

## REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	7 July 2021
<b>Application Reference</b>	21/01111/REM
<b>Site Address</b>	Land East of Spa Road, Melksham
<b>Proposal</b>	Reserved Matters for 50 homes forming part of Phases 4A and 5A of outline planning permission originally granted under 14/10461/OUT and varied by consented application 17/09248/VAR. REM approval is sought for all outstanding matters relating to this phase, comprising Scale, Layout, External Appearance, Landscaping, Internal Access Arrangements and the Mix and Type of Housing.
<b>Applicant</b>	BDW South West Mr Mark Powell
<b>Town / Parish Council</b>	Melksham Without CP
<b>Electoral Division</b>	Melksham East – Cllr Sankey
<b>Grid Ref</b>	391504 - 163062
<b>Type of Application</b>	Reserved Matters Application
<b>Case Officer</b>	Jemma Foster

### Reason for the application being considered by Committee

This application has been 'called in' for the Western Area Planning Committee to determine at the request of the local ward member (prior to the May election), by Cllr Nick Holder should officers be minded to support the application so that the elected members can consider the following material matters:

- The relationship to adjoining properties
- The environmental or highway impact
- To open this application to public debate at the request of the Parish Council and local residents.

### 1. Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved subject to conditions.

### 2. Report Summary

The key determining planning issues are considered to be:

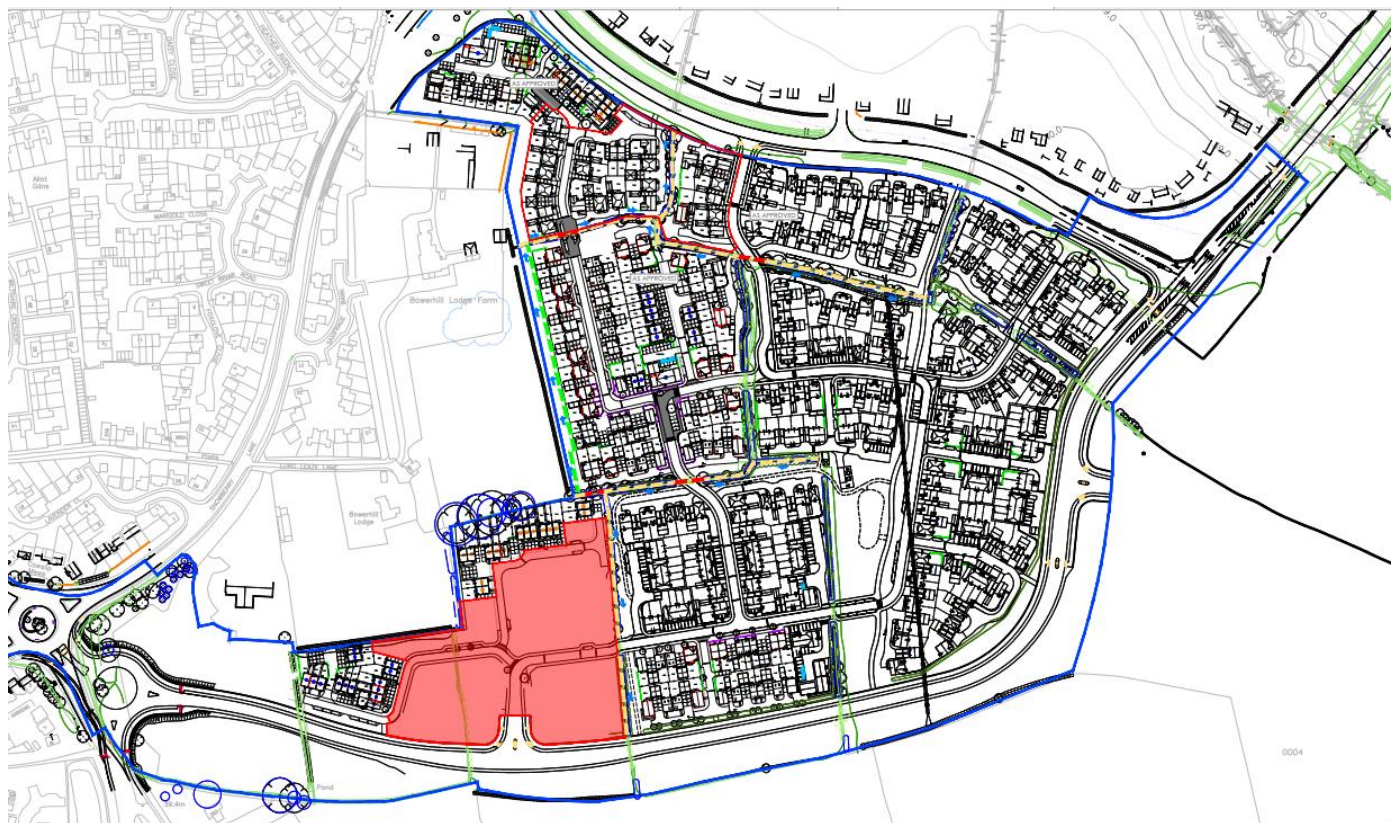
The principle of development, the impacts upon the area and wider landscape; drainage impacts, heritage asset setting impacts as well as highway impacts and neighbouring impacts.

