

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	10 December 2014
<b>Application Number</b>	14/04846/OUT
<b>Site Address</b>	Land South of A365 (Western Way) Bowerhill Melksham
<b>Proposal</b>	Residential development of up to 255 dwellings, 700sqm of Class A1 retail provision and vehicular access off Pathfinder Way. (Outline application to determine access)
<b>Applicant</b>	MacTaggart & Mickel and Mr and Mrs Doel
<b>Town/Parish Council</b>	MELKSHAM WITHOUT
<b>Ward</b>	MELKSHAM WITHOUT SOUTH
<b>Grid Ref</b>	391273 162584
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	James Taylor

### Reason for the application being considered by Committee

Councillor Roy While has called this application to committee at the request of Melksham Parish Council following the well-attended public meeting. The main concerns were:

- Site inappropriate for development – destroy the rural buffer between the Bowerhill village and the town;
- Bowerhill Primary School is at capacity with insufficient land for further development;
- Setting of adjacent Spa buildings;
- Medical facilities – GP surgeries; and
- These and others are detailed in the Parish comments.

The proposal also involves a large scale major residential development which by reason of its location outside of existing Town Policy Limits for Melksham and village policy limits for Bowerhill raises wider strategic implications.

### 1. Purpose of Report

The purpose of the report is to assess the merits of the planning proposal and as a result of this assessment it is recommended that planning permission be refused.

### 2. Report Summary

The key issue to consider is the principle of the development of this site, which lies outside of the Town Policy Limits for Melksham and the Village Policy Limits for

Bowerhill set out in the West Wiltshire District Plan (1<sup>st</sup> alteration). This requires an assessment of the development plan framework and other material considerations. The conclusion reached is that the proposal conflicts with the policies of the development plan and would have a significant adverse impact on the landscape, leading to the effective coalescence of Melksham and the village of Bowerhill. There are also other factors, such as lack of local primary school capacity to cater for the development, that further contribute to the site being an unsustainable location for residential development. The policies of the emerging Wiltshire Core Strategy do require additional housing to be provided in Melksham but set out a properly planned method of selecting the most sustainable sites, through a Sites Allocation DPD that is under preparation. The Inspector has published his report into the Core Strategy, has found it sound, and is satisfied that the Council does have a five year land supply

It is on the basis of an assessment of the above matters that officers now recommend this application for refusal.

### **3. Site Description**

The development site is situated in an area immediately to the south of Melksham and to the north of Bowerhill (a village and employment site). The site is severed by Pathfinder Way – one of the main routes into Bowerhill from the A365 and is separated from the built-up area of Melksham by the busy A365 (Western Way).

Existing housing in Bowerhill village adjoins the site along the southern boundary of the field to the east of Pathfinder Way; and existing employment and leisure uses adjoin the site along the southern boundary of the field to the west of Pathfinder Way. Adjacent to the northern and north eastern boundaries of the site is the A365 beyond which is the housing of Melksham town. The site, being outside of any settlement boundaries is considered to be open countryside and is in agricultural use (Grade 3).

The site slopes from the south down to the north. There are a number of trees located to the peripheries of the two areas and there is local plan policy (C40) to seek tree planting on the peripheries. It is noted that no special landscape, archaeological, fluvial flood risk, cultural or heritage designations exist relevant to this site.

### **5. Planning History**

There is no relevant planning history beyond the associated pre-application and screening opinion submissions.

A planning application was not encouraged at the time and it was suggested that the most appropriate route for pursuing development in a plan-led system would be via the Council's site allocation work or neighbourhood planning rather than a planning application.

It was concluded that this is not EIA development and no environmental statement was required with the planning application.

### **5. The Proposal**

This is an outline planning application for the residential development of up to 255 dwellings, 700sqm of Class A1 retail provision and new access points off Pathfinder Way. All matters other than access are reserved.

The residential element of the proposal has been submitted on the basis of a 30% affordable housing provision ranging from 1 bedroom flats to 4 bedroom houses. Market housing would range from 2-4 bedroom properties. It has been indicated that development will include 2-storey, 2.5-storey and 3-storey housing at circa 35 dwellings per hectare. The design and access statement indicates a predominance of 2-storey buildings accentuated by occasional 3-storey buildings within the middle of the development site. Four general character areas will be created with the northern edge adjacent to the open space having a low density to reflect the transition into the buffer area alongside the A365 at this point; semi-detached and detached lower housing adjoining the existing Bowerhill residential edge; and then higher density housing in the core and principle frontage areas of the development to include apartments, terraced housing and semi-detached housing of a 2 and 3 storey mix.

No details of parking have been provided but it has been indicated that a mix of garages, driveways and parking courts will be detailed at reserved matters stage and would be in line with the Council's adopted minimum standards where possible. Secure and covered cycle parking will be provided.

The retail element of 700sqm has been described as comprising *“pre-dominantly convenience retail and service uses principally to serve day-to-day needs of residents of the proposed development but also existing Bowerhill and nearby Melksham residents.”* The agent through discussion has agreed that this will be a number of separate units with the main unit being no more than 400 square metres. It has been detailed that a maximum of 20 car parking spaces would be provided to serve the retail offer. Cycle stands will be provided.

A general landscape strategy has been included within the design and access statement indicating a multi-faceted approach to providing green infrastructure that offers a buffer to the north of the site, drainage, mixed play, ecological opportunity and seasonal interests as well as providing accessibility and ease of movement. The indicative details show multi-functional opens space provision that will be for formal and informal recreation and surface water attenuation and landscaping.

Three vehicular junctions would be created to Pathfinder Way with all existing agricultural accesses closed off. The junction to the land west of Pathfinder Way would be approximately 90 metres south of the A365 roundabout with a right turn lane provided to accommodate 7 vehicles. This would be adjacent to the retail offer. The junction to the land east of Pathfinder Way would be approximately 185 metres south of the A365 roundabout also with a right turn lane provided to accommodate 7 vehicles. A further access to the land west of Pathfinder Way would be created near the southern boundary of the site.

