

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	16 September 2021
Application Number	19/05898/OUT
Site Address	Land off Park Road, Malmesbury, SN16 0QW
Proposal	Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access.
Applicant	Stonewater Housing Association and White Lion Land (Malmesbury) Ltd
Town/Parish Council	Malmesbury
Electoral Division	Malmesbury Councillor Gavin Grant
Grid Ref	392415 187968
Type of application	Outline Planning Permission
Case Officer	Catherine Blow

Reason for the application being considered by Committee

The matter has been scheduled as a Strategic Committee item due to the development being a major development that does not conform with the provisions of the development plan. In addition, Cllr Grant has raised concerns in relation to the proposed development due to its non-conformity with the Malmesbury Neighbourhood Plan and as the site is not allocated for development in the development plan.

1. Purpose of Report

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

2. REPORT SUMMARY

The key issues in considering the application are as follows:

- Principle of the Development
- Deliverability
- Character and appearance
- Impact on Residential Amenity
- Highway Impacts
- Sustainability
- Drainage / Flood Risk

- Ecology
- Heritage
- S106 contributions (Affordable Housing, Education, Public Open Space, Waste)

Malmesbury Town Council has raised an objection to the proposed development and a total of 136 letters of objection have been received, raising comments and objections to the proposal with 5 letters of support for the proposal.

THE PROPOSAL

The proposed development relates to the provision of up to 50 residential dwellings (40% affordable), internal road, parking, open space and associated works. This is an outline application with all matters reserved except access, which is for determination in this application.

The application is submitted jointly by White Lion Land (Malmesbury) Ltd and Stonewater Housing Association, a registered housing provider. The initial proposal sought planning permission for a scheme of 100% affordable units, namely entry level homes. However, since the original submission, the scheme has been revised and it has been confirmed the proposal would provide up to 50 homes and would include the provision of 40% affordable homes.

The application has been revised during the application process with a revised red site outline provided as well as updated information regarding the drainage strategy, ecology and highway access. The illustrative site layout is to be considered illustrative only with consideration of relevant details reserved for any subsequent reserved matters application(s). Other plans included in the submission that show an indicative layout are also considered on the basis of indication only and would not form part of the approved scheme and would be subject to subsequent approval.

The proposed highway works associated with the proposal would include the widening of the Park Road carriageway to 5.5 m from the Park Close junction and extending into the development, together with the provision of a 2m wide footway adjoining the south-western side of the carriageway, infilling of an existing drainage ditch and the realignment of the north-western section of Park Road to provide a priority junction with the new access road. The proposed access would result in the diversion re-prioritisation of Park Road into the application site. The junction provided would result in priority to those entering and exiting the application site with a T junction provided for those travelling to and from the West of the application site.

EIA

The proposed development relates to the erection of up to 50 dwellings on land covering 1.2 Hectares. The proposal is not;

- (i) development that includes more than 1 hectare of urban development which is not dwellinghouse development; or
- (ii) development that includes more than 150 dwellings; or

- (iii) development that exceeds 5 hectares. greater than 5 hectares or consist of 1 hectare on non-dwelling housing development.

The proposal would not therefore fall within any of the criteria set out within Schedule 2, subsection 10(b) of The Town and Country Planning Environmental Impact Assessment Regulations 2017. As such, an Environmental Impact Assessment is not required in this case.

3. Site Description

The application site, as outlined in red, consists of an area of land totalling 1.2 hectares in area, drawn around part of an existing open field located close to the rear boundaries of properties 21 -26 White Lion Park. The application site includes the hedge boundaries located to the southwest boundary and boundary with Park Road.

The site outlined in red forms part of an open grassed, closely mown field. The application site includes the current field boundaries to the southwest and southeast of the site. The application site includes the hedge boundary and ditches that run along the southern side of Park Road and two preserved trees (subject of TPO N/12/00001/IND) that are also contained within the north east boundary of the existing field. The remaining TPO trees and woodland subject of that order are not contained within the red site boundary but are within the applicant's ownership boundary.

The site slopes up from Park Road fairly steeply towards White Lion Park. The site is located in the Avon River Valley with the boundary to the Cotswold AONB located to the western side of Park Lane. Park Road, including land within the red site boundary forming the proposed access to the site, is low lying and close to the river valley and is located in Flood Risk Zones 2 and 3 and part of the application site is also is an area at risk of both ground water and surface water flooding. The indicative housing layout shows housing only in flood risk zone 1.

The site is also a former twentieth century outfarm (now demolished) of regular courtyard plan, a potential site for archaeology.

The proposed development site lies in countryside outside the town's settlement boundary and is not identified as a housing site within the 'Wiltshire Housing Sites Allocation Plan' (February 2020) or the Malmesbury Neighbourhood Plan (Made 2015) or allocated for any form of development in the adopted development plan.

The application is supported by ecology survey information regarding protected species, including potential for the site to support bats, badgers, invertebrates.

4. Planning History

N/11/01382/OUT-Outline Planning Consent for Residential Development (77 Dwellings); Community Building (Use Class D1); Public Open Space; and Associated Works including Construction of New Access REFUSED

N/12/03464/OUT- Residential Development (77 Dwellings); Community Building (Use Class D1); Public Open Space and Associated Works Including Construction of a New Access (Resubmission of 11/01382/OUT). REFUSED, Dismissed by the Secretary of State on 8th September 2014, solely on the basis that releasing the appeal site for housing now could result in a significant and demonstrable adverse impact on the outcomes of both the WCS and the MNP and that, when assessed against the policies in the Framework taken as a whole, that could run the risk of outweighing any immediate benefits provided by the appeal scheme.

5. Local Planning Policy

Wiltshire Core Strategy (2015)

Core Policy 1- Settlement Strategy

Core Policy 2 - Delivery Strategy

Core Policy 3 – Infrastructure Strategy

Core Policy 13 - Malmesbury Community Area

Core Policy 43 – Providing Affordable Homes

Core Policy 44 - Rural Exception sites

Core Policy 50 - Biodiversity and Geodiversity

Core Policy 51- Landscape.

Core Policy 52 - Green Infrastructure.

Core Policy 57 - Ensuring High Quality Design and Place Shaping

Core Policy 58 - Ensuring the Conservation of the Historic Environment

Core Policy 60 – Sustainable Transport

Core Policy 61 – Transport and New Development

Core Policy 64 – Demand Management

Core Policy 67 – Flood Risk

North Wiltshire Local Plan 2011 saved policies:

H4 – Residential Development in the Open Countryside

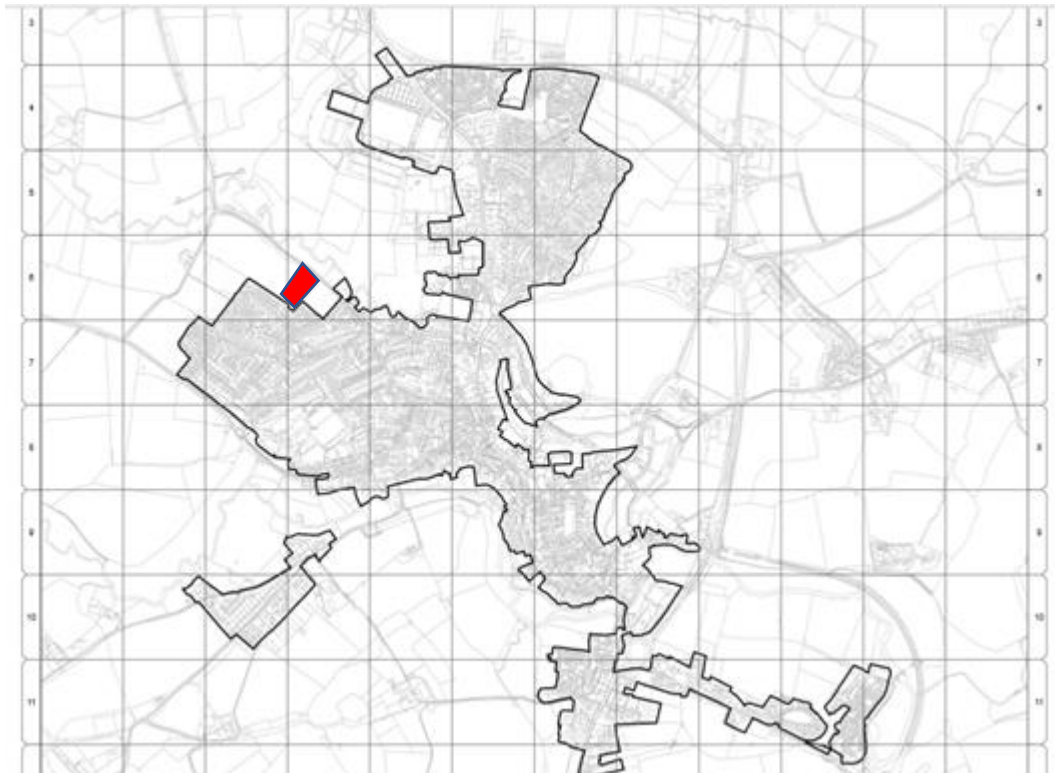
NE14: Trees, Site Features and the control of new development.

CF3: Provision of Open Space

NE18: Noise and Pollution

Wiltshire Housing Site Allocations Plan (February 2020)

The settlement boundary for Malmesbury has been reviewed within this document. The amended settlement boundary, as set out on page 122 of the document (and the subsequent maps after this page) the application site remains outside but in close proximity to the settlement boundary.



