



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

Planning Statement

March 2022

Project	Southampton Road, Alderbury
ABC Reference	ABC/0149/05
Local Authority	Wiltshire District Council
Client	1215 Heritage Homes

Issue	Final
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Date	March 2022

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Appendix 1 – Evidence of Implementation of the Radnor Site

Appendix 2 – Appeal Decision - Sandhole Lane, Westbury (APP/Y3940/W/21/3275352)

Appendix 3 – Appeal Decision - Paddock Wood, Bradley Road, Warminster, Wiltshire, BA12 7JY (APP/Y3940/W/20/3245400)

Appendix 4 – Appeal Decision – Southampton Road, Alderbury (APP/Y3940/W/20/3257967)

Appendix 5 – Previous Signed Statement of Common Ground

Appendix 6 – Linked Malmesbury Appeals



1. Introduction

1.1 This Planning Statement has been prepared by Andrew Black Consulting on behalf of 1215 Heritage Homes in respect of an outline application for residential development at Land to the East of Wagtails, Southampton Road, Alderbury, Wiltshire.

1.2 The proposal seeks outline planning permission for the following development:

Up to 32 dwellings (including affordable housing) on the Site including access (with details relating to layout, appearance, landscaping and scale all reserved)

1.3 The application follows on from several previous applications. The previous reasons for refusal have been fundamentally addressed within this application and through other material considerations which are set out within this planning statement.

1.4 The site is within Wiltshire Council and the application is supported by the following plans and documents (in accordance with the local validation requirements):

- Plans and Elevations
- Design and Access Statement
- Archaeology Statement
- Preliminary Ecological Impact Assessment Report
- Flood Risk Assessment
- Gradiometer Survey Report
- Tree Survey and Impact Assessment

1.5 This Planning Statement includes the following sections:

- Site and Surroundings;
- Planning History;
- Description of Proposed Development;
- Planning Policy;
- Addressing previous reasons for refusal;
- Planning Policy Considerations;
- Ecology and Biodiversity;
- Phosphates and Nitrates;
- Planning Obligations; and
- Conclusions

2. Site and Surroundings

- 2.1 The Site is 1.25 ha and is located in Alderbury which is approximately 3 miles to the south east of Salisbury City Centre. Alderbury is one of the largest villages in South Wiltshire and is identified as a 'large village' within the Settlement Hierarchy for WDC.



Figure 1 – Site Plan

- 2.2 The Site is located within the centre of Alderbury and comprises land currently used as a residential garden and is therefore considered to comply with the definition of Previously Developed Land (as agreed in paragraph 4.6 of the Statement of Common Ground for the recent appeal).
- 2.3 The Site adjoins the built up-area of the village along its northern, western and southern boundaries.



Figure 2 – Extract from Policies Map



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- 2.4 Alderbury provides a number of local services and facilities including the Alderbury general store, post office, recreation and football club, village hall, primary school as well as pubs. There are a number of key bus routes servicing Southampton Road which travel towards Salisbury. The nearest railway station is Salisbury which is approximately 6km from the Site and is accessible by car or bus.

3. Planning History

3.1 The Planning History for the application itself is set out below:

Application Ref	Description of Development	Decision
19/03480/OUT	Outline permission with some matters reserved for up to 36 dwellings (access only)	Refused July 2019
19/11206/OUT	Outline permission for the erection of up to 32 dwellings with all matters reserved (except access)	Refused November 2019 Appeal Dismissed June 2021

3.2 The planning history of the adjoining sites also have relevance in the determination of this application as set out below:

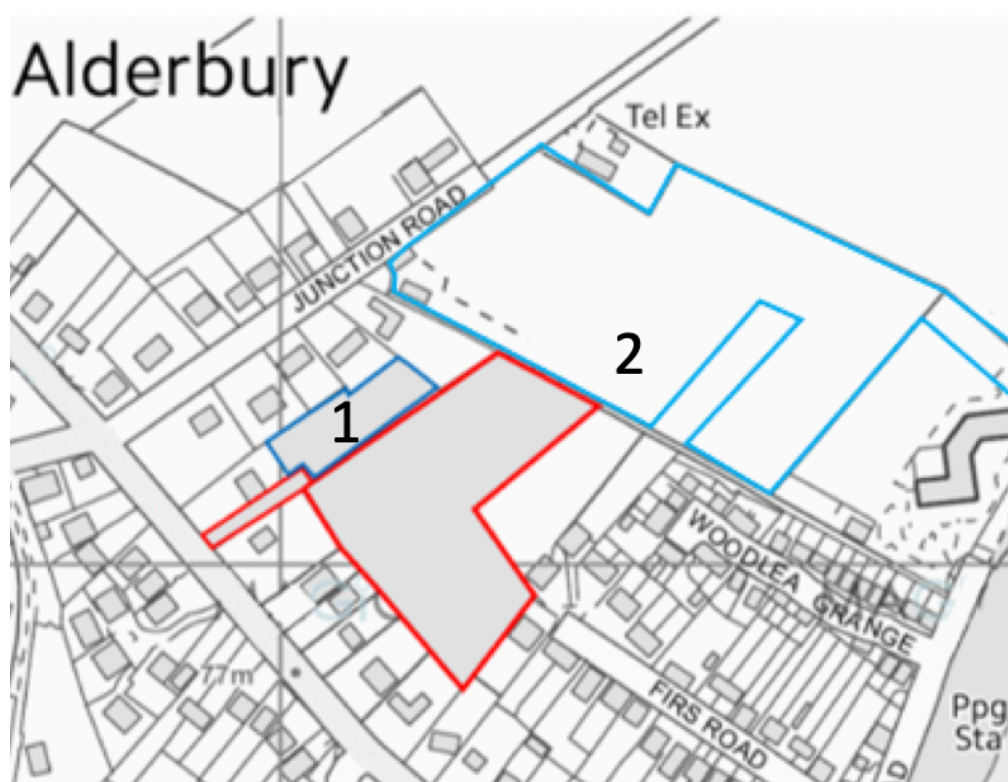


Figure 3 – Surrounding Development



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Application Ref	Description of Development	Decision
1. Land adjacent to Wagtails, Southampton Road		
15/11933/FUL	Residential development of 3 dwellings and associated works	Refused 04.02.2016
16/004775/FUL	Demotion of Wagtails and erection of 3 dwellings and associated works (revision to 15/1193/FUL)	Appeal allowed 06.02.2016
18/07786/FUL	Revised layout to planning permission 16/04775/FUL to allow for two additional dwellings	Refused 12.10.2018
18/10448/FUL	Revised layout application with two additional dwellings following refusal of 18/07786/FUL	Refused 20.12.2018 Appeal allowed 08.08.2019
2. Land of Firs Road, Alderbury (The Radnor Site)		
17/04001/OUT	Residential development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building and land to extend existing primary school playing fields	Refused 24.07.2017 Appeal allowed 07.12.2018
PL/2021/04201	All outstanding Reserved Matters (appearance, landscaping, layout and scale) for the erection of 50 residential dwellings, pumping station and replacement guide hut with associated infrastructure, parking, landscaping, open space and works, all pursuant to permission 17/04001/OUT	Approved 20.10.2021

3.3 Further evidence is provided in appendix 1 which illustrates that construction of the site has now commenced.

3.4 The Council Website records that the CIL Liability Notice for the site was issued on 21 January 2022 under planning obligation LA/2022/0005 and the council website records the permissions as being 'commenced.'

4. Proposed Development

- 4.1 The application seeks outline approval for up to 32 dwellings with access from Southampton Road with all other matters reserved.



Figure 4 – Proposed Site Plan

- 4.2 The schedule of accommodation for the proposed is as follows:

House Type	Description	Number of Dwellings
Private Dwellings		
2 bed	884 sq ft (1) / 906 sq ft (2)	3
3 bed	1016 sq ft (2) / 1162 sq ft (2) / 1182 sq ft (4)	8
4 bed	1657 sq ft (1) / 1708 sq ft (2)	3
5 bed	1995 sq ft (5)	5
Total Private		19 (59.4%)



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Affordable Dwellings		
1 Bed	545 sq ft (2)	2
2 Bed	801 sq ft (5) / 884 sq ft (1)	6
3 Bed	1007 sq ft (4) / 1182 (1)	5
Total Affordable		13 (40.6%)
TOTAL DWELLINGS		32



5. Planning Policy

Planning Policy Context

- 5.1 Section 38 (6) of the Planning and Compulsory Act 2004 requires any planning application to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 5.2 The Development Plan for the purposes of the determination of this application comprises of the following:
- Wiltshire Core Strategy (WCS) (2015)
 - Wiltshire Housing Site Allocations Plan (2020)

National Policy Context

- 5.3 The current version of the NPPF was updated in 2021 and sets out the Government's planning policies for England and how these should be applied. The NPPF emphasises the importance of sustainable development, sets out core planning principles and how these should be applied. The NPPF is a material planning consideration in the determination of any planning application. Paragraph 69 of the NPPF states that Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.

Adopted Local Plan

The Wiltshire Core Strategy was adopted in January 2015. The relevant policies from the WDC adopted plan are set out below and addressed in subsequent sections of this planning statement.

- Core Policy 1 – Settlement Strategy
 - Core Policy 2 – Delivery Strategy
 - Core Policy 3 - Infrastructure Requirements
 - Core Policy 23 – Spatial Strategy: Southern Wiltshire Community Area
 - Core Policy 43 – Affordable Housing
 - Core Policy 45 – Meeting Wiltshire's Housing Needs
 - Core Policy 50 – Ensuring High Quality and Place Shaping
 - Core Policy 52 – Green Infrastructure
 - Core Policy 57 – Development Impacts on the Transport Network
 - Core Policy 67 – Flood Risk
- 5.4 As the Core Strategy is now more than 5 years old, then consideration is required of paragraph 74 of the NPPF which states that (with emphasis added):

Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify

*and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies³⁶, **or against their local housing need where the strategic policies are more than five years old³⁷**. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:*

- a) 5% to ensure choice and competition in the market for land; or*
- b) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply*

5.5 Footnote 37 states that:

Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.

5.6 As set out the review of the Local Plan has not yet progressed sufficiently and it is considered that paragraph 73 is engaged.

5.7 Further consideration is given to this against the comments in relation to five year housing land supply.

5.8 Alderbury was designated as a Neighbourhood Plan Area in April 2014 however no Neighbourhood Plan has not progressed at the time of submitting this application.

Emerging Local Plan

5.9 In 2017, Wiltshire began a review of its Local Plan through an Issues and Options consultation in October 2018 for the period to 2036.

5.10 The latest Local Development Scheme indicates that a Regulation 19 Consultation will take place between Q4 2022 and Q2 2023 with submission to Secretary of State in Q2 2023 and Adoption in Q4 2023.

5.11 At the time of the submission of this application, no weight can be applied to any draft policies contained within it in the determination of this application.

Wiltshire Housing Site Allocations Plan

5.12 The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted in February 2020.

5.13 The site was not allocated within the WHSAP and continues to be situated outside of the settlement boundary.



- 5.14 Paragraph 16 of the appeal decision at Sandhole Lane, Westbury (APP/Y3940/W/21/3275352) (Appendix 2) of February 2022 makes specific reference to the WHSAP as follows:

I acknowledge that the Wiltshire Housing Site Allocations Plan (WHSAP) has been adopted relatively recently in February 2020 without the inclusion of the appeal site within the settlement boundary. However, it was found sound by the examining inspector in the context of an expected early review of the existing spatial strategy, due at that time to be adopted in 2021. That Inspector highlighted that the review provides the Council with the opportunity to consider the need for additional sites, as well as assessing the scale of development required in the light of current national policy and its distribution across the County. Early adoption of such a review, in the form of the draft Wiltshire Council Local Plan: Emerging Spatial Strategy has not occurred, this now being unlikely until 2023, and is a factor that I shall consider further in the planning balance. Due to it not being at an advanced stage towards adoption I have afforded little weight to that emerging spatial strategy.

Five Year Housing Land Supply

- 5.15 As set out, the Core Strategy is now more than 5 years old and paragraph 73 of the NPPF is engaged.
- 5.16 The appeal decision at Sandhole Lane, Westbury (APP/Y3940/W/21/3275352) (Appendix 2) sets out that the five year housing land supply is somewhere in the range of 4.30 to 4.56 years.
- 5.17 In a recent appeal for Paddock Wood, Bradley Road, Warminster, Wiltshire, BA12 7JY (APP/Y3940/W/20/3245400) (Appendix 3) conclusions in relation to five-year housing land supply were set out at paragraph 12 onwards:
- 5.18 *Circumstances then changed again in February 2020 when, at an appeal elsewhere in Wiltshire (Appeal Ref APP/Y3940/W/18/3202551 – Land at Purton Road, Swindon, Wiltshire), the Council confirmed that it was unable to demonstrate a 5-year HLS when assessed against the Local Housing Need (LHN) for Wiltshire, which became a requirement after 20 January 2020, when the adopted WCS became 5 years old, and when paragraph 73 of the Framework came into effect. When tested against the LHN the Council accepted that it could only demonstrate a HLS somewhere between 4.42 and 4.62 years.*
- 5.19 *The Framework explains, in paragraph 11(d)(ii) that where the policies which are most important for determining an application are out-of-date (which includes where a Council's HLS does not accord with the Housing Delivery Test – as here), then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*
- 5.20 *With these points in mind it is not possible to give full weight to the aforementioned Core Policies. But as very little additional information on the current HLS situation has been supplied by either party, it is difficult to assess the implications of the existing shortfall with any certainty. The Council has, however, drawn my attention to comments made by the Inspector in the aforementioned Purton Road appeal, namely that even at the lower end of the agreed HLS range there is a relatively modest shortfall in housing land in the Council's area; that there*



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is no reason to think that the WCS will not continue to be effective, particularly in light of recent progress in adopting the Wiltshire Housing Site Allocations Plan; and that there remains substantial benefit in maintaining a plan-led system

- 5.21 Overall it is demonstrated that the council cannot demonstrate a 5YHLS and the presumption in favour of sustainable development is therefore engaged for the purposes of the determination of this appeal.



6. Addressing Previous Reasons for Refusal

- 6.1 A number of issues were raised within the previous appeal decision for the site made in June 2021 (APP/Y3940/W/20/3257967) (Appendix 4)

Implementation of the Radnor Site.