### 3. Site Description

The red lined extent of the application site is shown below left – which is a parcel of land that is located outside the town policy limits of Melksham as map insert reveals below right (with the black line depicting the settlement limits). However, as referenced above within the application description, the site benefits from extant permission for 447 dwellings.



The site is known as Land East of Spa Road, Melksham and the particular phase to which this application refers, extends to approximately 1.57 hectares (referred to as phases 4A and 5A) and is part of the wider site's development for housing – which is illustrated below and is well under way.



The site is relatively flat and comprises agricultural land forming part of two fields which are bisected by hedgerow with the southern boundary forming hedgerow. The site is within the Melksham Without parish.

#### 4. Planning History

14/10461/OUT – Erection of 447 dwellings and access – Approved 22/09/2016

17/09248/VAR – Variation of Condition 32 of 14/10461/OUT relating to site access – Approved 09/08/2018

18/04644/REM – Erection of 447 Dwellings – Approved 05/12/2018

18/02128/FUL – Construction of surface water drainage detention basin, associated with permission 14/10461/OUT, including associated access, groundworks and landscaping – Approved 15/08/2018

20/11601/REM – Erection of 25 dwellings – pending a decision (reported to WAPC for consideration)

Note: There have been additional variation and REM applications for this site, but these have not been implemented.

#### 5. The Proposal

This application seeks REM approval for various material revisions to the scheme previously consented under the 18/04644/REM application. The proposed changes are summarised as follows:

To increase the number of dwellings within the phase from 48 to 50; and to: -

To replace **three** 2bed dwellings and **two** 3bed dwellings from the phases as previously consented; and to erect **seven** 4bed dwellings in their place.

The proposed 2 additional units should be considered as an equalisation of the housing numbers with due regard given to the proposed deletion of two units from the 20/111601/REM scheme layout.

The approved phased layout of this part of the site is illustrated below:



The proposed revised layout (which would sit alongside the remainder of the consented residential development) is shown below:



## 6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015): CP1 – Settlement Strategy, CP2 – Delivery Strategy, CP15 – Spatial Strategy Melksham, CP45 (meeting Wiltshire’s housing need) CP57 – Ensuring High Quality Design and Place Shaping, CP58 – Ensuring the Conservation of the Historic Environment, CP60 – Sustainable Transport, CP61 – Transport and New Development, CP64 – Demand Management, CP67 – Flood Risk

Saved Policies for the West Wiltshire District Local Plan (1st Alteration): U1a Foul Water Disposal.

### Other Matters

- The Wiltshire Waste Core Strategy (adopted 2009)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework 2019 (NPPF)
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)
- The emerging Joint Melksham Neighbourhood Plan (which has a referendum date set and can be afforded significant weight in the planning balance)

## 7. Consultations

Melksham Without Parish Council – No objection, but asks that consideration be given to the provision of a roundabout (in line with the rest of the current relief road/Eastern Way) on the exit to this development to provide a safer egress for vehicles, onto the new road proposed off Eastern Way to Spa Road, which would be used as a relief road from Sandridge Road to access the A365/A350.

Melksham Town Council – Objects and requests confirmation that the floor level of the new properties would be at the level of those originally proposed on drawings 4769-L-226 and 4769-L-227, which indicates that the new houses should have had the same floor level as existing properties. The floor levels of the new properties already developed are at least 1m higher than that indicated on the plan drawings. The higher floor levels have created overlooking of existing properties. The Town Council is also extremely concerned about flooding with the area and argues that more housing would exacerbate the problem.

