

Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 1 DECEMBER 2021 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Howard Greenman (Chairman), Cllr Tony Trotman (Vice-Chairman), Cllr Adrian Foster, Cllr Sarah Gibson, Cllr Carole King, Cllr Christopher Newbury, Cllr Pip Ridout, Cllr James Sheppard, Cllr Robert Yuill and Cllr Bridget Wayman (Substitute)

Also Present:

Cllr Gavin Grant and Cllr Tony Jackson

46 **Apologies**

Apologies for absence were received from:

- Cllr Ernie Clark
- Cllr Elizabeth Threlfall, who was substituted by Cllr Bridget Wayman.

47 **Minutes of the Previous Meeting**

The minutes of the meeting held on 3 November 2021 were presented for consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

48 **Declarations of Interest**

There were no declarations of interest.

49 **Chairman's Announcements**

There were no Chairman's announcements.

50 **Public Participation**

The rules on public participation were noted.

51 **Planning Appeals and Updates**

There were no updates.

52 **Planning Applications**

The following planning applications were considered.

53 **21/01155/OUT Land at Restrop Road, Purton, Swindon, Wiltshire, SN5 4BP**

Public Participation

Chris Fairfax spoke in objection to the application

Hywel James (agent), spoke in support of the application.

Professor Richard Pagett, on behalf of Purton Parish Council, spoke in objection to the application.

Andrew Guest, Head of Development Management, presented a report which recommended that authority be delegated to the Head of Development Management to grant planning permission with conditions and subject to a s106 agreement for 21/01155/OUT, Land at Restrop Road, Purton, Swindon, Wiltshire, SN5 4BP.

The officer detailed a late representation from Professor Richard Pagett on behalf of Purton Parish Council which drew attention to a previously refused application near this site. The representation stated that the valid reasons for refusal on that occasion could also be used to refuse this application. Despite the issues with the shortfall in five year housing land supply the representation stated that balance was tilted towards refusal as the site was outside the limits of the village and was not sustainable, this could be supported by case law.

The officer gave a brief description of the site which was a parcel of land on the edge of the large village of Purton. The site was largely within an area identified within policy 14 of the Purton Neighbourhood Plan as an area of search for dwellings. Land immediately to the North of the site had planning permission granted for 38 homes. The number of homes provided in Purton exceeded policy expectations. The application did conflict with some core policies and key issues included the principle of development/development plan compliance; highways impact; impact on the character, appearance and visual amenity of the locality; impact on residential amenity; ecological impact and drainage impact.

The officer referred to the fact that the Planning Authority could not demonstrate a five year housing land supply. The National Planning and Policy Framework (NPPF) at paragraph 11 stated:

“...where the local planning authority cannot demonstrate a five year supply of deliverable sites (with the appropriate buffer) ...” then “policies which are most important for determining the application are out of date”, and permission should be granted unless:

- i) There is a clear reason for refusal due to protection policies as listed in footnote 6 e.g. Green Belt; Local Green Space; Area of Outstanding Natural Beauty; designated heritage assets; or
- ii) Any adverse impacts would significantly and demonstrably outweigh the benefits

This was sometimes referred to as the 'tilted balance' affecting the weighting awarded to policies. The officer stated that there were no assets or designated areas affected by the application and that there were no adverse impacts when the application was assessed against the NPPF as a whole.

The officer drew the Committees attention to a planning application 20/06684/OUT in Calne which had been refused and overturned at appeal. The officer quoted some of the recent appeal decision (APP/Y3940/W/21/3275477) made by the [Planning Inspectorate](#), including:

- The Council's housing land supply position was dated, and the most recent position was now 2.5 years old. Therefore, it was unclear what the housing land supply position was now, except, that at a minimum, there was a significant shortfall of 928 homes.
- That the range of housing land supply fell between 4.22 years and 4.56 years.
- That notwithstanding existing site allocation plans, there appeared to be no other practical plan led solution to remedy the shortfall.
- The Council would be required to rely on windfall sites.
- The persistent shortfall in market housing was not insignificant and there was a substantial shortfall in affordable housing. There was no obvious remedy to the shortfall and this overall position indicated that the development plan was failing to meet its strategic challenges. Thus, its settlement strategy and limits of development were not working effectively. These policies were therefore of limited weight.
- Taken together, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the material considerations indicate a decision other than in accordance with the development plan.