- 6.2 The inspector of the most recent appeal decision on this site made reference to the implementation of the Radnor Site as follows:

10) *I understand that outline planning permission has been granted for the erection of up to 50 dwellings (and associated matters) along the site's north eastern boundary. I acknowledge that, if built, this would result in the appeal site being surrounded by development on all four sides.*

11) *However, I noted during my site visit that no substantive works have commenced. If the development goes ahead as currently envisaged, then I agree the appeal site could be considered to be infill. However, at the present time, that remains to be seen. It is not unknown for large schemes to change, before or during implementation, and until the development has progressed further, it seems to me that nothing is yet certain. For the time being, I do not consider this nearby permitted development is sufficient to overcome the objections identified above*

12) *Accordingly, I find the appeal site does not offer an acceptable location for the proposed development and would be contrary to the overall strategy set out in WCS Core Policies 1, 2 and CP23.*

- 6.3 As set out within other sections of this planning report, since the date of the previous appeal, the Reserved Matters Application for the Radnor Site has been approved and the scheme is now implemented. Further evidence of implementation is set out within Appendix 1 of this planning statement.

Ecology

- 6.4 The Inspector of the most recent appeal decision for the site set out the following in relation to Ecology:

17) *Although the application is supported by an Ecology Statement, it presents a summary of the findings set out in various reports and surveys commissioned previously. These surveys and reports are of varying detail and quality and some are now of considerable age. They do not, in my judgement, provide an adequate assessment of the current baseline ecological value of the site. As a result, their usefulness is limited, and I afford them limited weight.*

- 6.5 The applicant has undertaken a new Preliminary Ecological Appraisal which is submitted with this application. Details are set out within section 8 of this planning statement.

- 6.6 The inspector of the previous went on to make the following comments:



19) Turning then to the Council's concerns regarding the removal of trees, the PPG also indicates that any deliberate harm to biodiversity value which has taken place in the recent past might be a relevant factor in considering whether there are grounds for this to be discounted in assessing the underlying value of the site. While I note the appellant asserts that the felling was not unlawful, it is nevertheless clear that the habitat, and the biodiversity it can support, has altered significantly. In order to ensure that there is no net loss in biodiversity, I consider it necessary to understand the impact that the recent removal of the trees has had on the baseline biodiversity value of the site as well as the current biodiversity value it offers. Without this information, I cannot be certain that the proposal would not result in an overall net loss of biodiversity,

20) Consequently, I find the proposal does not demonstrate how it would help enhance biodiversity, or result in a biodiversity net gain. As such, it would be contrary to WCS Policies CP50, CP52 and CP57, Saved Policy C9 of the SDLP as well as the guidance set out in the Framework

6.7 Demonstration of Biodiversity Net Gains is set out within section 8 of this planning statement.

7. Planning Policy Considerations

Affordable Housing

- 7.1 The provision of 13 affordable dwellings on the site was confirmed by the council to meet the requirements of the housing department and to be compliant with policy CP45 of the Core Strategy (paragraph 4.12 of the SOCG for the previous appeal – appendix 5).
- 7.2 The previous application and appeal was supported by a S106 agreement to provide 2 x one-bedroom units, 6 x two-bedroom dwellings and 5 x three-bedroomed dwellings. These dwellings will be provided as a mix of shared equity and affordable rented properties.
- 7.3 The s106 agreement will be updated and resubmitted to the council prior to the determination of this application.
- 7.4 The provision of 40% affordable housing on this site is wholly compliant with the development plan and significantly in excess of the 22% affordable housing which was provided within the Radnor Site.

Highways and Transport

- 7.5 The inspector of the previous appeal on the site set out the following comments:
 - 21) *The Council has also raised concerns with the increased volume of traffic generated by the proposed development and its impact on other road users and the character of the surrounding area.*
 - 22) *However, no robust evidence has been provided which would indicate that the additional traffic generated by the proposal would have any material impact. No concerns have been raised by the Highway Authority and there is nothing before me which would demonstrate that the proposed development would result in unacceptably high levels of congestion or would be detrimental to highway safety. Similarly, there is nothing to suggest that the traffic generated would negatively impact on the character of the surrounding area.*
 - 23) *As such, I find no conflict with WCS Policies CP57 or CP64. These policies seek to ensure, amongst other things, that all developments make a positive contribution to the character of Wiltshire and are located and designed to reduce the need to travel by car and to encourage the use of sustainable transport alternatives.*
- 7.6 It is therefore considered that the proposed development is acceptable in terms of traffic generation and highway safety.

Drainage / Flood Risk

- 7.7 Following the previous refusal on the site, the applicant undertook further dialogue with the Council Drainage Team and Wessex Water and it was subsequently agreed that the site can be adequately drained with no objection raised. This is confirmed with paragraph 4.14 of the previously signed SOCG.



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- 7.8 Paragraph 4.19 of the SOCG confirms that no objections to the previous scheme were raised on the grounds of flood risk.

Trees

- 7.9 The application is supported by a tree survey.
- 7.10 The Previous SOCG sets out the following in relation to the previous trees on the site.

As set out within the committee report, the appeal application contained information to demonstrate that the applicants/landowners has not committed an offence by clear felling all the trees from this 3 acre site prior to the submission of the application in terms of the Forestry Act which deals with such matters.

The appellant demonstrated that the site was previously a garden and under the terms of the Act, a Felling Licence is not required to fell trees that are not the subject of a Tree Preservation Order within a garden.

- 7.11 It is therefore considered that there is no objection to this application on the ground of trees or the removal of existing trees on the site.

Archaeology

- 7.12 The application is supported by a full Archaeology Survey.
- 7.13 Paragraph 4.20 of the previous SOCG confirms that no objection was raised to the previous application by the Wiltshire Council Archaeologist.

8. Ecology and Biodiversity

8.1 A significant consideration of previous applications and appeals on the site was the potential ecology of the existing site including the felling of existing trees on site.

8.2 With regard to the previous trees on site, the signed statement of common ground between the council and applicant as part of the previous appeal set out the following:

As set out within the committee report, the appeal application contained information to demonstrate that the applicants/landowners has not committed an offence by clear felling all the trees from this 3 acre site prior to the submission of the application in terms of the Forestry Act which deals with such matters.

The appellant demonstrated that the site was previously a garden and under the terms of the Act, a Felling Licence is not required to fell trees that are not the subject of a Tree Preservation Order within a garden

Ecology

8.3 The National Planning Policy Framework sets out the following requirement in paragraph 174:

Planning policies and decisions should contribute to and enhance the natural and local environment by [inter alia]:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

8.4 The applicant has undertaken a new Preliminary Ecological Appraisal which is submitted with this application. It concludes that there are no existing protected species on the site which would prevent the development of this site as submitted.

8.5 Given the outline nature of this application, it is reasonable that further detailed ecology surveys may be required prior to the submission of a Reserved Matters Application. These can be secured by way of appropriately worded condition added to any outline approval.

Biodiversity Net Gain

8.6 The Planning Practice Guidance (PPG) sets out the following in relation to the definition of 'biodiversity' (with emphasis added):

*The National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain **can be achieved on-site, off-site or through a combination of on-site and off-site measures**. It may help local authorities to meet their duty under Section 40 of the Natural Environment and Rural Communities Act 2006.*

[Paragraph: 022 / Reference ID: 8-022-20190721 / Revision Date: 21.07.2019]



8.7 The PPG goes on to set out how biodiversity net gain can be achieved as follows:

Planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity. An applicant may also propose measures to achieve biodiversity net gain through a unilateral undertaking. The work involved may, for example, involve creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. Relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat.

Benefits could be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can sometimes be secured from 'habitat banks', which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'.

Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge.

When assessing opportunities and proposals to secure biodiversity net gain, the local planning authority will need to have regard to all relevant policies, especially those on open space, health, green infrastructure, Green Belt and landscape. It will also be important to consider whether provisions for biodiversity net gain will be resilient to future pressures from further development or climate change, and supported by appropriate maintenance arrangements.

[Paragraph: 023 / Reference ID: 8-023-20190721 / Revision Date: 21.07.2019]

8.8 In relation to the assessment of the baseline for assessing biodiversity net gain the PPG sets out the following:

The existing biodiversity value of a development site will need to be assessed at the point that planning permission is applied for. It may also be relevant to consider whether any deliberate harm to this biodiversity value has taken place in the recent past, and if so whether there are grounds for this to be discounted in assessing the underlying value of the site (and so whether a proposal would achieve a genuine gain).

There are laws to protect important sites and species from harm, for which Natural England have enforcement powers. In addition, the felling of trees requires a Forestry Commission licence in most cases before felling can commence. There may be a penalty or requirement to restock if felling occurs without this. There are some exemptions relating to the location, volume and diameter of a tree, and an exemption for felling which is immediately required for the purpose of development authorised by a planning permission.

[Paragraph: 026 / Reference ID: 8-026-20190721 / Revision Date: 21.07.2019]



- 8.9 **As set out in Part 1 of Schedule 7A of the Environment Act the pre-development biodiversity value in relation to BNG is as the land was in January 2020.** The existing trees on site were removed much earlier than this date and it common ground that they were removed lawfully and without the requirement for a felling licence.
- 8.10 A Biodiversity Net Gain report has been produced by FPCR Environment and Design Ltd and sets out the relevant baseline for the site.
- 8.11 In relation to BNG a series of linked appeals (appendix 6) in Malmesbury, Wiltshire were considered in a single decision in January 2022:
- Appeal A: APP/Y3940/W/21/3278256 – Land at Filands Road/Jenner Lane, Malmesbury, SN16 9HZ – dismissed
 - Appeal B: APP/Y3940/Q/21/3278923 – Wychurch Farm, Malmesbury, SN16 9HZ – dismissed
 - Appeal C: APP/Y3940/W/21/3282365 – Land at Filands Road/Jenner Lane, Malmesbury, SN16 9HZ – allowed
- 8.12 The appeal decision makes the following comments in relation to biodiversity at paragraph 41 of the appeal decision:
- Full on-site mitigation is not achievable. Compensation for residual harm is therefore required. In this regard, although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable to these appeals. Policy CP50 of the CS, and paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. A net gain of just 1% would be policy compliant in these circumstances. This could be secured by a planning obligation.*
- 8.13 It is acknowledged by the applicant that the development of the site as indicated in the submitted scheme would amount to a small net loss of biodiversity on site.
- 8.14 In terms of demonstrating biodiversity net gain the applicant has had regard to biodiversity mitigation hierarchy as set out in paragraph 175 of the NPPF.
- 8.15 The provision of biodiversity net gain on site was considered by the applicant but discounted due to the substantial area of land required which would have had a detrimental impact on the ability of the site to make the most efficient use of previously developed land as required in chapter 11 of the NPPF. Given that no objections were raised by the local authority to the indicative design of the previous application it is considered that this is most suitable development for the site and that biodiversity net gains should largely take place off site.
- 8.16 Nevertheless, a significant environmental improvements are proposed as part of the proposed development including:
- New Hedgerows



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- Hedgehog friendly fencing
- Bird / Bat / Swift / Hedgehog / Bee Boxes

- 8.17 In terms of off-site biodiversity net gains, the applicant undertook a search of potential receptor sites within the immediate area but no land was available. It was therefore necessary to undertake a search of alternative sites.
- 8.18 Numerous potential receptor sites have been identified and will be secured by way of agreement. The applicant has an interest in a large parcel of land in Fordingbridge which is 8 miles to the South of Alderbury within the New Forest National Park. An area of equestrian land has been identified which is a suitable receptor site which will be used to create wild grassland.
- 8.19 The Biodiversity Net Gain report demonstrates a significant gain in biodiversity units using this receptor site. This will be secured through a section 106 agreement between the applicant, local authority and the owner of the receptor site.
- 8.20 In line with the requirements of the Planning Practice Guidance, a Detailed Management Plan will be created for the receptor site to ensure appropriate management, maintenance and monitoring of the site in the long term.

9. Phosphates and Nitrates

- 9.1 In advance of the previous appeal on the site, information was submitted by the appellant it was apparent to both parties that foul water from the development, and the wider Alderbury area, was treated at the Salisbury (Petersfinger) Water Recycling Centre which discharges into the River Avon rather than the Solent. It is agreed between the parties that there would be no impact on Nitrate Neutrality in the Solent and this matter has been confirmed by Natural England. The Statement of Common Ground has been reflected to address this position.
- 9.2 In relation to phosphate impact on the River Avon, a paper was agreed by the Cabinet at Wiltshire Council on 5 January 2021 entitled *Allocation of Community Infrastructure Levy Funding to manage phosphates in the River Avon Special Area of Conservation*. At paragraph 21 the report sets out that the figure of £850,000 should be ring fenced from the existing strategic CIL fund which has *accrued to ensure that permissions for the period up to 2026 will be phosphate neutral in perpetuity through the delivery of a programme of mitigation solutions*. The paragraph goes on to state that the figure of £850,000 *represents a relatively small proportion of the strategic CIL fund, which at September 2020 was approximately £25.7m and is accruing with the delivery of new developments*.
- 9.3 The cabinet gave their approval to the paper which sought to ring fence CIL funds to *secure in perpetuity phosphate mitigation measures in the catchment area of the River Avon (Hampshire) Special Area of Conservation (SAC)*
- 9.4 The use of CIL funds is applied to sites which fall under the Generic Appropriate Assessment of Developments in Wiltshire Occurring in the River Avon SAC Catchment. This sets out the short term approach for housing between March 2018 and March 2026.
- 9.5 In terms of Relevant Planning Applications, the Appropriate Assessment sets out the following
All applications for housing which result in a net increase in foul discharge being made within the River Avon Catchment that comply with saved housing site allocation policies (Appendix D, Wiltshire Core Strategy) and or Core Policy 2 (Delivery Strategy) of the Wiltshire Core Strategy with the exception of Core Policy 37 (Military Establishments) are within the scope of this assessment.
- 9.6 The implementation of the Radnor Site to the north of the site would mean that the site falls to be considered within the settlement boundary for Alderbury as confirmed in the previous appeal decision. As a result, it is considered that the site is compliant with Core Policy 2 (Delivery Strategy) of the Core Strategy, notwithstanding that less weight can be applied to this policy due to the lack of a demonstrable five-year housing land supply.
- 9.7 It is acknowledged by the applicant that a site specific appropriate assessment will be required in advance of the determination of the application and that this will be undertaken by the Local Authority upon receipt of this application.



