to Westbury
- Doctors surgery not shown on the plans and is already suffering from overpopulation
- Sports, youth groups, police and fire resources will all be impacted upon
- Put the money into building a replacement school for Matravers
- Not enough facilities for children and teenagers
- How many people on the Planning Committee are from Westbury as we seem to get a raw deal from Wiltshire Council
- Why can't the land be used for recreation?
- Westbury does not have entertainment, tip, supermarket or hospital – we need these not more housing

## 9. PLANNING CONSIDERATIONS

### 9.1 PRINCIPLE OF DEVELOPMENT – POLICY BACKGROUND

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.

#### West Wiltshire Local Plan

The primary consideration with this application centres upon the relationship between the proposed development site and current town policy limits and whether the development can be considered to be sustainable. This matter is dealt with in more detail below. The principle of development at this location must be assessed against the development plan and all other material considerations including the national policy position.

Policy H1 of the adopted West Wiltshire District Local Plan – First Alteration (2004) states that “...*further housing development outside of the urban area as defined by town policy limits will not be permitted during the plan period...*” This position is further expanded through Policy H19 of the Plan which essentially “...*allows new dwellings in the open countryside if there is a justified essential need for those working in agriculture or forestry*”.

In addition to the above matters, Policy C1 of the adopted West Wiltshire Local Plan states that “...*in order to maintain the quality and variety of the countryside, the water environment, the rural landscape and wildlife, will be protected, conserved and enhanced through the control of development and positive planning measures. Development proposals in the open countryside will not be permitted, other than those which encourage diversification of the rural economy and rural recreation, unless there is an agricultural, forestry or other overriding justification such as essential transport improvements, schemes of national importance or overriding benefit to the local economy. Acceptable mitigation measures will be implemented where appropriate*”

Therefore, on the basis of the fact that the application site lies outside the town policy limits set by Policy H1, policy would indicate that development should not be granted unless material considerations determine otherwise. Such matters are addressed in more detail through the consideration of the emerging Wiltshire Core Strategy policy position below. It is also the case that the ‘plan period’ referred to in policy H1 was from 2004-2011.

#### Wiltshire Core Strategy

Upon adoption, the Wiltshire Core Strategy (WCS) will replace many policies and proposals in the West Wiltshire Local Plan.

The WCS has reached an advanced stage of preparation with the examination hearings having been completed in July 2013. On 2nd December 2013, the examining Inspector provided a procedural letter to Wiltshire Council seeking the views of the Council on a number of issues. Wiltshire Council responded identifying how these issues would be addressed on 19<sup>th</sup> December 2013. The Inspector has since produced a further procedural letter dated 23rd December 2013 responding to the proposals of the Council.

The submitted WCS introduced a housing requirement for the period from 2006 to 2026 presented by Housing Market Areas. The Inspector examining the Wiltshire Core Strategy has identified in his letter that he considers that the housing requirement for Wiltshire from 2006 to 2026 should be increased. Wiltshire Council has responded proposing to increase the housing requirement from 37,000 homes to 42,000 homes, an increase of 5,000. In his response the Inspector identifies that he considers this reasonable (letter dated 23 December 2013).

The WCS identifies Westbury in Core Policy1 as a Market Town. Market Towns are defined within the WCS as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities. Market Towns are considered to have the potential for significant development that will increase jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self containment and viable sustainable communities.

Core policy 2, however, is clear in that there is a presumption of sustainable development within defined limits of development and that development of the type proposed outside these limits should be brought forward through a community led planning policy document which identifies specific sites for development. However, the Inspector's procedural letter of December 2<sup>nd</sup> states, in referring to the settlement boundaries as defined in the adopted Local Plan, that '*...some of these were adopted some years ago, for example the Kennet Local plan (2004), and it cannot be argued with great strength that the settlement boundaries contained therein are up-to-date for the purposes of the Core Strategy plan period.*' The Council has proposed to undertake a review of boundaries through a subsequent Housing Site Allocation DPD, which is anticipated to be adopted by July 2015, to address this matter. However, at present, the comments of the Inspector that the town policy limits are effectively out of date means that the application has to be considered in the light of the NPPF policy that states that where the development plan is out of date, *planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits* (paragraph 14 NPPF)

The Council presented updated evidence, related information and further modifications to the Core Strategy Inspector on 28 February. Although the Council is confident that the submitted information addresses the soundness concerns expressed by the Inspector in his recent procedural letters, it is too early to say with confidence that the Core Strategy examination will be expeditiously resolved. Until the Council receives confirmation that the Inspector is prepared to accept that all issues of soundness have been addressed, it is considered prudent to recommend that planning permission be granted for proposed development.