The Officer stated that the approach taken by the Planning Inspector when considering the appeal on the Calne application was equally applicable to the application currently being considered. Hence the recommendation to approve with conditions, subject to a s106 agreement.

The Chairman stated that he was passionate about Neighbourhood Plans. The appeal decision was alarming to him as in recent months the Committee had refused other applications which were now subject to appeal. The Chairman also highlighted another recent appeal where the decision to refuse was overturned. The Chairman stated that it was a difficult situation as the figures were out of date and it was hoped updated figures, which took a lot of resources to produce, would be available by March 2022. It was also highlighted that when

officers were fighting appeals, they were taken off 'business as usual' work. The costs involved in appeals were significant at around £70,000 to the Council, even without costs being awarded against the Council. The Chairman felt that the Committee should be cognisant of the appeal decision and should try to ensure there were conditions to mitigate applications.

In response to technical questions from Members, the officer stated that it would not be reasonable to suggest a condition at this point that the buffer be kept in perpetuity as a green belt as this was an outline application. The Committee could consider however imposing an informative that the buffer should be kept in the reserved matters application.

Some Members stated their disappointment at the appeals decision and queried the 928 houses that the Council were short of. Members listed housing numbers of recently approved applications, and it was stated that it would be good if Planning Inspectors could be advised of those. The officer explained that both officers and the Planning Inspectorate have to go from the latest Housing Land Supply Statement as a starting point even if it was out of date. Approved applications would already be accounted for in adjusted figures. It was also confirmed that as the Wiltshire Core Strategy was over five years old, the housing land supply had to be considered over the whole County and not by housing market areas.

The case law cited by the CPRE in their objection was queried. It was thought that this was probably different case law to that cited on page 38 of the agenda.

Members queried whether Neighbourhood Plans were referenced in the appeal decision described earlier. The officer stated that the tilted balance and reduced weight of Neighbourhood Plans was referred to.

In response to a further question the officer explained that if approved, subject to the s106 agreement the conditions required that the development be begun before the expiration of 1 year from the date the reserved matters application was approved. Therefore, this proposal would contribute to the shortfall in housing land supply.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Jacqui Lay was unable to attend and therefore the Chairman read her statement in objection to the application on her behalf, stressing that the views contained within the statement were Cllr Lay's own. Cllr Lays statement urged the Committee to refuse the application for reasons including that it did not conform to policy 14 of the Purton Neighbourhood Plan.

Tony Trotman proposed the officer's recommendation detailed at pages 43 – 50 of the agenda, with the addition of an informative that the buffer zone be kept in perpetuity. This was seconded by Cllr James Sheppard.

A debate followed where Members discussed at length the lack of housing land supply and the recent appeal decisions. The Committee were mindful of the Members of the public's comments and felt that Neighbourhood Plans should carry weight. They therefore felt conflicted by the situation with the lack of land supply and appeal decisions. The Committee hoped that they could get updated accurate figures on the housing land supply as soon as possible.

Members also discussed the proposed informative and the exact meaning of in perpetuity. The legal officer confirmed that 'in perpetuity' did not necessarily mean forever in legal terms. However, if there was an approval, the wording of the informative could be solidified to make it as permanent as legally possible. The legal officer suggested legal advice including case law on this matter could be provided to the Chairman at a later date if considered necessary by the Chairman. Cllr Sarah Gibson suggested an amendment to the informative so that the green corridor could be connected to the buffer zone for continuity. This was accepted as a friendly amendment to the motion.

At the conclusion of the debate it was;

Resolved:

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.

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:-

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing and landscape and drainage maintenance and management) required to mitigate the direct impacts of the development and thereby fails to comply with CP3 CP43 & CP52 of the Wiltshire Core Strategy, Saved policy CF3 NWLP, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework.

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

Waste & Recycling Facilities – £4,277

Early Years / Nursery education provision – £105,132

Open Space SUDS Management & Maintenance Provisions

Off Site Sports Contribution £12,972.00

PROW Enhancement contributions including £60K for the up-grade of the surfacing of PURT89 from its junction with the main road to where it meets its currently blacktopped length.

PROW future maintenance funding £6,000

Traffic Regulation Order funding £6,000

Affordable Housing Provisions:-

19 units with a tenure mix of 60% of the units (11 units) being for Affordable Rented housing, and 40% of the units (8 units) being provided for shared ownership.