10. Planning Obligations

10.1 In the determination of the previous application and appeal, it was agreed between the parties that a s106 agreement is required which would include the following matters:

- The provision of affordable housing as set out within the committee report
- Open Space Contribution - £43,230.70
- Waste Management - £2,912
- Education – Early Years Provision (£52,366) and Secondary School Provision (£137,640)

10.2 An updated section 106 agreement will be prepared and submitted as part of the determination process for this new application.



11. Conclusions

- 11.1 Overall it has been demonstrated that the application is wholly in accordance with the development plan and other material considerations.
- 11.2 This planning statement demonstrates that the proposed development is of high quality and will comply with the requirements of planning policies and guidance at local and national level. The proposed development represents a significant opportunity for the supply of housing to meet local need.
- 11.3 It is respectfully requested that this application is approved.



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

Appendix 1 – Evidence of Implementation of the Radnor Site

March 2022

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APPLICATION REFERENCE

PL/2021/04201

Site Address

Land previously occupied by Alderbury Football Club , Alderbury

Proposal

All outstanding Reserved Matters (appearance, landscaping, layout and scale) for the erection of 50 residential dwellings, pumping station and replacement guide hut with associated infrastructure, parking, landscaping, open space and works, all pursuant to permission 17/04001/OUT.

New Application	Invalid	Valid	Under Consultati...	Recommendation...	Closed
Application Detail (?tabset-8903c=1)			Documents (?tabset-8903c=2)	Comments (?tabset-8903c=3)	Map (?tabset-8903c=1b8)

▼ **Details**

Planning Application Name

PL/2021/04201

Application Type

Approval of reserved matters

Officer Name

Lynda King

▼ **Application Lifecycle**

Valid Date

22/04/2021

Consultation Deadline

24/09/2021

Date of Committee

14/10/2021

Acknowledged Date**Decision****Decision Deadline Date**

20/10/2021

Issued Decision

Approve with Conditions

Decision Notice Sent Date

18/10/2021

Decision Expiry Date**Site Information****Wards**

Alderbury & Whiteparish ED

Parishes

Alderbury CP



(0) [\(/pr/s/planning-application/related/a0i3z000015HGgk/arcusbuiltenv__Appeal](/pr/s/planning-application/related/a0i3z000015HGgk/arcusbuiltenv__Appeal)



(1) [\(/pr/s/planning-application/related/a0i3z000015HGgk/arcusbuiltenv__Planni](/pr/s/planning-application/related/a0i3z000015HGgk/arcusbuiltenv__Planni)

LA/2022/0005 [\(/pr/s/planning-obligation/a0j3z00000bBBH4AAO/la2022](/pr/s/planning-obligation/a0j3z00000bBBH4AAO/la2022)

Record Type:

CIL

Status:

Commenced

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Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

**Appendix 2 – Appeal Decision - Sandhole Lane, Westbury
(APP/Y3940/W/21/3275352)**

March 2022



Appeal Decision

Inquiry Held on 26, 27 & 29 October & 2-4 November 2021

Site Visit made on 27 October 2021

by Andrew Dawe BSc (Hons), MSc, MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Appeal Ref: APP/Y3940/W/21/3275352

Land South of Sandhole Lane, Westbury

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gleeson Strategic Land against the decision of Wiltshire Council.
 - The application Ref 20/11515/OUT, dated 18 December 2020, was refused by notice dated 23 March 2021.
 - The development proposed is demolition of existing outbuildings and the development of up to 67 dwellings with associated access and highways works, drainage and attenuation, open space, play area, allotments and landscaping (access to be determined, all other matters reserved).
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and the development of up to 67 dwellings with associated access and highways works, drainage and attenuation, open space, play area, allotments and landscaping (access to be determined, all other matters reserved) at Land South of Sandhole Lane, Westbury in accordance with the terms of the application, Ref 20/11515/OUT, dated 18 December 2020, subject to the conditions in the attached Annex.

Preliminary Matters

2. The appeal relates to an outline planning application with all matters reserved for future consideration other than access. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The Appellant has however submitted a parameter plan which shows, amongst other things, the proposed development area, including: residential area up to two storeys in height; amenity public open space (POS) and allotment area; natural POS areas; existing trees/woodland and hedgerows; existing hedgerow corridor proposed to be enhanced and a zone where proposed housing would back onto the hedgerow corridor; access to the site from Leighton Park Road; and indicative pedestrian and cycle links. Furthermore, an illustrative masterplan has been submitted to show how the proposed development could be achieved on the site.
3. Amendments to the parameters plan were submitted shortly before the Inquiry including a relatively small increase to the proposed development area relating to matters of drainage, and more flexibility for the proposed use of the green infrastructure on the southern side of the site having regard future ecological survey work. It is common ground between the Council and Appellant that the change to the proposed development area is a very minor change and that the

increased flexibility for the use of the green infrastructure referred to above does not change the overall proposals, and I have no substantive basis to disagree. Furthermore, a Flood Risk Assessment Addendum (FRA Addendum) has been submitted since the Council's decision, to address the Council's drainage objection and the illustrative masterplan has also been amended to reflect adjustments to accommodate the proposed drainage solution. As such, I do not consider those amended plans and FRA have prejudiced anyone, including interested parties, and so I have taken them into consideration. I have determined the appeal on that basis.

4. The reference in the above header to the Inquiry being held in part on 27 October 2021 relates solely to the site visit that was undertaken on that day.

Main Issues

5. The Council has withdrawn its objection to the proposed development in relation to its third reason for refusal concerning highway safety, following the submissions of a Transport Statement Addendum (TSA), subject to appropriate conditions and financial contributions through a legal agreement. The position is clarified in the submitted Highways Statement of Common Ground (Highways SoCG). That is also the position in relation to the Council's fourth reason for refusal concerning drainage, as explained in the flood risk and drainage SoCG, and subject to appropriate conditions, following the submission of the FRA Addendum. The planning obligations contained in the submitted Unilateral Undertaking are intended to address the fifth of the Council's reasons for refusal, concerning provisions for securing necessary infrastructure, notwithstanding that there are differences between the Council and Appellant in respect of provision for public art which I shall address in the 'conditions and planning obligations' section below. In those circumstances I have not included those three matters as main issues, albeit acknowledging there to be concerns with them from interested parties which I shall still take into consideration.
6. Therefore, the main issues are:
 - i) the effect of the proposed development in terms of the Council's spatial strategy, having regard to local and national policy;
 - ii) the effect of the proposed development on the landscape character of the site and surrounding area, including the setting of Westbury Leigh;
 - iii) the current situation in respect of local housing land supply.

Reasons

Spatial strategy

7. Core Policy 1 (CP1) of the Wiltshire Core Strategy (WCS) sets out the settlement strategy, identifying the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. It sets out a hierarchy of settlements in relation to such development, whereby Westbury is included as a Market Town, 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. It goes on to highlight that 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.

8. Core Policy 2 (CP2) relates to the delivery strategy. It sets out that, in line with CP1, the strategy seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178 hectares (ha) of new employment land and at least 42,000 homes distributed across three housing market areas (HMAs) and West of Swindon, and with a minimum housing requirement for each. That relating to the appeal site is North and West Wiltshire HMA (N&WW HMA). Within the limits of development, there is a presumption in favour of sustainable development at, amongst others, Market Towns. Outside of the defined limits of development, the policy states that other than in circumstances not relevant in this case, development will not be permitted.
9. Core Policy 60 (CP60) relates to sustainable transport, helping to reduce the need to travel particularly by private car, and supporting and encouraging the sustainable, safe and efficient movement of people and goods within and through Wiltshire including by, amongst other things, planning developments in accessible locations. CP61 goes on to state that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.
10. The proposed development, although contributing towards housing provision in Wiltshire, the N&WW HMA and the Westbury Community Area (WCA), in relating to a site outside of the defined limits of development within the open countryside, would therefore conflict with policies CP1 and CP2. However, having regard to policies CP60 and CP61, it would be located immediately on the edge of the settlement where there would be good access to local services and facilities such as shops, schools, health, recreation and leisure provision and places of worship, including within walking distance of bus stops. The proposed development would also make provision for measures relating to the need to promote sustainable transport through planning obligations including in relation to local public transport provision and walking and cycling facilities, which I shall address further under '*conditions and planning obligations*'. There is therefore no substantive basis to consider that prospective residents of the proposed development would be significantly less likely to use sustainable modes of transport than the existing local community.
11. Policy CP2 further sets out that development proposals should also be in general conformity with the Community Area Strategies. In this respect Core Policy 32 (CP32), notwithstanding its requirement for development to be in accordance with CP1 and CP2 and therefore resulting in the conflict referred to above, sets out that in the WCA, over the plan period, 18.5 ha of new employment land and approximately 1615 new homes will be provided, of which about 1500 should occur at Westbury.
12. The supporting text for CP32 highlights that Westbury has seen significant housing development in the past which has not been matched by an appropriate provision of services, facilities and new jobs. It goes on to state that recent growth in housing has not as yet been matched by employment

growth, albeit that there have been more recent market signals indicating the potential for some additional employment development. It says that the strategy for Westbury will deliver a reduction in housing growth compared to historic trends, with a focus on improving facilities, services and job creation and goes on to highlight that overall, the town should not seek to compete with the larger nearby centres, including Frome, but rather consolidate and enhance its existing role and improve linkages with neighbouring settlements. It also says that housing development will be at a reduced rate compared to the past with a focus on improving and consolidating the town's infrastructure and services. There is also reference to the important strategic role of employment provision in Westbury that will be maintained and expanded.

13. It is disputed as to the extent to which Westbury is or is not comparable to other market towns in the District in terms of the level of self-containment achieved, and also the extent to which account should be taken of commuting to and from the Wiltshire Trading Estate (the WTE) on the edge of the built up area of Westbury and within Ethandune. The range of the dispute is between 32-37% level of self-containment. The bottom of that range does not take any account of trips to the WTE and the top end assumes all employment trips from the built up area of Westbury to Ethandune would be to that estate.
14. Whilst I do not have any substantive evidence of the proportion of trips to all employment destinations within Ethandune, it is therefore likely that the actual level of Westbury's self-containment, taking account of that employment destination, is somewhere within the above range rather than at either end. Nevertheless, it would still lie close to or at the bottom of the range of levels relating to the principal settlements and market towns in Wiltshire. Furthermore, there are other similarly sized market towns to Westbury such as Devizes and Warminster with noticeably higher levels of self-containment (53.8% and 51.7% respectively). However, others such as Calne (35.4%), Royal Wootton Bassett (35.9%), Corsham (40.7%) and Melksham (41.1%) are not at substantially different levels to that of Westbury albeit that the latter two, at least, are performing better in this respect.
15. Notwithstanding those relative levels of self-containment in Wiltshire, policy CP32 does not explicitly rule out, or provide a clear threshold for, new housing in WCA. Policy CP2 states that the delivery strategy will be delivered in a sustainable pattern in a way that prioritises the release of employment land and the re-use of previously developed land to deliver regeneration opportunities and to limit the need for development on Greenfield sites. I also acknowledge the role policy CP2 plays in controlling self-containment. However, notwithstanding the site's location outside of the defined limits of development, and hence policy conflict, that policy also does not explicitly restrict new housing until a certain amount of employment land has been developed or other types of development have been provided, or that additional housing in the WCA should be resisted, having regard to the matter of self-containment.
16. I acknowledge that the Wiltshire Housing Site Allocations Plan (the WHSAP) has been adopted relatively recently in February 2020 without the inclusion of the appeal site within the settlement boundary. However, it was found sound by the examining Inspector in the context of an expected early review of the existing spatial strategy, due at that time to be adopted in 2021. That Inspector highlighted that the review provides the Council with the opportunity

to consider the need for additional sites, as well as assessing the scale of development required in the light of current national policy and its distribution across the County. Early adoption of such a review, in the form of the draft Wiltshire Council Local Plan: Emerging Spatial Strategy has not occurred, this now being unlikely until 2023, and is a factor that I shall consider further in the planning balance. Due to it not being at an advanced stage towards adoption I have afforded little weight to that emerging spatial strategy.

17. For the above reasons, I conclude on this issue that the proposed development would conflict with the Council's spatial strategy as set out in WCS policies CP1 and CP2 in terms of its location outside of the defined limits of development, and for this reason would also be in conflict with policy CP32. However, the proposed development, with its location on the edge of the settlement, would have a good level of accessibility to services and facilities, in accordance with policies CP60 and CP61. Furthermore, notwithstanding the above conflict and the housing numbers and amount of employment land set out in policy CP32, there is no cap on new housing, including in advance of new employment development or improvements to facilities, services and infrastructure. Additionally, I have found that, even with the level of self-containment for Westbury being at the lower end or bottom of the range compared with other market towns and principal settlements in the District, the differences would not be large in comparison to some similarly sized market towns. These are factors, amongst others, that I will further consider in the planning balance.

Landscape character

18. Core Policy 51 (CP51) of the WCS states, amongst other things, that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. It goes on to say that proposals should be informed by and be sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment(s) and any other relevant assessments and studies. It then sets out various aspects of landscape character. Policy CP57 then relates to ensuring high quality design and place shaping.
19. In considering this issue, amongst other evidence, I have had regard to that of the Appellant relating to Landscape and Visual Appraisal and Policy Compliance and the corresponding analysis and visualisations by the Council.
20. The proposed development would be immediately adjacent to existing dwellings partially along two sides of the site. In that respect, the proposed southern line of the development, consisting of dwellings and associated roads, would approximately follow on from that existing housing to the east of the site. Whilst the existing settlement edge extends alongside the northern site boundary for a significant length, the western end encompasses a larger building set in more spacious grounds than the dwellings to its east, before staggering north-westwards. The proposed development, in projecting beyond the immediate settlement edge to the north of the site, and more so in relation to those dwellings closest to the site, would therefore noticeably extend that part of the settlement edge westwards.
21. Public views outwards across the site from the existing settlement would therefore inevitably change with the introduction of the proposed development.