Pedestrian and cycle links and routes have also been indicated to the south, east and north. 4 toucan crossing points are detailed including one over Pathfinder Way – two would upgrade the existing island crossing on the A365. A further fifth crossing to the north from the western part of the development has been agreed through negotiation; this would be pedestrian puffin crossing in recognition that the links to the north are not convenient to cycling. Bus stops to Pathfinder Way are proposed.

## **6. Planning Policy**

West Wiltshire District Plan 1st Alteration (2004) (local plan)

C1: Countryside Protection; C31a: Design; C32: Landscaping; C34a: Resource Consumption and Reduction; C35: Light Pollution; C38: Nuisance; H19: Development in Open Countryside; H22: Affordable Housing on Rural Exception

Sites; E6: Rural Employment; T10: Car Parking; S1: Education; U1a: Foul Water Disposal; U2: Surface Water Disposal; I1: Implementation; I2: The Arts.

Leisure and Recreation DPD (January 2009) (DPD)  
Residential Design Guide SPD (November 2005) (SPD)

Waste Core Strategy (2009)  
WCS6: Waste Reduction and Auditing.

Emerging Wiltshire Core Strategy (eWCS)  
CP1: Settlement Strategy; CP2: Delivery Strategy; CP3: Infrastructure; CP15: Spatial Strategy – Melksham Community Area; CP41: Sustainable Construction and low carbon energy; CP43: Affordable Housing; CP44: Rural Exception Sites; CP45: Meeting Wiltshire's Housing Needs; CP46: Meeting the needs of Wiltshire's vulnerable and older people; CP49: Protection of services and community facilities; CP50: Biodiversity and Geodiversity; CP51: Landscape; CP57: Ensuring high quality design and place shaping; CP58: Ensuring the conservation of the historic environment; CP60: Sustainable Transport; CP61: Transport and development; CP67: Flood Risk.

National Planning Policy Framework 2012 (NPPF)

Planning Practice Guidance (PPG)

## 7. Consultations

**Melksham Without Parish Council:** Objects to the proposal on the following grounds:

- Loss of 'rural buffer' – the site is 'grossly inappropriate' for development as it would destroy the rural buffer between the separate communities of Bowerhill village and the town of Melksham. This buffer has been safeguarded in successive local planning policies for 40 years and must be retained. There are other more suitable sites for future housing provision at Melksham. Building on this site will mean Bowerhill and Melksham joining up, which Bowerhill residents do not want. Bowerhill is a village with its own community, which is recognised in the Core Strategy: it has 'important individual characteristics which should be protected wherever possible'.
- Loss of productive agricultural land.
- Proximity to the existing industrial estate – some of the houses back onto the Bowerhill industrial estate onto a garage, container storage facility, brewery and Boomerang play area for children, also used for loud music by adults in the evening.
- Pathfinder Way – creation of new junctions must not be allowed to create additional hazards or impede pedestrians and cyclists;
- Schools – Bowerhill Primary School is already at capacity and has no land to build additional facilities on. Children would therefore have to attend other primary (if they had capacity) and secondary schools and cross the busy A365 to do so. Melksham Oak Secondary School may be full by next year.
- Pedestrian and cycle crossing – There is a requirement for a better and safer means of crossing the A365 for the existing footway and cycleway from Bowerhill. The Council welcomes the addition of a crossing but feels that this is too close to the roundabout. The transport study conducted is not sufficient and does not reflect the volume of traffic using the A365, which could increase if a weight limit was imposed at Seend.

- Housing type – Melksham needs additional affordable housing for local people, but does not need housing that is likely to encourage people who will commute out of the area.
- Setting of The Spa – the open aspect across the rural buffer land is an essential part of the setting of the historic Melksham Spa and must be protected from development.
- Foul sewerage drainage – the Council has serious concerns about the ability of the current system to cope with a large new housing development. Should the application be successful, the Council endorse the condition recommended by Wessex Water.
- Flood risk Assessment – the Council would wish to see an extensive flood risk assessment carried out prior to commencement of the development.
- Medical facilities – the Council has serious concerns over the impact that 255 houses will have on the already overstretched GP surgeries in Melksham. The Council would prefer to see the land allocated for proposed retail space used for a community facility such as a new GP surgery or medical centre as there is already a Tesco Express in the locality.
- Only the southern half of the area east of Pathfinder Way should be considered at all suitable for development, in order to maintain a meaningful separation from the urban areas of Melksham town. This would also limit the difficulty of the shortage of school places and the lack of scope for school expansion and would allow better integration with the existing village community.

**Environment Agency:** No objection subject to conditions / informatives.

**Highways Agency:** No objection, as the proposals will not have any detrimental impact on the strategic road network.

**NHS Wiltshire:** The plans for Melksham do not currently include a new doctor's surgery in this location. However, this number of houses will generate additional health need directly affecting primary care services. There are three practices in the locality which could potentially pick up patients as a result of the new housing. Therefore request funding of £128,586 to support the development of the existing practice premises to cope with the additional patients.

**Wessex Water:** There is limited available spare capacity within the local foul sewerage system to accommodate predicted flows from the development. Initial options to mitigate the impact are outlined in the submitted FRA. As a strategy has yet to be agreed, we request the implementation of a planning condition requiring a foul water drainage strategy to be approved and completed.

**Wiltshire Council Archaeology:** Holding objection. Consulted on initial trial trench report and awaiting response (17/11).

**Wiltshire Council Public Art:** No objection subject to commuted sum of £76,500.

**Wiltshire Council Drainage Team:** No objection.

**Wiltshire Council Ecologist:** No objection subject to conditions.

**Wiltshire Council Education Team:** Objection. We are unable to make the additional primary place provision required at the nearest school (Bowerhill) and there are neither adequate spare primary places nor the potential to expand other

primary schools in the town sufficiently. Only if the Spa Road site includes the site and provision of a new primary school building can a potentially deliverable primary school solution to this site be arrived at.

**Wiltshire Council Environmental Health:** No objection on air quality and contaminated land issues. Consulted on final acoustic report on 20/11.

**Wiltshire Council Highways:** No objection subject to conditions and legal agreement to secure works to highways and commuted sums.

**Wiltshire Council Housing Team:** Should the site be considered favourable for development through the planning system, the affordable housing needs information previously supplied is still relevant and should be considered.

