

REPORT FOR STRATEGIC PLANNING COMMITTEE**Report No.**

Date of Meeting	1 December 2021
Application Number	20/08341/OUT
Site Address	Land South West of Park Road, Malmesbury
Proposal	Outline Planning Application (with all matters except access reserved) for up to 26 Dwellings, Public Open Space, Landscaping and Associated Engineering Works
Applicant	Hannick Homes and Developments Ltd
Town/Parish Council	Malmesbury CP
Electoral Division	Malmesbury (Cllr Gavin Grant)
Grid Ref	392554 187902
Type of application	Outline
Case Officer	Lee Burman

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.

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 51 letters of objection have been received and 5 letters of support.

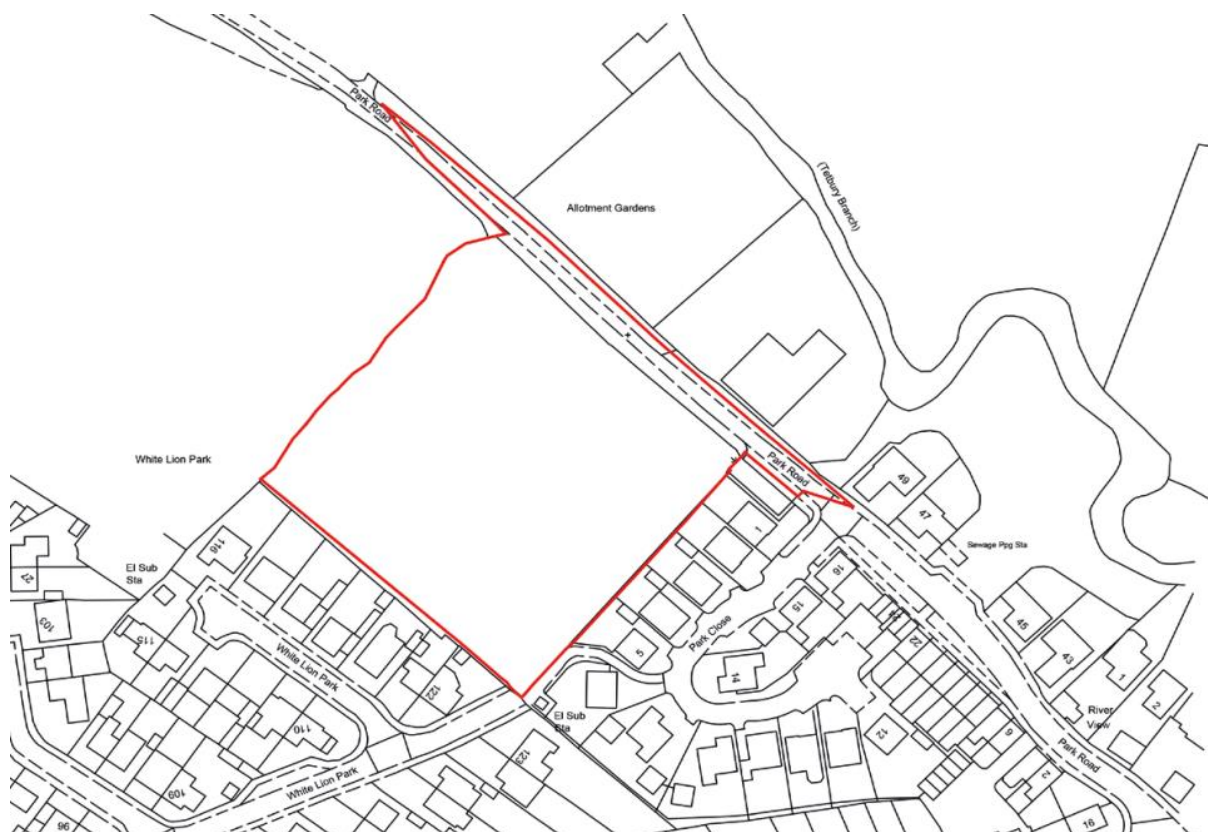
3. Site Description

The application site consists of 0.84 Ha of land located to the northwest of properties in Park Close and to the north east of the properties 116-122 of White Lion Park. The site outlined in red forms part of a grassed field. The application site includes the current field hedgerows and trees to the northwest of the site with open fields beyond. The site to the northwest has been the subject of a separate application for development of up to 50 dwellings, recently refused under reference 19/05898/OUT; an appeal against the refusal decision has now been lodged.

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 in 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 out-farm (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.



4. Relevant Planning History

There is no site history for the application site, relevant history for the adjacent site to the west includes;

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; appeal dismissed on 08/09/2014, 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 scheme.