However, the nature of the topography and existing tree presence is such that those views, including from Sandhole Lane and Leighton Park Road are largely very localised and relating to the immediate open setting to the settlement, albeit with some varying scope for longer distant views of the higher ground comprising the chalk escarpment beyond. Such wider public views in the immediate vicinity of the site are currently more substantially derived from the footpath running alongside the southern site boundary towards the gently rolling land to the south and escarpment to the south-east. Those views would therefore remain unimpeded by the proposed development.

22. The proposed open space would extend southwards beyond that line of the existing settlement edge to the east of the site and would be of a clearly different nature to the existing fields. The proposed peripheral planting would itself represent a change to the largely open site boundaries on the southern and part western boundaries. Nevertheless, the soft landscaped nature of the proposed open space would provide a buffer and transition from the proposed built form to the open countryside beyond. Furthermore, the presence of trees on the edge of the settlement is already a feature in this vicinity, albeit to varying degrees, such that the proposed new planting would not appear unusual in that context.
23. The extent of wider views from that footpath alongside the southern site boundary and another further south to the east of Dilton Farm, towards the lower land on the fringes of Westbury and beyond to the north would, to varying degrees, be blocked or reduced. However, those views are already restricted to varying degrees by existing woodland and other trees in the vicinity of the site. In relation to the path immediately to the south of the site, it is also likely that a strong sense of openness would still be maintained with open fields remaining to the south and the expansive views in that southerly direction, together with the likely softening effect of the proposed site planting.
24. In terms of the effect of the proposed development on the wider landscape, the built form would generally be contained on the upward sloping land rising southwards from the existing settlement to the north, albeit a gentle slope at that point, which then immediately levels out to a shallow ridgeline. The level of containment of the proposed development within that topography would therefore be significantly less than for those dwellings particularly to the north, albeit not unusual in the context of those to the east on the southern side of Leighton Park Road. Nevertheless, the proposed cutting into the slope would reduce the extent to which the proposed dwellings would project above that level.
25. From wider public vantage points, at varying distances from the site and broadly from south-westerly around to easterly locations, the proposed development would be seen to varying degrees depending on the extent of intervening topography and vegetation. From the closer, mid-distance vantage points, the proposed dwellings, due to the siting referred to above and with existing buildings to the north being lower down the valley side, would have the potential to be seen as a prominent addition to the landscape. However, that would be to varying degrees, including in the context of the existing presence of dwellings to the immediate east of the site, albeit that they are initially only single storey bungalows and have varying degrees of softening and screening by boundary vegetation. Such screening or softening is however likely to be less effective in winter months without the same extent of leaf

cover as other times of the year. Nevertheless, with the degree of intended lowering of the site levels and new tree planting, the proposed dwellings themselves would also be unlikely to be dominant features within those views.

26. From more distant views on higher ground, the proposed development, whilst visible to different degrees, would be seen to varying extents in the context of the existing settlement of Westbury and softened by the proposed tree planting. As such, whilst it would be seen from those vantage points as an addition to the existing settlement, and an encroachment into the countryside, it would be unlikely to be a dominant or obtrusive feature of the wider landscape.
27. The proposed cutting into the slope would alter the characteristic naturally uniform profile of the site as it relates to the relevant published landscape character assessments (LCAs), in particular those relating to Wiltshire and West Wiltshire. The former has the site located within character type LCT 6 comprising Greensand Terrace and character area 6A: Warminster Terrace. For the West Wiltshire LCA, the site is within character type LCT G: Greensand and Chalk Terrace, and character area G6: Westbury Greensand and Chalk Terrace. Inevitably the site would lose its function and appearance as what is classified as best and most versatile agricultural land (BMVAL), and the associated extent of openness. However, that and the altered site profile, in the context of the wider countryside, would represent a relatively small change and amount of BMVAL lost, particularly in the close context of the location immediately adjacent to the existing settlement. The visual effect of that cutting would also be likely to be very localised in the context of the proposed planting, albeit itself drawing attention to the altered appearance of the site.
28. For the above reasons, I conclude on this issue that the proposed development would inevitably have an adverse effect on the intrinsic character and beauty of the countryside and cause some harm to the landscape character of the site and surrounding area, including the setting of Westbury Leigh. As such, in respect of this issue, it would be in conflict with policies CP51 and CP57 of the WCS; and with section 15 of the National Planning Policy Framework (the Framework) which, amongst other things, states in paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. However, also for the reasons set out above, the extent of that harm would be limited, which I shall consider further in the planning balance.

Housing land supply

29. For the purposes of this appeal, it is agreed by the parties that, with the base date as April 2019, this being the best available data, the Council can currently demonstrate a five year supply of deliverable housing sites (5 year HLS) within the range of 4.30 to 4.56 years' worth. This is a difference of between 9055 and 9605 dwellings, with the corresponding shortfalls of between 1478 and 928 dwellings. It is also agreed by the parties that within the N&WW HMSA, the deliverable HLS range is between 4.05 and 4.29 years' worth, representing shortfalls of between 1315 and 980 dwellings.
30. With regard to the 5 year HLS for Wiltshire, even were I to consider the supply to be 4.56 years, this would still be clearly less than the 5 year requirement, albeit not substantial. Furthermore, the difference of 0.26 years is not so large as to cause me to apply significantly different weight to any figures within that

range. The same applies in respect of the range relating to consideration at the N&WW HMA level. As such, whilst I have had regard to the relevant evidence, I have not dealt with the above matter of dispute relating to deliverability of the sites concerned in any further detail.

31. I have had regard to the likelihood of the shortfall in housing being met in relation to the Plan period, looking beyond the current 5 year HLS to 2026. It is not disputed that WCA itself will be likely to exceed its minimum housing requirement, taking account of commitments to 2026, albeit that there is no guarantee that they will all be implemented. However, even taking the Council's figure of an exceedance of the indicative requirement by 20%, there is not a cap on the amount of housing at that local level.
32. It is disputed as to whether it is likely that the housing requirement for the N&WW HMA will be met by the end of the WCS plan period in 2026 beyond the current 5 year HLS period. In this respect, the Council has highlighted housing development coming forward between 2024 and 2026, adding that the appeal proposal, if allowed would be unlikely to have completions before the end of the current 5 year period of 2019 to 2024 at which point it is claimed there would be considerable supply. This would be taking account of both commitments and uncommitted windfall sites.
33. Even if I were to accept the Council's position on future supply to 2026 addressing the HMA requirement, the levels of actual implementation and completions cannot be guaranteed. Nevertheless, the less than substantial shortfall in the current Wiltshire 5 year HLS, even at the lower end of the agreed range, combined with that potential future provision, carries some weight, although the requirement could have changed by 2024 with the potential adoption of the reviewed spatial strategy in 2023. Whilst there is no certainty as to whether or not the appeal site would be needed in order to achieve such a strategy, neither is there certainty as to housing requirements following the adoption of the review. I shall consider these matters further in the planning balance.

Appropriate Assessment under the Habitats Regulations

34. The site lies within a Bath and Bradford-on-Avon Bats Special Area of Conservation (the BBB SAC) Consultation Zone. The SAC is designated primarily for its greater horseshoe bat (GHB) and Bechstein's bat hibernation roosts. The Consultation Zone within which the appeal site is located relates to and is centred on a GHB roost at Westbury Leigh approximately 300 metres to the west of the site.
35. The proposed development has been supported by an Ecological Impact Assessment, Lighting Impact Assessment and Shadow Habitats Regulations Assessment (HRA) Report together with an Addendum to that Report. Survey work that has been conducted identified the presence of GHBs, potentially associated with the Westbury Leigh roost, shortly after sunset. This is indicative of use of the site for commuting to foraging sites further away with activity highest on the site's western boundary where there is more vegetation and less existing lighting. The pasture land at the western side of the site would also have the potential to support opportunistic GHB foraging for prey in the form of Cockchafer Larvae. Whilst activity has been recorded on the northern and eastern site boundaries, this is to a lesser extent due to provision of little shelter and poor navigation features, together with the negative effects,

to varying degrees, of existing street and residential lighting along those boundaries.

36. In light of the above GHB activity, the proposed development would have the potential to cause habitat loss or fragmentation and degradation of retained habitat through artificial lighting. As such the proposed development, without any mitigation, would be likely to have a significant effect on GHBs relating to the BBB SAC.
37. The proposals would involve the retention of existing woodland on the western side of the site, together with enhanced planting along that western boundary and a dark buffer before the built-up part of the proposals. The enhanced planting and associated buffer on the southern boundary would also have the potential to increase the use of that boundary as a GHB commuting corridor along with potential increased foraging potential as the vegetation matures. There would also be an enhanced green corridor along the northern boundary, including surface water drainage feature(s), and enhanced hedgerow planting on the eastern boundary to improve those routes for GHBs.
38. The proposed development would also set aside an area for habitat and green infrastructure provision, with flexibility to allow for the detailed design of bat mitigation features and planting schemes which could also be secured by condition. That flexibility includes the potential to locate the proposed allotments away from the existing area of pasture should it transpire that that land supports significant numbers of cockchafer. Appropriate conditions to ensure that appropriate mitigation measures would be secured, managed and monitored are referred to in the *conditions and planning obligations* section below. The conditions would include provision for a Cockchafer Larvae Survey to inform the design of the proposed future green infrastructure area at the reserved matters stage and proposals for ongoing management of the area; a Landscape and Ecological Management Plan (LEMP); a Construction Environmental Management Plan (CEMP); and detailed proposals for external lighting including types, heights, positions, illumination levels and light spillage levels. With the latter, where there would be any development potentially affecting dark corridors and wildlife habitat, lux plots would need to be submitted for approval. The proposals would also involve the planting of a significant number of new trees on the site.
39. The Appellant's shadow HRA Assessment and associated Addendum concludes that with the above proposed mitigation there would be no adverse effect on the integrity of the BBB SAC alone or in combination with other proposals or projects. Furthermore, Natural England (NE) has advised that providing these measures are secured, the proposal would have no adverse effect on the integrity of the BBB SAC.
40. In concluding in respect of GHBs, the proposed ecological mitigation measures, secured through conditions, would address concerns relating to GHB habitat loss/fragmentation and degradation of retained habitat through artificial lighting. They would result in the avoidance of the likely significant effects that would otherwise be caused by the proposed development in this respect. As such, the proposed development would not have an adverse effect on the integrity of the BBB SAC, alone or in combination with other proposals or projects.

41. Other European designated sites within 10 kilometres of the site boundary relate to the Salisbury Plain SAC and Special Protection Area (SPA) and River Avon SAC. In relation to the Salisbury Plain SPA, this relates to supporting populations of wintering hen harrier, breeding stone curlew, and breeding populations of quail and hobby. The Salisbury Plain SAC includes habitats comprising *Juniperus communis* formations on heaths or calcareous grasslands; and semi-natural dry grasslands and scrubland facies on calcareous substrates; together with the Marsh fritillary butterfly species. The River Avon SAC includes habitat comprising water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation and species comprising Desmoulin's whorl snail, Sea lamprey, Brook lamprey, Atlantic salmon and Bullhead.
42. In relation to the SPA, the proposed development would be approximately 1.6 kilometres from this at its nearest point and therefore giving the potential for additional recreational pressures, in particular relating to the sensitivity of stone curlew to disturbance by dog walkers. As such the proposed development, without any mitigation, would be likely to have a significant effect on this feature relating to the SPA. Mitigation would therefore be needed in the form of funding annual stone curlew monitoring and management advice to landowners by the RSPB, and visitor monitoring. In this respect a financial contribution towards mitigation would be made to the Council via the Community Infrastructure Levy in line with the Council's Strategy for the SPA relating to residential pressure for residential development. On that basis the proposed development would not have an adverse effect on the integrity of the SPA alone or in combination with other proposals or projects.
43. In relation to the Salisbury Plain SAC, the threats or pressures to this are non-development related. Furthermore, in relation to the River Avon SAC, the site lies outside of its catchment having regard to foul and surface water drainage from the site or water abstraction effects. As such in these two cases, the proposed development would not have a likely significant effect in respect of the features concerned either alone or in combination with other proposals or projects.
44. In relation to these other European sites, they were also considered in the Appellant's shadow HRA which NE were consulted upon. NE has not raised any comments or reached any conclusions different to those referred to above.

Other Matters

45. Having regard to highway matters, I have taken account of the submitted TSA which addresses matters of concern, dealing with issues of trip generation and traffic impact relating to the proposed development, and provides further details of the accesses, off-site accessibility and proposed safety improvements, and public transport improvements. This includes further speed surveys undertaken during the pandemic on Laverton Road when there were likely to have been less cars on the road with the resulting propensity for higher vehicle speeds; thereby assessing traffic impact and junction visibility under worse-case scenario conditions in this respect, together with the use of pre-Covid19 traffic data. On that basis visibility splays at the Leighton Park North and Rothe Rise junctions set out on submitted drawing 20-081/011 rev A are found in the TSA to be appropriate and I have no substantive basis to consider differently.

46. I note the concerns of local residents relating to the available width of the estate roads between the site and Laverton Road, including in respect of existing levels of on-street parking, concerns about the steepness of estate roads and junction safety. Whilst I note that the road widths are still disputed by local residents, I have no substantive basis to consider that the additional traffic generated and associated trip rates would be such as to exceed the capacity of those existing roads and junctions, nor that existing on-street parking would be likely to unacceptably impede such additional traffic, including emergency vehicles. This would be subject to the proposed widening of the section of Leighton Park North leading up to Laverton Road and associated junction improvements and extended parking restrictions. I also have no substantive basis to consider that the steep sections of the estate roads, in particular on that section of Leighton Park North leading up to Laverton Road, and to a lesser degree along Rothe Rise, would not be able to accommodate the additional level of traffic.
47. Concerns regarding accessibility for large vehicles, including refuse vehicles, would therefore be addressed with the proposed road widening and junction improvements. Furthermore, construction traffic could be appropriately controlled through a Construction Management Statement secured by condition.
48. In terms of provision for pedestrians and cyclists in the vicinity, as referred to below the proposed planning obligations submitted under the Unilateral Undertaking would include a financial contribution for appropriate levels of improvements to the existing local infrastructure. I note concern that existing footpaths running northwards from Sandhole Lane have variable degrees of accessibility. Nevertheless, even without such paths, there remains a good degree of pedestrian and cycle access to the wider area from the site, with scope to improve this by way of mitigation for the inevitable increased use generated by the proposed development.
49. The proposed access to the site at 5.5m wide, albeit narrowing to 5.4m on the existing section between the site and Leighton Park West, has also been found to be acceptable by the Highway Authority and I have no substantive basis to consider differently. In terms of parking provision relating to the proposed development, I have no substantive basis to consider that the proposed development would exacerbate any existing on-street parking problems in the vicinity. In any case appropriate on-site parking would be a detailed matter for consideration at the reserved matters stage.
50. I am therefore satisfied that the proposed development would be unlikely to pose a risk to highway safety. Furthermore, the additional information has caused the Highway Authority to withdraw its previous objections subject to appropriate conditions and planning obligations.
51. To address concerns over potentially harmful surface water drainage of the site as a result of the proposed development, the Appellant has undertaken further investigation of the site. The suitability of the soil on the site for the use of soakaways to dispose of surface water has enabled an acceptable solution to be found that would not result in flooding for up to a 1 in 100 year plus 40% storm event. This would involve infiltration with the use of a combination of soakaways, basins and permeable paving. An alternative solution involving the restriction of discharge rate, through the use of a balancing pond and swales,

to a level that could be accommodated by the existing surface water sewer would also be available subject to detailed design. As such, it would be unlikely that the proposed development would cause local flooding or exacerbate any existing drainage problems on adjacent roads.