**Wiltshire Council Landscape Officer:** There is a strong policy objection to the development of this site for residential housing and there is no reason for a departure from policy in this case. There would be landscape and visual effects resulting from the proposal and they can be mitigated to some degree, even quite successfully. However, the role and function of the landscape, as it is now, will be lost. The site provides a physical and visual separation to Melksham and Bowerhill and creates a sense of departure and arrival when travelling between the two settlements, despite their close proximity. The loss of the arable fields to residential development will result in a change of landscape character from open rural countryside to urban townscape and perceived coalescence between Melksham and Bowerhill. In describing the landscape effects the LVIA acknowledges the loss of openness and rural character but describes the fields as urban fringe due to the proximity and influence of urban edge and therefore less sensitive to development. The approach to Bowerhill would be improved with a wooded landscape belt to filter the harsh edge; however it is the role and function of this landscape that has been overlooked.

**Wiltshire Council Leisure:** Melksham is to have a Community Campus which will include leisure facilities to meet present and future demand. However, this is currently underfunded and using the Sports England Facilities calculator, the amount of demand generated gives rise to a necessary contribution totalling £161,110 towards leisure facilities.

**Wiltshire Council Libraries:** No objection subject to commuted sum of £20,655 to pay for a one-off increase in the stock holding of the library, reflecting the increase in population Melksham library will serve

**Wiltshire Council Open Space Team:** No objection subject to legal agreement securing open space and play areas on the site in perpetuity and a commuted sum for mitigating the impact on Melksham cemetery to contribute towards expanding it totalling £6,248.

**Wiltshire Council Rights of Way:** There will be demand from residents to access the housing to the north, to the east and between the two parts of the development. The A365 and Pathfinder Way are both fast and busy roads and would cause severance/deterrence to walkers and cyclists accessing the nearby housing, school, town centre etc. In order to overcome this severance, Toucan crossings must be provided on all three roads, together with a pedestrian/cycle link on the north side of the A365 to Windsor Drive, and a footpath may need to be diverted or extinguished where it just skirts the site.

**Wiltshire Council Spatial Plans:** Objection.

## **Planning Policy Context**

### **National Planning Policy Framework (NPPF)**

The NPPF was introduced as a principal material consideration in the determination of planning applications in March 2012. It introduces the presumption in favour of sustainable development at paragraph 14 as a 'golden thread' running through plan making and decision taking.

The NPPF is also clear in stating that *'planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'*. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 17 of the NPPF sets out the core planning principles. Paragraphs 18-219 constitute what sustainable development means in practice. The sections of the NPPF that are considered relevant to this application, as well as paragraphs 14-17 are:

- Building a strong competitive economy
- Ensuring the vitality of town centres
- Delivering a wide choice of high quality homes
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

### **The Development Plan**

Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the 'saved' policies of the West Wiltshire District Plan 1<sup>st</sup> alteration (WWDP) which was adopted in 2004. Although the plan period has now elapsed the majority of the local plan policies have been 'saved' for a further indefinite period until such time as the plan is replaced by policies in the emerging Wiltshire Core Strategy.

The WWDP policy H1 permits housing development within the built up area of Melksham subject to a number of criteria. Policy H17 permits housing development within village policy limits, which includes that of Bowerhill, which is adjacent to the application site. The application site lies outside the Melksham built-up area and outside Bowerhill Village policy Limits.

Residential development in the countryside is covered by policy H19.

### **Emerging Wiltshire Core Strategy**

The draft Wiltshire Core Strategy (WCS), comprising the pre-submission document and a schedule of proposed changes was submitted for Examination in Public (EiP) in July 2012. Following focussed consultation in Autumn 2012, EiP hearings took place from May to July 2013. Further consultation was carried out on modifications arising from the EiP from August to October 2013.

The main policies relevant to the consideration of this application are:

- CP1 Settlement Strategy
- CP2 Delivery Strategy
- CP15 Melksham Community Area Strategy

### ***Main Considerations***

The main issues relevant to this application are:

- Development in the countryside
- Retail provision
- Other material considerations

### ***Development in the countryside:***

The proposed site lies outside the settlement boundaries of Melksham and Bowerhill as defined on the WWDP proposals map and carried forward in the Core Strategy in core policy CP2. Policy H19 of WWDP states that new dwellings in the countryside and in settlements without Village Policy Limits will not be permitted unless justified in connection with the essential needs of agriculture or forestry. The application does not meet those criteria.

Core Strategy policy CP2 allows for development outside settlement boundaries where they are permitted by other policies of the plan (CP35, CP37, CP39, CP40, CP44, CP46, CP47 and CP48) or where they are brought forward through a neighbourhood plan or the proposed Wiltshire Housing Site Allocations DPD. The proposal is not being brought forward via these alternative plans and does not comply with core policies that allow for an exception to this approach.

Para 3.2.17 of the WWDP states that the identification of suitable land for housing development at Melksham is limited by various factors, including:

- Western Way is considered to be a firm boundary to the south and west of Melksham
- Town policy limits have been identified around Melksham which seek to prevent coalescence with Bowerhill and to protect the open countryside

In the WCS examination hearing sessions held between May-July 2013, additional background text to Core Policy 15 (Spatial Strategy Melksham Community Area) was agreed in relation to the relationship between Melksham and Bowerhill. This additional text at paragraph 5.80 of the WCS1 states that “the identity of these separate communities will need to be preserved through the planning process. It is recognised that both Berryfield and Bowerhill have strong functional links to Melksham and have important individual characteristics which should be protected, where practicable”. It is considered that the proposed development would lead to significant coalescence between Melksham and Bowerhill.

### ***Retail provision***

The application proposes 700m<sup>2</sup> of Class A1 retail provision. WWDP policy SP3 will allow out of centre retail development subject to a number of criteria, which include establishing the need for the development, establishing that there are no suitable and viable sites closer to the town centre and that the development does not harm the town centre.

WCS policy 38 requires all retail proposals on sites not within a town centre, in excess of 200m<sup>2</sup>, to be accompanied by an impact assessment that demonstrates



the proposal will not harm the vitality or viability of nearby centres. The proposal must comply with the sequential approach, as set out in NPPF paragraphs 23 – 27.