19/05898/OUT - Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access. – Refused; appeal lodged.

5. Proposal

The application seeks outline consent for up to 26 dwellings, public open space and associated engineering works. The application seeks detailed approval of access with all other matters reserved. The access would be provided from Park Road and includes provision of a widened carriageway and footway on the south side of Park Road to link to the existing footway on the corner of Park Close. An emergency access from the site is also provided to allow for access to the site in the event of flooding of Park Road which would be located to the southeast of the boundary with 122 White Lion Park, which would tie in with and existing end of a cul-de-sac.



Layout Plan – indicative only

The application is supported by a flood risk assessment, FRA, Historic Desktop Assessment and on-site field work regarding archaeology, and an Ecology Assessment.

Environmental Impact Assessment

The proposed development relates to the erection of up to 26 dwellings on land covering 0.86 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.

6. Planning Policy & Guidance

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

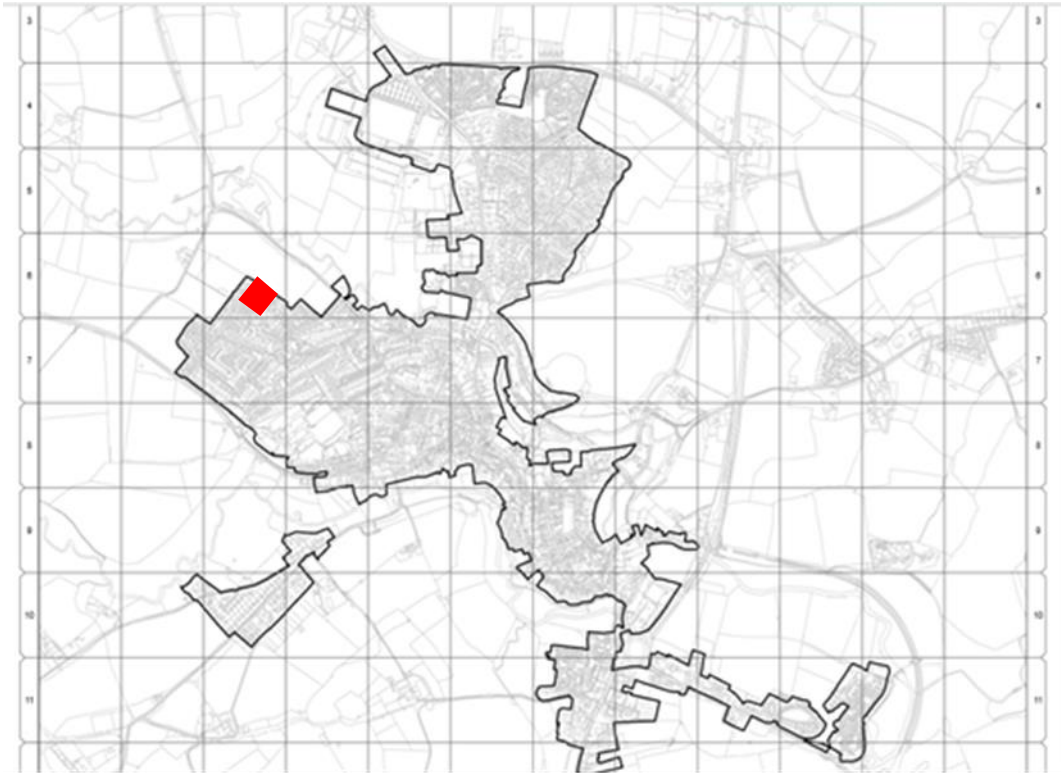
NE14: Trees, Site Features and the control of new development.

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 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 not 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

Planning Obligations – updated 01 September 2019

7. Consultations

Malmesbury Town Council: Objection

The response sets out the following reasons for objection -

- 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

Wiltshire Council Spatial Planning: Comments / caveated objection

The planning statement sets out a variety of benefits to the scheme. Each of these will need to be assessed on their merits, with the appropriate detailed evidence, and placed in the planning balance. But altogether, they do not appear to amount to an urgent need to set aside the development plan in this instance and that the appropriate means to consider this proposal in the round, is as a part of the review of both the Local and Neighbourhood Plans. 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. In the context solely of the principle of development, there is the potential for substantial harm weighing against this proposal's benefits.

Wiltshire Council Highways: no objection

The original response raised a holding objection to the proposed access. This did not relate to the principle but sought additional information regarding the proposed access, specifically the proposed traffic calming built out and swept path analysis and safety audit, the proposals regarding speed restriction changes and street lighting as well as details regarding the emergency access. Revised plans and additional information were provided in March 2021 which resolved the concerns raised and the holding objection was withdrawn.