52. In terms of other ecological issues, survey work undertaken by the Appellant recorded low populations of grass snake and slow worm along the northern and eastern site boundaries. In respect of the reptile survey work undertaken, the Appellant has confirmed that some of the survey tiles were either damaged or destroyed through agricultural management works. However, it is also confirmed that this occurred prior to the survey being undertaken and that the tiles were replaced and then appropriately surveyed. I have no substantive basis to consider differently.
53. Furthermore, it was found that some notable bird species such as Bullfinch and Song Thrush possibly breed on the site with others using it for forage. No evidence was found on the site of Great Crested Newts, dormouse, or badger setts. I have no substantive basis to dispute these findings or that the survey work undertaken was inadequate. Importantly, the proposals would include retention of existing woodland habitat at the western end of the site and hedgerows and trees on other boundaries of the site which would also be enhanced by significant additional planting. Furthermore, those planning conditions referred to in the Appropriate Assessment would also apply to the ecology of the site generally, including through the LEMP and CEMP, so as to ensure that there would not be unacceptable harm caused in respect of the ecological value of the site.
54. Concerning any archaeological value of the site, I have noted that historic OS mapping records originally showed there to have been a covered reservoir on part of the site, later shown to be removed. The latter is supported by geophysical survey work undertaken in relation to the proposed development identifying no particular features relating to the location of the former reservoir. Nevertheless, as there could still be features of archaeological interest on the site generally, a written programme of archaeological investigation could also be secured by a condition.
55. In terms of the amenities of surrounding existing residents, I have had regard to potential overlooking and loss of privacy to, and outlook from, existing properties adjacent to the site. The current outline application does not seek approval of the detailed layout albeit that an indicative layout has been submitted. Nevertheless, the submitted parameters plan shows how, along the northern side of the site, the proposed dwellings would be separated from Sandhole Lane by a green corridor resulting in a significant degree of separation to existing houses on the northern side of that road. Furthermore, the same plan shows that houses along the eastern side of the site would back onto an enhanced hedgerow corridor. Although outlook from existing surrounding properties would inevitably change, I therefore have no substantive basis to consider that the proposed development could not be designed at the reserved matters stage to avoid unacceptable loss of privacy to and outlook from existing neighbouring properties.
56. In terms of the amenities of local residents during the proposed construction of development, this could be appropriately mitigated through the requirement for adherence to a Construction Management Statement that would firstly need to

be approved by the Council. Furthermore, I have no substantive evidence to indicate that the proposed development, including in relation to associated vehicle emissions, either in the construction phase or when occupied would give rise to unacceptable loss of air quality.

57. Whilst the proposed development would inevitably increase the noise and lighting levels associated with the site, it would be in the context of the prevailing existing residential use in the immediate vicinity. The levels concerned would therefore be unlikely to be unacceptably harmful in that context. Furthermore, the nature and levels of lighting could be secured and controlled by condition.
58. Having regard to concerns relating to additional crime and anti-social behaviour as a result of the proposed development, there is no substantive evidence to support such concerns subject to appropriate design measures that would need to be dealt with at the reserved matters stage.
59. The proposed planning obligations referred to below would, amongst other things, ensure provision of the on-site public open space (POS), mitigation relating to local early years education and public transport. With such mitigation in place, I have no substantive evidence to demonstrate that the residents of the proposed development would cause unacceptable additional pressure on that or any other existing infrastructure relating to local services and facilities. Furthermore, rather than the proposed development reducing the access to existing external recreation space for local residents, the proposed POS would if anything increase the amount and variety of such space in the locality.

Conditions and planning obligations

60. Planning Obligations have been submitted within a Unilateral Undertaking (UU) under Section 106 Agreement of the Act, making provision for the following:
- 30% of the proposed dwellings shall be affordable housing, in accordance with WCS policy CP43 concerning the provision of affordable homes, the Council's Planning Obligations Supplementary Planning Document (SPD) and paragraph 65 of the Framework.
 - Details, implementation and management of the proposed on-site open space and play area, with the submission of a Landscape Plan and Management Scheme for the area concerned. This would be in accordance with WCS policy CP3 concerning place-shaping infrastructure requirements and policy CP52 concerning provision for green infrastructure, together with the Council's Supplementary Planning Guidance - Open Space Provision in New Housing Developments: A Guide.
 - Appropriate financial contribution towards early years education, in particular relating to provision of infrastructure at Cygnets Preschool, Westbury. This would be to mitigate the likely additional demand for local school places resulting from the proposed development in accordance with policy CP3 of the WCS under the category of essential infrastructure, the Planning Obligations SPD, and with paragraph 95 of the Framework which states amongst other things that it is important

that a sufficient choice of school places is available to meet the needs of existing and new communities.

- Appropriate financial contribution towards the provision of waste and recycling equipment for each of the proposed dwellings. This would be in accordance with policy CP3 of the WCS, again under the category of essential infrastructure, and the Planning Obligations SPD.
- Appropriate financial contributions towards local public transport, in particular a replacement bus shelter at Chalford on the northbound A350 and bus stop improvements on Westbury Leigh or Laverton Road; walking/cycling facilities, in particular on Sandhole Lane or to other improvements to walking and cycling facilities in the local vicinity; and a Traffic Regulation Order (TRO) for the extension of parking restrictions on Leighton Park North/Laverton Road junction. These relate to the need to promote sustainable transport as set out in section 9 of the Framework, WCS policies CP61 and CP62 relating to transport and new development and development impacts on the transport network, and the Planning Obligations SPD, and in the case of the TRO, for highway safety reasons.

61. I have also had regard to the obligation relating to the financial contribution entitled 'Public Art Contribution'. This would comprise a financial contribution towards the provision of public art within the proposed development. The Council states that this would be required in order to engage an experienced professional public art specialist to devise, manage and deliver public art for the site. This relates to policy CP3 of the WCS which includes reference to the provision of public art as being place-shaping infrastructure. Policy CP57, relating to ensuring high quality design and place shaping, also seeks to ensure the use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm. The Planning Obligations SPD also refers to art and design in the public realm which in turn refers to a Guidance Note for Art and Design in the Public Realm. I also note that saved policy I2 of the West Wiltshire District Plan relating to the Arts states that where appropriate, a percentage of the overall cost of development will be sought through negotiation to further an artistic objective in a practical manner.
62. Despite only being at the outline planning stage, other than the principle of engaging an appropriate public art specialist and highlighting potential ways of implementing such a contribution, no particular project or artistic objective has been identified as being likely to be delivered and necessary to contribute towards creating high quality design and place-shaping. Furthermore, notwithstanding a note provided by the Council to explain why a figure of £300 per dwelling would be sought and the policy and SPD references referred to above, no published documents concerning this have been submitted that provide a clear justification for the specific figure concerned.
63. Therefore, whilst I acknowledge the policy basis for seeking such a contribution in principle, for the above reasons I cannot be sufficiently certain that the contribution would meet the tests set out in Reg 122(2) of the CIL Regulations of being necessary to make the development acceptable in planning terms and fairly and reasonably related in scale and kind to the development. I have

therefore not taken that planning obligation relating to public art into consideration and have afforded it no weight in determining the appeal.

64. The Council has submitted a statement of compliance of the planning obligations with Regulation 122 of the CIL Regulations. Based on that evidence, the relevant aspects of the Framework, and development plan policy and the Council's Planning Obligations SPD, I am satisfied that the provisions in the UU, other than in relation to the public art contribution, would meet the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the CIL Regulations. Furthermore, in respect of the proposed provision for affordable housing, this would represent a benefit of the development, weighing in its favour.
65. The Council has submitted 22 suggested conditions were I minded to allow the appeal. These are generally agreed by the Appellant. I have considered these in the light of advice in the National Planning Practice Guidance (the PPG) and have, in the interests of clarity and precision, omitted one and amended some of the wording. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes.
66. The standard conditions (1, 2 and 3) would be necessary relating to the timescale for commencement of development, to ensure the submission of details relating to the reserved matters, and the timescale for the latter. For certainty, a condition requiring the development to be carried out in accordance with the approved plans would also be necessary (4).
67. In the interests of highway safety, conditions would be necessary to secure the following: widening works and amended waiting restrictions to the Leighton Park North/Laverton Road junction in accordance with, respectively, full technical details and a plan to be approved (5) and (6); provision of the proposed new site junction and scheme of cycle/pedestrian crossing points in accordance with full technical details to be approved (7); submission of and adherence to a Construction Management Statement, also in the interests of local residential and general amenities and protection of the natural environment (9).
68. In order to encourage sustainable modes of travel, conditions to secure pedestrian and cycle links on the site boundaries connecting to the footway links (8) and the implementation of a Residential Travel Plan (12) would be necessary. Furthermore, in the interests of public health, environmental quality and amenity, a condition would be necessary to secure a scheme of Ultra Low Energy Vehicle infrastructure (19). Conditions to ensure the satisfactory layout of roads on the site, together with associated features, and to ensure adequate means of access to each dwelling upon first occupation would also be necessary (10 and 11).
69. To ensure adequate drainage from the site, conditions would be necessary to secure details and the implementation of appropriate surface water discharge and sewerage disposal measures (13 and 14).
70. As referred to previously in relation to ensuring no adverse effect on the Bath and Bradford-on-Avon Bats SAC, a condition would be necessary to secure a Cockchafer Larvae survey of the relevant part of the site so as to inform the design of the proposed green infrastructure on the site (15). Also in the interests of the ecology of the site, conditions would be necessary to secure the

submission and implementation of a LEMP and CEMP (16 and 17) and details of external lighting, also in the interests of the amenities of the area (18).

71. In the interests of the character and appearance of the site and surrounding area, a condition would be necessary to secure the implementation of landscaping details approved at the reserved matters stage (20). Furthermore, as there could be features of archaeological interest on the site, it would be necessary to secure the submission and implementation of a programme of archaeological work prior to commencement of development (21).
72. The Council has also suggested a condition relating to proposed car parking provision at the reserved matters stage being in accordance with the Wiltshire Car Parking Standards. However, as that is a detailed matter that would need to be appropriately considered at the reserved matters stage, it is unnecessary to include it as a condition at this stage.

Planning balance

73. I have found that the proposed development would conflict with the Council's spatial strategy as set out in policies CP1 and CP2 in terms of its location outside of the defined limits of development, and for this reason would also be in conflict with policy CP32. However, I have also found that the proposed development would have a good level of accessibility to services and facilities, which itself provides some weight in its favour. Furthermore, notwithstanding the housing numbers and amount of employment land set out in policy CP32, having regard to the principles of self-containment, there is no cap on new housing, including in advance of new employment development or improvements to facilities, services and infrastructure. Additionally, I have found that, even with the level of self-containment for Westbury being at the lower end or bottom of the range compared with other market towns and principal settlements in the District, the differences would not be large in comparison to some similarly sized market towns.
74. I have also found that the proposed development would inevitably have an adverse effect on the intrinsic character and beauty of the countryside and cause some harm to the landscape character of the site and surrounding area, including the setting of Westbury Leigh. However, for the reasons set out, the extent of that harm would be limited.
75. It is not disputed that the Council is not able to demonstrate a 5 year HLS. As such, having regard to paragraph 11(d) of the Framework, the most important policies for determining the appeal are out-of-date and the tilted balance is engaged. In relation to policies CP1, CP2 and CP32, particularly given the healthy level of provision and future commitments in the WCA, and that there is evidence showing the potential for the N&WW HMA housing requirement figures being met through developable commitments and uncommitted windfall sites, some weight can still be afforded to the conflict with them, including in their role as a means of controlling self-containment. I have also taken account of the less than substantial Council wide deficit in terms of the Wiltshire 5 year HLS and the potential time lag for completions on the appeal site beyond the current 5 year HLS period.
76. However, in considering that potential future development beyond the 5 year HLS period, I have also taken account of the delay in adopting the emerging spatial strategy following the adoption of the WHSAP. As such, with the

potential adoption of the emerging strategy in 2023, which at its current stage affords little weight, the housing requirements, including the need for additional sites and the scale and distribution of development, could therefore have changed before the end of the current plan period. That degree of uncertainty, together with no guarantee that all of the commitments will be implemented, lessens the degree of weight afforded to the conflict with policies CP1, CP2 and CP32.

77. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have the benefit of contributing up to 67 dwellings towards the supply of housing in the District. Of those dwellings, the proposed 30% contribution to the local supply of affordable housing would be an added benefit, particularly due to the clear need for such housing locally and regardless of being a policy compliant figure. Those combined benefits alone would therefore attract significant weight. This is particularly in the scenario whereby, despite my findings above on the extent of the deficit, the Council is nevertheless currently not able to demonstrate a 5 year HLS, with that being potentially more of a deficit in terms of years' worth at HMA level; and in light of the uncertainty over future requirements, also referred to above, having regard to the anticipated adoption of the reviewed spatial strategy next year.
78. There would also be likely significant economic benefits relating to the provision of construction related jobs during the construction phase, albeit on a temporary basis for the duration of that phase; and then in terms of local spending by prospective residents of the proposed development, such as in shops and on other services. Furthermore, there are aspects of the proposed development, in particular the proposed public open space/recreation area, and financial contributions towards local bus shelter improvements and improvements to local walking and cycling facilities which, although required in respect of the proposed development would also be likely to benefit existing local people. The proposals would also have the potential benefit of delivering significantly in excess of 10% biodiversity net gain for both area and linear habitats.
79. Notwithstanding my findings in relation to the main issues, I have found there to be no other matters that would cause unacceptable harm, subject to appropriate conditions and planning obligations where applicable; and that there would be no adverse or likely significant effects on designated European sites.
80. The Council has identified another appeal, Ref APP/Y3940/W/18/3202551, for a proposed housing development at land at Purton Road, Swindon which was dismissed and where the 5 year HLS range, not dissimilar to that in this case, was considered by that Inspector to be a relatively modest shortfall. The Inspector also afforded significant weight to the conflict with WCS policies CP1, CP2 and CP19 in that case, albeit that the latter of those specifically relates to the Royal Wootton Bassett and Cricklade Community Area, as well as moderate weight to the conflict with Local Plan policy H4. However, that decision in April 2020 was not made in the same context as the current appeal, where there was not the factor of a delayed adoption of the spatial strategy review; it was proposed on a site described by my colleague as being some distance from the built-up area of Purton; and also where a 3 year HLS was exceeded in the context of a made Neighbourhood Plan (NP), such that conflict with the NP

weighed heavily against the proposed development. All of those factors differ from the circumstances relating to this appeal which I have determined on its own merits.

81. Taking all of the above into account, in applying paragraph 11(d)(ii) of the Framework, the extent to which there would be adverse impacts of granting planning permission relating to the first and second main issues, would not significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.

Conclusion

82. For the reasons given above I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Litton QC, Landmark Chambers	Instructed by the Appellant
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He called:

Jonathan Orton	Managing Director, Origin3
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Charles Mylchreest (for round table discussion on landscape character matters)	Director, EDP
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Also appearing to answer questions from interested parties on day 1 of the Inquiry relating to highways and drainage matters respectively:

Richard Harrison	Associate Director, Odyssey
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Kevin Lang	Director, Lanmor Consulting Ltd
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FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant, Barrister Kings Chambers	Instructed by Vicky Roberts, Council Solicitor
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He called:

Mike Wilmott	Head of Development Management, Wiltshire Council
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Peter Radmall (for round table discussion (RTD) on landscape character matters)	On behalf of Wiltshire Council
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Chris Roe (for RTD on housing land supply)	Spatial Planning Manager for Monitoring & Evidence, Wiltshire Council
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INTERESTED PARTIES:

Ian White	Local resident
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Ben Gordon	Local resident
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Angela Gardner	Local resident
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Daphne Steel	Local resident
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Stephen Smith	Local resident
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Richard Hunter	Local resident
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Cllr Gordon King

Ward Councillor

Simon Blake

Local resident

INQUIRY DOCUMENTS (IDs):

1. Opening Statement on behalf of the Appellant.
2. Opening Statement on behalf the Council.
3. Statement made by Ian White.
4. Statement made by Richard Hunter.
5. Statement made by Cllr Gordon King.
6. Copy of up to date Scott Schedule dated 27 October 2021
7. Revision to Appellant's Planning Proof of Evidence.
8. Copy of letter dated 27 October 2021 from EAD Ecology.
9. Schedule of Points of Clarification from the Appellant relating to Day 1 of the Inquiry.
10. Copy of email from Mike Wilmott of the Council clarifying status of the Council's challenge to appeal decision relating to Core Document 7.05.
11. Summary of planning obligations.
12. Note from Mike Wilmott of the Council relating to Public Art Contributions.
13. Closing Submissions on behalf of the Council.
14. Closing Submissions on behalf of the Appellant.

An additional document submitted on Day 1 of the Inquiry was an annotated map showing suggested site visit locations/itinerary for the Inquiry site visit, as agreed by the Council and Appellant.

ANNEX - Conditions

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority: (a) the scale of the development; (b) the layout of the development; (c) the external appearance of the development; and (d) the landscaping of the site. The development shall be carried out in accordance with the approved details.
3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan scale 1:1250 dwg no. 202; Parameter Plan dwg no. 600 rev D; Proposed access onto Leighton Park Road/Leighton Road West scale 1:250 dwg no. 20-081/003 rev B.
5. No part of the development hereby permitted shall be commenced until full technical details of the junction widening improvements to Leighton Park North/Laverton Road as detailed on Drawing No 20-081/011 rev A, have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the development shall not be commenced until junction works have been completed in accordance with the details shown on the approved plans.
6. Prior to commencement of the development a plan showing the amendment to the waiting restrictions on Leighton Park North / Laverton Road junction shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the development shall not be commenced until the waiting restrictions concerned have been implemented in accordance with the details shown on the approved plan.
7. No development shall commence on site until full technical details of the new site junction with Leighton Park Road and the scheme of cycle/pedestrian crossing points, as detailed on drawings 20-081/003B and 20-081/010A, have been submitted to and approved in writing by the Local Planning Authority. The new junction and cycle/pedestrian crossing points shall be provided in accordance with the approved details prior to any part of the development being commenced, or to any alternative timetable which shall have firstly been submitted to and approved in writing by Local Planning Authority, and it shall be maintained as such thereafter. No part of the development shall be first occupied until the visibility splays (2.4m x 43m) shown on the site access general arrangement, drawing 20-081/003B, have been provided with no obstruction to visibility at or above a height of 0.6m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

8. At planning reserved matters stage, as part of the scheme layout, a scheme of pedestrian/cycle links on the north-west, north-east and south-east boundaries fully connecting with the footway links, in line with the submitted Parameter Plan and Illustrative Masterplan, together with an implementation timetable, shall be submitted to and approved in writing by the Local Planning Authority. The pedestrian/cycle links shall be implemented in accordance with the approved scheme and timetable.
9. No development shall commence on site (including any works of demolition), until a Construction Management Statement (CMS), together with a site plan, has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include the following:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- measures for the protection of the natural environment;
- hours of construction, including deliveries;
- pre-condition photo survey;
- Vehicle Routing Plan – feasibility of the route via Old Dilton Road to be fully investigated;
- Traffic Management Plan (including signage drawing(s));
- number (daily / weekly) and size of delivery vehicles to ensure appropriately size vehicles are being used for the highway network;
- number of staff vehicle movements;
- details of temporary / permanent Traffic Regulation Orders.

The approved CMS shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved CMS without the prior written permission of the Local Planning Authority.

10. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, road sewers, road drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, swept paths, 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 in writing by the Local Planning Authority. The development shall be constructed and laid out in accordance with the approved details.
11. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before occupation, each dwelling has been provided with a properly

consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

- 12.No development shall commence until a Residential Travel Plan (RTP) has been submitted to and approved in writing by the Local Planning Authority. The approved RTP shall be implemented prior to first occupation of the development.
- 13.No development shall commence on site until a scheme for the discharge of surface water from the site, including sustainable drainage systems and all third-party approvals, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved surface water discharge scheme has been fully implemented in accordance with the approved details.
- 14.No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage disposal measures have been fully implemented in accordance with the approved details.
- 15.Before development is commenced, details shall be submitted to and approved in writing by the local planning authority of a Cockchafer Larvae Survey of the area identified by Natural England in the Phase 1 habitat plan dated 13/09/2021 included as Figure 3 in the Shadow HRA Addendum prepared by Ead ecology and dated 24.9.2021. The results of this survey shall inform the design of the future green infrastructure area submitted as part of the reserved matters and proposals for the ongoing management of the area.
- 16.A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority before commencement of the development. The content of the LEMP shall include, but not necessarily be limited to, the following information:
 - a) Description and evaluation of features to be managed;
 - b) Landscape and ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures;
 - i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery. The plan

shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. The LEMP shall be implemented in full in accordance with the approved details.

17.No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'biodiversity protection zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner.

18.No external lighting shall be installed on site until detailed plans showing the type of external light appliances, the height and position of the fittings, the illumination levels and light spillage levels in accordance with the appropriate Environmental Zone standards as set out by the Institute of Lighting Engineers in their publication 'Guidance Note 1 for the Reduction of Obtrusive Light 2021', have been submitted to and approved in writing by the Local Planning Authority. Where development would potentially affect dark corridors and wildlife habitat, the submitted details shall include lux plots. All external lighting shall be installed and be maintained in accordance with the approved details.

19.No development shall commence on site until a scheme, including details of the timing of its implementation, of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the Local Planning Authority. The scheme concerned shall be implemented in accordance with the approved details and thereafter be permanently retained as such.

20. All soft landscaping comprised in the details of landscaping approved under condition 2 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. 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.
21. No development shall commence on site until: a) a written programme of archaeological investigation, which shall include on-site work and offsite work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority, and b) the approved programme of archaeological work has been carried out in accordance with the approved details.



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

**Appendix 3 – Appeal Decision - Paddock Wood, Bradley Road,
Warminster, Wiltshire, BA12 7JY (APP/Y3940/W/20/3245400)**

March 2022

Appeal Decision

Site visit made on 3 June 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Appeal Ref: APP/Y3940/W/20/3245400

Paddock Wood, Bradley Road, Warminster, Wiltshire, BA12 7JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Robinson against the decision of Wiltshire Council.
 - The application Ref 19/06023/OUT, dated 19 June 2019, was refused by notice dated 26 July 2019.
 - The development proposed is demolition of commercial buildings and erection of 8 no. dwellings (outline).
-

Decision'

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with all matters reserved for later consideration.
3. Although all submitted plans are stamped as 'preliminary', including the location plan, the appellant has confirmed that the stamp on this location plan should have been removed at validation stage, but unfortunately was not. The Council validated the plans as submitted, and both main parties appear to be content that the submitted location plan accurately shows the location and extent of the site in question. I have therefore determined the appeal on this basis.

Main issue

4. The main issue is whether the appeal site represents an acceptable and sustainable location for new housing development.

Reasons

5. The appeal site comprises some 0.24 hectares (ha) of land located on the south-eastern side of Bradley Road, about 150 metres (m) outside the settlement boundary of Warminster. It houses the headquarters of A & G Minibuses and contains a number of commercial buildings and structures, along with areas of hard-standing for vehicles. The site has a single access at its northern corner, where Bradley Road is about 5.5m wide with a surfaced footway on its eastern side. To the south-west of the access Bradley Road narrows to about 3.0-3.5m wide, with no footways, but with grassed verges either side and with the appeal site having a relatively dense roadside boundary of trees and hedging. There is a residential property on the north-western side of Bradley Road, opposite the appeal site and a small number of other residential properties further to the south-west.

6. Under the appeal proposal the existing buildings on the site would be removed, and replaced with 8 dwellings. The submitted plans indicate one way in which the appellant considers the site could accommodate this quantum of housing, but as all matters of detail are reserved for later determination, it is only necessary to consider the principle of the proposed development through this appeal.
7. In this regard, the Council's development strategy is set out in the Wiltshire Core Strategy (WCS), which was adopted in January 2015. Core Policy 1 sets out the Settlement Strategy, with Warminster defined as a Market Town – a settlement that has the ability to support sustainable patterns of living, through its current levels of facilities, services and employment opportunities. The policy's supporting text explains that settlement boundaries for Market Towns will be reviewed as part of the Wiltshire Housing Site Allocations and Chippenham Site Allocations Development Plan Documents (DPDs), in order to ensure that they are up to date. Local communities also have the opportunity to review settlement boundaries through the development of neighbourhood plans.
8. Core Policy 2 sets out the Delivery Strategy for Wiltshire for the period 2006 to 2026, aiming to deliver development in the most sustainable manner. Within the defined limits of development for settlements, including Market Towns, there is a presumption in favour of sustainable development, with development not permitted outside these defined limits except in certain specified circumstances, none of which apply in this case. The policy reinforces the point that these limits of development may only be altered through the identification of sites for development through subsequent Site Allocations DPDs and neighbourhood plans.
9. Also of relevance is Core Policy 31, which deals specifically with the Warminster Community Area, and which states that development within this area should be in accordance with the Settlement Strategy set out in Core Policy 1. It also makes it plain that land to the west of Warminster has been identified for strategic growth over the 2006-2026 period, with an extension to the built form proposed which would provide 6ha of employment land and some 900 new dwellings.
10. Having regard to the above policies, I see no reason to dispute the Council's view that the WCS as a whole, and Core Policies CP1 and CP2 in particular, constitute its definition of sustainable development, and that this has been found to be fully compliant with the National Planning Policy Framework ('the Framework'). As such, I also see no reason to dispute the fact that development that does not comply with Core Policies CP1 and CP2 should be considered unsustainable, and in conflict with the principal aims of the Framework.
11. At the time the Council refused planning permission for this proposal it could demonstrate a 5-year supply of deliverable housing sites, in accordance with the Framework, and the development plan policies therefore had full weight. However, shortly after determining this planning application the Council published an updated Housing Land Supply (HLS) Statement, which reduced its HLS assessment for the North and West Wiltshire Housing Market Area, within which the appeal site lies, to 5.07 years from the previous figure of 6.25 years.
12. Circumstances then changed again in February 2020 when, at an appeal elsewhere in Wiltshire¹, the Council confirmed that it was unable to demonstrate a 5-year HLS when assessed against the Local Housing Need (LHN) for Wiltshire, which became a requirement after 20 January 2020, when the adopted WCS became 5 years old,

¹ Appeal Ref APP/Y3940/W/18/3202551 - Land at Purton Road, Swindon, Wiltshire

and when paragraph 73 of the Framework came into effect. When tested against the LHN the Council accepted that it could only demonstrate a HLS somewhere between 4.42 and 4.62 years.