Affordable Rented:

20% - 2 x 1 bed, 2 person flat, in a maisonette / house style, or bungalow

20% - 2 x 2 bed, 4 person house

20% - 2 x 2 bed, 4 person bungalow* to be provided as adapted units

35% - 4 x 3 bed, min 5 person house

5% - 1 x 4 bed, min 6 person house

Shared Ownership:

50% - 4 x 2 bed, 4 person house

50% - 4 x 3 bed, min 5 person house

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;

(e) The layout of footpath links with the neighbouring development and highway.

Detail to be informed and supported by:-

- Updated Tree Survey;
- Plan to show trees to be retained and removed;
- Plan to show all trees to be retained along with the canopy spread and root protection areas shown on the proposed layout;
- Arboricultural Method Statement (if required);
- Tree Protection Plan.

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:

- Topographical Survey
- Site location Plan
- Site Access Arrangement
- Site Access Arrangement with traffic calming

All Received 03/02/2021

- Indicative Masterplan
- Parameter Plan

Received 19/10/2021

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 47 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. 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 building(s) or the completion of the development whichever is the sooner, or in accordance with any phasing agreed in writing with the Local Planning Authority; 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.

7. No development shall commence, except ground investigations and remediation, until infiltration testing, groundwater monitoring (including seasonal variation) and soakaway design in accordance with Wiltshire Council's Surface Water Soakaway Guidance have been undertaken to verify that soakaways will be suitable for the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the occupation of the development.

The developer should provide the following information to discharge the condition:

Drainage Strategy

- A drainage layout plan with the proposed location of SuDS features.
- Confirm the drainage strategy approach (e.g infiltration or discharge to watercourse, or blended approach).
- Soakaway and/or network drainage calculations.
- A revised discharge rate with 20% betterment on greenfield run of rates (if discharge to watercourse is proposed)
- A groundwater flood risk assessment.
- A plan showing the finished floor levels of the properties.
- A plan showing the exceedance / overland flow routes.

Ground Investigations

- **Infiltration testing at the location and depth of proposed soakaway features.**
- **Groundwater monitoring taking into account seasonal variation.**

Ownership and maintenance

- **Indicative ownership and maintenance regime of SuDS features.**

Construction

- **A construction management plan showing how surface water will be managed during the construction phase.**

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.

8. The Indicative Masterplan which is included in Parameters Plan (received 19/10/2021) will be adopted as an Ecological Parameters Plan, with all features marked for the protection or benefit of ecology carried forward to Reserved Matters where the layout will be expected to fit within these parameters without erosion or overlap. The Ecological Parameters Plan will not be altered without agreement from the LPA's ecologists.

REASON: To ensure adequate volume of habitat is retained within the site to support mitigation and management for ecological receptors and to maintain the integrity of the ecological function of the retained and created habitats within the site.

9. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.**
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.**
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.**
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors;**

including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

10. Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

11. No external light fixture or fitting will be installed within the application site until a lighting strategy, including lux plot, has been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate that a level of 0.5 Lux or less can be achieved at the interface with all sensitive ecological habitat areas.

REASON: to avoid illumination of habitat used by bats and other sensitive wildlife species.

12. Prior to the start of construction, the Defra Biodiversity 2.00 Metric (or current version) will be used to calculate Biodiversity Net Gain for the site. The unlocked spreadsheet must be submitted alongside a brief report and detailed site plans indicating the location and volume of all existing habitat and of new habitat created as net gain.

REASON: to ensure that biodiversity net gain is incorporated into the development, in line with NPPF current requirements.

13. 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.

14. No dwelling shall be occupied until details of visibility splays for the access and zebra crossing have been submitted to and approved by the Local Planning Authority and have been provided in accordance with the approved details. The access should be provided with a visibility splay of 2m x 90m to the nearside carriageway edge, cleared of obstruction at and above 900mm.

REASON: In the interests of highway safety.

INFORMATIVES TO APPLICANT:

15. The applicant should be 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:-

Zebra Crossing in proximity to the indicative location shown on the masterplan

An improved entrance/gateway feature at the location of the current changeover of speed limit.

The provision of a 3m shared use path on Restrop Road to the North of the access, from the crossing point to the site.

The applicant should be aware that the on-site highway works will require adoption by the Highway Authority and a S38 agreement will be required in this respect.

16. 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.

17. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

18. 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.

19. 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.

20. 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].

21. 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.

22. 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.

23. 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.**

Informatives:

24. Wiltshire Council is the land drainage authority under the Land Drainage Act 1991. Land drainage consent is required if a development proposes to discharge flow into an ordinary watercourse or carry out work within 8m of an ordinary watercourse.