#### The National Planning Policy Framework

The National planning Policy Framework (NPPF) requires an assessment to be made as to whether the housing market area within which Westbury 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 North and West Wiltshire Housing Market Area within which Westbury 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.

As discussed the Council has accepted that the overall housing requirement for Wiltshire should increase in line with the Inspectors suggestions in his letter of 2nd December (i.e. an increase to 42,000) which will require the housing requirements for each housing market area to be reviewed. While the Inspector suggests that a 5 year land supply (together with a 5% buffer) could be achieved in Wiltshire at this higher level, work is currently being undertaken to determine how the increased housing supply will be distributed at the housing market area level and how supply will be met against the proposed new figures throughout the Plan period. This assessment includes re-examining the land supply taking account of the revised housing requirement at housing market area level and the significant number of planning applications granted in the last year. Current indications are that a 5 year land supply can be achieved at housing market level, but that a further 200 houses above and beyond current allocations will be required in Westbury during the plan period. The Core Strategy Inspector has yet to confirm that he agrees with these indications.

#### Other considerations

The Localism Act introduced new rights and powers to allow local communities to shape new development by coming together to prepare a neighbourhood plan. Neighbourhood plans establish general planning policies for development and use of land within their neighbourhood and once they have been completed would form part of the Local Development Plan where planning applications would be assessed against. It is important to note that neighbourhood plans can only be taken forward by the town council or a neighbourhood forum. There is currently no development of a Neighbourhood Plan in Westbury at this moment in time.

#### Policy Background - Conclusion

The town policy limits have been found by the Core Strategy inspector to be out of date, bringing into play national policy in the NPPF that states that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (NPPF paragraph 14). The issue of the 5 year land supply is less clear cut, with the Council indicating to the Inspector that it considers there to be a 5.64 year land supply, compared to the 5.25 required. The Inspector has yet to confirm whether he agrees with this and the margin is thin. In any event, the Council has suggested that an additional 200 houses are required in Westbury during the plan period. In these circumstances, there are good grounds for granting planning permission on this site if it is sustainable and there are no significant and demonstrable adverse impacts.

## **9.2 IMPACT UPON CHARACTER AND APPEARANCE OF THE AREA**

The site is located in the open countryside bounded by residential to the South, a railway line to the North and the A350 to the East. An area of open space known as Bitham Brook is located to the west. It is therefore considered that due to the site being relatively contained and enclosed it would not have any significant adverse impact upon the character and appearance of the area.

The site is not located within a special landscape area and is identified as Rolling Clay Lowland in the West Wiltshire Landscape Character Assessment. Due to the site being relatively enclosed it is not considered that the proposal would adversely affect the landscape character.

The Conservation Area is located 250 metres from the site and is separated from it by existing development. Therefore it is considered that the proposal would not have an adverse impact upon it.

Open space and landscaping do not form part of the outline proposals but are shown on the masterplan and sees children's play areas, amenity open space, retained woodland and SUDS ponds all of which have been deemed appropriate by the land adoption team within Wiltshire Council. The landscape proposals also see important trees and hedgerows protected.

There is a low voltage overhead line that runs across the site (owned by Scottish and Southern Energy) that will be either planned around, located underground or moved to enable new residential development to commence on site. This detail will be assessed as part of a future reserved matters application.

The south corner of the site closest to the existing roundabout and the west of the site is allocated for further tree planting. This level of detail is not being assessed during this application but will be expected to be incorporated into any reserved matters application.

A concern with the length of time proposed to build the 220 houses (4 years) has been raised however this is not a material planning consideration when making a recommendation on this application. The location of children's play facilities, flood lighting and design are also not for consideration under this current application but will be looked at as part of any reserved matters application.