(Extract from WHSAP with application site location indicated)

Malmesbury Neighbourhood Plan (Made 2015) - Volume 1 (Main Body) & Volume 2 (Design Guide)

- Objective: Allocated sites for housing to at least meet the dwelling requirement for Malmesbury Town as set out in Wiltshire Core Strategy
- Policy 1: Land to the north west of Malmesbury, south of the Dyson Limited research and development facility and west of Malmesbury CE School (sites 3A and 15) is allocated for 170 dwellings
- Policy 2: Land at Burton Hill to the north (site 10), east (site 11) and south (site 6) of the Primary Health Care Centre is allocated for 50 mixed cottage-type dwellings, for elderly members of the community
- Policy 6: The redundant Burnham House site is allocated for redevelopment to provide approximately 50 dwellings as the first choice for Extra Care Housing.
- Objective: Assess housing requirement for the remainder of the Neighbourhood Area and address concern about volume windfall housing.
- Policy 3: Housing development in each designated small villages within the plan area (Millbourne and Corston) shall be on windfall sites and the number of dwellings should ideally not exceed single figures in order to preserve the rural character.
- Objective: Ensure that housing development responds to the identifiable needs of the changing populations of the Neighbourhood Plan Area
- Policy 4 – Planning Applications Planning applications for new housing, including conversions, must be tested against the current evidence of local demand and supply from sources including Wiltshire Council population forecasts, the Social Housing Register, the Strategic Housing Market Assessment and the most recent Neighbourhood Survey. Tables 2.1.1 and 2.1.2, above, are derived from this evidence.

- Policy 5 - applications for new housing, including conversions, should be assessed against the demand net of cumulative consents given in the period, not the gross demand identified at the beginning of the period Policy 13: The NP Design Guide as set out in Volume 2 of the MNP, should be taken into consideration in all developments to ensure a high quality of design that respects the specific character of Malmesbury Town and the surrounding area.
- Objective: Enhance the landscape setting of the town.
 - Task 6.2: The settlement Assessment must be used when considering new development within Malmesbury Town and the Conservation Area Management Plan should be referenced.
- Objective: Encourage the conservation and use of natural assets.
 - Task 6.3: Investigate extending and improving footpaths and cycle ways.
 - Task 6.4: Ensure the biodiversity of the river valleys is maintained.

Design Quality

- Objective: Ensure positive relationship between town and countryside.
 - Task 8.4: Development proposals, particularly but only, where sited on the edge of Malmesbury must maintain visual connections with the countryside.
 - Task 8.5: the visual impact of new development on the countryside, and on views from the countryside, must be enhancing.
 - Task 8.20: The scale and massing of all new buildings must be informed by and sensitive to local topography and landscape character, townscape and the wider setting of the development within the town.

NPPF 2021

Section 2 – Achieving Sustainable Development – paragraphs 7, 8, 9, 10, 11, 12, 14

Section 4 – Decision-Making – paragraphs 38, 40, 47, 55, 56, 57

Section 5 – Delivering a sufficient supply of homes – paragraphs 60, 61, 63, 65, 77,

Section 8 – Promoting healthy and safe communities – paragraphs 92, 93, 98, 100

Section 9 – Promoting Sustainable transport – paragraphs 104, 105, 107, 108, 110 – 112

Section 10 – Making effective use of land – paragraphs 119, 120, 124

Section 12 – Achieving well-designed places – paragraphs 126, 128, 129, 130, 131, 132, 134, 135

Section 14 – Meeting the challenge of climate change, flooding and coastal change - paragraph 159, 163, 164, 165, 167, 169

Section 15 – Enhancing the natural environment – 174, 176, 180,

Section 16 – Conserving and enhancing the historic environment, 189, 192, 193, 194, 195, 197, 199, 203, 204, 205

Planning Practice guidance

Design: Process and tools – updated (1 October 2019)

National Design guide – published October 2019 and revised in January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes.

Historic Environment – updated 23 July 2019

Housing Needs of different groups 24 May 2021

Natural Environment updated 21 July 2019

6. Summary of consultation responses

This application has been subject to several rounds of consultations and the following responses are a summary of the most recent responses received regarding the most up to date submissions.

Malmesbury Town Council – in the consideration of the revised information provided by the applicant the Town Council maintain their strong objections to the scheme, which relate to the following matters:

- The site being outside the settlement boundary and not allocated for any development within the Malmesbury Neighbourhood Plan
- The Neighbourhood Plan allocates 1,000 dwellings to satisfy the minimum housing requirement for Malmesbury of 885 as required by the Wiltshire Core Strategy
- The Malmesbury NP tested the allocation against the provision of services and the additional dwellings would fail to be served by acceptable education and healthcare facilities due to these being unplanned
- There would also be adverse impacts upon highway infrastructure and town centre parking availability.
- Paragraph 71 advises that entry level housing sites should be encouraged unless the need for such homes is being met in the Authority's area and there is no evidence this is not being met, the existing provision for such housing (such as the Filand's site that would deliver 54 affordable homes and 80 affordable homes at Backbridge Farm), no evidence of the need for such homes
- The local connection policy should be fiercely defended and implemented and should take the approach of the rural exception site policy 44 in the core Strategy which should have clear support from the local community and should meet a genuine and identified local need.
- Park Road floods frequently
- Exacerbation of conflict on the highway with additional traffic and nearby commercial unit traffic on a narrow road
- The site is distance from local services, main roads and local schools increasing likelihood of travel by private means to access those services
- Detrimental impacts upon nearby AONB and ecology
- Sets a precedent to develop the larger site similar to the previous applications

Brokenborough Parish Council:

The response objects to the proposed development for the following reasons:

- Increased traffic through the village

- Increased flooding would isolate villagers from Malmesbury Town Centre
- Additional light pollution
- Lack of infrastructure resulting in out-commuting to schools and jobs
- Lack of parking in the town centre
- Housing need has been met in this location
- This site was assessed as part of the adoption of the MNP but was rejected due to flooding, difficult cross town travel towards M4, poor access to town centre, increased traffic through Brokenborough Road

Wiltshire Council Spatial Planning

The original response to the proposal related to the original proposal for entry level housing which is now not proposed. No further comments were received regarding the revised proposal. The response for similar scale housing developments in Malmesbury advise that as the Council cannot demonstrate a five year supply of deliverable housing sites, then the adverse impacts of granting consent will need to be weighed against the benefits.

Wiltshire Council Highways

The original response raised no objection to the principle of the development which would be acceptable. However, the response sought detailed drawings to show the improvements to the existing highway infrastructure to demonstrate the highway improvements could be provided. These were provided in February 2021 and the most recent response advises the swept paths and road realignment are acceptable no highway objection subject to conditions and all works would be subject to a subsequent highway agreement under Section 278 of the Highways Act.

The response included detailed comments regarding drainage matters for the site and within the highway but the response accepts that matters of the drainage of the site can be dealt with at reserved matters stage.

Wessex Water

The most recent response provided supports the Lead Local Flood Authority (LLFA) comments regarding the density of the scheme and the lack of space for SuDS. However, the response also advises that as all matters regarding the drainage scheme would be provided via private means it lies outside the control of Wessex Water. The response also advises that no infrastructure controlled by Wessex Water is permitted to be removed nor are any works to the headwall adjacent to 49 Park Road to be undertaken as a result of the proposed development without prior consultation with Wessex Water.

Wiltshire Council Drainage Team

The initial response raised an objection to the scheme and these concerns related to the lack of consideration for the drainage hierarchy, and space within the site for attenuation features. The submission lacked information to demonstrate the scheme has a viable drainage scheme

and particularly, lack of information regarding the discharge points and capacity for drainage features to accommodate the proposed flow, and the reliance upon highways drainage to facilitate drainage. The response sought additional technical information regarding the drainage scheme and sought further justification for exemption from drainage hierarchy, further survey works and hydraulic modelling of the existing system and outfall point and evidence of discharge rate as well as a schedule of repairs if required to the existing system.

The Applicant provided additional information including a revised site boundary to include attenuation ponds as well as detailed plans and information regarding the highway works. The most recent response does not object to the proposed development but raises concern regarding the use of highways drainage features, surveys of the existing system capacity and seeks additional technical information regarding the drainage scheme.

Environment Agency

No objection subject to conditions

Wiltshire Council Urban Design

The response regarding the revised indicative layout plan raised an objection to the proposal due to the design of the proposed access and included detailed concerns regarding the indicative layout and the quantum of development proposed. This response noted the proposal is in outline form and they considered no weight should be given to the indicative layout proposed and the plan should not be approved. The response includes detailed comments in relation to the indicative layout proposed. Subsequent discussions with the Officer confirm that the revised description of up to 50 dwellings could be accommodated in an alternative layout which could be secured by reserved matters consent.

Crime and Prevention Officer Wiltshire Police

The response provides detailed comments in relation to the indicative layout proposed.

Wiltshire Council Landscape

The response raises concerns regarding the intervisibility between the site and the AONB and the urban edge created, harm to the rural character of Park Lane and its transition towards the rural area from Malmesbury including the maintenance of landscape features and engineering required for an acceptable highway access. The response also sets out detailed comments on the indicative site layout including: lack of space within the site for SuDS, need for appropriate stand-offs to trees and hedges including the protection of TPOs, increased urban skyline on this sloping site, lack of space for maintenance of boundary hedging, comments also provided regarding the detailed layout.

Subsequent discussions regarding their concerns reveals that their concerns do not relate to a landscape objection to the principle of the development and they are unwilling to defend this as a reason for refusal. They also consider that additional land in the blue line could provide additional landscaping to filter the transition with the countryside and the AONB. It is also confirmed that the comments relate to the lack of and inadequacy of information regarding the details of the scheme and that the description should be up to a maximum number rather than a fixed amount to enable more flexibility.