Wiltshire Council Landscape: Comments / caveated objection

The principle of new residential development within countryside outside the development framework boundary is not supported in principle. If the site is considered to be an acceptable exceptions site, or if it is considered that Para11d of the NPPF is engaged then it is considered that some limited harm to the character of the area would arise, resulting in a conflict with policy CP51 of the Wiltshire Core Strategy. This harm is identified to arise from the further urbanisation of Park Road, and the change of use resulting in the loss of a small green field area into a new urban area. This limited localised harm should be weighed against the proposal within any overall planning balance.

Key extracts from response follow –

The application site is a small rectangular field of circa 0.8 hectares in size. The field is not currently in any agricultural use and is overgrown with emerging scrub and rough grassland. The land is enclosed by tall native hedgerows along its north western and north eastern boundaries and by fenced rear garden boundaries with sporadic vegetation along the site's south western and south eastern boundaries.

The application site slopes down from the southwest from circa 78m AOD to 72m AOD to the northeast, giving a consistent fall in level across the site of approximately 6 metres. The large White Lion residential estate adjoins the site to the southwest and a smaller more recent housing development at Park Close adjoins the site's south eastern boundary. The site borders Park Road to the northeast with allotment gardens opposite the site extending further north up to the river. Further east and opposite the site, an existing employment use (Build Base) is located with residential settlement extending further east along the northern and southern sides of Park Road up to Gloucester Road. Open agricultural land adjoins the application site to the northwest. The existing agricultural land to the west is subject of a separate outline planning application for residential development of up to 50 new dwellings. [officer note: this application now refused].

The site and its immediate surroundings lie within a shallow river valley (River Avon-Tetbury branch). These shallow river valleys extend into and around the town and allow views of countryside to extend into the historic town core. The Malmesbury Neighbourhood Plan has allocated land for major urban development on the opposite side of this same river valley to the north west, to the south of the recently extended Dyson employment site.

Cotswolds AONB Designation –

If Paragraph 11d of the NPPF is engaged, then footnote 6 applies (in relation to the setting of the Cotswolds AONB).

Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act 2000) requires that responsible authorities should give due regard to the statutory purpose of conserving and enhancing natural beauty within an Area of Outstanding Natural Beauty while carrying out their statutory functions. This includes Wiltshire Council acting in its capacity as the Local Planning Authority or acting as the Highways Authority when determining planning applications or entering into Section 38 Highway Agreements. This 'duty of regard' extends to the designation itself and also to the setting of the AONB.

The Cotswolds AONB eastern boundary follows the line of Park Lane, approximately 400 metres to the west of the site. The application site is slightly detached and largely screened from the AONB by the intervening valley topography, in combination with mature trees and existing vegetation. The two existing rural roads (Park Road and Park Lane) add to the setting and rural approach into the AONB from Malmesbury. Further urbanisation of the rural road network, extending westwards from the town in this area, through widening, new

junction improvements and increased visibility splays, kerbing, road signage and street lighting should be resisted to help limit the effects of large scale new urban development, and artificial light harmfully extending into the AONB as far as possible.

The resulting effects from development upon the character of the rural road network, especially to the west of the application site as part of any necessary Section 38 Highway Agreement should be clearly understood by the LPA.

The Character of Park Road –

The proposed development would further urbanise a small length of this road, requiring the removal / severe cutting back of the existing hedgerow and ditch to implement the proposed new vehicular access and also incorporate the new footway and required highways visibility splays for highway safety reasons. The relevant section of Park Road sharing a boundary with the application site is already influenced to some degree by the existing urban development extending along it from the east, and by the Build base urban frontage located opposite.

Breaking through the existing roadside field boundary would be detrimental to road users experience of it to some extent. In addition, the views of additional new housing on currently open/green fields is likely to be perceived as harmful. However, these effects would be localised to the existing field's local setting, and the harm arising would be limited in my opinion. Whilst the development could be delivered sensitively, seeking to mitigate impacts as far as possible through landscaping and design, there would be inevitable adverse impacts in terms of character. These would be in conflict with Core Policy 51 (CP51), which requires development to protect, conserve and where possible enhance landscape character. Although the resulting harm is limited, this is a matter that should weigh against the application proposal.

Conclusion –

The principle of new residential development within countryside outside the development framework boundary is not supported in principle. If the site is considered to be an acceptable exceptions site, or if the LPA consider Para11d of the NPPF is engaged then I would consider that some limited harm to the character of the area will arise, resulting in a conflict with policy CP51 of the Wiltshire Core Strategy. This harm is identified to arise from the further urbanisation of Park Road, and the change of use resulting in the loss of a small green field area into a new urban area. This limited localised harm should be weighed against the proposal within any overall planning balance.