An ordinary watercourse is a watercourse that does not form part of a main river. The term watercourse includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows.

Wiltshire Council's land drainage bylaws and the land drainage consent application form and guidance notes can be found on our website.

25. The applicant is advised that the 'green' buffer land on the south and west sides of the overall site, and as shown on both the Parameters Plan and the Illustrative Layout Plan, must be incorporated into the reserved matters submissions to ensure satisfactory transitions between the built elements of the development and the countryside beyond. The applicant is advised that as part of the reserved matters submissions the green space/LAP at the centre of the site should be more closely aligned with the existing allotments to achieve continuity of open space on the north-south line created by the allotments. The applicant is also advised to ensure that the final road layouts make allowance for potential access from/through the site to the land to the site (and so to the school beyond).

Cllr James Sheppard requested that it be minuted that he gave thanks to Mike Wilmott, former Head of Development Management who had retired, for

everything he had done for Wiltshire Council. This sentiment was reiterated by the whole Committee.

54 **20/08341/OUT Land South West of Park Road, Malmesbury**

Public Participation

Catherine Doody, on behalf of Paul Smith, spoke in objection to the application
Erica Whatton, on behalf of Campbell Ritchie, spoke in objection to the application.

Catherine Doody, on behalf of Jeremy Ollis from Malmesbury River Valleys Trust, spoke in objection to the application.

Glenn Godwin (agent) spoke in support of the application.

Cllr Frances Smith on behalf of Cllr Kim Power of Malmesbury Town Council spoke in objection to the application.

John Bartholomew representing Brokenborough Parish Council spoke in objection to the application.

Andrew Guest, Head of Development Management presented a report which recommended that planning permission be approved with conditions, subject to first entering into a legal agreement.

The officer highlighted that the appeal decision described under the last agenda item was also relevant to this application.

The officer gave a brief summary of the application. The site was a parcel of land classed as being in the countryside although it lay against the outside edge of Malmesbury. The application was in outline form and was for 26 dwellings. The site was not allocated in the Development Plan or the Malmesbury Neighbourhood Plan (made 2015). Planning permission had been refused on the land to the North of this site which was now subject to an appeal. As with the previous application, agenda item 7a, the officer detailed the lack of a five year housing land supply, the tilted balance invoked by paragraph 11 of the NPPF as a result and the recent appeal decisions. The officer stated that there were no adverse planning effects from the proposal. The Neighbourhood Plan was also over 2 years old so carried less weight. Therefore, the recommendation was for approval, with conditions, subject to a s106 agreement.

Members of the committee then had the opportunity to ask technical questions of the officer. Many Members sought details regarding the emergency access to be used in the event of flooding. The officer stated that there were no houses in the flood zone, but that the low end of the site and access road occasionally flooded. The emergency access was for emergency vehicles in the event that the usual access flooded. Pedestrians and cyclists could also access the site via this emergency route. That route had not been deemed appropriate as the usual access to the whole site, as the road approaching that access was convoluted and narrow. Matters regarding the how the barrier or bollards at the emergency access would be activated were for the management company to consider and costs should be covered by the s106.

In response to a question regarding the Malmesbury Neighbourhood Plan the officer stated that the review of the plan was progressing but as this was still in process the plan had limited weight.

In response to a query regarding the road being shown as part of the application it was confirmed that the road was a public road, but as changes to the road would take place as part of the proposal, it was shown as part of the application.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Gavin Grant, spoke in objection to the application. Cllr Grant raised issues including the strength of local feeling against the application, that the proposal was not acceptable in principle in terms of the development plan and conflicted with many core policies, that there was no local need for more affordable housing in that area, there was a lack of pre-school provision in the area, there was significant flood risk as flooding was a regular occurrence on the road and that the application would cause planning harm. Cllr Grant urged the Committee to refuse the application.

Further technical questions were raised by Members. In response to queries regarding the landscape officer and spatial planning's comments in the agenda report, the officer explained that the comments were considered as part of the planning balance, but the lack of a five year housing land supply tilted the balance and changed the weighting of arguments, hence the recommendation for approval.

Members questioned whether the officer could see any reasonable reasons for refusal that were defensible. In response the officer stated that he agreed with the recommendation to approve. It was acknowledged that there was landscape impact, but this was not considered to be defensible in the context of the lack of a five year housing land supply. The refusal on the neighbouring site had a more defensible case, however as this site was on the edge of the settlement boundary, it would be less defensible if it was refused and it went to appeal.