Wiltshire Council Tree Officer

No objections subject to securing additional details regarding tree matters at reserved matters phase.

Wiltshire Council Ecology

The original response raised concern regarding a lack of clarity regarding the proposed development as well as lack of surveys regarding Bats and Great Crested Newts in a nearby pond. The submission also lacked clarity regarding mitigation and compensation for habitats within the land ownership boundary.

Additional information was provided and the subsequent response from Ecology raised some concern regarding the scope of the works proposed to vegetation, impact on bats arising from tree and hedge removal and lack of clarity regarding enhancements.

Wiltshire Council Open Space

No objections subject to conditions

The 50 dwellings generate a requirement for 2,832m² of Public Open Space including 222m² equipped play space. The response notes that the proposal does not include any on-site POS or play space; and makes mention of access to an informal recreation space to the north west of the development. This area cannot be considered as meeting the requirement for the proposal unless it is secured and managed in perpetuity as POS. If this area is not being secured as POS it is suggested that an off-site contribution of £123,422.70 for the upgrade of facilities at either White Lion recreation ground or Newton Grove play area (both of which are within the accepted distance thresholds of the development) would be applicable.

Wiltshire Council Education

Early Years

There is a need for additional early years provision as a result of the proposed development that requires an additional 4 places and so a financial contribution would be required

Primary

The response advises that primary education contributions are required to provide additional places and a contribution of £206,338 (subject to indexation) to provide places for Lea and Garsdon School or alternative school expansion is required.

Secondary

The relevant school for places for future occupiers is Malmesbury Secondary School, which is full and payment of £182,520 towards expansion to accommodate the development is required.

County Archaeology

No objections

The original response raised concerns regarding the lack of trenching of the site to establish the presence of buried remains in this location. The applicant has now undertaken the required investigation and the resulting report is now in hand and approved. It is considered the potential for buried heritage assets on site has now been suitably assessed and I do not wish to offer any further comment on the application.

Wiltshire Council Refuse and Recycling

No objection subject to further information, financial contributions towards receptacles and conditions regarding internal layouts. The response noted the access could accommodate refuse vehicles.

Wiltshire Council Public Protection

No objections subject to conditions requiring, air quality assessment, Electric vehicle charging points, a construction management plan.

Wiltshire Council Affordable housing

The response includes comments regarding the original proposal regarding 100% affordable housing (not now relevant). The most recent response raised no objection subject to the provision of 40% provision of affordable housing with an indicative mix required of affordable rent and shared ownership homes as well as the need for accessible units to be secured by legal agreement.

Publicity

The site has been subject to several rounds of consultations and the application has been advertised by neighbour letter, site notices and press notice places in the Wiltshire Gazette and Herald. A total of 141 responses have been received in the two rounds of consultations completed. In total 136 letters of objections and 5 letters of support received to the two rounds of consultations. This includes an email from James Gray MP in support of a local resident objection.

REPRESENTATIONS

Letters in support total 5 and support the proposal for the following reasons:

- Additional affordable homes
- Improved highway access arrangement

Letters in objection raised the following matters:

- Harm to ecology value such as slow worms, grass snakes due to the loss of this type of habitat, including a pond which could sustain Great Crested Newts
- The pond has not been assessed in the Ecology Report which could sustain breeding protected species
- Pollution in the River Avon from surface water run off that could affect water voles
- Loss of trees in Park Road

- Loss of habitat for foraging and roosting bats
- Increased flooding and additional pollution of the River Avon.
- Increased surface water run off on a sloped site
- Lack of SUDS integrated into the development
- The low lying river valley does not allow water to disperse and could affect property downstream
- The single access in the flood risk zone would not allow residents to escape on foot due to flood levels
- Lack of infrastructure to serve the additional dwellings
- Lack of school places to accommodate new homes with travel for pupils to Lea, with limited public transport
- Unsuitable location for new homes
- The homes would be in excess of the allocation for homes in Malmesbury
- Not in accordance with the Malmesbury Neighbourhood Plan
- The town will become too large to have a friendly community
- The town has seen a large amount of building in recent years
- The housing mix has not been compared to the needs set out in the MNP or already permitted schemes
- Needs already met through existing permissions
- Loss of a further green field
- Loss of important views of the countryside
- Lack of proposed landscape buffer to soften the built edge to the west
- The diverted road would significantly affect the character of Park Road
- Increased traffic and conflict with highway users walking in the vicinity
- Loss of narrow rural lane used for walking
- Harm to the local transport network and nearby junctions and dangerous in the winter due to icy weather and excessive slopes
- Increased commuting to jobs outside the town
- The road widening proposed in Park Road would affect the existing forecourt of an existing garage on the south side of Park Road
- Conflict with existing commercial operators in the vicinity.
- Additional pollution from traffic
- The diversion would significantly affect the flow of traffic in Park road and local roads
- Lack of footpaths in Park Road
- Lack of visibility splays provided
- The road and bridge in Park Road are in a poor state of repair

Wiltshire Swifts

Concern is raised in relation lack of provision for wildlife within the site, including swifts which are a “red listed” species. The response recommends 50 swift bricks are incorporated into the proposal.

Malmesbury River Valleys Trust

Object for the following reasons:

- The site is located outside the settlement and in the river valley
- Increased traffic on surrounding roads

- Loss of the rural, hedged character of Park Road with its mature hedging,
- Increased flooding
- The site is not allocated for development in the development plan
- Lack of school places within Malmesbury resulting in travel to nearby villages to education for occupiers
- Lack of healthcare facilities
- This is the third application for development of this land
-

Malmesbury Civic Trust

Object due to the excessive provision of affordable housing, which can be met through sites within the Neighbourhood Plan, the site is located outside the Malmesbury Settlement Boundary, the site boundary is artificially marked out and is close to the boundary with the AONB. The site is also susceptible to flooding.

Ministry of Housing, Communities and Local Government

The MP Mr Luke Hall on behalf of MHCLG responded to a letter from the Mayor of Malmesbury in relation to the proposal raising the following issues:

- He is conscious of the impact of development on communities and the Environment and the response sets out the planning reforms that set out that local and neighbourhood plans are fundamental to the giving local communities power over planning decisions that affect them
- Locally led plans are expected to tackle difficult issues such as meeting local housing needs
- Entry level exception sites provide a form of affordable housing aimed specifically at first time buyers or those looking to rent their first home, which is set apart from all types of affordable housing.
- Permission should not normally be granted contrary to an up to date development plan and LPAs may only depart from an up to date development if material considerations indicate that the plan should not be followed.
- The response sets out the circumstances where speculative development can be protected against in certain circumstances.

7. Planning Considerations

7.1 Policy

Under the provisions of Section 70(2) of the Town and Country Planning Act 1990 and 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 Wiltshire Core Strategy (WCS) (Adopted January 2015), the 'saved' policies of the North Wiltshire Local Plan (NWLPL) 2011 (adopted June 2006); the Wiltshire Housing Sites Allocation Plan (WHSAP) (Feb 2020); and the Malmesbury Neighbourhood Plan (MNP) (Made Feb 2015).

The proposed development seeks planning permission in outline form, with all matters, except access reserved, for 50 homes with 40% of those dwellings being affordable homes. The planning statement advises that an indicative mix would be 28 x 2 bed; 20 x 3 bed; and 2 x 4 bed. The proposal access would be from Park Road diverted into the site and re-prioritised for access into the site with a T-junction provided to allow access to the western part of Park Road.

Core Policy 1 of the Wiltshire Core Strategy (Settlement Strategy) identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Within this policy, Malmesbury is identified as a Market Town, which are defined 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 have the potential for significant development that will increase the 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. This is also the largest settlement within this community area with other settlements classified as large or small villages where there are limited services, employment and facilities and where growth is required to be limited.

Core Policy 2 of the Wiltshire Core Strategy states that in line with Core Policy 1, the delivery strategy seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178ha of new employment land and at least 42,000 homes, with a minimum housing requirement for the North and West Wiltshire HMA (which contains Malmesbury) of 24,740 dwellings for the plan period. Core Policy 2 also states that sites for development in line with the Area Strategies will be identified through subsequent Site Allocations DPDs and by supporting communities to identify sites through neighbourhood planning.

Core Policy 13 of the Wiltshire Core Strategy relates to the Malmesbury Community Area and states that over the plan period (2006 to 2026), approximately 1,395 new homes will be provided of which about 885 should occur at Malmesbury. The latest housing land statement, published December 2020, shows that at 1 April 2019: of the 885 homes required for Malmesbury 812 homes had been completed and there were 176 homes committed and deliverable by 2026. As such, Malmesbury is set to exceed the indicative requirement.

The Malmesbury Neighbourhood Plan became part of the development plan on 25th February 2015. The MNP does not allocate the proposal site for development. The table on page 10 of the MNP outlines the 885-dwelling requirement for Malmesbury Town for the WCS Plan Period 2006-2026. It then states that there have been 483 completions between 2006-14 with 219 further sites with planning approvals. Therefore, 183 dwellings were required to be identified to meet the minimum requirements of the Core Strategy.