### ***Other material considerations***

#### ***5 year housing supply***

NPPF paragraph 47 requires that to boost the supply of housing local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. NPPF paragraph 49 identifies that relevant policies for the supply of housing, should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing. The latest assessment of housing land supply in Wiltshire demonstrates that a sufficient land supply exists for the North and West Housing Market Area (HMA) and so this paragraph is not engaged and therefore the development plan policies are considered to be up-to-date.

#### **Addendum – Inspector’s Core Strategy Report.**

The Planning inspector who held the examination into the Wiltshire Core Strategy has now submitted his report to the Council. He has found the Core Strategy to be sound, opening the way for the Council to proceed towards its adoption. The publication of his report means that very significant weight can now be given to the policies in the emerging Core Strategy, as modified by the Inspector.

He has agreed with the Council that the proper way forward to review settlement boundaries is through a Sites Allocation DPD, which can complement work emerging from any advanced community led planning process. He has also made it clear that the aim to deliver sustainable development through the approach embodied in policy CP2 is consistent with national policy, is justified and consequently sound.

He has also agreed that the Council’s most recent submissions, including those made to the discussion hearing of the EiP of 30<sup>th</sup> September 2014 identify a deliverable supply of housing land in excess of 5 years for each Housing Market Area (HMA), and that a 5% buffer is appropriate.

In relation to policy CP15 that deals with the Melksham Community Area, the Inspector supports the Council’s analysis of the hierarchy of settlements and the functional relationship between Melksham and Bowerhill. He notes that the Core Strategy would enable the Sites DPD and the neighbourhood planning process to facilitate the provision of the required level of housing. He states that in the short term, *‘there appears to be sufficient commitments to ensure an adequate supply of housing land for the town’*, whilst acknowledging *‘that there is a notable degree of uncertainty for the latter part of the plan period’*. However, he goes on to say that the *‘the Council acknowledged in its position statement the scope for a Sites DPD to assist in delivering such housing, which....seems to be the most pragmatic and efficient way of complementing the neighbourhood planning process to ensure the provision of sufficient housing to meet identified needs in a timely fashion’*. *‘By such means it will be feasible to deliver the housing numbers shown within modified Core Policy 15 as necessary’*.

The Inspector notes that the Core Strategy identifies in paragraph 5.80 a comprehensive range of issues to be addressed in planning for the Melksham Community Area, and finds that the clarifications provided by the Council are useful but not essential for the overall soundness of the plan as a whole. In such circumstances, the Council is able to incorporate this change within the Core Strategy.

He concludes by stating that overall, the Core Strategy 'does take a justified approach towards the Melksham Community Area and will be effective in terms of delivery'

### **Conclusion and summary**

Policies of the WWDP relevant to this application are consistent with the NPPF. The policy approach to settlement boundaries remains relevant and is carried forward in Core Policy 2 of the WCS, now in its final stages of preparation and at an advanced stage having been through Examination in Public. Given the findings of the Core Strategy Inspector in his published report, very significant weight can now be given to the approach in CP2 and the particular approach to Melksham in CP15.

The proposed development site is outside the settlement framework boundaries of Melksham and Bowerhill, the development does not comply with core policies that allow for exception sites outside of the settlement framework boundary and the site is not being brought forward through a neighbourhood plan or the Wiltshire Housing Sites Allocations DPD at this time.

The Wiltshire Core Strategy seeks to prevent the coalescence of Melksham and Bowerhill, by stating that 'the identity of these separate communities will need to be preserved through the planning process. It is recognised that both Berryfield and Bowerhill have strong functional links to Melksham and have important individual characteristics which should be protected, where practicable'.

The Council can demonstrate that there is a five year supply of deliverable housing land for the North and West Housing Market Area as outlined in the February 2014 Housing Land Supply Statement and therefore policies within the development plan and Core Strategy are considered to be up-to-date.

Spatial planning would therefore have a policy objection to this development.

**Wiltshire Council Urban Design:** No objection.

**Wiltshire Council Waste Team:** No objection.

**Wiltshire and Swindon Biological Records Centre:** No objection.

**Wiltshire Fire & Rescue Service:** No objection.

## **8. Publicity**

This application was advertised by circa 80 neighbour letters, 6 site notices and a Wiltshire Times advertisement. Circa 17 letters have been received with the following issues raised in objection to the proposals:

- Loss of countryside / rural buffer;
- Loss of productive farm land;
- Consequence is that Melksham and Bowerhill would be merged;
- Wish Bowerhill to remain separate in identity to Melksham;

- Wish to maintain the historical significance of the two settlements;
- Not in keeping with Bowerhill;
- Green Belt land;
- No need for further housing in this area – other sites have permission and yet are not being built on (e.g. Shurnhold) and housing market has stagnated with properties old and new not selling;
- Highway safety;
- Exacerbate existing congestion;
- Improved crossing facilities will add to vehicular congestion;
- Object to connecting development to Birch Grove (very quiet and occupied by retired people);
- Object to cycle link up to Burnet Close (north of A365);
- Impact on school facilities – no room at Bowerhill School
- Impact on health care facilities;
- Infrastructure cannot cope (sewers are beyond capacity);
- Lack of entertainment facilities within Melksham;
- High density;
- No flats or apartments proposed and there is a shortage of such accommodation (happy for these to be 4-storeys if they are not at the edge of the site);
- Don't know who the builder is or what the final scale and designs will be – although bound to be 3-storey;
- Bungalows should be built here;
- Noise;
- Loss of privacy and daylight;
- Drainage and flooding;
- Loss of trees;
- Ecology;
- Impact on the setting of listed buildings;
- Loss of view; and

- What would happen to the existing overhead power cables?