Wiltshire Council Urban Design: no objection

The response raises no objection to the principle of the proposal but the indicative layout should not form part of the approved plans for the reasons set out in the detailed response.

Wiltshire Council Tree Officer: no objection subject to conditions

Wiltshire Council Ecology: no objection

The original response raised concerns regarding the level of surveys for bats and other species on site. The subsequent response to the additional information provided in June 2021 accepts the survey information provided, but seeks further information regarding off-site reptile mitigation measures as well as a better ecological parameters plan. These matters can be addressed by planning conditions and/or a S106 agreement.

Wiltshire Council Drainage: no objection, subject to conditions

Wiltshire Council Public Protection: no objection, subject to conditions requiring electrical vehicle points, and a construction management plan

Wiltshire Council Waste Management: no objection, subject to conditions and financial contributions towards waste receptacle provision.

Wiltshire Council Open Space: no objection, subject to S106 contribution

There is a need for off site provisions for public open space, including play area as there is limited space provided within the application site for the proposed future occupiers. The response also seeks a sports contribution of £7,235.80 for the proposed scheme.

Wiltshire Council Education: no objection, subject to S106 contributions

Early Years -

There is a need for additional early years provision as a result of the proposed development that requires an additional 3 places and so a financial contribution £52,566 would be required.

Primary -

The response advises that primary education contributions are required to provide additional places and a contribution of £112, 548 (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 £91,760 towards expansion to accommodate the development is required.

Wiltshire Council Affordable Housing: no objection, subject to S106 affordable housing provision

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.

Wiltshire Council Archaeology: no objection

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 now subject to a satisfactory level of archaeological mitigation 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 no further comment on the application.

Wessex Water: no objection

There is no objection contained in WW's response. The response contains advice in relation to requirements for foul water and surface water drainage matters. The response advises that the foul flow can be accommodated within the existing sewer. The response also contains advice in relation to surface water drainage and the requirement for complying with the SUDs hierarchy in order for connection to their surface water sewer and support the

proposed use of SuDs subject to appropriate design. They also advice of the need for a 3 metres distance from their water main in the south eastern corner of the site.

Environment Agency: No objections subject to conditions

8. Representations

Letters in support (total 5) for the following reasons:

- Additional affordable homes
- Improved highway access arrangement

Letters in objection (c. 51) for the following reasons:

- 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 to 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.

9. Planning Issues

9.1 Key issues –

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, Ecology)

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 (NWLP) 2011 (adopted June 2006); the Wiltshire Housing Sites Allocation Plan (WHSAP) (Feb 2020); and the Malmesbury Neighbourhood Plan (MNP) (‘made’ Feb 2015).

The proposal seeks planning permission in outline form with all matters reserved except access, for up to 26 dwellings, with 40%, namely 10 dwellings, being affordable. There is no indicative mix stipulated, although the mix of the 10 affordable units consists of 2x one bedroom flats, 2x two bedroom flats, 3x two bedroom houses and 3x three bedroom houses.

The access would consist of a simple junction into the site from Park Road, with the widening of Park road and provision of a two metre wide footway on the South side of the widened access. The proposed highway works also include the provision of a reduced speed limit along Park Road, extending the 30mph limit.

9.2 Principle of the development –

9.2.1 The Development Plan

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. Market

Towns 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 application 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 approved 22/10/2021)

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

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

It is considered that the approval and delivery of allocations in the MNP follows a plan led approach to residential development in Malmesbury and exceeds the minimum requirements of the Wiltshire Core Strategy. The Neighbourhood Plan allocations have delivered well with additional dwellings above those allocated. In addition to the delivery of allocated sites, the Council has also permitted additional housing above those allocations. For example, 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 and is not acceptable.

The site falls outside of the limits of development for Malmesbury and 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 six years old and is in the process of review with an anticipated review completion date of March 2022. 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 need for review it is now the case that the policies in the plan carry less than full weight in consideration of the current application. 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 and this HMA cannot currently deliver a five-year supply.

The proposed development seeks to provide up to 26 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.

9.2.2 Other material considerations relevant to the principle of development

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 73 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. 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) to (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 process 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 are, therefore, under the provisions of the NPPF, to be considered out of date.

As noted above, 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 themselves, 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.

9.2.3 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.

The applicants have provided a deliverability statement. The applicant is a housing developer with a track record of delivery in Wiltshire. They are willing to accept shorter delivery timeframes for implementation, ensuring delivery in the short term which could assist in the site contributing to the delivery of homes to redress supply. The applicant confirms the site is viable based on the proposed required S106 contributions, conditions, and site constraints. Further, there are no abnormal infrastructure costs or large land requirements associated.