In order to achieve delivery of the required 183 dwellings, three housing allocations are made within Policies 1, 2 & 6, which respectively allocate the following:

Policy 1 – Backbridge Farm – 170 dwellings (16/06401/FUL resolution to grant pending legal agreement)

Policy 2 – Burton Hill – 50 dwellings (16/11603/OUT approved 59 dwellings - 19/07095/REM submitted pending determination)

Policy 6 – Burnham House – 50 dwellings (approved 14/08832/FUL)

It is considered that the approval and delivery of allocations in the MNP follows a plan led approach to residential development in Malmesbury and already exceeds the minimum requirements of the Wiltshire Core Strategy. Although these allocated sites have approval, the HLS statement contains further information in relation to the delivery of the allocated sites as follows:

1. Backbridge Farm – delivery is anticipated to be 120 dwellings in the year 2024 - 2026 – this will not deliver all of the permitted development in the current plan period with 50 dwellings outstanding
2. Burton Hill – delivery anticipated 27 dwellings in the year 24/5 and 25/6- this will not deliver the totality of the development in the plan period
3. Burnham house – delivered the anticipated units

It should also be noted that permission has also been granted for additional dwellings, up to 71 at Filands under reference 19/11569/OUT, last year. Core Policy 2 of the Wiltshire Core Strategy states that other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25, development will not be permitted outside the limits of development, as defined on the policies map. The MNP also allocates land for residential development and supports limited infill development within the defined boundary of the town and thereby includes policies that define where new residential development is acceptable.

The site falls outside of the limits of development for Malmesbury and the proposal does not comply with any of the exception policies listed under paragraph 4.25 of the WCS. Similarly, as it lies beyond the limits of development, it does not comply with saved policy H4 of the North Wiltshire Local Plan as it does not meet the exceptions, set out in that policy also.

The Malmesbury Neighbourhood Plan is now over six and a half years old. It is in the early stages of review. The current plan is partly delivering the anticipated housing requirement with some of the allocations being delivered, although some allocations are taking longer than anticipated. Due to the age of the document and the current Housing Land Supply position it is now the case that the policies in the plan carry less than full weight in consideration of the application proposal. In addition, Policy 4 and 5 seeks to ensure that planning applications for new housing be tested on the local demand and supply. As seen from the evidence in the Council's HLSS the Council cannot currently demonstrate a five-year supply of deliverable housing land.

The proposed development seeks to provide up to 50 residential dwellings on land which is outside of the settlement boundary for Malmesbury and has not been allocated for residential development under the MNP. Therefore, the development is considered to be contrary to Core Policies 1, 2, & 13 of the WCS and the policies of the MNP.

7.2 Housing Land Supply

The Core Strategy was adopted in January 2015. Planning Practice Guidance confirms that a development plan does not become out-of-date automatically after passage of 5 years. However, housing land supply must now be assessed against Local Housing Need for the whole of Wiltshire, rather than the previous Housing Market Areas, as per paragraph 74 of the NPPF.

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing land supply plus buffer based on past delivery rates. The NPPF makes it clear that where this cannot be demonstrated, the most relevant policies for determination of the application including the supply of housing (which in this case would include CP1 and CP2 in relation to limits of development) cannot 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.

As detailed in the most recently published Housing Land Supply Statement (HLSS 2019) the Council cannot currently demonstrate a five-year supply. It currently stands at 4.56 years as from April 2019. In addition, it should also be noted that the North and West HMA, in which Malmesbury is located can only demonstrate 4.29 years of supply, lower than the Wiltshire wide target. As a result, the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal is within an area covered by a Neighbourhood Plan. Paragraph 14 of the Framework applies in situations where paragraph 11d is triggered because a proposal conflicts with a Neighbourhood Plan. In these circumstances paragraph 14 advises that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the 4 criteria apply. These are examined below.

NPPF paragraph 14 states;

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

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years."

As the Malmesbury Neighbourhood plan is six years old it fails criteria a). The MNP satisfies criteria B-D as the MNP has allocated a sufficient number of homes to meet its requirement, the local planning authority can demonstrate a 4.56 land supply and housing delivery is above 45% for the last three years.

As criteria a) is failed the policies relating to housing in the MNP are considered out of date and therefore it is for the decision maker to assess the weight to be afforded to the MNP in decision making. It is noted that the Neighbourhood Plan is to be reviewed but this is at an early stage.

It can be seen therefore that Core Policies 1, 2 & 13, saved Policy H4 and the housing policies of the MNP are all relevant for the supply of housing and under the provisions of the NPPF to be considered out of date.

As noted above, it is acknowledged that recent planning approvals and commitments in Malmesbury mean that the indicative housing requirements for Malmesbury (up to 2026) have been met. However, it is important to consider that housing supply, consistent with the NPPF, is assessed at the Wiltshire wide level – where, as set out previously, the Council cannot currently demonstrate an adequate supply of housing. In this context and given the scale of development proposed, it is not considered that the existing permissions and commitments to housing delivery within Malmesbury can in and of itself and irrespective of other considerations be a defensible basis for refusal of the proposals in the context of the Council currently being unable to demonstrate a 5-year supply of land for Wiltshire as a whole.

Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that:

(i) Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37).

(ii) The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).

The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise.

In addition to the provision of general housing the proposal would also provide additional affordable homes, for which there is a pressing need in both Malmesbury and also in wider

Wiltshire area. This is also required to be balanced in the matters to be considered as part of this application.

Appeal and court decisions confirm that ultimately it will be up to the decision maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date'. Therefore, consideration of the weight which can be provided to the above policies is considered in the balancing exercise at the end of this report.

Deliverability

The NPPF requires sites to be included in the council's five-year supply to be deliverable. The definition of deliverable is set out in NPPF glossary as follows:

"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

One of the applicants is a registered provider of affordable housing and they retain an interest in developing the affordable home element of the scheme as set out in the Planning Statement submitted with the application. This also confirms delivery of the development in the short term, with confirmation from the applicant for shorter implementation timeframes for delivery, which could make a significant contribution towards housing supply and there are no known barriers to delivery that would unduly delay implementation so can be delivered within the plan period.

The applicant confirms the site is viable based on the proposed required S106 contributions, conditions, and site constraints. The applicant confirms when the site is marketed, the full costs associated with the permission will be known and reflected in the land price ultimately agreed. Further, there are no abnormal infrastructure costs or large land requirements associated.

7.3 Character, appearance and visual amenity of the locality

Core Policy 51 states that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. This advice is echoed in paragraph 174 of the NPPF. Core Policy 57 states that new development must relate positively to its landscape setting and the existing pattern of development by responding to local topography to ensure that important views into, within and out of the site are to be retained and enhanced. Development is required to effectively integrate into its setting and to justify and mitigate against any losses that may occur through the development.

The site is located on the north eastern edge of Malmesbury. The site is at low level and at the edge of Park Road but the site rises towards the south as it joins the residential development of White Lion Park to the south. That estate extends further north than the application site, and as such the development proposal would be seen, when viewed from the north and from the AONB to the west against this sub-urban and elevated backdrop of existing residential development.

In terms of the impacts of the proposal, it would clearly result in development of an open field outside the settlement boundary and intrinsic in the principle of the development of the site, would result in its urbanisation. This would be in conflict with Core Policy 51 and 57 which seeks to retain the rural character and setting. However, any conflict with these policies would need to be balanced against other material planning considerations in the planning balance. Setting aside the in-principle objection relating to the rural character it is also important to assess the impacts of the proposal.

The existing site, depending on the seasons and whether the boundary hedging has been recently flailed is in an exposed location, particularly when viewed from the site access in Park Road, due to the lack of dense and high boundary hedging. The view from further west along Park Road, where better boundary trees and hedging exist is less obvious. The site is current an open field with limited boundary hedging, which has significant gaps or is closely trimmed. The views from the nearby public rights of way, namely MALM12 located to the south west is partially screened by an existing recreation field as well as the existing residential development at White Lion Park.

There will be views from the AONB as well as further rights of way located to the west but these would be distant views and could be further mitigated by provision of additional landscaping within the applicants land ownership, which extends significantly further west than the application site. There is concern regarding this matter from the Council's Landscape Officer. However, it should be noted that the application is in outline form with a requirement for the reserved matters and conditions/legal agreement to provide appropriate mitigation such as planting to soften the building form. The Landscape & Visual Impact Assessment summarises the impacts of the change of use as major/moderate adverse effect on this aspect of the landscape character but an overall improvement in the landscape fabric when compared to the baseline, which can be brought about by additional landscaping within the land holding. It also summarises the adverse impacts associated with this particular character, namely, the Malmesbury-Corsham Limestone Lowlands to be minor. This is due to the modest size of the

site, intervening landforms and development that reduce the impacts of the proposal upon the wider landscape due to the wide existing urbanising influence of existing development in Malmesbury. It also concludes limited visual impacts on users of public rights of way and moderate to minor impacts on visual amenity due to the proximity of existing residential development.

The loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area. There would be adverse visual effects, particularly for nearby residents. Policy CP51 of the Wiltshire Core Strategy requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

It should be noted that the proposed development would result in the development of a smaller site area than that previously considered for up to 77 dwellings, community building, open space and associated works under reference N/12/03464/OUT. That proposal was originally refused by the Council on the basis of three reasons relating to: conflict with the development plan, prejudicing a plan led approach, and lack of provision of mitigation regarding the provision of affordable housing, a range of financial contributions in a legal agreement. That was subject to an appeal, that was originally allowed by the Inspector but then dismissed by the Secretary of State in 2014 only on the basis that the immediate benefits associated with the increased housing land supply would not justify the release of the site before the examination of the Neighbourhood Plan proposals, with testing through referendum. At that time the Neighbourhood Plan was at an advanced stage and sought to allocate other potential sites for development, negating the need for additional greenfield release.

As noted in the planning history there were no objections to the previous scheme from the Council or during the appeal in relation to the physical development of that larger scheme or in relation to the impacts of the highway improvement works. This was not a matter of concern at the appeal raised by the Council or at the subsequent appeal. Although the current proposal seeks a materially different development proposal, with fewer dwellings proposed, as well as a more modest development site for the proposed dwellings and no community building, the previous appeal needs to be given due regard in consideration of the current application.