Wiltshire Council Urban Designer – No objections.

Wiltshire Council Highways – No objection.

Wiltshire Council Drainage Team – No objection

## 8. Publicity

The application was advertised by a site notice and individually posed neighbour notification letters. The deadline for third party representations was 9 April 2021. In response to the public notification exercise, 5 letters of objection have been received. The objections and comments are summarised below:

### Drainage Concerns

- There is a flooding problem due to the raising of the road level and surrounding development. This has led to flooding of neighbouring land. One objector asserted that this was the first time they had experienced surface water flooding in 46 years.
- The flooding has caused damage to the boundary fencing, third party property and garden and had access to my heating and hot water turned off as their propane tank was positioned within the flooded garden.
- No proper drainage system has been installed.
- The flooding has submerged trees and hedges

### Other Concerns

- The ecology reports are out of date
- The elevation plans do not show that the houses are to be built higher than the existing land levels.
- There has been no response to a planning enforcement complaint.

## 9. Planning Considerations

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

### 9.1 Principle of Development

The principle of residential development for this site has already been established through the approval by the Council of the 2014 outline application and the 2018 reserved matters application. This application seeks consent for material revisions to the previously approved reserved matters and the Council can only consider those matters which are reserved by the outline and the details of the REM submission which in the case of this application includes the proposed increased (equalisation) of new houses to be built within the identified phase (from 48 to 50); and to construct seven 4bed dwellings and not construct three 2bed and two 3bed dwellings as previously approved. The following table sets out the spread of the previously consented phase and what is now proposed:

	<b>As-approved in 18/04644/REM</b>	<b>Proposed in 20/01111/REM</b>
2 bed	4	1
3 bed	14	12
4 bed	30	37
Total	48	50

It is important to appreciate that the Council cannot seek to impose additional affordable housing obligations on the developer pursuant to affordable social housing if this application is approved along with 20/11601/REM, as the developer is not proposing to build any more houses beyond what was previously consented and the quantum of social housing has already been agreed and secured by the 2016 and the 2018 applications.

Whilst the local concern is noted about this proposed deletion of three 2bed and two 3bed homes from these two phases, it is important to be cognisant of the fact that the consented 2018 reserved matters application, to which this parcel of land forms a part, included the following approved market housing mix: (19) 2bed units, (60) 3bed units and (104) 4bed market houses (totalling 183).

If this application is approved along with 20/11601/REM (which is also on committee agenda) the house type mix would be:

(14) 2bed units (**5 fewer** overall with 3 less for phases 4a and 4b), (53) 3bed units (**7 fewer** overall with 2 less for phases 4a and 4b) and (116) 4bed units (**12 more** overall with 7 more for phases 4a and 4b).

The affordable housing provision would remain unchanged and would still comprise: (8) 1bed units, (34) 2bed units, (24) 3bed properties and (2) 4bed homes in addition to the above.

Officers are satisfied that there would still be a good spread of housing types to meet a range of housing demands across the wider site.