9. 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, 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 a 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 application is accompanied by a Design and Access Statement which includes the following statements relating to the impact of the proposed development on the appearance of the area and visual amenity in general -

From a short distance, the site is highly visible due to the close proximity of visual receptors and limited height of local landcover. Residential properties immediately adjoining the site at White Lion Park and footpaths that cross in close proximity have direct views into the site, due to its sloping topography.

From the north, views into the site are limited due to the overgrown nature of the hedgerows and vegetation on the site itself. From the existing development of White Lion Park in the south, views of the site can be seen from the footpath between White Lion Park and Park Close and the properties themselves. This is the same for the dwellings located on Park Close to the east, with their proximity contributing to the views available. The field to the west is private farmland that is currently subject to a separate planning application for 50 dwellings (LPA ref: 19/05898/OUT) [officer note: this application now refused]. An established hedgerow along the sites western boundary is significant enough to diminish direct views between the two sites.

From all viewpoints the views feature the existing vegetation including hedgerows and trees. However, the site makes up a very small proportion of the view and as such its contribution to long distance views has been identified as negligible.

The site is located on the north eastern edge of Malmesbury. The site is at a low level at the edge of Park Road but rises to the south-west as it joins the residential development of White Lion Park. This is similar to the adjacent development at Park Close, which adjoins the south-east side of the application site and rises to the south-west. Together White Lion Park and Park Close, and to a certain extent the commercial development to the east, wrap around the site, meaning that the proposed development would be seen – that is, when viewed from the north and from the AONB to the west – against a suburban and elevated backdrop of existing developments.

In terms of the impact of the proposal on the site itself, it would result in the development of an open field outside the settlement boundary, and so - intrinsic to the principle of the development of the site - would result in its urbanisation. In isolation this urbanisation conflicts with Core Policy 51 and 57 which seek to retain rurality in landscapes. However, the change to the site in isolation is not the only consideration relevant to assessing the landscape impact; it is also necessary to consider the wider impact and setting.

On immediate setting, the existing site (depending on the seasons and whether the boundary hedging has been cut) is relatively exposed, particularly when viewed from the site's access in Park Road due to the lack of dense and high boundary hedging here. The view from further west along Park road, where better boundary trees and hedging exist, is less obvious. But in any event, all views from Park Road into the site have the backdrop of the existing urban edge of Malmesbury beyond the site, which are largely unsoftened and/or scantily landscaped. These circumstances are a defining feature of the site.

Further afield, there are views from the AONB as well as from rights of way located to the west, but these are distant views affected by topography and intervening hedgerows and trees, and could be further mitigated by provision of additional landscaping within the site. The WC Landscape Officer has not raised concerns over the relationship with the AONB, noting that the application site does not contribute importantly to its setting, and that a small sensitively designed urban development retaining a strong vegetated western field boundary hedgerow is unlikely to cause harm.

Overall, it is considered that there would be some harm to the character and appearance of the site itself, this as a consequence of it changing from a 'green' field to a housing development. But, this harm is considered to be only moderate/negligible in view of the proximity of the site to established developments on c. 2.5 of its sides, and with these established developments prominent in views across the site - and so giving a 'semi-urban' feel to the site anyway. Outlook from the established developments in Park Close and White Lion Park would change; however, as there can be no assumed rights to views, this is not considered a sound planning reason to object. There would be very little impact for users of the public rights of way, and negligible impact on the AONB.

The consequences of accepting these conclusions on landscape and visual impact would have no bearing on the site to its north side which has recently been refused planning permission, in part for landscape and visual impact reasons. That site is less well-related to Malmesbury, is not enclosed by established development in the same way as the current application site, and would result in greater encroachment into open countryside.

9.4 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 does not demonstrate an acceptable relationship between the proposed houses and these established properties in some areas. But there is sufficient space on the overall site to address this and to ensure privacy standards are achieved; the detailed layout would be a matter for the reserved matters application in any event. In terms of outlook, the site's levels slope down and away from the properties in White Lion Park, reducing the impact on their outlook. As the proposal would not significantly harm the outlook, amenities or privacy of residential properties nearby, there is not conflict with Core Policy 57 or the NPPF.

The indicative layout provided is not necessarily a plan which the reserved matters should rely upon, as is set out in the response from the Urban Designer. Therefore, full consideration of the residential amenities of future occupiers in terms of detailed matters such as internal layouts, private amenity spaces and separation distances would 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.

9.5 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 the settlement boundary for Malmesbury. However, the site adjoins the White Lion estate which contains several hundred residential dwellings. Whilst the application site is set further east along Park Road, it is still relatively close to existing employment areas and services, such as schools, which are accessible via sustainable means of transport. It is, therefore, not considered that the location is so remote as to make it an unsustainable location in these 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 plans which includes vehicle 'swept paths'. The proposal includes

widening of Park Road to achieve a width of 5.5 metres with a two metre footway on the southern side. The access into the site is in the form of a standard junction from Park Road.