As detailed above, it should be noted that the proposal is only sought in outline form, with all matters other than access being for consideration in this application. At this stage the proposal is considered to comply with CP51 and CP57 as the effects of the scheme can be appropriately mitigated through appropriate landscaping and urban design can be examined at reserved matters stage to ensure an appropriate scheme could be provided to accord with the relevant policies in the Core Strategy and the Malmesbury Neighbourhood Plan and associated design guide. It would be difficult to defend an appeal on the basis of design and layout matters when these are matters to be considered at a later reserved matters stage. Further, the management of the open space required to the west could be controlled by a Landscape Management Plan via a S106 agreement, ensuring this land is retained as part of the approved development and suitably managed in the long term.

In terms of the proposed site access, this is proposed in a similar arrangement as the highway access sought in the previous proposal. It would provide a 5.5 metre (0.5 metres narrower

than the previous appeal proposal) wide carriageway and 2-metre-wide footway to the application site access. This would result in the removal of some of the existing boundary hedging in Park Road, which has been subject to previous flailing, to allow the provision of the new access to the site and visibility splays. The proposal also seeks to widen the existing carriageway from the West of Park Lane towards the application site and provide a pedestrian footway on the southern side of Park Road. The proposed highways plan annotates the proposed highway in relation to existing boundary features. The widening of the road and provision of the footway would be located adjacent to the boundary hedging on both sides of Park Road, in an area of existing grass verge and existing ditches. The proposed highways plan shows the highway works to be located in the highway boundary. The proposal would require the removal of vegetation in the vicinity of the proposed access and there would be a need to manage some of the existing boundary hedging to enable the provision of the widened footway. However, the proposed access which could also be controlled by conditions and section 278 agreement to ensure retention of the hedging along the either side of Park Road, where possible.

The proposed access would result in a more formalised access when viewed from Park Road travelling both east to west past the application site. This is a matter raised by consultees, namely the landscape and urban design officer. However, this arrangement is very similar to the arrangement accepted in the previous appeal scheme so it would be difficult to raise an objection to this element of the scheme in this application. It should be noted that this would be in close proximity to commercial development, namely a modest garage on the south side of Park Road and building supply company on the north side of Park Road, both located to the west of the site, which have a fairly sub-urban effect on Park Road. The change that would arise as a result of the provision of the footway and widened carriageway would be very localised and seen against the backdrop of the commercial sites to the east of application site as well as the fairly wide suburban junction of Park Lane. This being the case and due to the proposed site access being similar to the proposed access in the previous appeal application considered in 2014 by the Secretary of State, it is not considered that an objection on the basis of the urbanisation of Park Road could be substantiated in this instance.

The concern from both the Urban Design and Landscape Officer regarding the proposed access are noted. However, on the basis of the above assessment and previous history of the site in the acceptance of a very similar access to the site, it is not considered that the provision of the access in the manner proposal would result in such harm to visual amenity to justify refusal on the basis of the siting, scale and design of the access in this instance.

The indicative layout of the proposal has been assessed by the Urban Design Officer and Landscape Officer, who raise concerns regarding the details of the scheme and the manner in which the site could be laid out. It is accepted that the indicative layout is not in a form that should form the basis of the reserved matters scheme. However, the scheme proposed is for up to 50 dwellings and the applicants are not seeking determination of the detailed layout of the scheme at this stage. The indicative layout would not form part of any consent granted in outline form. The indicative plans are not for determination and as such limited weight can be given to them. Despite the shortfalls in the current indicative layout, it has been confirmed by the urban designer in subsequent discussions since their consultation response, that there is no reason to believe that up to 50 dwellings could not be provided on the site. This would require careful consideration and with a bespoke design required in order to ensure the

dwellingings are provided in a suitable manner. The proposal would be subject to reserved matters applications where this detail will be carefully assessed, and conditions can be recommended should the application be recommended for approval. This would require detailed submissions to ensure the land within the application site as well as the land to the west outlined in blue, is delivered in an appropriate manner. Although the red site outline is drawn tightly around the boundary of the built form, the LVIA as well as other supporting documents, including the design and access statement, ecology appraisal, LVIA and Flood Risk Assessment all refer to the land in the applicant's ownership, which could provide for appropriate mitigation and landscaping and this land could be secured in the long term to ensure its retention by legal agreement to be entered into should planning permission be granted.

7.4 Impact on Residential Amenity

The main considerations in this aspect are those properties closest to the site boundaries in White Lion Park to the south and eastern boundaries of the site. The indicative layout demonstrates that the development could be provided with adequate separation distances with properties orientated so as not to significantly impact the outlook, privacy and amenity of those occupiers. In terms of outlook, the site levels slope down away from properties in White Lion Park reducing the impact upon the outlook of those properties, which would also be further considered in the reserved matters phase. The proposal would not significantly harm the outlook, amenity or privacy of residential properties nearby so there is not conflict with Core Policy 57 of the NPPF.

The indicative layout provided is not currently in a form that could provide the basis for the reserved matters application. Therefore, full consideration of the residential amenity of future occupiers in terms of detailed matters such as internal layouts, private amenity spaces, separation distances will be fully considered in the subsequent reserved matters application. It is not considered that a reason for refusal of an outline application on the basis of harm to the amenity of future occupiers could be sustained in this instance.

7.5 Highway Impacts

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

It is acknowledged that the site is located outside of framework boundary for Malmesbury. However, the site adjoins the White Lion estate which provides several hundred residential dwellingings in close proximity to the application site. In the determination of the previous appeal proposal under reference N/12/03464/OUT the Local Planning Authority concluded that the site was a suitable and accessible location for residential development. Whilst the application site is set further east along Park Road, the site is within close proximity to existing dwellingings to the east and south, where numerous services, such as schools could be accessed via sustainable means of transport. Therefore, is it not considered that the location of the site is so remote from employment and services as to make it substantially worse than the adjoining White Lion estate and demonstrably an unsustainable location in transport terms.

Access is a matter for determination in this application. The application is supported by a Transport Statement with subsequent additional information provided in technical notes and detailed highways plan which also includes swept paths. The proposal includes the widening of Park Road to ensure the width of the carriageway would be 5.5 metres with a two metre wide footway provided on the southern side. This would provide a priority access into the application site with a T-junction for the western part of Park Road for traffic into and out of Malmesbury. The proposed highways plan shows this in detail, but the finer details would be subject to a highway agreement.

The response from the Council's Highways Team raises no objection to the proposed access in terms of highway safety and recommend conditions to be appended to any consent granted. It is noted that there is concern from local residents in terms of the increase in traffic in Old Park Road and the surrounding road network, but in the absence of an objection from the highways team a refusal on this basis is not sustainable.

The consultation response from highways includes comments regarding detailed matters, including in respect of drainage of the highway and within the site and for the highway. However, the detailed matters regarding this issue can be controlled by suitably worded conditions and through determination of reserved matters applications. A reason for refusal on the basis of lack of technical detail when a technical solution could be provided is not considered to be defensible at appeal.

There has been concern in relation to the impact of the proposed footway in Park Road upon the forecourt of a commercial property on the south side of Park Road, which extends into the boundary of the highway. However, the highway boundary extends close to the front of this commercial property similar to the existing public footway in Park Road. The area fronting the workshop site is recorded as public highway, and therefore would need to be kept free of obstruction and available for public use. There is a previous consent for extensions to the commercial property from 1990 and 1995 which restricts parking on the forecourt to no more than 2 vehicles but this does not necessarily override the designation of the area as a public highway. It is not considered that the provision of the footway as proposed in this application would result in any significant harm to highway safety and no such objection is raised by the Council's Highways Team. The detailed of the proposed footway and kerbing would be determined in the Section 278 agreement.

The Council is currently considering a further application at the adjacent site to the east under reference, 20/08341/OUT. The proposed highways works for this application would allow for implementation without the reliance on the works that may be required at the adjacent site. Therefore, no concern is raised in this regard.

7.6 Drainage / Flood Risk

The proposed development site is located in Flood Risk Zone 1 with part of the site access contained as well as Park Road itself located within Flood Risk Zone 2 and 3, as it is in the valley of the River Avon. The application is accompanied by a Flood Risk Assessment including a surface water drainage strategy. The applicant has provided additional information in the form of an amended FRA and Drainage strategy and also includes details of a highway

improvement plan and updated flood risk assessment also includes annotations of attenuation ponds and additional information regarding the drainage works within the access and in Park Road. The flood risk assessment also advises that an emergency access would be provided to allow access to the west in the event of a flood. This has been assessed by the Council's Drainage Team and the Environment Agency.

The proposed dwellings are in Flood Risk Zone 1 so is an acceptable zone for development in principle so there is no requirement to apply the sequential test in this instance. The Environment Agency raise no objection to the proposed development subject to conditions relating to access and finished floor levels, which could be attached to any consent granted. The proposed dwellings would be on areas of the site outside the area of highest flood risk and therefore the finished floor levels are likely to be readily achieved. In addition, the proposal includes the provision of an emergency access located to the west which would also need to be provided to allow for access in the event of a flood and again could be controlled by suitably worded conditions with details provided in any subsequent reserved matters phase. This was an arrangement that was readily accepted by the Inspector in the consideration of the appeal for the previous scheme, reference 12/03464/OUT.

Core Policy 67 seeks to ensure all new development includes measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground unless site or environmental factors make these measures unsuitable. The NPPF at paragraph 167 requires all major development to incorporate SUDS unless there is clear evidence this would be inappropriate. The advice also requires advice from the LLFA to be taken into account; should have minimum operational standards and maintenance and where possible have multi-functional benefits.