13. The Framework explains, in paragraph 11(d)(ii) that where the policies which are most important for determining an application are out-of-date (which includes where a Council's HLS does not accord with the Housing Delivery Test – as here), then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. With these points in mind it is not possible to give full weight to the aforementioned Core Policies. But as very little additional information on the current HLS situation has been supplied by either party, it is difficult to assess the implications of the existing shortfall with any certainty. The Council has, however, drawn my attention to comments made by the Inspector in the aforementioned Purton Road appeal, namely that even at the lower end of the agreed HLS range there is a relatively modest shortfall in housing land in the Council's area; that there is no reason to think that the WCS will not continue to be effective, particularly in light of recent progress in adopting the Wiltshire Housing Site Allocations Plan; and that there remains substantial benefit in maintaining a plan-led system.
15. No firm evidence has been submitted to cause me to reach a different view to my colleague Inspector on these matters, and I therefore consider it appropriate to still give significant weight to Core Policies 1, 2 and 31. Against this policy Framework it is clear that as the appeal site lies outside the defined settlement boundary for Warminster, the proposal would not represent sustainable development. The site was not considered as part of the Council's Strategic Housing Land Availability Assessment, nor was it brought forward as a possible housing site as part of the recently completed Wiltshire Housing Site Allocations DPD. The submitted evidence also makes it plain that this site was not considered for housing development as part of the process to make the Warminster Neighbourhood Plan 2015-2026.
16. With these points in mind, and notwithstanding the appellant's views regarding the appeal site's accessibility, I consider that any new housing development on the site would be rather isolated from the settlement of Warminster and the services and facilities within it. Furthermore, although a footway extends from the site towards the town it is not continuous, but ends at the northern side of the A36 overbridge with a gap of close to 50m where only a relatively narrow grass verge exists before the footway resumes. Whilst in some respects this may not be seen as an excessive gap, it could clearly present an obstacle to anyone wishing to walk into Warminster, especially for those with children or pushchairs, or with mobility difficulties.
17. The verge could become muddy in inclement weather conditions, and there would be potential dangers for anyone choosing to walk in the carriageway to avoid this length of verge as there is no street-lighting over this section, with the road being subject to the national speed limit of 60mph. These points all lead me to the view that the proposed development could not be safely accessed by pedestrians and that it would therefore encourage use of the private car, even for relatively short journeys. As such, the proposed development would run counter to guidance in paragraph 117 of the Framework, which states, amongst other matters, that planning decisions should ensure safe and healthy living conditions. Accordingly, I do not accept the appellant's assertion that the appeal site represents a highly sustainable and accessible location.

18. I do acknowledge, of course, that the site is currently developed and in use, but no firm evidence has been submitted to support the appellant's assertion that this current use gives rise to extensive traffic movements entering and leaving the site. It is therefore difficult to assess what sort of change to vehicle movements there would be if the appeal proposal was approved, and consequently difficult to reach a view on whether there would be any meaningful benefits in this regard.
19. The appeal proposal would give rise to some economic benefits, both during the construction phase and then as a result of the additional spending power of future occupants, but in the context of just 8 dwellings these benefits would be relatively modest. Moreover, in light of the access difficulties just described I do not consider that any material social benefits would arise from this development.
20. With a fully outline proposal such as this it is difficult to say whether or not the development would provide any environmental benefits. But unless the existing access were to be used, there is the clear potential for the development to require some significant removal of the existing roadside vegetation, in order to provide adequate visibility at any new access point or points. This is likely to have an adverse impact in environmental terms. In light of these points it seems to me that in the absence of any further details, the best that could be said is that the proposed development would have a neutral environmental impact.
21. Overall, having regard to all the above points, it is my assessment that the adverse impacts of allowing this proposal would significantly and demonstrably outweigh what I consider to be limited benefits. Accordingly, I conclude that the appeal site does not represent an acceptable and sustainable location for new housing development, and that the proposed development would therefore be at odds with WCS Core Policies 1, 2 and 31.
22. On other matters raised, I note that Natural England has placed a block on any new development that would have a connection to a sewage treatment works which has a discharge into the River Avon (and River Test), as would be the case here. As a result, any new development in such areas is required to be nitrogen neutral as a precautionary measure. However, the appellant has highlighted the fact that similar applications affecting run-off into the Solent have been satisfactorily dealt with by means of an appropriate Grampian condition. Had other matters been in favour of this proposal, the appeal would therefore not have failed for this reason alone.
23. Moreover, had all other matters been favourable, the concerns expressed by the Salisbury and Wilton Swift Group, relating to the installation of integral swift bricks, could have been satisfactorily addressed by means of an appropriate condition.

Conclusion

24. Notwithstanding my favourable findings on these latter points, and having had regard to all other matters raised, my overall conclusion is that this appeal should be dismissed, for the reasons set out above.

David Wildsmith

INSPECTOR



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

**Appendix 4 – Appeal Decision – Southampton Road, Alderbury
(APP/Y3940/W/20/3257967)**

March 2022

Appeal Decision

Site visit made on 11 May 2021

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 June 2021

Appeal Ref: APP/Y3940/W/20/3257967

Land to the east of Wagtails, Southampton Road, Alderbury, SP5 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by 1215 Heritage Homes against Wiltshire Council.
 - The application Ref 19/11206/OUT, is dated 22 November 2019.
 - The development proposed is for the erection of up to 32 dwellings with all matters reserved (except access).
-

Decision

1. The appeal is dismissed and planning permission is refused.

Application for Costs

2. An application for costs was made by 1215 Heritage Homes against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is made in outline with all matters except access reserved. I have therefore treated all plans as indicative except where they relate to access.
4. The Council initially raised concerns with the effect of the proposed development on the River Solent SAC. However, during the course of the appeal, it was confirmed that the appeal site discharges into the River Avon catchment and the Council confirmed in its written evidence its concerns regarding nitrate levels in the River Solent were no longer relevant to this appeal. This was also confirmed by Natural England. I have therefore not considered the effect of the proposed development on the River Solent SAC in my reasoning below.

Background and Main Issues

5. The appeal is against a failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. The Council has, however, confirmed in its written evidence that, had it been in a position to determine the application, it would have refused permission for reasons relating to the acceptability of the location and the effect of the proposed development on protected habitats, biodiversity and highway safety.
6. Accordingly, I consider the main issues are:

- (i) whether the appeal site offers an acceptable location for the proposed development having regard to national and local planning policy;
- (ii) the effect of the proposed development on biodiversity;
- (iii) the effect of the proposed development on highway safety; and
- (iv) the effect of the proposal on protected habitats.

Reasons

Location

7. The appeal site is located outside the defined settlement boundary of Alderbury, and is surrounded by existing residential development on three sides. Core Policy 1 of the Wiltshire Core Strategy (WCS)¹ identifies Alderbury as a large village, where development is restricted to that which is needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Alderbury's settlement boundary was recently extended as part of the Wiltshire Housing Site Allocations Plan 2020 (WHSAP).
8. WCS Core Policy 2 restricts development outside the defined settlement boundaries other than in a limited number of circumstances. These include where they relate to additional employment land, military establishments, tourism, rural exception sites, specialist accommodation or support rural life. Likewise, WCS Policy CP23 sets out the spatial strategy for the Southern Wiltshire Community Area and reinforces that development within the area should be in accordance with the overarching strategy set out in WCS Core Policies 1 and 2.
9. As the explanatory text to WCS Core Policy 1 makes clear, whilst a limited level of development will be supported at the large villages in order to help retain their viability, development will predominantly take the form of small housing (involving less than 10 dwellings) and employment sites within the settlement boundaries. The erection of up to 32 dwellings in this location would represent a much larger scheme than envisaged by WCS Core Policy 1. Furthermore, with nothing to indicate that the proposal would fall within any of the defined circumstances set out in WCS Core Policy 2, its location outside the defined settlement boundary would also be in conflict with both WCS Core Policy 2 and Policy CP23.
10. I understand that outline planning permission has been granted for the erection of up to 50 dwellings (and associated matters) along the site's north eastern boundary². I acknowledge that, if built, this would result in the appeal site being surrounded by development on all four sides.
11. However, I noted during my site visit that no substantive works have commenced. If the development goes ahead as currently envisaged, then I agree the appeal site could be considered to be infill. However, at the present time, that remains to be seen. It is not unknown for large schemes to change, before or during implementation, and until the development has progressed further, it seems to me that nothing is yet certain. For the time being, I do not

¹ Wiltshire Core Strategy (2015).

² Planning permission ref: 17/04001/OUT.

consider this nearby permitted development is sufficient to overcome the objections identified above

12. Accordingly, I find the appeal site does not offer an acceptable location for the proposed development and would be contrary to the overall strategy set out in WCS Core Policies 1, 2 and CP23.

Ecology

13. The appeal site forms part of an area of land located to the rear of Southampton Road. Although it does not benefit from any national or local designation and is mostly devoid of trees, it is common ground between the parties that, prior to the application being submitted, a large number of trees were removed from the site.
14. WCS Policies CP50, CP52 and CP57 require, amongst other things, development to seek opportunities to enhance biodiversity and ensure that where development is permitted, existing on-site green infrastructure is retained in order to enhance biodiversity. Likewise, Saved Policy C9 of the Salisbury District Local Plan (SDLP) restricts new development which would result in the loss of trees, hedges or other features that contribute to the character of the landscape other than where provision is made for replacement planting and the creation of new landscape features.
15. WCS Policy CP50 also makes clear that major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. Furthermore, Paragraph 170 of the National Planning Policy Framework ("the Framework") advises that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity.
16. The Council has raised a number of concerns regarding the sufficiency of the information provided on how the proposed development would affect biodiversity. Those concerns are well founded. As the Planning Practice Guidance (PPG) makes clear³, the existing biodiversity value of a development site will need to be assessed at the point that planning permission is applied for. However, in order to adequately assess the effects of a proposal on biodiversity, it is important that applications contain adequate, up-to-date information to allow for the effective evaluation of the impacts. This should include relevant site surveys and desk-based studies to inform the baseline position.
17. Although the application is supported by an Ecology Statement, it presents a summary of the findings set out in various reports and surveys commissioned previously. These surveys and reports are of varying detail and quality and some are now of considerable age. They do not, in my judgement, provide an adequate assessment of the current baseline ecological value of the site. As a result, their usefulness is limited, and I afford them limited weight
18. In the absence of any up to date information which would allow for an adequate assessment of the effects of the proposal on biodiversity, I concur with the Council that the application would be contrary to WCS Policies CP50,

³ Paragraph: 026, Reference ID: 8-026-2019072.

CP52 and CP57, Saved Policy C9 of the SDLP as well as paragraph 170 of the Framework.

19. Turning then to the Council's concerns regarding the removal of trees, the PPG also indicates that any deliberate harm to biodiversity value which has taken place in the recent past might be a relevant factor in considering whether there are grounds for this to be discounted in assessing the underlying value of the site. While I note the appellant asserts that the felling was not unlawful, it is nevertheless clear that the habitat, and the biodiversity it can support, has altered significantly. In order to ensure that there is no net loss in biodiversity, I consider it necessary to understand the impact that the recent removal of the trees has had on the baseline biodiversity value of the site as well as the current biodiversity value it offers. Without this information, I cannot be certain that the proposal would not result in an overall net loss of biodiversity,
20. Consequently, I find the proposal does not demonstrate how it would help enhance biodiversity, or result in a biodiversity net gain. As such, it would be contrary to WCS Policies CP50, CP52 and CP57, Saved Policy C9 of the SDLP as well as the guidance set out in the Framework.

Highway Safety

21. The Council has also raised concerns with the increased volume of traffic generated by the proposed development and its impact on other road users and the character of the surrounding area.
22. However, no robust evidence has been provided which would indicate that the additional traffic generated by the proposal would have any material impact. No concerns have been raised by the Highway Authority and there is nothing before me which would demonstrate that the proposed development would result in unacceptably high levels of congestion or would be detrimental to highway safety. Similarly, there is nothing to suggest that the traffic generated would negatively impact on the character of the surrounding area.
23. As such, I find no conflict with WCS Policies CP57 or CP64. These policies seek to ensure, amongst other things, that all developments make a positive contribution to the character of Wiltshire and are located and designed to reduce the need to travel by car and to encourage the use of sustainable transport alternatives.

Planning Obligations

24. As part of this appeal, the appellant submitted a duly executed section 106 agreement (the "Agreement") which includes a number of planning obligations intended to make the proposed development acceptable in planning terms. These include the provision of affordable housing, as well as financial contributions in relation to early years and secondary education, off-site public open space provision, off-site youth and adult leisure space and waste and recycling. In addition, it secures the provision and ongoing management of an on-site play area.
25. However, other than those which relate to affordable housing, the obligations contained within the Agreement are intended to mitigate the effects of the proposed development. As I am dismissing for other reasons, I do not consider it necessary to consider these obligations in any further detail.

26. However, the obligations in respect of affordable housing provide a potential benefit which may weigh in favour of the proposal and I note that WCS Policy CP43 requires an affordable housing provision of at least 40%, provision for which is made within the Agreement. I am satisfied that the affordable housing obligation is directly related to the development, is reasonably related in scale and kind and is necessary to make the development acceptable in planning terms. As such, I consider it meets the relevant tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and provides some support in favour of the proposal. I consider this matter further below.

Planning Balance

27. The Council accepts that it does not have a deliverable 5 year supply of housing land. Paragraph 11(d) of the Framework advises that in such circumstances, 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 as a whole.
28. The proposal would result in the erection of up to 32 dwellings. Although relatively modest, this would make a meaningful contribution to the area's supply of housing and I afford it considerable weight.
29. As discussed above, the appellant has also submitted an Agreement which includes obligations in respect of affordable housing for which there is an identified need. This would be of considerable public benefit and I also afford this considerable weight.
30. In addition, the proposal would provide a number of other benefits including its contribution to the local economy as well as providing some support for local services. Individually, these benefits are small, however, cumulatively they provide some support in favour of the proposal and I afford them a moderate amount of weight.
31. However, although I have found that the proposal would not be detrimental to highway safety, I have nevertheless found that it would be contrary to WCS Core Policies 1, 2 and CP23. These policies set out the overall strategy for development during the plan period and are fundamental to its operation.
32. In general, I do not consider that the overall development strategy set out in the WCS should be easily set aside. Furthermore, in view of the relatively modest shortfall in 5 year housing land supply, (coupled with the recent confirmation of the settlement boundary in the WHSAP), I see no reason that these policies should not continue to be effective. As such, I afford them significant weight.
33. Furthermore, the limited information on the existing biodiversity value of the site, coupled with the lack of detail on the impact on biodiversity that has resulted from the removal of the trees, make it difficult to fully assess the effect of the proposal on biodiversity and are in conflict with the aims of the WCS and Saved Policy C9 of the SDLP. It is also contrary to the guidance set out in the Framework. This is, in my view, a significant omission and I afford it substantial weight.