The response from the Council's Highways Team raises no objection to the proposed access. Detailed technical matters can be controlled by conditions. Although there is concern from local residents over increased traffic in Park Road and on the surrounding road network, the Highways Officer raises no objection, and in view of this an objection for this reason could not be sustained.

There has been concern raised in relation to the impact of the proposed footway in Park Road on the forecourt of a commercial property on its south side, which extends into the highway. However, the area fronting the commercial property is recorded as public highway, and therefore needs to be kept free of obstruction and available for public use in any event. There is a previous consent for extensions to the commercial property from 1990 and 1995 which restrict parking on the frontage to no more than 2 vehicles, but this does not override the designation of the area as a public highway anyway. It is not considered that the provision of the footway as proposed in the planning application would result in any significant harm to highway safety and no such objection for this reason is raised by the Highways Officer. The details of the proposed footway and kerbing would be a matter for the standalone Section 278 agreement.

9.6 Drainage / Flood Risk

The larger part of the application site lies in Flood Risk Zone 1, with just a part of the access and Park Road itself in Flood Risk Zones 2 and 3. The application is accompanied by a Flood Risk Assessment which includes a surface water drainage strategy. The applicant has provided additional information in the form of an amended FRA and Drainage strategy. The flood risk assessment advises that an emergency access would be provided to the south via an existing cul-de-sac in White Lion Park to allow access to the west in the event of a flood. This has been assessed and agreed by the Council's Drainage Team and the Environment Agency.

The proposed dwellings would all be in the Flood Risk Zone 1 area, which is an acceptable zone for development in principle; there is no requirement to apply the sequential test in these circumstances. The Environment Agency raises no objection to the proposal subject to conditions relating to access and finished floor levels, which could be attached to any consent granted.

There is concern raised by some third parties in relation to matters in the Wessex Water response, but as these are detailed concerns they can be resolved through conditions attached to any consent granted. Subject to conditions there is no conflict with Core Policy 67 that would justify a refusal on this basis.

9.7 Trees and Ecology

The application is supported by an indicative layout plan (revised), and an ecological assessment as well as an illustrative ecological parameters plans. This indicates the retention of trees and hedgerows within the site and on the site boundaries. The Ecology Assessment notes the presence of slow worms and bats habitats. The proposal would retain the existing trees and hedges within the site and proposes off site provision for translocated slow worms. The Ecologist has expressed concern that the ecological parameters plan does not provide an adequate 'dark corridor' for bats on the north west side of the site. This can be addressed by planning condition.

In terms of trees, there is limited information provided as highlighted in the response from the tree officer. However, as all trees and hedges, other than those to be lost to provide the proposed access, would be retained, it is not considered an objection could be sustained in this instance in relation to loss of trees. Suitable retention and enhancement could be provided and secured by conditions.

As referred to above, the Council's Ecologist, in the most recent response, sought additional information regarding the ecological parameters plans as there is concern raised in relation to the mechanism to secure off site translocation. These matters can be addressed by conditions and/or the S106 agreement in accordance with Core Policy 50 and guidance within 179 of the NPPF.

9.8 Open Space

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 site or if this is not appropriate towards upgrade of existing nearby open space.

In this case in view of the circumstances of the site an off-site contribution is considered appropriate in accordance with the policy, which can be secured via the S106 obligation.

9.9 Heritage

The application is accompanied by an archaeological desktop assessment. This is informed by a geophysical survey and trenching. The trenching revealed no remains. Accordingly, the WC Archaeologist raises no objections 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.

9.10 Education

The development would generate an additional need for school places including early years. Both Malmesbury Primary School and St Joseph's Primary School are full. The Backbridge Farm application allocated land for provision of expansion to Malmesbury Primary School. This land is in the process of being secured for the expansion to provide for additional places in the long term. In the short term, the Education Service is also providing additional spaces at Lea and Garsdon Primary School. Therefore, financial contributions are 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. Subject to financial contributions being made via a S106 obligation, the Education Officer raises no objections.

9.11 Other detailed matters

The Public Protection Officer raises no objections subject to conditions regarding a construction management plan and electrical charging points. This matters can be readily controlled by conditions.

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

S106 matters have been covered in the above paragraphs, but are summarised in full here.

WCS Core Policy 3 states that new development should make provision for all infrastructure made necessary. CP3 is supported by the Planning Obligations Supplementary Planning

Document. The SPD states that planning obligations will be sought from developments that generate a need for new infrastructure and should be a material consideration in planning applications.