The response from the Drainage Team raises concerns regarding the feasibility of the provision of the surface water drainage strategy proposed. The applicant, in their most recent submission in their Flood Risk Assessment and Highway plan and revised location plan includes indicative attenuation ponds close to Park Road, which are at the lowest area of the site. The site is unlikely to be suitable for infiltration due to the findings of their existing investigation relating to vulnerable ground water contaminants and poor draining due to existing ground water. The flood risk assessment confirms that the attenuation will be to restrict surface water run off rates to greenfield run off rates and discharge via a piped connection into existing features, namely the ditch, which is where the site currently discharges. This would mimic the existing situation and comparable flow rates downstream. The drainage strategy places attenuation / treatment features at one location mid-way through this catchment and two basins at the bottom of the catchment as this is where all the surface water must pass through to reach the outfall. Therefore, the drainage design aims to suit the natural catchments on this sloped site and if infiltration is feasible the attenuation features could include infiltration to ground in that event. The proposal also includes the provision of underground attenuation features to deal with surface water.

Therefore, there is a mix of attenuation including infiltration if feasible, attenuation ponds and underground tanks also within the site. Although there is a need for additional information in relation to detailed technical matters as well as establishment of any improvements to the existing ditch network and highway works, these matters could be secured by pre-commencement conditions. The Drainage Team have raised concerns regarding the detailed

use of this method of drainage on a sloped site. The response also raises concerns regarding the lack of information relating to the capacity of the ditches to be used by the development as well as the connectivity between ditches to ensure the outfall can be dealt with without increasing flood risk elsewhere. However, this application is proposed in outline form and the site layout is not for determination. It is not considered that this level of detail is necessary at this stage and could be secured by condition. The previous Inspector who dealt with the appeal readily accepted that the details of a drainage scheme could be reserved by condition

The proposed scheme would, subject to conditions enable a drainage scheme to be provided that would adequately deal with surface water run-off. Although there is concern regarding the feasibility of the scheme from the Drainage Team based on the indicative layout proposed, that plan is not for approval at this stage, the development is described as “up to” 50 dwellings and any detailed layout and design would need to demonstrate the proposal would provide for appropriate drainage of the site and other technical details could be secured at the detailed planning stage. Subject to this it is not considered there is conflict with Core Policy 67 or guidance within the NPPF.

7.7 Trees and Ecology

The application is supported by an arboricultural impact assessment that details the impacts upon trees and hedges within the application site and within the land owned by the applicant, including the Protected Trees on the northern boundary of the blue line. This does not include any assessment of the trees and hedges affected by the proposed Park Road widening works, although the existing features along Park Road are annotated on the highway improvement plan.

The Tree Report summarises the loss of trees and hedges both that would arise in any event and would arise due to direct impacts of the development itself. This includes the removal of U-category T2, T6 and T7 and G23 which are subject to a TPO but are in a poor state. The Council’s Tree Officer does not raise any concerns regarding the proposed development, subject to the provision of detailed tree information at reserved matters stage. The level of tree removal proposed would accord with saved Policy NE14 of the North Wiltshire Local Plan 2011 and are directly required to facilitate development or are in a poor state and would be lost in any event.

The proposed access works would require the removal of part of the boundary hedging, H5, which is a mixed species hedge that has been subject to flailing in the past and formerly kept at a low height. This is categorised as a Category C hedge be in close proximity to existing boundary hedging. It is not considered the loss of this portion of hedging, which could be mitigated with additional planting could adequately mitigate the loss of trees and hedging, the removal of the proposed vegetation is not considered to be so harmful to justify a refusal on this basis. Mitigation is capable of being secured through determination of applications at reserved matters stage that could appropriately address the impacts of the proposal.

An Updated Ecological Appraisal (The Environmental Dimension Partnership Ltd, August 2020 Report Reference edp1168_r007c), has been submitted to support the application this

includes bat and reptile surveys from 2019 and further site walkover was also undertaken in July 2020. The report also includes a biodiversity impact assessment.

This update report sets out the results of an updated Phase 1 habitat survey, bat activity survey and reptile surveys undertaken including mitigation measures.

The surveys demonstrate the site supports foraging bats and a roost survey has also been undertaken. These are generally limited to the more common species. The proposals would preserve the boundary hedging and trees, other than the length required to be removed to provide the access with properties that could be set back away from site boundaries at the reserved matters stage. In addition, the impacts could be further mitigated by limited lighting also controlled by condition. This being the case it is not considered the proposal would significantly affect bats roosting and foraging within the site. The proposed development would be located on a modest site area with majority of site features used by bats retained with additional mitigation provided on the wider land parcel. There is also mitigation proposed in the form of bat boxes. The response from Council's Ecologist is critical of the level of survey undertaken in relation to bats (although further roost surveys have been undertaken since this concern was raised) as well as the assumption that all trees would be retained without consideration of the hedge removed and mitigation proposed in the wider site area outside the site boundary. It should be noted that with the ability to control matters by conditions to ensure mitigation and enhancement no objection is raised in relation to ecology issues. It should also be noted that when the Inspector assessed the impacts of the proposal in the previous appeal, including the impact of the access, he considered conditions could adequately deal with ecological management by conditions. This being the case bats and their habitats could be suitably protected in accordance with Core Policy 50.

The site also provides habitat suitable for reptiles and amphibians such as great crested newts. Although there is a pond in the wider land parcel this is generally dry for the majority of the year including from April and heavily shaded by existing trees, and as such unlikely to provide suitable habitat for great crested newts, particularly for breeding. Mitigation measures include the potential for improvements to the pond on site and other proposals on the wider site.

The reptile surveys undertaken demonstrates a good population of slow worm are present and grass snake also use the wider site parcel and are also present in the application site. The short, semi improved grassland is not an ideal habitat for reptiles, and the only suitable habitat is related to hedge and scrub close to the site boundaries, the scrub is only present in the south eastern corner. Therefore, the loss of a relatively short section of hedge is not considered to impact on the reptile population to such an extent to be significant and additional planting could be secured to buffer those boundaries and also additional planting in the wider land parcel. The translocation of reptiles is not considered necessary and can be adequately dealt with by sensitive construction methods as well as mitigation in the wider land parcel. The site will be subject to sensitive construction management provision of additional habitat creation and planting in the wider land parcel and scrub to ensure biodiversity net gain. The original response from the Councils' Ecologist raises concern regarding extent of the survey of the pond within the site and this further information was provided in the revised ecology appraisal which confirms the pond has been surveyed again to establish the presence of water therein. It was found to be dry during the breeding season. The avoidance and mitigation

strategy could be readily secured by conditions and legal agreement and considered in detail at the reserved matters stage.

Breeding birds would remain within the vegetation at the site boundaries and the loss of vegetation is mitigated by additional planting and bird boxes. In addition, the most recent appraisal also includes the provision of a biodiversity net gain calculator to demonstrate a 10% net gain. Although this would be subject to additional detail to demonstrate this is the case which could be secured by conditions attached to any consent granted.

The main concern from the Council's Ecologist in their consultation responses is regarding the lack of detailed clarification of the mitigation measures and provision of mitigation outside the site boundary. However, it is often the case that offsite provision is made for such measures. This can be secured by legal agreement to ensure the land is retained as part of the mitigation in the long term. Although it would be preferable for all the detail to be provided at outline stage, due to the need for the reserved matters application to deal with detailed matters such as site layout and landscaping and the fact that the applicant has a wider land parcel that could be secured and retained it is not considered that a refusal on the basis of the impact upon biodiversity or conflict with Core Policy 50 or the guidance in paragraph 174 of the NPPF.

7.8 Open Space

The applicant relies upon the land in their ownership outside of the red line boundary application site, totalling 4.65 Ha, as open space and there are pedestrian accesses indicated towards the recreation ground on the indicative layout. The Ecology Report and LVIA also sets aside this land for ecology mitigation and landscaping, there is also reference in the Flood Risk Assessment for the need for part of this land for emergency access. The proposal indicates there would be a multipurpose function for the wider land parcel.

Saved Policy CF3 of the North Wiltshire Local Plan 2011 seeks the provision of open space on site and only in appropriate circumstances financial contributions towards open space provision elsewhere where it is appropriately located in relation to the application or if this is not appropriate towards upgrade of existing nearby open space.

The response from the Open Space Officer advises that 50 dwellings generate a requirement for 2,832m² of POS including 222m² equipped play space. The response notes that the proposal does not include any on-site POS or play space within the red line boundary. However, the land in the wider land parcel could be secured in the long term via legal agreement to ensure it is provided and maintained for mitigation, including the open space required by the development proposal. The wider land parcel is well in excess of the minimum space required. This arrangement, including informal open space as well as landscaping and ecological mitigation was readily accepted by an Inspector during a recent appeal at Land at Purton Road (APP/Y3940/W/18/3202551). It should be noted that the application is for consideration in outline form with all other matters other than access reserved for the subsequent consent where detailed proposals for this land would be further considered and could readily be provided at reserved matters stage.

Although the proposal could provide an acceptable level of informal public open space, there is no provision of equipped play areas as part of the proposal. However, the play equipment

is not likely to be conducive to ecological management measures in the wider site. Therefore it is considered an off-site contribution is required to improve the existing play areas, either White Lion Recreation Ground or Newton Grove play area, which are located within an acceptable walking distance to the application site. This would require an offsite contribution of £31,968. This can be secured by financial contribution in a legal agreement. When the Council considered the previous application for 77 dwellings, it was accepted for that application that upgrade of the nearby recreation space for play equipment would be acceptable subject to the provision of acceptable access, which could be secured by a section 106 agreement.