## **9.3 LAND QUALITY**

### **9.3.1 Flood Risk & Drainage**

The site is located within Flood Zone 1 (the lowest risk) where residential uses are considered to be appropriate in flooding terms. A surface water management plan is proposed to ensure that run off will be limited and thus will not impact on flood regimes downstream or the flows required to pass through the culvert beneath the railway embankment.

The west of the site is allocated in the Local Plan as an indicative flood plain. The masterplan identifies that this particular area will be used as open space and therefore it is considered that there would be no impact on proposed future or existing residential properties.

The proposed open space will include a network of swales and SUDS (sustainable urban drainage scheme) ponds which will seek to attenuate surface water and provide a buffer to visual amenity along the western edge of the development and create the opportunity to enhance the biodiversity value of the green space. A concern regarding an increase in surface water leading to more localised flooding has been raised through the public consultation process, however the Environment Agency, Wessex Water and Wiltshire

Council Drainage Officers have not raised any objections to the proposed scheme and it is therefore considered to be appropriate.

### 9.3.2 Land Contamination

The Geo Environmental Assessment that was submitted with the application concludes that there is low level risk of the land in question being contaminated. It is therefore considered appropriate to add conditions to any approval requiring written confirmation that the land is free from contamination and what to do if contamination is found at a later stage. These conditions are considered to be acceptable.

### 9.3.3 Archaeology

Policy C15 states that *Archaeological assessment will be required for development proposals within the Areas of Archaeological Interest, or affecting an area of 1 hectare or more within Areas of Higher Archaeological Potential, as shown on the Proposals Map.*

Due to the overall site being over 1 hectare, trial Trenching has been undertaken which has revealed a couple of areas of archaeological interest mostly of which appear to be prehistoric in date. IN line with the NPF it has therefore been recommended by the Archaeologist that a condition is attached to any approval for archaeological mitigation in the form of a programme of archaeological excavation and recording. This condition is considered to be appropriate.

### 9.3.4 Agricultural Land Quality

The site is made up of land that is grade 3a and 3b, not the higher quality Grades 1 or 2.

## **9.4 ECOLOGY**

There are two statutory biodiversity sites of international importance location within 4km of the site known as Salisbury Plain Special Protection Area (SPA), and the Salisbury Plain Special Area of Conservation (SAC). Two SSI's (Sites of Special Scientific Interest) are located within 2km of the site (Picket Clanger Wood & Bratton Downs). However, the development should not directly impact on these. The habitats within the development site are generally assessed as being of low ecological value. No evidence of great crested newts has been found and five species/groups of bats have been identified commuting and foraging within the site.

It has been considered by the Ecological Officer that the proposal subject to various mitigation measures would not be detrimental to ecology and therefore would not warrant a reason to refuse the application.

## **9.5 NEIGHBOURING AMENITY**

Due to the application being in outline, the impact of the proposed development upon neighbouring properties in terms of overlooking and overshadowing cannot be assessed as the location of dwellings including heights and location of windows are yet to be determined. However due to the location of the site adjacent to a railway line and busy road the amenity of any future occupants have to be taken into consideration at this stage. The Environmental Protection Officer has advised that any future detailed design would have to ensure that

external recreation areas are sited on the protected facade of the dwellings, windows to habitable rooms should also be sited on the protected facade or where that is not possible the windows, doors, and building envelope should be upgraded and a mechanical ventilation system shall be installed so as to obviate the need to open windows on the noise affected facade.

It is therefore considered that the amenity of future occupants can be safely protected and therefore would not result in a reason to refuse the application. In this regard, planning permission was granted on appeal by the Inspectorate for a housing site at Slag Lane that similarly backs directly onto the railway line

Concerns raised through the public consultation include views of the White Horse being lost from private houses and issues with the temporary use of construction traffic both of which are not material planning considerations when making a recommendation on this application. An increase in noise from an increase in traffic has also been raised. It is acknowledged that there would be an increase in traffic however this would not warrant a refusal reason based on noise as the road is existing and the proposal would not make the existing situation significantly worse than currently exists.

## **9.6 HIGHWAYS**

With regards to the proposal, access to the site will be via a new junction off The Mead. A new pedestrian crossing will link the site with existing public footpaths to the Co-op and Bitham Brook Primary School to the south east and the town centre via the existing route alongside Bitham Brook to the south. It has been considered by the Council's Highway Officer that the proposal is considered to be appropriate.