## 9. Planning Considerations

### 9.1 Principle of development

The starting point for consideration of this application is the policies of the Development Plan. The consultation response from the Spatial Plan Team reported above sets out the situation in detail. The current development plan is the West Wiltshire District Plan (1<sup>st</sup> alteration) and the site lies outside both the Town Policy limits defined for Melksham in this plan and the Village Policy limits defined for Bowerhill village. The whole of the site, including both fields either side of Pathfinder Way therefore lies in the open countryside where new development is not permitted, unless justified in connection with the needs of agriculture and forestry. No such justification exists in case. As the Spatial Plan response points out, the supporting text to these policies makes it clear that in this area, the Town Policy limits have been identified around Melksham which seek to prevent coalescence with Bowerhill and to protect the open countryside, with the A365 Western Way seen as forming a firm boundary to the south and west of Melksham. The proposal is therefore in clear conflict with the policies of the extant development plan.

The emerging Wiltshire Core Strategy is now well advanced and will, in due course, supersede the West Wiltshire District Plan. The emerging Core Strategy identifies Melksham as a Market Town that does require additional housing growth in the period to 2026, with land for about 750 houses to be identified (including the Melksham Without Parish Council Area). However, policy CP2 states that the limits of development may only be altered through the identification of sites for development through a Site Allocation plan or Neighbourhood plan. The purpose of this is to ensure a proper plan-led approach to identify the most sustainable sites that can best support the development required. The Wiltshire Housing Site Allocations Development Plan Document is currently under preparation, and will identify site(s) in Melksham to ensure that the identified housing growth is delivered. This approach has been endorsed by the Core Strategy Inspector in his report, and by the Secretary of State in his recent decision on an appeal at Park Road Malmesbury, where he made it clear that the potential output forthcoming from this was *'an important material consideration to be taken into account'* and that the preparation of this *'needs time to go through the proper consultative and statutory processes'*

The emerging Core Strategy (tracked changes version April 2014) also makes it clear in paragraph 5.80 that *'the identity of these separate communities (Melksham and Bowerhill village) will need to be preserved through the planning process'*. Policy CP15 in relation to spatial policy for the Melksham Community Area makes it clear that development proposals will *'need to demonstrate how the relevant issues and considerations listed in paragraph 5.80 will be addressed'*.

Thus the situation is that whilst the emerging Wiltshire Core Strategy will direct more growth towards Melksham, there is no proposed allocation that selects this site and there is a clear mechanism in the Strategy to deliver the housing growth required.

It is then necessary to consider whether there are any other material considerations that should be taken into account in considering the principle of development on this site at this time. One of these is the question of 5 year land supply. If there is no five year land supply, then the NPPF advises that planning policies for housing should not be considered up to date, and planning permission should be granted unless any

*'adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole'.*

Currently, the Council considers that it has a 5 year land supply for the housing market area within which the site sits. This has been endorsed by the findings of the Core Strategy Inspector. This provision of the NPPF therefore does not engage.

However, even if there was not a 5 year land supply, it is considered that there are adverse impacts arising from this development that would in any case significantly and demonstrably outweigh any benefits from allowing the development to proceed.

The key one here is the adverse landscape impact. As identified by the Council's Landscape Officer, and as is evident from a visit to the site, these two fields provide a physical and visual separation between Melksham and Bowerhill. Whilst the indicative plans do provide for a landscaped buffer alongside the A365, the development would effectively reduce the current separation by 75% or more. In both a visual and physical sense, the effect would be a coalescence of the two settlements. The role and function of the landscape as separating the village from the town would be lost. The open views from Pathfinder Way to the west would be lost. Furthermore, allowing the development and loss of these two fields would clearly set a precedent for the loss of the remaining fields adjacent to the A365 between the site and the A350, increasing the coalescence effect.

In addition, there is the fact that the primary school at Bowerhill cannot take the additional pupils that would be generated by a development of this scale, and cannot be expanded to accommodate them. Nor are there sufficient places elsewhere in the town to accommodate the need, even if it was seen as desirable to direct parent of young children to have to cross the busy A365, which acts a considerable physical barrier, and even with proposed toucan crossings, would still hardly be ideal.

Finally, there is the fact that part of the site adjoins an industrial estate. Whilst it may be possible to restrict noise through the construction of an acoustic barrier, the potential suggested height of 3.5 metres reinforces the questions raised as to whether this is a sustainable site and one of the most suitable for providing for the additional housing needs in the town identified in the emerging Core Strategy.

These adverse impacts also demonstrate and reinforce the need for a proper planned approach to future housing development in Melksham, currently under preparation through the Housing Sites Allocation DPD.

Third, part of the site adjoins an industrial estate, as set out in 9.5 below. Whilst it may be possible to restrict noise through the construction of an acoustic barrier, the potential suggested height of 3.5 metres reinforces the questions raised as to whether this is a sustainable site and one of the most suitable for providing for the additional housing needs in the town identified in the emerging Core Strategy.

These adverse impacts also demonstrate and reinforce the need for a proper planned approach to future housing development in Melksham, currently under preparation through the Housing Sites Allocation DPD. It is the case that there are other site options in Melksham.

Although the principle of the development of this site is considered unacceptable, it is still necessary to consider other detailed aspects of the proposal as detailed below.

## 9.2 Highway matters

The only reserved matter for which approval is currently sought is the detail of access. The proposal details the creation of two vehicular accesses to the western parcel of the site and one vehicular access to the eastern parcel – all from Pathfinder Way. The proposal would permanently block up the existing agricultural access points onto Pathfinder Way and the A365. The proposal would provide enhanced crossing facilities to Pathfinder Way and the A365, as well as bus shelters and stops to Pathfinder Way. The Council's highway officer raises no objection to the proposals subject to conditions and planning obligations.

It is therefore concluded that there are no overriding objections on access grounds, assuming the necessary contributions were forthcoming.

## 9.3 Landscape Impact

The key elements of this have already been examined in the section on the principle of development in 9.1 above. The application site is located on the remaining agricultural land that separates the settlements of Melksham and Bowerhill. The emerging WCS states that *"The identity of these separate communities (i.e Melksham and Bowerhill) will need to be preserved through the planning process"* and whilst Bowerhill has *"strong functional links to Melksham"*, *"important individual characteristics....should be protected, where practicable"*.