7.9 Heritage

The application is accompanied by a desktop Archaeological desktop assessment. Subsequent to the initial submission a geophysical survey or trenching has been undertaken to establish whether any archaeological remains are in situ.

The trenching revealed no remains within the trenches dug. This report has been submitted and the Council's Archaeologist raises no objection or requirement for conditions. The proposal would not affect any buried heritage assets so not conflict arises Core Policy 58 or the guidance in the NPPF.

7.10 Education

The development would generate an additional need in for places for children to be educated. The Consultation response from the Education Team states that additional places for early years would be required as a result of the development, so a contribution would be required. Both Malmesbury Primary School and St Josephs Primary School are full. The Backbridge Farm application allocated land for provision of expansion to Malmesbury Primary School Council. This land is in the process of being secured for this expansion to provide for additional places in the long term. In the short term, the Council is also providing additional spaces at Lea and Garsdon Primary School to allow for increased capacity for additional short term need for planned homes in Malmesbury. Therefore, financial contributions are also required for primary school places. In terms of secondary school places, Malmesbury Secondary School is currently full, and financial contributions are required for expansion of this school.

As detailed in the MNP, Policy 12 seeks to ensure primary school expansion must be in step with the demand created by housing development. The Education Team seek contributions towards school places it is considered that the proposed development would keep step with primary school places for future residents of this proposal and the need can be appropriately mitigated and no objection is raised regarding this issue from the Education Team.

7.11 Other detailed matters

The Public Protection Officer raises no objections subject to conditions regarding submission of an Air Quality Assessment, construction management plan and electrical charging points. These matters can be readily controlled by conditions.

7.12 S106 contributions

Wiltshire Council has a Planning Obligations Supplementary Planning Document. This should be read in conjunction with the WCS (primarily Core Policy 3) and the Wiltshire CIL charging schedule. This SPD identifies the planning obligations that will be sought by the council for development that generates a need for new infrastructure and should be a material consideration in planning applications.

In addition to this, Wiltshire Council has adopted CIL. This would be calculated at Reserved Matters stage.

The Council is also mindful of the tests for s106 legal agreements that are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

Any requests that do not meet the above tests will not be actively sought by the Council. The planning obligations required to mitigate effects of the proposal are as follows:

£70,088 early years places
£206,338 primary place
£183, 520 secondary places
£31,968 play area equipment for nearby recreation grounds
£91 per dwelling towards waste receptacles
40% affordable housing provision
Long term provision, retention and management of land in the wider land parcel to provide emergency access, open space, ecological mitigation

The applicant has confirmed their willingness to enter into this agreement to secure the required mitigation measures above.

8.0 Conclusion – The Planning Balance

As stated above, in the determination of planning applications the first issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS and MNP). If it does not then the issue arises as to whether other material considerations, including relevant policies in the NPPF, mean that the development can be regarded as sustainable and that permission should be granted despite conflict with these policies. Ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out of date' and attract reduced weight, and the NPPF guidance intended to boost housing land supply where the development can be judged sustainable.

Importantly, paragraphs 11d and 14 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and the weight given to such policies is not

dictated by the NPPF and as noted above, will vary according to circumstances on a case by case basis. It is also important to consider the extent to which the land available for housing in Wiltshire falls short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. In this regard and since the refusal of the last application the Council has continued to promote development in the housing market area at sustainable locations. Nevertheless, since the last refusal paragraph 14 has been added to NPPF, providing clarification on weight to be assigned to Neighbourhood Plans when they became part of the development plan two years or less before the date on which the decision is made.

However, the context for this application is materially different, as paragraph 14 criteria a) of Framework requires the Neighbourhood Plan to have become part of the development plan two years or less before the date on which the decision is made for its housing related policies to be considered up to date and for conflict with the Neighbourhood Plan to be clearly identified as an adverse impact that significantly and demonstrably outweighs any benefits. The MNP is now more than six years old and a review of the document is at a very early stage. As a result the weight that can be given to it is reduced, and the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.1 Therefore, of key consideration are the benefits and harms associated to the development and the level of weight which may be attributed to them in the planning balance. The applicant has highlighted the following economic, social and environmental benefits from the scheme as follows;

- It will provide up to 50 new high quality homes and is available for development now – readily deliverable;
- It will provide 40% affordable housing to meet local housing needs;
- It will promote sustainable travel to deter car dependency;
- It will deliver high quality private and public amenity space to assist in local place-making;
- It would delivery publicly accessible open space for residents and the wider community;
- and
- It would provide economic benefits through construction of the development and to the local economy through increased resident population.

6.2 Officers consider the benefits and harms of the scheme below and also include the weight to be given to each of these benefits.

Benefits of the proposal

Provision of additional housing towards the supply

6.3 The proposal would add up to 50 additional dwellings adjacent to the settlement boundary of the market town of Malmesbury. The proposed development would result in additional dwellings in close proximity to one of the larger settlements in the hierarchy of settlements in Wiltshire which boasts a very good level of existing services to meet the day to day needs of

future occupiers by sustainable means. In light of the lack of supply this is considered to be of substantial weight in the planning balance.

Provision of additional affordable housing

- 6.4 The provision of additional affordable housing to assist in meeting a current need that is currently not being met is also considered to be of substantial weight in the planning balance.

Deliverability

- 6.5 The site is relatively modest in scale, when considering the size of Malmesbury itself and the applicant confirms that the development contains no physical impediment or constraint that would constrain or delay delivery and conditions can be used to ensure delivery in the statutory period. The applicant has confirmed their willingness to accept shorter than statutory timescales for implementation of the proposed development, with submission of reserved matters applications within one year with implementation no later than a year after approval. The site's ability to contribute to the modest shortfall relatively quickly can be given substantial weight.

Sustainable travel

- 6.6 The site is located in close proximity to existing services and the proposal also includes the provision of a new footway and widened carriageway to enable future occupiers to walk or cycle to services and facilities within Malmesbury. Malmesbury is the largest settlement in this community area and as such has a wide range of services to meet the needs of future occupiers. The provision of a new homes in this location would be in line with the aims and objectives of the Core Strategy that aims to concentrate growth towards those larger settlements. Moderate weight is given to this benefit.

Economic Benefits

- 6.7 The economic benefits are those arising from both construction and additional residents in the area in terms of spend and their contribution to the economy. It is accepted that these are benefits of the scheme and as a medium sized development would generate some benefits. However, construction effects are short term and the number of houses is relatively low so whilst this is a factor in favour, only modest weight can be given to this benefit.

Other Benefits cited by the applicant

- 6.8 The benefits the applicant cites in relation to quality of design, public amenity and place making are not considered to be benefits of the proposal. There are currently no details in relation to the quality of the scheme which is required to be secured at reserved matters phase and would be a requirement for all developments by national and local policy and as such is not considered to be a benefit and carries little weight in the planning balance.

- 6.9 Similarly, reference to publicly accessible open space is a requirement for mitigation of the impacts of the proposal to serve future occupiers and therefore cannot be considered a benefit in this instance. There would only be very limited benefits to the wider community in relation to open space and plays areas. Very limited weight is given to this as a public benefit.

Harms

Conflict with the development plan

6.10 The proposal would be in conflict with Core Policies CP1, CP2, CP13 of the Core Strategy as well as Saved Policy H4 of the North Wiltshire Local Plan. It is also not an allocation site in the Malmesbury Neighbourhood Plan. This being the case the proposal would conflict with the development plan when read as a whole and therefore, despite these policies being out of date due to the lack of a five year housing land supply (or in the case of Saved Policy H4 due to the marginal inconsistency with the NPPF) substantial weight is given to this conflict.

Character, appearance and visual amenity

6.11 The site is acceptable in terms of ecology, transport and flooding, and no other site constraints are identified that make this site unsuitable for development, subject to mitigation measures to be secured by conditions and legal agreement. The site is not designated for either its landscape or ecological value.

6.12 As examined above, it is considered there are no site-specific harms arising from the proposal other than the loss of a greenfield site in agricultural use would result in some harm to the character and appearance of the area due to the conflict with Core Policy 51. However, as noted in the previous appeal for a larger scheme over a larger site area, any negative impacts could be mitigated as far as possible through sensitive design and landscape measures. This is considered to be harm that carries moderate weight in the planning balance.

Overall balance

6.13 Given the conflict with the policies of the development plan and the lack of a five year housing supply, the key test is whether the adverse impacts of granting permission significantly and demonstrably outweigh the benefits of the scheme, as is required by paragraph 11d of the NPPF.

6.14 The latest housing land supply position shows a modest shortfall and this development, with its short delivery timeframe, could assist in redressing that shortfall. In addition, there is an existing affordable housing need in the Malmesbury and Wiltshire which will be directly addressed by this development. These benefits are both given substantial weight in the planning balance. There are also benefits arising from the development in terms of economic benefits which carry modest weight. In addition, although it would be in conflict with the development plan, the site is readily accessible by sustainable means due to it being adjacent to a market town that has a wide range of services and this is given moderate weight. The proposal would also provide publicly accessible open space which is given very limited weight in favour of the proposal.

6.15 In terms of harm, the proposal would not accord with the development plan, which includes a made neighbourhood plan, and this conflict carries substantial weight in the planning balance. Although there is some harm identified to the character appearance and visual amenity of the area, these harms are considered to be limited and localised and carry only moderate weight in the planning balance. Other technical matters and mitigation regarding site specific matters can be mitigated they carry no weight in the planning balance. Conditions placed upon this permission and Section 106 contributions ensure the scheme is fully mitigated to ensure infrastructure is in place to support the development.

6.16 On balance, it is considered that the adverse impacts identified do not significantly and demonstrably outweigh the benefits that the development would provide.