The Council's Highway Officer has concluded that the proposal would not cause capacity issues at the roundabouts at either end of The Mead.

There is no dedicated cycle network in Westbury, however Wiltshire Council has an ambition to establish a town wide network of cycle routes. The proposal will provide a cycle route to contribute a safe linkage between The Mead and the Trowbridge Road to avoid the nearby roundabout and is therefore considered to be appropriate.

The site is within walking distance of the Town Centre, Local Shops and the train station. There are existing bus stops located on The Mead which are within walking distance of the site both of which will help connect the existing development to the town. There are no public footpaths crossing the site any reserved matters application should make good connectivity between the proposed new housing estate and the lakes at the Mead and to the public footpath known as WEST6. The surface of WEST6 between the railway bridges is not the best and therefore should be improved.

The emergency access to the A350 has been considered by the Highway Officer to be unacceptable however an emergency access or internal loop road would be required. The proposed relocation of bus stops have also not been sited at the most safe and convenient locations but this can be looked at in the reserved matters stage.

As the application is in outline the internal road layout is indicative and therefore is not up for consideration at this stage.

Concerns raised by the public consultation include excessive traffic on The Mead that does not have any traffic calming measures and A350 needing to be resurfaced. The Highways Officer is of the opinion that the existing road network is sufficient. Concerns raised also include the layout of the proposed access will lead to an increase in road traffic accidents and an increase in traffic will be a danger to children walking to school. Again, these concerns have not been raised by The Highways Officer and a financial contribution will be sought to improve local infrastructure. A further concern related to the loss of open space and a public walking route, however there are no public footpaths over the site, the site is privately owned and therefore no member of the public has a right to access this land.

### Air Quality

An Air Quality Management Area has been declared on the A350 Warminster Road. The Transport Assessment submitted with the application and Air Quality Screening Assessment however demonstrates that the effects of additional traffic are likely to be insignificant within the AQMA and would not warrant a reason to refuse the application.

## **9.7 SECTION 106 OBLIGATIONS**

The infrastructure items listed below are those that are relevant to the Application site and are required in order to satisfactorily 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 National Planning Policy Framework 'The 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

Policy I1 states that in housing developments, the District Council will where appropriate enter into legal agreements with developers under Section 106 of the Town and Country Planning Act to provide for new infrastructure, social, recreational and community facilities where the need for these arises directly from the development concerned. Provision should be commensurate with the scale and nature of the individual development. Provision may be on-site or contributions may be made to the provision of facilities elsewhere in the locality provided their location adequately relates to the development site.

The developer has agreed to the following. A Section 106 Legal Agreement has been written and is waiting to be signed subject to the outcome of this application.

### Affordable Housing

Policy H2 states that *where there is a demonstrable lack of affordable housing to meet local needs, the provision of an appropriate element of affordable housing will be negotiated on site of 1 hectare or more and sites containing more than 25 dwellings within the urban areas.*

There is a demonstrable need for affordable housing in Westbury and therefore a level of 30% has been considered appropriate on this site (66 dwellings) with the following mix:

Affordable Rented: 1 bed – 20%, 2 bed – 35%, 3 bed – 30%, 4 bed 15%

Shared Ownership: 2 bed – 65%, 3 bed – 35%

The mix is negotiable and it is anticipated that 80% would be rented and 20% would be shared ownership.

It has been agreed that no more than 50% of the market dwellings can be completed before the applicant is in contract with a Registered Provider to deliver the affordable housing.

### Education

Policy S1 states that where a proposal for residential development gives rise to the need for additional educational provision a planning obligation will be sought to meet that need. This is supported by paragraph 72 of the NPPF. The proposed development based upon 30% affordable housing would result in the need for 62 primary school places and 44 secondary school places. The site lies within the catchment area of Bitham Brook primary and Matravers School Secondary both of which are full and are forecasted to remain as so, therefore Wiltshire Council would require a full developers contribution for both.

These figures are based upon the outline information provided with 30% affordable housing and therefore may be subject to change once the detailed information is received. It is also important to note that the new 2013/14 cost multipliers are due to be in place soon which would also change the monetary figures.