The loss of the agricultural land to development proposed here is therefore an area of significant concern as the proposal would jeopardise the individual identity of the two settlements. Melksham Parish Council have raised this as a significant issue stating *"this is a grossly inappropriate site for development, since it would destroy the rural buffer between the separate communities of Bowerhill village and the town of Melksham, leading to the coalescence of the two settlements."*

In effect the agricultural land use between the two settlements has been preserved by the local plan policy of having defined settlement policy limits and a policy of no housing development outside of such limits except in exceptional circumstances.

The Parish Council goes on though to assert that *building on these sites will mean Bowerhill and Melksham joining up which the Bowerhill residents do not want. Bowerhill is a village with its own community."*

The Council's landscape officer has provided objection to the proposals detailing that *"the role and function of the landscape, as it is now, will be lost"*.

*"The site provides a physical and visual separation to Melksham and Bowerhill and creates a sense of departure and arrival when travelling between the two settlements despite their close proximity. The loss of the arable fields to residential development will result in a change of landscape character from open rural countryside to urban townscape and perceived coalescence between Melksham and Bowerhill. In describing the landscape effects the LVIA acknowledges the loss of openness and rural character but describes the fields as urban fringe due to the proximity and influence of urban edge and therefore less sensitive to development. I am inclined to agree that the approach to Bowerhill would be much improved with wooded landscape belt to filter the harsh edge, however it is the role and function of this landscape which has been somewhat overlooked by the submitted application."*

In summary, there is a fundamental objection to the proposal on landscape grounds, as, if permitted, the role of the landscape in preserving the separate communities of

the town and village would be lost. There are no identifiable exceptional circumstances to warrant departure from the policies.

#### **9.4 Heritage assets**

To the north east of the application site are a number of important historic buildings located on The Spa. These are Grade II listed buildings. The Parish Council has stated that *“the open aspect across the rural buffer land is an essential part of the setting of the historic Melksham Spa and must be protected from development.”* They have requested that English Heritage therefore be consulted on the proposals. However it is important to understand that the listed buildings are Grade II listed and therefore there is no statutory requirement to consult with English Heritage on the potential impact to their setting. Furthermore English Heritage does not have the resource capacity to comment on applications that are beyond their statutory controls.

The emerging WCS sets out as a specific objective within the plan period that *“development at Melksham should protect the historic environment and in particular should protect the historic setting of the Spa”*. The buildings on the Spa are severed from the application site by the A365, a landscape buffer and then the access road to The Spa itself. The buildings are also set well back from the front of their residential curtilages and are some distance from the application site. Whilst the application site remains in agricultural use and as such is reflective of the land use that would have been occurring when the Spa buildings were constructed, it is not considered that the erosion of this rural scene as a result of the development proposals would significantly affect the setting of the listed buildings given the distances involved, the presence of roads and landscaping, which significantly sever any relationship between the buildings on the spa and the application site. Moreover the significance of the buildings’ setting to the significance of the heritage assets needs to be considered. The applicant’s heritage statement succinctly sets this out and concludes reasonably that there would be a *“slight loss in the significance”* of the 4-storey Spa buildings but within the meaning of the NPPF this would be *“less than substantial harm”*.

To the south is the Grade II listed Bowerhill farmhouse which would in time have been surrounded by open farmland; however as the applicant’s heritage statement details it is now on the periphery of Bowerhill village and enclosed by residential housing albeit some of it is converted or rebuilt rural style housing. This proposal would obviate the last remaining connection of the listed building to farmland and this is regrettable. However given the existing context and that the listed building is surrounded by residential development already and its connection to farm land is no longer evident in any event then it is not assessed that any significant harm would occur. The applicant’s heritage statement also picks up on the curtilage listed outbuilding and reasonably concludes that this would not be significantly harmed as a buffer area will be retained adjacent to this which will *“retain a sense of openness”*.

Finally it is noted that there is a Grade II\* listed building further along Bath Road to the south, but it is not assessed to relate well to the application site and its setting would clearly not be affected.

In short, it is not considered that an objection on the grounds of harm to the setting of listed buildings could be sustained.

There are still outstanding matters relating to archaeology that are being investigated and an update will be provided at the meeting.

### **9.5 Residential amenity and Noise**

Melksham Without Parish Council raise concern in regards to amenity issues and the proximity of new residential development to the existing employment allocations. They state that *“some of the houses on the plan will back onto the Bowerhill Industrial Estate onto a garage, a container storage facility, a brewery and Boomerang which is a play area for children and is also used by adults in the evening. It stays open late with flashing lights and loud music. There are concerns that in the future residents of the new housing will not be happy with the neighbouring businesses.”*

At this stage the layout of the site is merely indicative but in order to achieve the general housing numbers of 255 indicated and to retain the northern landscape buffer then it is inevitable that residential development will occur on the field to the west of Pathfinder Way and in close proximity to the employment land use that is well established. The uses in that area is summarised accurately by the Parish Council and reflects the variety that is now established at many employment sites including leisure type uses as well as employment and industrial activity.

The application has therefore been submitted with an acoustic survey which details mitigation. During the course of the application this has been updated, as indeed the indicative master plan has been in part due to the mitigation that the developers themselves were suggesting. The most recent submissions have detailed, based on the indicative layout and their noise survey work, that a 3.5 metre high acoustic fence will be required along the site boundary with the established employment area. This would be circa 135 metres in length. This is clearly symptomatic of the difficulties of siting noise sensitive uses (such as residential property) adjacent to many employment generating activities.

Whilst it may be possible to produce a detailed layout at reserved matters stage that addresses this issue, the fact that it has to be addressed at all raises concerns, as noted in the principle section in 9.1 above, about whether this is an appropriate site for meeting the housing needs in Melksham, or whether other sites may be capable of coming forward that will not have this constraint and are more sustainable overall.

### **9.6 Ecology**

The Wiltshire and Swindon Biological Records centre raise no objection but highlight that a great crested newt has been recorded nearby.

The Council's ecologist states:

*“An Ecological Assessment and an addendum report to supplement the Great crested newt survey have been submitted with the application.....I am satisfied with the level of survey effort and the methodologies are satisfactory.”*

The main ecological issues have been identified as being habitat connectivity; attenuation features – creation of wetland habitats; great crested newts; protection of retained habitats, trees and badgers; landscaping and management; sympathetic lighting; vegetation removal to protect reptiles; ecological enhancements; and breeding birds.