Many Members had questions regarding flooding. The officer stated that the houses were in flood zone 1. The officer did not have data on how often the access road flooded, but expert advisors had not objected due to the proposed mitigations. The legal officer clarified and confirmed that the Environment Agency and Council as Lead Local Flood Authority did not object to the application. The land was not in the Environment Agency flood zone. Therefore, a refusal on the grounds of flooding would be very difficult to defend at appeal. The planning officer explained that the site had to "wash its face" to deal with run off. The Sustainable Drainage System (SuDS) scheme had to be designed to ensure that the situation was not worsened and ideally was improved.

A debate followed where Members highlighted that local knowledge stated the road flooded regularly and almost all year round, apart from in the summer. Members discussed that this site was different to the application considered

earlier in the meeting, the site was on the edge of Malmesbury, the houses were packed in on the site, the road was in flood zone 2, London Boroughs now had to provide detailed flood assessments even for applications in flood zone 1 due to previous errors predicting flooding, the increase in flood events due to climate change, and that at certain times the site would only be accessible on foot due to the flooding.

During debate a motion to refuse the application was moved by Cllr Sarah Gibson due to conflict with various Core Policies (CP) including 1, 2, 44, 67, 41 and 51. This was seconded by Cllr Adrian Foster.

Further debate followed whereby some Members stated they would be unable to support the motion as whilst the site had issues, these were all mitigated for, it was felt that if challenged a refusal would be very hard to defend at appeal for the reasons considered in the report, that there would not be planning harm caused and there was the lack of a five year land supply.

Other Members felt there was demonstrable planning harm and therefore refusing on the basis of conflict with Core Policies was acceptable. Members also discussed the lack of a five year land supply and how difficult decision making was when the housing land supply figures were out of date. Some Members felt that they did not want to approve applications with little merit due to the lack of a five year land supply.

At the request of the Chairman the reasons for refusal were clarified.

At the conclusion of the debate it was;

Resolved:

That planning permission be refused for the following reasons.

REASONS:

- 1. The proposal is outside of the settlement boundary for Malmesbury, so it is located in the open countryside and has not been allocated for residential development within the Wiltshire Core Strategy (January 2015), The Wiltshire Housing Sites Allocation Plan (February 2020) or the Malmesbury Neighbourhood Plan (2015). The development fails to meet any of the special circumstances for the creation of additional residential development in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. Therefore, the proposal is contrary to Core Policies 1, 2, and 13 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan and the Malmesbury Neighbourhood Plan. The proposal is in conflict with the development plan taken as a whole. As such, the proposal fails to constitute and secure sustainable development as required by the NPPF, specifically paragraphs 2, 7, 8, 9, 10, 11, 12, 13, 15 and 47 and is contrary to the development strategy of the development plan. In accordance with paragraph 11d (ii) of the NPPF the benefits of the proposal have been**

fully considered but the adverse impacts would significantly and demonstrably outweigh those benefits, when assessed against the policies in the NPPF taken as a whole.

2. The proposal would result in the urbanisation of this rural site in this prominent and elevated position which would result in harm to the local character, appearance and visual amenity of the immediate locality. The proposal would therefore fail to accord with Wiltshire Core Strategy (2015) Core Policies 51 (points i, ii, iii) and 57 (points i, iii, vi, ix), as well as paragraphs, 8, 124 130 and 174b of the NPPF.
3. The principal access to the application site would be from Park Road. Park Road lies within Flood Zone 3 and is prone to flooding being both low-lying and adjacent to the River Avon. At times of flooding an emergency access to the site (for pedestrians and emergency vehicles only) would be provided from White Lion Park at the rear of the site. These arrangement for access - and in particular the emergency access - are considered to be contrived, providing unsatisfactory accessibility for the future residents of the development, and so do not amount to 'good design' in the context of Core Policy 57 (point ix) of the Wiltshire Core Strategy and paragraphs 126 and 130 of the NPPF.
4. The proposed development does not make any provisions for securing affordable housing on the site; financial contributions towards education provision, public open space and play equipment and the on-going maintenance and waste and recycling facilities. The application is therefore contrary to Core Policies 3, 43, 45 and 52 of the Wiltshire Core Strategy (2015) and paragraphs 8, 34, 55, 56, 64 and 92 of the NPPF.

55 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 1.30 pm)

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