Primary School Places - £12713 per place x 62 = £788,206

Secondary School Places = £19155 per place x 44 = £842,820

It has been agreed that the financial contribution will be given to the Local Planning Authority as follows:

- 10% upon commencement
- 40% upon completion of 100 houses
- 50% upon completion of 200 houses

### Open Space

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 73 of the NPPF and also within the Leisure and Recreation Development Plan Document (2009) adopted by Wiltshire Council.

In order to make the development acceptable in planning terms, using the calculations within the DPD, the proposed development has a Public Open Space requirement of 8073 m<sup>2</sup> of which 260m<sup>2</sup> should be equipped play provision. This has been satisfied on the site. The developer has indicated that the land could be transferred to public ownership or maintained by a management company although it would be the Councils preference for the land to be secured as public open space in perpetuity and transferred into public ownership. This issue can be left open in the S106 so that either option can be undertaken.

The site also has a sport and recreation requirement of 519m<sup>2</sup> which results in a financial contribution of £49,272 to be allocated to sport and recreation in Westbury.

## Highways

Policy T9 states that planning obligations towards the introduction, improvement and enhancement of bus services will be sought where appropriate in order to increase accessibility to traffic generating developments subject to environmental and highways consideration. Policy T11 relates to cycleways and states that the Council will support the development of cycle routes through the district subject to highway and environmental considerations. T12 also states that existing footpath and bridleway networks will be retained and where possible improved and extended where opportunities arise. A financial contribution of £300,000 has therefore been agreed and is to be given to the Local Planning Authority as a one off sum following occupation of the 80<sup>th</sup> dwelling. This financial contribution could support the following measures (It is important to note that the Town Council and Area Board would be consulted on the following measures before they are agreed):

- Relocation of two bus stops on The Mead with the installation of high access kerbs at the new locations
- Footway and cycle improvements in the local area
- Submission and implementation of a travel plan

## Ecology

The site is located within 4km of the Salisbury Plain Special Protection Area and as the proposal is likely to have a significant effect on stone curlews through recreational disturbance a contribution of £109.82 per dwelling is to be requested on developments of 10 or more dwellings which is in accordance with the Wessex Stone Curlew Project which has been agreed to by Natural England. This would represent a total commuted sum of £24,160.00

## **10. CONCLUSION**

The Inspector's Letters in relation to the Wiltshire Core Strategy significantly changes the context in which this application can be considered. Reliance on the Town policy limits is demonstrably undermined by the Inspector's conclusion that the limits are not up to date. The question of whether a 5 year land supply exists is not finally resolved, although the Council's own figures indicate that it can be met, albeit marginally and still leaving 200 houses to be found in Westbury during the plan period.

In this situation, the policies of the National Planning Policy Framework (NPPF) apply. These apply a presumption in favour of sustainable development and state that planning permission should be granted unless any adverse impacts of doing so would demonstrably outweigh the benefits. The impacts of the development have been considered in the report above, and no significant adverse impacts have been demonstrated. Approval of the application, thereby increasing the housing land availability, may also help resist future proposals on less suitable sites, such as the land on the opposite side of the A350. In these circumstances, it is considered that planning permission should be granted.

**RECOMMENDATION: Grant planning permission, subject to the prior completion of a S106 legal agreement requiring the contributions set out at Section 9.7 of this agenda and subject to the conditions set out below:**

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

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

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

- 3 An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

- 4 No more than 220 dwellings shall be erected on the site.

REASON: To accord with the terms of the submitted application.

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

Figure 1.1 (Ref 33507-Shr83.dwg), Drawing labelled as Detailed Main Access received on 16th August 2013.

Reason: For the avoidance of doubt and in the interests of proper planning

- 6 No dwellings shall be constructed on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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



- 7 No dwelling shall be constructed on site until there has been submitted to and approved in writing by the Local Planning Authority, a plan indicating positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed, before the buildings are occupied, in accordance with a timetable agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 8 No development shall commence on site until a hard and soft landscaping scheme and implementation programme has been submitted to and approved in writing by the Local Planning Authority, details of which shall include:

- indications of all existing trees and hedgerows on the land;
- details of any to be retained, together with measures for their protection in the course of development;
- all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- finished levels and contours of the land;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- biodiversity enhancement proposals
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);

All hard and soft landscape works shall be carried out in accordance with the approved details and shall be completed prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained

tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

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

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

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

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

- 10 No development shall commence on site until the Local Planning Authority has been provided with written confirmation that, in the opinion of the developer, the site is likely to be free from contamination which may pose a risk to people, controlled waters or the environment. Details of how this conclusion was reached shall be included.