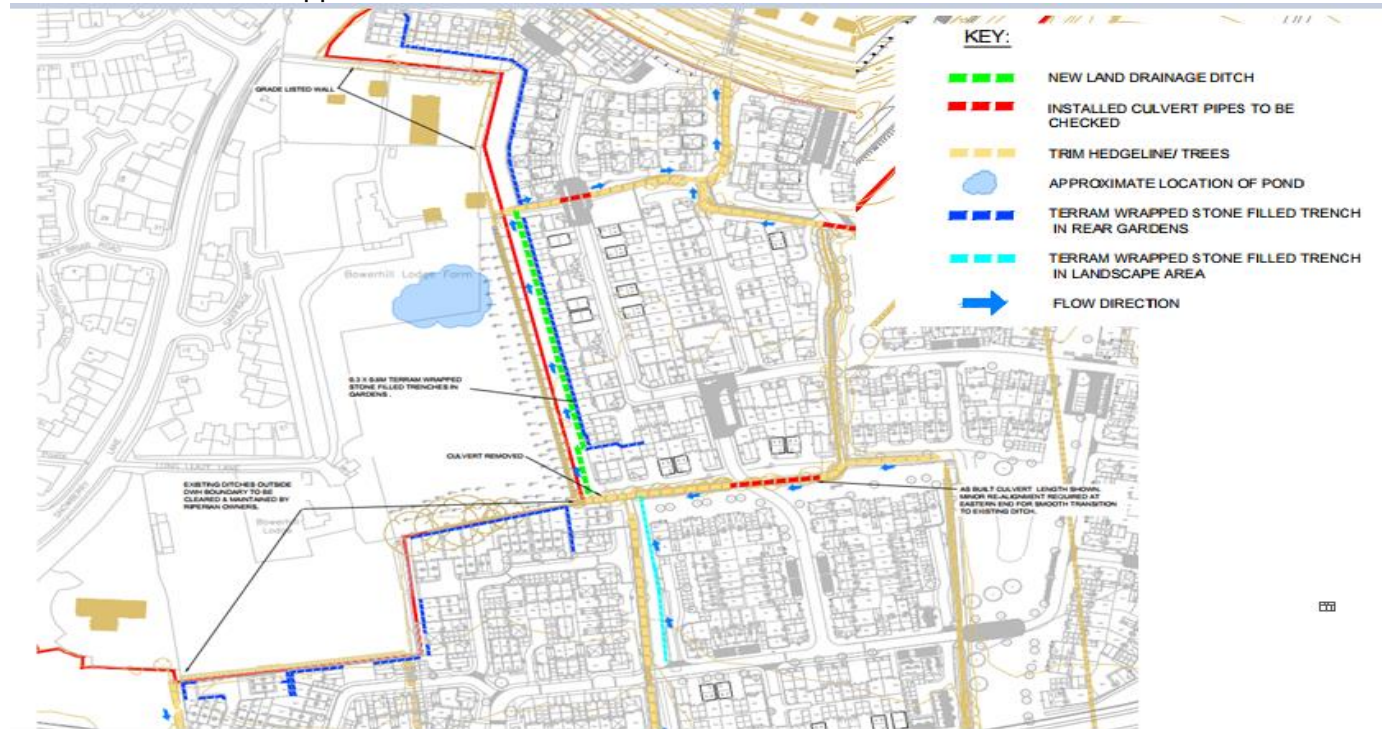
### 9.2 Impacts upon the character and appearance of the area

The proposed revision to this phase of development would not have an adverse impact upon the character and appearance of the area. The proposed dwellings would be two storey and would utilise materials that have already been approved for the wider site. The orientation of the new house types would be similar to the layout previously approved and the land levels have not been significantly increased.

### 9.3 Drainage and Flooding Concerns

The local concerns expressed about site flooding and neighbouring impacts are duly noted. Officers are aware of some dwellings near the site experiencing some surface flooding to their gardens. Officers from the

development management and planning enforcement team as well as the Councils drainage team engaged with the developers and the affected neighbours to ascertain the source of the flooding which led to the recent submission of application PL/2021/05925.



The recently submitted PL/2021/05925 application was submitted on the back of the recent off-site surface water flooding events, which updated and addressed the drainage condition requirements set within the original outline consent for 14/10461/OUT. Officers can confirm that the additional technical details submitted to the Council have been appraised by the Councils drainage team and Wessex Water, and both are satisfied with the revised surface water drainage plans that reflect the land level changes made on the site during construction, and have confirmed that the surface water and foul drainage connections are to be adopted by Wessex Water, and would fall within the scope of the extant s104 adoption agreement.

Officers are therefore satisfied that the drainage system and the remedial works enshrined within the recent DoC application (as shown below) would mitigate the impacts of the development and would not make things worse, thus satisfying the Framework requirements.

#### 9.4 Impact upon the setting of the Listed Building

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires ‘special regard’ to be given to the desirability of preserving a listed building or its setting.

Paragraph 193 of the NPPF states that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. ... This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

The following points are taken from the Historic England document “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3) that are considered to be particularly relevant:

HE GPA3 Part 1:

“The NPPF makes it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset.”

*“The extent and importance of setting is often expressed by reference to visual considerations. ...views of or from an asset will play an important part...”*

*“While setting can be mapped in the context of an individual application or proposal, it cannot be definitively and permanently described for all time as a spatially bounded area or as lying within a set distance of a heritage asset. This is because the surroundings of a heritage asset will change over time.”*

*“The importance lies in what the setting contributes to the significance of the heritage asset or to the ability to appreciate that significance.”*

The listed building in question is Berkeley House (which is grade II listed), which was originally listed as Bowerhill Lodge Farmhouse that was split into four dwellings and is located North East of this application site. Also, to the north, there is an inverted U-shaped stable block that is considered to be a curtilage listed building to the main farmhouse and has been considered as such when the stable block was split into five dwellings.