Recommendation

- 6.17 It is recommended that authority be delegated to the Head of Development Management to GRANT planning permission, subject to conditions listed below and completion of a Planning Obligation/Section 106 legal agreement covering the areas outlined below, within six months of the date of the resolution of this Committee.
- 6.18 In the event that the applicant makes clear that they will not complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the reason set out below. This alternate provision to be subject to consideration of any other factors outside the control of the applicant and the Council that may result in unavoidable delay. If such circumstances are assessed by officers to arise then to allow for completion of the agreement after the 6 month period under delegated authority:-

1. The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, recreation provision, open space, waste and recycling) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3, 43, 50, 51, 57, 67 of the Wiltshire Core Strategy, Saved policy CF3 NWLP Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework.

- 6.19 Heads of Terms for Section 106 legal agreement to secure the following:

- £70,088 early years places
- £206,338 primary place
- £183, 520 secondary places
- £31,968 play area equipment for nearby recreation grounds
- £91 per dwelling towards waste receptacles
- 40% affordable housing provision 70/30 Affordable rent/shared ownership.
- Long term retention and management of land in the wider land parcel to provide emergency access, open space, ecological mitigation

and the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved

REASON: To ensure a prompt delivery if the site to contribute towards the identified shortfall in housing land supply and 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 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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

REASON: To ensure a prompt delivery if the site to contribute towards the identified shortfall in housing land supply and 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.

4 The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

Application site boundary annotated in red and blue 17021(90) 200 Rev B received 11 February 2021

Proposed highway improvement plan WLMalmesbury 01-P1 received 11 February 2021

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

5 Notwithstanding the details set out in the description of development, the development hereby approved shall comprise no more than 50 dwellings.

REASON: The maximum number of dwellings is required to be stated in order to ensure the development can be provided in an acceptable manner.

6 No development shall take place until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed

buildings and structures (including roads and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure the finished levels are acceptable in the interests of visual amenity.

- 7 No dwelling hereby approved shall exceed 8 metres in height as measured from finished floor level and shall not exceed two storeys.

REASON: To ensure the finished levels and building heights are acceptable in the interests of visual amenity.

- 8 The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) to be submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:

- a) Description and evaluation of features to be managed;
- b) Landscape and ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including long term objectives to ensure biodiversity net gain and management in perpetuity on land outlined in red and blue on boundary plan 17021(90) 200 Rev B;
- d) Appropriate management options for achieving aims and objectives as set out in points a)-c) above;
- e) Prescriptions for management actions for the site outlined in red and blue on plan 17021(90) 200 Rev B
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures which shall include measurable targets;
- i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery. The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. A report shall be submitted to the local planning authority annually detailing the works undertaken and performance against the targets set.

The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed in writing with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species and priority species.

- 9 No development shall commence in the implementation of any of the works granted by this consent (including demolition, ground works, vegetation clearance associated with provision and improvements in Park Road) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:
- a) Risk assessment of potentially damaging construction activities
 - b) Identification of 'biodiversity and tree protection zones'
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements
 - d) The location and timing of sensitive works to avoid harm to biodiversity features
 - e) The times during construction when specialists ecologists need to be present on site to oversee works
 - f) Responsible persons and lines of communication
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority every three months from the start of the development until the completion of the final planting.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

- 10 No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:
- A specification for protective fencing to trees during both demolition and construction phases for all development associated with the development hereby

approved including the trees and hedges in Park Road, which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;

- A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
- A schedule of tree works conforming to British Standard 3998: 2010;
- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure;
- A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- Details of all other activities, which have implications for trees on or adjacent to the site and works that form part of the development hereby approved. Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

- 11 Prior to the development hereby permitted first being brought into use and as part of the reserved matters application a scheme for the discharge of surface water from the site including SuDS (sustainable drainage systems) shall be submitted to and approved in writing by the Local Planning Authority. Scheme details shall include any required off-site capacity improvements needed to allow the site/phase to be served, and to include a programme allowing sufficient time for the delivery of any required improvements. The drainage strategy must include the following information:
- A clearly labelled drainage layout plan showing the pipe networks and any SUDS features. The plan should show any pipe node numbers referred to within drainage calculations.

- A plan showing the cross sections and design of any SUDS features and its components.
- Justification for exemption from drainage hierarchy
- CCTV survey of proposed connection point to the outfall point of that system
- Hydraulic Modelling of the system, and evidence that the proposed limited connection rate would not cause surcharge or capacity issues downstream
- Schedule of works for repairs to downstream system to ensure capacity, and/or upsizing of existing system to accept flows if surcharging occurs in model (and evidence that the upsizing will cure the issue)
- Evidence that the surface water drainage system is designed in accordance with national and local policy and guidance, specifically CIRIA C753 (The SuDS Manual), the Non-statutory Technical Standards for SuDS and Wiltshire Council's Surface Water Soakaway Guidance;
- Pre and post development surface water discharge rates.
- Measures to prevent pollution of the receiving groundwater and/or surface waters.
- Calculations and drawings for the drainage system design showing designated holding areas and conveyance routes based on no flooding on site for a 1 in 30 year rainfall event;
- Calculations and drawings for the drainage system design showing designated holding areas and conveyance routes based on no flooding on site for a 1 in 100 year plus climate change rainfall event in respect to a building (including basement) or utility plant susceptible to water within the development;
- Drawings showing conveyance routes for flows exceeding the 1 in 100 year plus climate change rainfall event that minimise the risk to people and property;
- The proposed ownership details of the drainage infrastructure;
- The maintenance programme and ongoing maintenance responsibilities of the drainage infrastructure;
- Detailed landscaping proposals;
- An emergency flooding access/egress plan including details of design, materials and construction details of the proposed emergency route on land outlined in blue on plan 17021(90) 200 Rev B;
- Any third party agreements for discharge to their system (temporary and permanent).
- The construction phasing plan.
- Geotechnical factual and interpretive reports, including infiltration tests in accordance with British Research Establishment (BRE) Digest 365 – Soakaway Design.

REASON: To comply with Core Policy 67: Flood Risk within the Wiltshire Core Strategy (adopted January 2015) and NPPF to ensure that the development can be adequately drained without increasing flood risk to others.

12 The development hereby permitted must not be commenced until such time as a scheme to ensure the following has been submitted to, and approved in writing by, the local planning authority.

1. There is no raising of ground levels within the current or future flood zones 2 and 3, or that any raising is suitably compensated for a level for level basis;
2. Finished floor levels are set no lower than 600mm above the 1 in 100 year design flood level, plus and appropriate allowance for climate change,

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To ensure that there are no detrimental impacts to flood storage or flood flow route and reduce the risk of flooding to the proposed development and future users.

- 13 No part of the development shall commence until full engineering details of the highway improvement works to Park Road and the realignment of the carriageway into the development site have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of highway safety.

- 14 No part of the development shall be first occupied, until the visibility splays shown on the approved plans at the junction of Park Road with the site access road have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

REASON: In the interests of highway safety.

- 15 No development shall commence on site 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 by the Local Planning Authority. The development shall not be first occupied until 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 have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

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

- 16 No development shall commence on site, until a Construction Management Statement, together with a site plan, which shall include the following:
- a) the parking of vehicles of site operatives and visitors;

- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h) measures for the protection of the natural environment;
- i) hours of construction, including deliveries;
- j) pre-condition photo survey;
- k) Routing plan;
- l) Traffic Management Plan (including signage drawing(s));
- m) Number (daily/weekly) and size of delivery vehicles;
- n) Number of contractor/staff vehicle movements;
- o) Details of temporary/permanent Traffic Regulation Orders; and
- p) Phases plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise 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.

- 17 No development shall commence until a Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied prior to the implementation of the Travel Plan.

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

- 18 No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to Implementation and thereafter be permanently retained.

REASON: Development proposals will need to demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality and amenity.

- 19 Prior to the installation of any lighting a 'Lighting Design Strategy for Biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy will cover both construction and operation phase and shall:

1. Identify those features/ routes that are important to light sensitive/ nocturnal species such as bats, badgers and hedgehog and to be retained within dark

corridors.

2. Show full details of proposed construction and operational lighting, including lux plots to show there is no lighting impact to the features/ routes identified. Lux plots should be presented on a scaled site drawing and the light levels must be shown at ground level and at 2m above the ground (horseshoe bats fly typically within this range). The light levels should also be shown as “from new”, not as normally calculated levels after some months or years of use.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other lighting be installed without prior consent from the local planning authority.

REASON: As required by Core Policy 50 to ensure the long-term functioning of wildlife corridors and Core Policy 52 the retention and green infrastructure.

- 20 No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

REASON: This condition contributes to sustainable development and meeting the demands of climate change. Increased water efficiency for all new developments enables more growth with the same water resources.

- 21 All soft landscaping comprised in the approved details of landscaping, as required by the reserved matters applications and details required by conditions within this decision notice shall be carried out in the first planting and seeding season within or following the completion of each phase, first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. 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. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

INFORMATIVES

- 22 The applicant should be made aware that the off-site highway works will need to be the subject of a Section 278 Agreement with the Highway Authority to secure the approval of the works to the highway. The design of the access arrangement will also need to be the subject of a Safety Audit.

23 The off-site Highway Works would include the following:-

- The widening of the Park Road carriageway to 5.5m from the Park Close junction and extending into the development, together with the provision of a 2m wide footway adjoining the south-western side of the carriageway, and associated drainage and ancillary works.
- The realignment of the north-western section of Park Road to provide a priority junction with the new access road.
- Amendments to speed limit, subject to a Traffic Regulation Order.