If, during development, any evidence of historic contamination or likely contamination is found, the developer shall cease work immediately and contact the Local Planning Authority to identify what additional site investigation may be necessary.

In the event of unexpected contamination being identified, all development on the site shall cease until such time as an investigation has been carried out and a written report submitted to and approved by the Local Planning Authority, any remedial works recommended in that report have been undertaken and written confirmation has been provided to the Local Planning Authority that such works have been carried out. Construction shall not recommence until the written agreement of the Local Planning Authority has been given following its receipt of verification that the approved remediation measures have been carried out.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 11 No works shall commence on site until an ecological mitigation plan has been submitted to and approved in writing by the Local Planning Authority. The plan will contain details of measures necessary to avoid impacts to protected species and valuable habitats during the construction phase. The works shall then be implemented in accordance with the approved details.

REASON: In the interest of ecology

- 12 No works shall commence on site until a lighting scheme has been submitted to the Local Planning Authority. The lighting scheme shall then be carried out in accordance with the approved details.

REASON: In the interest of ecology

- 13 Construction of dwellings hereby permitted shall not commence on site until details of the storage of refuse, including details of location, size, means of enclosure and materials have been submitted to and approved in writing by the Local Planning Authority. A dwelling shall not be first occupied until the approved refuse storage for that dwelling has been completed and made available for use in accordance with the approved details and it shall be retained in accordance with the approved details thereafter.

REASON: In the interests of public health and safety

- 14 Construction of dwellings hereby permitted shall not commence until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved items serving that dwelling have been carried out in accordance with the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the garages hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interest of highway safety

- 16 Prior to first occupation of any dwelling on site, the two bus stops on The Mead near to the site shall have been relocated, with high access kerbs installed at the new locations, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority

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

- 17 Prior to first occupation of any dwelling on site, a pedestrian refuge with illuminated bollards and associated lowered kerbs and tactile paving shall have been constructed on The Mead in accordance with details to be first submitted to and approved by the Local Planning Authority.

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

- 18 Prior to first occupation of any dwelling on the site, the site access shall have been laid out and constructed including the installation of pipes to take the water flow in the frontage ditch, in accordance with details to be first submitted to and approved by the Local Planning Authority. The details to be submitted shall include a vehicle

track of a large refuse vehicle, (10.5 metres long) entering and leaving the site to establish that the proposed pedestrian refuge in the mouth of the junction is correctly located.

REASON: In the interests of highway safety

- 19 Prior to the occupation of the 20th dwelling on site, a 2 metre wide footway over the site frontage along The Mead between the end of the existing footway at The A350 / The Mead roundabout and a point 30 metres south-east of Bitham Brook shall have been constructed in accordance with details to be first submitted to and approved by The Local Planning Authority. The submitted details are likely to include a retaining wall to support the footway with safety rails on top of the wall (given the proximity of the substantial frontage ditch), and will include details of the relocation of the existing lighting columns to the back of the new footway.

REASON: In the interests of highway safety.

- 20 No development shall commence on site until a Full Travel Plan based on the submitted Framework Travel Plan has been submitted to and approved by the Local Planning Authority. The Full Travel Plan shall include details of implementation and monitoring including the appointment of a travel plan co-ordinator for 6 years, and shall be implemented in accordance with the agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request together with any changes to the plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to and from the development.

- 21 Prior to commencement of the development the two farm gate access points from the site to the A350 shall have been properly and permanently closed with the existing lowered kerbs being replaced by full height kerbs and the footway locally resurfaced to suit the revised levels.

REASON: In the interests of highway safety.

- 22 No access including pedestrian access points shall be made from the site to the A350 at any time, other than that shown on the approved plans.

REASON: In the interests of highway safety.