The planning obligations required to mitigate the effects of the proposed development here are summarised as follows:

- Affordable housing – 40% provision
- Education - £52, 566 for early years places; £112, 548 for primary places; £91,760 for secondary places;
- Play space - £70,000 play area equipment for nearby recreation grounds; £7,235.80 sports;
- Waste collection facilities - £91 per dwelling towards waste receptacles;
- Management and maintenance responsibilities for retention and management of land to provide the emergency access, open spaces and ecological mitigation.

The applicant has confirmed agreement to enter into a S106 agreement to secure these obligations

10. Conclusion – The Planning Balance

The application site is not allocated in the adopted development plan. The site lies outside the defined limits of development for the Market Town of Malmesbury. The development proposed is not one of the exceptions to the strategy of the plan that would normally be supported in this location. The identified requirement for housing in this community area envisaged under the strategy of the plan has been met and exceeded. As such, the proposals are on face value not acceptable in principle, in terms of the development plan.

However, at this time the Council is not able to demonstrate an available and deliverable supply of land for housing so that the 'tilted balance' at para 11d of the National Planning Policy Framework is engaged; the WCS has passed 5 yrs in age and has not yet been reviewed, and so housing requirements are assessed on a Wiltshire wide basis; and the Malmesbury Neighbourhood Plan has also passed 2 years in age and has not yet been reviewed, and as such the provisions of para 14 of the framework are not engaged.

The consequence of this is that the policies of the development plan most relevant to the determination of the application cannot now be given full weight.

The benefits of development include the boost to the supply of land for housing; and the provision of affordable housing both of which can be afforded substantial weight given the housing supply situation. In addition, the proposals result in some economic benefits through construction and the additional spending of the new population supporting services and facilities in the locality and these can be afforded limited weight. The harm arising for the proposals is, firstly, the conflict with the strategy of the plan as to the location of new residential development. This can still be afforded weight as the plan represents the local expression of sustainable development, is considered to remain in accordance with the framework, and the shortfall in the housing land supply is limited with requirements in this community area met and exceeded. The harm is also in terms of the impact of the development on the landscape hereabouts, although for the reasons set out in this report, this harm relates essentially to the site itself (that is, in isolation of its wider setting in relation to which little or no harm arises), and so is considered to be limited. There are no other harmful effects and/or effects can be mitigated.

Therefore, in accord with the provision of paras 11 and 12 of the framework permission is recommended.

RECOMMENDATION

That the application be approved, subject to the applicant first entering into a legal agreement to deliver the following –

- **Affordable housing – 40% provision**
- **Education - £52,566 for early years places; £112,548 for primary places; £91,760 for secondary places;**
- **Play space - £70,000 play area equipment for nearby recreation grounds; £7,235.80 sports;**
- **Waste collection facilities - £91 per dwelling towards waste containers/bins;**
- **Management and maintenance responsibilities for retention and management of land to provide the emergency access, open spaces and ecological mitigation.**

And subject to the following planning conditions -

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 reserved 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 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 is 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:

- Drawing no. 2718 001 ('Site Location Plan') dated 08/2020
- Drawing no. H656/02 Rev F ('Site Access Arrangements') dated 19/02/2021
- Drawing no. H656/03 Rev E ('Emergency Access Arrangements') dated 19/02/2021

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 of no more than 26 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 commence 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. Prior to commencement of the development hereby approved, and notwithstanding that the application is accompanied by an Ecological Parameters Plan (Ecology Solutions, Rev A, September 2021), a further Ecological Parameters Plan shall be submitted to the local planning authority for approval in writing. The further Ecological Parameters Plan shall show a buffer, forming a dark corridor for bats adjacent to the north-west boundary of the site. This dark corridor shall be a minimum of 3-5m wide, measured from the edge boundary line of the existing hedge on/adjacent to this boundary (as illustrated on the currently submitted Ecological Parameters Plan. This minimum will be required to allow suitable access for maintenance and to protect tree roots as well as to protect foraging and commuting bats including lesser horseshoe and Barbastelle species. The dark corridor shall be provided in accordance with the approved further Ecological Parameters Plan and shall remain at all times thereafter outside of the approved housing development area, including any part of any house garden. Other than on the boundary line with the adjacent housing development, no fences or other means of enclosure shall be erected in the dark corridor, and no lighting shall be installed in the dark corridor. The dark corridor shall be retained as such in perpetuity thereafter.

REASON: In the interests of conserving biodiversity and to ensure a dark corridor is retained in this part of the site in the interests of protecting bats which are known to commute here.