The Council's ecologist has commented on each of these areas and has confirmed that whilst they have some reservations based on the indicative details of layout and associated boundary treatments not allowing optimum connectivity between habitats, they are satisfied that the proposals would not necessarily cause any harm to ecological interests and indeed would provide potential for ecological enhancement. As such they propose a range of conditions and informatives to ensure that existing interests are protected and enhancement is provided. This includes conditions on the attenuation features so that they are suitable for ecological interests; a landscape and ecological management plan to ensure protection for Great Crested Newts; an external lighting scheme to protect foraging and commuting routes for bats; and provision of enhancement features to help in general terms but specifically to provide habitat for nesting birds and bats.

In light of the ecological submissions and the expert advice received from the Council's ecologist then this is not an area for significant planning concern and can be adequately addressed by conditions and informatives.

### **9.7 Flooding**

The application site is located in flood zone 1 in regards to fluvial flooding, the lowest level of flood risk. It is known that the site does have areas of surface water flooding though and as the site is over 1 hectare a flood risk assessment has been submitted. It has been confirmed by Wessex water that there is limited capacity in the surface water drains in the locality.

Melksham Without Parish Council have raised concern based on previous experiences in the vicinity where flood risk assessments have been carried out and the resultant development has still experienced "*severe flooding*". They wish to see an "*extensive flood risk assessment carried out prior to the commencement*".

The Environment Agency have been consulted on the application and considered the flood risk assessment provided. They have raised no objection subject to a number of conditions including a suitable sustainable surface water drainage strategy being provided prior to commencement of works. The Council's drainage engineer has confirmed that they have no objection to the proposals.

In terms of foul drainage the submission indicates that there are a number of options available to allow the site to be satisfactorily serviced and that the options have all been set out by Wessex Water as the statutory undertaker. Wessex Water have confirmed in their consultation response that "*there is limited available spare capacity within the local foul sewerage system to accommodate predicted foul flows from the development. As a strategy has yet to be agreed we request the implementation of a planning condition, should planning be approved.*" Melksham Without Parish Council has stated that it would endorse such a condition.

On the basis of the expert advice received it is considered that subject to conditions no planning harm would occur in this regard. The indicative masterplan provides for a large area of Green Infrastructure that is likely to be more than adequate to allow for a sustainable drainage solution to be engineered in regards to surface water and Wessex Water have a number of options that will result in an acceptable foul water disposal strategy. Both matters could be controlled by condition.

## **9.8 Retail impacts**

The application includes a retail element with circa 700 square metres of retail space being provided adjacent to Pathfinder Way. This would be served by a right hand turn lane from Pathfinder Way and the applicant states that it is not intended to compete but to complement the what the existing town centre offers and provide convenience shopping for proposed and existing residents in the vicinity. With that in mind the applicant has agreed to conditions that would restrict any unit so that it is no greater than 400 square metres which is the typical size of a convenience store. It is noted that the original community hub of shops within Bowerhill is now largely in residential use, but that there is a fish and chip shop. It is also noted that the eastern development of Bowerhill is served by a Tesco Express and other smaller units, such as a beauticians and a takeaway outlet. It is considered that the retail offer with this proposal would make a similar offer. It is also noted that the floor space detailed would be substantially below the levels set out within the NPPF as requiring retail assessment (2500 square metres).

Given these circumstances it is not considered that any demonstrable harm would arise from the inclusion of a retail offer of this limited size in any residential development of this site.

## **9.9 Waste**

The application has been submitted with a waste audit in accordance with the adopted Wiltshire Waste Core Strategy requirements at policy WCS6. The Council's waste policy officer has stated that *"I have reviewed the Waste Audit submitted with the application and consider that the information provided is sufficient in terms of the requirements of policy WCS6 of the Waste Core Strategy."*

On this basis, waste does not form an area for significant planning concern.

## **9.10 Affordable housing**

Melksham Without Parish Council acknowledges that *"Melksham needs additional affordable family housing for local people"*; and the developer has committed to providing 30% affordable housing in their submission. This would equate to circa 76 units depending on the final details that would come through in any reserved matters application and would be in accordance with the emerging WCS policy of affordable housing in this location. It is noted that housing officers raise no objection stating that *"the latest information available for Melksham area shows that there are a total of 504 households in priority need"*.

The provision of affordable housing as part of the development of the site is a material consideration, but not one that in your officer's view outweighs the objections raised in 9.1 above.

## **9.11 Open space and recreation**

Environmental Services raise no objection to the proposals. The public open space and formal play areas are in accordance with the relevant policy requirements. It is now policy for the PoS and play areas to either be adopted by town/parish Councils or by private management companies, rather than the Council. Thus, it is only necessary for the spaces to be secured as such in perpetuity and transfers to the Council with associated commuted sums are no longer relevant or necessary. The

developer has agreed to provide the space in perpetuity and to have a legal agreement to secure this.

A modest commuted sum of £6,248 has been requested and agreed for necessary cemetery expansion triggered by the additional homes.

The open space provision and recreation provision would have a variety of roles including drainage attenuation, ecological habitat and space for play and leisure.

Support for the off-site recreation demand generated by the development would need to be dealt with by way of a section 106 contribution.

## **9.12 Education**

This area has already been touched upon in the section assessing the principle of the development in 9.1 above.

Melksham Without Parish Council have raised this as an area of concern stating that *“many local schools are full so where will the children from these houses go to school? Bowerhill Primary School is already at capacity and has no land to build or site any new classrooms. Children will then have to attend other primary schools in Melksham (if they have capacity) and if walking to the new East of Melksham primary school would have to cross the very busy A365 to do so. In addition Melksham Oak Secondary School may well be full by next year and with further development proposed on the old George Ward school, Shurnhold site this could lead to children having to attend secondary schools outside of Melksham.”*

The Council’s Education Team advise that the development will generate a need, based on circa 255 houses with a policy compliant 30% affordable housing provision, of 72 primary and 51 secondary places at the designated area schools which are Bowerhill Primary and Melksham Oak at secondary level. Bowerhill Primary school currently has capacity for 390 pupils in permanent accommodation. Under current forecasts numbers are due to peak in April 2017 at 374 pupils and there are 4 further spaces accounted for by other developments. As such it is assessed that there are 12 spare places at Bowerhill Primary School, but the development generates a need for 72 spaces. Therefore the Education Team would normally request circa £1 million to fund the outstanding 60 spaces. The developer is willing to pay this. However, an assessment by the Council of the school site has confirmed that it is not capable of being expanded to make the additional primary place provision required. Furthermore, there are neither adequate spare primary places nor the potential to expand other primary schools in the town sufficiently.