The Berkeley House property is however more than 190m from the site and would not be materially harmed by this development.

There are also grade II listed buildings to the south of the application site known as The Spa buildings – which are over 170m from the site and the listed houses would not be materially harmed by this development.

This revised REM proposal does not compromise the previous conservation officer conclusions. Officers are satisfied that this REM proposal would not harm the setting of the distant listed buildings, and the development would comply with the relevant policies of the adopted Core Strategy namely CP57 and CP58, as well as conforming with the Historic England guidance contained within “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning” and would accord with the NPPF.

### **9.5 Neighbouring Amenity Impacts**

This revised REM proposal would not result in any additional housing units along the north western site boundary which is closest to the existing dwellings/neighbours. There would still be two units as previously approved and would remain two storeys with the same orientation and maintain the same separation distances as previously approved.

Officers raise no neighbour impacts grounds of concern with respect to overlooking, overshadowing or overbearing when the revisions are compared against the extant approved plans.

Concerns have been raised regarding the increased land levels on the site which has consequently led to the proposed dwellings on the boundary being higher than the neighbours initially thought. For clarification purposes the approved finished ground levels along the shared boundaries vary between 41.15m AOD to 41.25m AOD.

At the outline stage, the existing land levels in this area were shown as between 39.6m AOD to 40m AOD which represents a 1.65m increase of the land levels along the northern part of this site which has been approved.

Under this revised REM application, the land levels would not be increased and in fact, there a few plots with proposed reduced land levels of between 10-20cm which officers are satisfied would not result in demonstrable harm to neighbouring interests.

The following inserts reveal what was previously approved and what is now proposed in terms of the finished floor levels for the properties near to the shared site boundary which officers are satisfied about.

Previously Approved



Proposed





## 9.6 Highway Impacts

The vehicular access and highway layout are not subject to any revision under this application. The car parking provision and proposed garaging all comply with the Wiltshire Car Parking Strategy. The request made about seeking a material revision to the highway provisions is not considered necessary or reasonable. It should also be noted that access is not a reserved matter that is open for Council consideration.

## 10. Conclusion

The proposed REM revisions to what was previously approved are considered acceptable when assessed against the adopted Wiltshire Core Strategy and the emerging Neighbourhood Plan and the NPPF, and as such, officers recommended that the committee approves this REM application subject to the following conditions.

## 11. Recommendation – Approve subject to the following conditions:

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### Conditions: (5)

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

Drawing PL-01 (site location plan); Drawing PL-02 (context plan); Drawing PL-03C (coloured layout), Drawing PL-03C (planning layout); Drawing PL-04A (materials layout), Drawing SA-01 (sales area); Drawing 4769-L: 211-R (soft works drawing 3 of 5); Drawing 214-M (structural landscape road drawing 1 of 4); Drawing 215-N (structural landscape proposal road drawing 2 of 4); Drawing 218-O (structural landscape drawing 1 of 1); Drawing 219-K (structural landscape north west boundary 1 of 1); Drawing 222-P (hard landscape proposal 2 of 4); Drawing RP2: SS-01 (street scene); Drawing HT-GAR-01 (garage); Drawing HT-GAR-02 (garage); Drawing AVO-18023-CIV-5000 Rev A (engineering levels); Drawing House Types RP2-HT: AL-01, ALD-02, ALD-03, ALV-01A, ELLERTON-01, KINGSLEY-01, KINGLSEY-02, KINGSVILLE-01, KINGSVILLE-03A, MORESBY-01, MORSEBY-02, MORSEBY-03, RADLEIGH-01, RADLEIGH-02, WOOD-01, WOOD-02.

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

- 2 The development hereby approved shall be carried out in strict accordance with the Construction Environmental Management Plan (CEMP) approved by the Local Planning Authority under application reference number 19/01795/DOC.

REASON: To ensure the development is undertaken in an acceptable manner, in the interests of preventing pollution of the water environment

- 3 The materials to be used for the external walls and roofs shall be carried out in accordance with the details approved by the Local Planning Authority under application reference number 19/05715/DOC.

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

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

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

- 5 The development hereby permitted shall be carried out in accordance with the drainage scheme for the southern area of the site including the associated attenuation pond, landscaping and infrastructure works that was approved by the Local Planning Authority under application reference 19/04603/DOC

REASON: To ensure suitable drainage for the site