9. Prior to the commencement of the development hereby approved, a strategy for the translocation of reptiles from the application site shall be submitted to the local planning authority for approval in writing. The strategy shall provide details of a suitable receptor site for the reptiles; the suitability of the receptor site shall be informed by a baseline survey, which will itself inform the details of any enhancements that will be required in advance of the translocation, together with a timescale for the enhancements to be carried out. The strategy shall also set out details of the method by which the reptiles will be translocated to the receptor site and the timings of this. The provision of the translocation site and the translocation of the reptiles shall take place entirely in accordance with the approved strategy.

REASON: In the interests of biodiversity and to ensure reptiles at the site are safely translocated to a site suitable for this purpose.

10. 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 phases 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 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.

11. No development shall first commence (including demolition, ground works and vegetation clearance associated with the provision and improvements in Park Road) until a Construction Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include, but not necessarily be limited to, the following:
 1. Risk assessment of potentially damaging construction activities
 2. Identification of 'biodiversity and tree protection zones'
 3. 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)

4. The location and timing of sensitive works to avoid harm to biodiversity features
5. The times during construction when specialist ecologists need to be present on site to oversee works
6. Responsible persons and lines of communication
7. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
8. Use of protective fences, exclusion barriers and warning signs.
9. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEcoMP 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 CEcoMP 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.

12. 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:
 1. Description and evaluation of features to be managed;
 2. Landscape and ecological trends and constraints on site that might influence management;
 3. Aims and objectives of management, including long term objectives to ensure biodiversity net gain and management in perpetuity;
 4. Appropriate management options for achieving aims and objectives as set out in points 1 to 3 above;
 5. Prescriptions for management actions for the site;
 6. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
 7. Details of the body or organisation responsible for implementation of the plan;
 8. Ongoing monitoring and remedial measures which shall include measurable targets;
 9. 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.

13. No development shall commence on site until a scheme for the discharge of surface water from the site, including SuDS (sustainable drainage systems) and all third party approvals, has been 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 to be served, and to include a programme allowing sufficient time for the delivery of any required improvements. The development shall be carried out strictly in accordance with the approved scheme.

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

14. There shall be no surface water drainage disposal from the site, directly or indirectly, to the public foul sewer.

REASON: To safeguard the public foul sewer system.

15. The development shall be carried out in strict accordance with the approved Flood Risk Assessment (FRA) [Land South West of Park Road, Malmesbury, Wiltshire, Flood Risk Assessment – Hannick Homes (September 2020)] and the Surface Water Drainage Strategy contained within it.

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

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

REASON: In the interests of highway safety.

17. 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.

18. No development shall commence on site until details of the internal 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.

19. No individual dwelling hereby permitted shall be first occupied until the access, turning area and parking spaces serving that dwelling have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

20. No development shall commence on site, until a Construction Management Statement, together with a site plan, which shall include the following

1. the parking of vehicles of site operatives and visitors;
2. loading and unloading of plant and materials;
3. storage of plant and materials used in constructing the development;
4. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
5. wheel washing facilities;
6. measures to control the emission of dust and dirt during construction;
7. a scheme for recycling/disposing of waste resulting from demolition and construction works;
8. measures for the protection of the natural environment;
9. hours of construction, including deliveries;
10. pre-condition photo survey;
11. Routing plan;
12. Traffic Management Plan (including signage drawing(s));
13. Number (daily/weekly) and size of delivery vehicles;
14. Number of contractor/staff vehicle movements;
15. Details of temporary/permanent Traffic Regulation Orders; and
16. 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.

INFORMATIVE: There shall be no burning undertaken on site at any time. Construction hours in the CMP should be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday, and no working on Sundays or Bank Holidays.

21. 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 first occupied prior to the implementation of the Travel Plan. The Travel Plan shall be implemented as approved thereafter.

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

22. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the LPA. The scheme shall be implemented prior to occupation of any part of the development or in accordance with a programme to be first approved by the local planning authority.

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.

23. 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 shall provide for a maximum water usage limit of no more than 110 litres per person per day. 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.

24. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the development 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:

The applicant should note that if the intention is to offer the roads for adoption then the drainage requirements of the LLFA may not necessarily coincide with the adoption requirements of the Local Highway Authority. To find out more about the processes required to secure road adoption, contact the Highway Authority at HighwaysDevelopment@wiltshire.gov.uk.

The application is supported by a site specific Flood Risk Assessment (FRA). It should be noted that the LLFA's response to the application is reliant on the

accuracy and completeness of the FRA and the LLFA does not take any responsibility for incorrect data or interpretation made by the authors. The developer, or agent working on their behalf, retains the responsibility for the checking of the design, calculations and details contained in the FRA and additional submitted information.

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.

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.

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on

land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.