On this basis there is a substantive education issue with the proposals in that despite the developer being willing to provide a contribution to address the accepted lack of current capacity, there are no reasonable means for the Council to spend such money and provide a solution in the vicinity. Any other solution will result in a form of development that is not sustainable with primary school aged children necessarily being transported by vehicles exacerbating issues of congestion, pollution and air quality with consequent environmental issues. Furthermore there are social implications with such an approach where children will not form such strong community bonds as a consequence of being educated ‘out of catchment’. As such the education issue is further evidence that this is an unsustainable form of development, due to the negative environmental and social implications – which are 2 of the 3 dimensions of sustainability as set out in the NPPF.

At secondary level, the Oak is the only school serving Melksham and the surrounding villages and education colleagues consider that it is effectively full based on current forecasts and existing development commitments. They therefore seek a contribution for the full pupil numbers generated by the development of circa £1 million by commuted sum. Unlike the situation with primary school provisions there is considered to be capacity to facilitate such pupil numbers. The developer has agreed to make this payment and on the basis of the above considerations then no concern exists regarding secondary education.

### **9.13 Other planning obligations**

Melksham Without Parish Council have expressed serious concern that the development would have on “*overstretched GP surgeries in Melksham*” and that they would “*prefer to see the land allocated to retail space on the proposed plan used for a community facility such as a new GP surgery or medical centre*”. It is inevitable that residential development will have an impact on infrastructure, such as GP surgeries, and NHS Wiltshire have been consulted. They raise no objection subject to provision of a commuted sum stating that “*there are 3 Practices in the locality all of which could potentially pick up patients as a result of the new housing..... required payment from developer £128,586.*” The developer has agreed to this commuted sum in their draft heads of terms, although whether it could be insisted upon in the current policy framework is a moot point.

The Council’s arts officer has requested a commuted sum; however the developer has stated that they are unwilling to pay such a contribution. Whilst the West Wiltshire District Plan policy I2 does detail that public art should form part of development schemes it does not expressly require planning obligations and details a flexible manner in which art can be incorporated into a scheme including through landscaping and buildings features. The national PPG advises that planning obligations must be necessary to make the development acceptable in planning terms and using public art as an example of where contributions should not be sought. It is considered that an artist objective could reasonably be achieved and incorporated into the development in a multitude of ways and any future reserved matters e.g. external appearance or landscaping could incorporate a form of public art. As such this does not form a significant area of planning concern.

The Council’s libraries team have requested a contribution of £20,655 to increase library stock and the developer has agreed to pay this sum within their heads of terms.

### **9.14 Other material considerations**

Loss of agricultural land – Melksham Without Parish Council have stated that “*Both pieces of land are productive, agricultural land where the farmers grow crops. There should be no house building on agricultural land.*” The site is agricultural land and until recent archaeological trial trenching works (November 2014) had crops on it. The land is detailed by Natural England to be Grade 3 agricultural land, but they do not distinguish between grade 3a and grade 3b; an important distinction as grade 3a is considered to be *best and most versatile agricultural land* and 3b is not.

## **10. Conclusion**

The proposal conflicts with the Development Plan for the area and would have a significant adverse impact on the landscape, leading to the coalescence in physical and visual terms of the settlements of Melksham and Bowerhill village. There is

nothing in the emerging Wiltshire Core Strategy that would point to a more favourable consideration of development on this site, and there are no overriding reasons justifying the granting of planning permission. Whilst land needs to be identified in Melksham for housing growth to meet the requirements of the emerging Core Strategy, this should be done through a properly planned process, as required by policy CP2, enabling the merits of the different sites to be considered and the community to be engaged.

### **RECOMMENDATION**

Refuse, for the following reasons:

1. The site is located in the open countryside outside of the Town Policy limits defined for Melksham and the Village Policy Limits defined for the village of Bowerhill in the West Wiltshire District Plan (1<sup>st</sup> alteration). The proposal would therefore conflict with policies H1; H17 and H19 of the West Wiltshire District Plan (1<sup>st</sup> alteration).
2. The site is located in an area of open countryside that plays an important role in the landscape of physically and visually separating the settlements of Melksham and Bowerhill village. The loss of the arable fields to residential development will result in a detrimental and unacceptable change in landscape character from open rural countryside, with views to the countryside beyond the site to the west, to urban townscape and coalescence between Melksham and Bowerhill village. This would conflict with policy C1 of the West Wiltshire District Plan (1<sup>st</sup> alteration) and policies CP15 and CP51 of the emerging Wiltshire Core Strategy. Furthermore, it would set an undesirable precedent for the development of the adjacent open countryside to the west of the site and east of the A350 that when taken with the development of this site, would result in the complete coalescence of Melksham and Bowerhill village, contrary to the policies set out above.
3. The proposal conflicts with the Delivery Strategy outlined in policy CP2 of the emerging Wiltshire Core Strategy, which seeks to properly plan for sustainable development of housing sites in Wiltshire to deliver the identified housing needs in the Community Areas through a Site Allocations DPD and/or a Neighbourhood Plan, a strategy supported by both the Wiltshire Core Strategy Inspector, and the Secretary of State in his appeal decision at Park Lane, Malmesbury. This site has not been brought forward through this process and has inherent flaws in its sustainability (e.g. through lack of suitable primary school capacity to meet the needs of the development; the siting adjacent to existing established industrial premises; and the severance of the site from the facilities of the town of Melksham by the busy A365 Western Way). The delivery strategy required by policy CP2 is the properly planned method of establishing the most sustainable sites for meeting the housing needs of Melksham.