- 23 The development hereby permitted shall not be commenced until such time as a scheme to ensure no raising of ground levels within Flood Zones 3 and 2 as determined within the FRA prepared by AMEC Revision 5 dated 15 August 2013 has been submitted and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent increased flood risk by ensuring the satisfactory fluvial floodplain storage

24 No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

REASON: To prevent pollution of the water environment

25 The development hereby permitted shall not be commenced until such time as a scheme to ensure finished floor levels are set as described within the FRA prepared by AMEC Revision 5 dated 15 August 2013 has been submitted and approved in writing by, the local planning authority.

REASON: To reduce the risk of flooding to the proposed development and future occupants

26 No development shall commence until a surface water management scheme for the site as outlined within the FRA prepared by AMEC Revision 5 dated 15 August 2013, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be situated outside of Flood Zones 3 and 2. The submitted details shall clarify the intended future ownership and maintenance provision for all drainage works serving the site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

REASON: To prevent the increased risk of flooding, and ensure future maintenance of the surface water drainage system.

27 No development shall commence on site until:

A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

28 No development shall commence on site until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. It shall include the following:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- measures for the protection of the natural environment; and hours of construction, including deliveries.

The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out other than in accordance with the

approved construction method statement without the prior written permission of the Local Planning Authority.

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

- 29 Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

REASON: To protect neighbouring amenity.

- 30 The reserved matters application shall include site layout, orientation of the dwellings and facade treatments and ventilation schemes designed to minimise the effect of both road and rail noise on the occupants by:
- " Siting external recreation areas on the protected facade of the dwellings
  - " Siting windows to habitable rooms on the protected facade of the dwellings; or where that is not possible
  - " Upgrading the windows, doors and building envelope and providing mechanical ventilation so as to obviate the need to open windows on the noise affected facade.

The details submitted shall be sufficient to meet the "good" standard, as described in BS8233:1999 in all habitable rooms either with windows open, or with windows closed if the second option for treatment is required; and shall achieve a maximum level of 55 dBA Leq in all recreational areas.

REASON: To protect the amenity of future occupants.

- 31 INFORMATIVE TO APPLICANT:  
This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the ?? 2014

- 32 INFORMATIVE TO APPLICANT  
The Developer should be encouraged to submit an application for prior consent under the Control of Pollution Act, 1974 to the Local Authority to address mitigation of noise from the construction phase.

- 33 INFORMATIVE TO APPLICANT:  
It is important for the applicant to note that the indicative layout has not been considered acceptable in terms of ecology due to the location of proposed footpaths which the Local Planning Authority will expect to be provided to create links to the neighbouring residential development and to the canal. A further ecological mitigation strategy relevant to species found within the site will also need to be submitted with any reserved matters application for approval.

- 34 INFORMATIVE TO APPLICANT:  
The attention of the applicant is drawn to the following informatives requested by the Environment Agency:

1) There must be no interruption to the surface water drainage system of the surrounding land as a result of the operations on the site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively and that riparian owners upstream and downstream of the site are not adversely

affected.

2) Any surface water soakaways may require the approval of the Local Authority's Building Control Department and should be constructed in accordance with the BRE Digest No 365 or CIRIA Report 156 "Infiltration Drainage, Manual of Good Practice". Only clean, uncontaminated surface water should be discharged to soakaway.

3) There are ordinary watercourses within or in close proximity to the site. If it is intended to obstruct the flow in the watercourse (permanently or temporarily, including culverting) prior Land Drainage Consent will be required from Wiltshire Council as the Lead Local Flood Authority. Please contact the Drainage Team to discuss their requirements.

4) Wetlands are important wildlife habitats that support a wide variety of plants and animals, including rare and endangered species. Development should aim to prevent deterioration and enhance the status of aquatic ecosystems and associated wetlands. Furthermore a key output of the England Biodiversity Strategy for 2008 is a 50 year vision for wetlands. The Wetland Vision looks forward 50 years to a future where freshwater wetlands full of wildlife are found across the urban and rural landscapes, and where they are valued by society for the services they provide.

5) In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that a SWMP should contain depends on the estimated build cost, excluding VAT. The duty of care for waste must also be complied with. Because all waste movements need to be recorded in one document, having a SWMP will help to ensure compliance with the duty of care.