34. Consequently, while I acknowledge the proposal has a number of benefits, I consider they are significantly and demonstrably outweighed by the adverse impacts identified above.

Other Matters

35. Waste water from the appeal site discharges into the River Avon catchment where Natural England has advised that a plan or project for new residential development within the catchment will have a likely significant effect on the River Avon Special Area of Conservation (SAC), the River Avon Sites of Special Scientific Interest (SSSIs) and the Avon Valley Ramsar due to elevated phosphate levels in the River Avon. Furthermore, it advises that planning permission should not be granted before the competent authority has completed an Appropriate Assessment in order to assess the implications of the proposal for the designated sites in question.
36. In furtherance of this, the Council has agreed a mitigation strategy with Natural England to enable planning permission to be granted for certain proposals where they fall within the scheme.
37. While I note the various arguments advanced as to whether or not the proposal should benefit from this strategic solution⁴, as I am dismissing the appeal for other reasons, I do not consider it necessary to reach a conclusion on these matters. I have therefore not considered them further.
38. The appellant has drawn my attention to a number of other nearby sites upon which planning permission has been granted and which they consider are material in the determination of this application. However, even though I do not have the full details of those developments, in view of the concerns I have expressed above, the circumstances are unlikely to be identical.
39. In reaching my decision I have had regard to the other appeal decisions referred to by the appellant⁵. However, these do not affect my reasoning.

Conclusion

40. For the reasons set out above, and having had regard to all other matters raised, I consider that the proposal would be in conflict with the development plan as a whole and that there are no material considerations which would justify a departure. As such, I conclude that the appeal should be dismissed, and planning permission refused.

Rory Cridland

INSPECTOR

⁴ As well as those in respect of funding through the Community Infrastructure Levy.

⁵ APP/Y3940/W/18/3200041; APP/Y3940/W/20/3245400.



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

Appendix 5 – Previous Signed Statement of Common Ground

March 2022



Land to the East of Wagtails, Southampton Road,
Alderbury, SP5 3AF

Statement of Common Ground

March 2021

Appeal Ref: APP/Y3940/W/20/3257967

Project	Land to the East of Wagtails, Southampton Road, Alderbury
ABC Reference	ABC/0041/07.01
Local Authority	Wiltshire Council
Client	1215 Heritage Homes
Issue	Final
Author	Andrew Black
Date	March 2021

Disclaimer: This report has been prepared for the above named client for the purpose agreed in Andrew Black Consulting's (ABC) terms of engagement. Whilst every effort has been made to ensure the accuracy and suitability of the information contained in this report, the results and recommendations presented should not be used as the basis of design, management or implementation of decisions unless the client has first discussed with ABC their suitability for these purposes and ABC has confirmed their suitability in writing to the client. ABC does not warrant, in any way whatsoever, the use of information contained in this report by parties other than the above named client.

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1. Introduction

- 1.1 This Statement of Common Ground (SOCG) has been prepared between the Appellant and the Council for the appeal at Land to the East of Wagtails, Southampton Road, Alderbury.
- 1.2 The Statement of Common Ground has been prepared in accordance with the Planning Appeals Procedural Guide produced by the Planning Inspectorate and last updated in August 2019.
- 1.3 The SOCG has been agreed and signed by both parties.

2. The Application

- 2.1 The appellant submitted a section 78 Appeal against the non-determination of planning application reference 19/11206/OUT by Wiltshire Council ("WC") in respect of an outline application for residential development at Land to the East of Wagtails, Southampton Road, Alderbury, Wiltshire ("the Site").
- 2.2 The planning application sought outline planning permission for:

Up to 32 dwellings (including affordable housing) on the Site including access (with details relating to layout, appearance, landscaping and scale all reserved)
- 2.3 The application was registered by WC on 22 November 2019. The target date for decision was 21 February 2020.
- 2.4 An appeal against non-determination was submitted on 19 August 2020 and it was decided that an Informal Hearing would be held on 12 and 13 January.
- 2.5 The Informal Hearing was deferred to enable additional information to be provided to the Inspector with regards to whether the scheme would affect either the River Test SAC for additional nitrate production, or the River Avon SAC with regards to phosphates.

3. Adopted Development Plan and Material Considerations

Adopted Development Plan

- 3.1 It is agreed that the adopted development plan for WC consists of the Wiltshire Core Strategy (adopted January 2015), the Wiltshire Housing Site Allocations Plan (adopted February 2020) and various Waste and Minerals Plans (which are not relevant to this appeal).
- 3.2 Section 6 of the Planning Committee Report sets out that the following **main** policies are relevant to the consideration of the application:
- CP1 Settlement strategy
 - CP2 Delivery Strategy
 - CP3 Infrastructure Requirements
 - CP23 Southern Wiltshire Community Area Strategy
 - CP43 Providing Affordable Homes
 - CP45 Meeting Wiltshire's Housing Needs
 - CP50 Biodiversity and geodiversity

The Emerging Local Plan

- 3.3 The Wiltshire Local Plan Review DPD is currently being prepared and has not yet been submitted for examination. It is agreed between the parties that no weight should be applied to the draft policies contained within it.

Agreed Material Planning Considerations

- 3.4 The following documents are agreed as material planning considerations within this appeal and commentary on the status and weight to be applied to each document is provided.

National Planning Policy Framework (2019)

- 3.5 The NPPF is a material consideration that must be taken into account in planning decisions. The Framework should be read as a whole and given significant weight.

Wiltshire Council Planning Obligations DPD

- 3.6 It is agreed between the parties that this document forms a material consideration.

4. Matters of Agreement

- 4.1 This application was submitted with the agreed description:

Outline Application for up to 32 dwellings with all matters reserved (except access)

- 4.2 Following the submission of an appeal on the grounds of non-determination, WC presented the appeal proposal to the Southern Area Planning Committee on 29 September.
- 4.3 The committee resolved that had it been in a position to determine the application, that it would be refused for the following reasons:

- 1) *Notwithstanding that the Council is currently unable to demonstrate a five year supply of housing land within the South Wiltshire Housing Market Area (and consequently the tilted balance towards the interpretation of the settlement boundary is engaged), and taking into account the benefits the proposal would bring in the provision of affordable housing units, there remain strong material considerations in respect of the adverse impact the development would have on the integrity of European protected wildlife sites, as well as ecological concerns within the site itself.*

Consequently it is considered in this case the effect of the tilted balance in respect of the interpretation of the settlement boundaries, together with the benefits provided by the provision of affordable housing units, are clearly and significantly outweighed by the adverse impacts of the proposal on the integrity of the European Protected sites on the River Test and The Solent, and the New Forest, and the lack of any meaningful ecological and biodiversity mitigation and enhancement that the scheme would bring. In these respects, the proposed development is considered to be discordant with Core Policies CP1, CP2, CP23, and CP50 of the Wiltshire Core Strategy and the aims and objectives of the NPPF.

- 2) *The site is situated within the River Test catchment which drains into the Solent, a maritime area protected by a number of European designations. Advice from Natural England indicates that every permission that results in a net increase in foul water entering the catchment could result in increased nutrients entering the European sites causing further deterioration to them. The application does not include detailed proposals to mitigate the impact of increased nutrients and consequently, without such detailed proposals, the Council as a competent authority cannot conclude there would be no adverse effect on the integrity of the European sites as a result of the development. The proposal would therefore conflict with Wiltshire Core Strategy policy CP50 (Biodiversity and Geodiversity); and paragraphs 175 and 177 of the National Planning Policy Framework.*
- 3) *The application site (a former mixed woodland) had recently been almost entirely cleared of trees and habitats prior to the submission of the planning application. As such, the local planning authority considers that current baseline conditions at the site are not representative of the ecological baseline conditions as they were prior to clearance and as such the LPA's ecology team has not been permitted the opportunity to consider the application alongside the requirements of the NPPF 2019 and CP50 of the Wiltshire Core*

Strategy (Adopted January 2015) and to assess whether the proposed development would be acceptable in terms of ecology. Ecology would have very clearly constituted a material consideration in the determination of this planning application. The submitted Ecological Constraints Survey Report (Daniel Ahern Ecology, August 2018) with application 19/03480/OUT suggested that the ecological issues at the site have been identified. However, this report and the survey conducted to inform its production were undertaken subsequent to the site being cleared. The purported ecological information submitted in respect of the current application (Ecological Statement – 1215 Heritage Homes November 2019) has not been prepared by a qualified ecologist and does not meet recognised industry standards to fully assess the impact of the development on the biodiversity of the site.

The clearance of the entire site prior to determination of the planning application has meant that there has been no opportunity for the Council to comment on or influence the proposed layout of the development in terms of biodiversity and the retention and protection of ecological features that were present on site. The NPPF 2019 and Section 40 of the NERC Act 2006 places a duty on LPA's to only permit developments that will result in a net biodiversity gain and this is augmented by means of CP50 of the Wiltshire Core Strategy. Given the clearance of the entire site of woodland habitat, the limited ecological enhancements proposed in the submitted Ecological Statement and total lack of compensatory measures or soft landscaping proposed, the local planning authority considers this development has already resulted in a total net loss of biodiversity and should not be granted planning permission as it contravenes local and national planning policy, contrary to Core Policies CP50, CP52 & CP57 of the adopted Wiltshire Core Strategy and saved SDLP policy C9 by which all development should seek opportunities to enhance biodiversity (Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services), which also seek to preserve woodland, ensure that valuable features and characteristics are protected and enhanced, that Wiltshire's green infrastructure network is retained and enhanced and that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character.

- 4) The application makes insufficient provision in respect of affordable housing, public open space provision, education provision, and waste and recycling contributions and is therefore contrary to the aims of policies CP45 & CP57 of the Wiltshire Core Strategy, saved SDLP policy R2 and the requirements of Wiltshire Council's Waste storage and collection: Supplementary Planning Document.*
- 5) The proposal is for 32 additional dwellings in Alderbury village. The village is bypassed by the main A36 trunk road, but the villages access is close to the junction where the A36 narrows to a single carriageway and goes on into Salisbury. At busy periods, traffic will often back up along the dual carriageway past the village. Therefore, significant amounts of traffic try to avoid the dual carriageway during those periods by driving through Alderbury instead. These 32 dwellings with the consequent additional vehicles will add to the traffic and noise passing through the village, already experienced by villagers currently*

and will exacerbate an already unsustainable issue to the detriment of pedestrians, residents and other road users. The proposal which will rely heavily on vehicle usage and add to congestion is therefore contrary to policy CP57 and CP64 of the Wiltshire Core strategy.

INFORMATIVE

Reason for refusal 4 could be overcome through the landowner entering into a suitable S.106 legal agreement with Wiltshire Council to make appropriate provision in respect of on-site affordable housing, an appropriate financial contribution towards public open space provision, educational provision, and towards the provision of waste and recycling containers. The amount of the contributions would be index linked from the date of the resolution to grant planning permission.

General

- 4.4 The description of the site as set out in section 3 of the committee report is agreed.
- 4.5 It is agreed between the parties that site is directly adjacent to but outside of the existing settlement boundary for Alderbury.
- 4.6 As set out within section 9 of the Committee Report it is agreed that the application site is garden land and is in conformity with the definition of Previously Developed Land as set out in the glossary of the NPPF.
- 4.7 The site is not within a conservation area or within the setting of any designated or non-designated heritage asset.

Agreed Planning History

- 4.8 The planning history as set out in section 4 of the committee report is agreed between the parties as set out below.

15/11933/FUL – Residential development of 3 dwellings and associated works (Refused 04.02.2016)

16/04775/FUL – Demolition of Wagtails and erection of 3 dwellings and associated works (refused 04.02.2016)

17/03136/FUL – Removal of condition 11 of planning permission 16/04775/FUL to allow retention of Wagtails alongside erection of 3 dwellings to the rear (Approved 24.05.2017)

18/07786/FUL – Revised layout to planning permission 16/04775/FUL to allow for two additional dwellings (Refused 12.10.2018, Appeal dismissed 08.08.2019)

18/10448/FUL – Revised layout application with two additional dwellings following refusal of 18/07786/FUL (refused 20.12.2018 Appeal Allowed 08.08.2019)

19/03480/OUT - Outline application for up to 36 dwellings with all matters reserved, except for access (Refused 02.07.2019)

- 4.9 Of relevance in the determination of this appeal is the adjoining site planning history (17/04001/OUT - Residential Development of up to 50 dwellings, associated parking and access (off Firs Road), open space and infrastructure, relocated guide hut, new pre-school building, and land to extend primary school playing field. Appeal allowed 7.12.2018. Land adjacent to application site)

List of Agreed Plans and Documents

Plan / Document Name	Reference
Site Layout	1215_01
Foul Drainage Plan	1215_01 Rev 02
Draft Protection Fencing	WCM/SCR/PSK/HE/WA/FTS/1
Root Protection Area	WCM/SCR/PSK/HE/WA/FTS/1
Tree Shadow	WCM/SCR/PSK/HE/WA/FTS/1
Topographical Survey	18305_Wagtails_Topo_B.dwg
Historic Environment Assessment	ACW1125/1/1
Design and Access Statement	-
Ecology Statement	-
Flood Risk Assessment	10631/TW/001/04
Gradiometer Survey Report	19-0012.01
Planning Statement	ABC0041.07.1
Transport Statement	H620
Tree Survey Schedule	-

5 year housing supply

- 4.10 It is agreed between the parties that the proposed development is within the South Wiltshire Housing Market Area.
- 4.11 The latest Housing Land Supply Statement (published December 2018) indicates that there is 4.56 year supply for Wiltshire as a whole and a 4.71 supply for the South Wiltshire Housing Market Area.

Affordable Housing

- 4.12 The appeal scheme proposes a policy compliant amount of 13 affordable housing units of a type and tenure which meet the requirements of the Council's Housing department, and Policy CP45 of the Core Strategy.
- 4.13 The appellant has agreed to enter into a S106 agreement to provide 2 x one-bedroom units, 6 x two-bedroom dwellings and 5 x three-bedroomed dwellings. These dwellings will be provided as a mix of shared equity and affordable rented properties.

Drainage

- 4.14 As set out within the committee report it is agreed that the appeal proposals were accompanied by revised drainage proposals and after significant further discussion and the submission of further information the Council's Drainage team and Wessex Water have confirmed that the site can be adequately drained and that no objection is raised, subject to suitable conditions.

Open Space

- 4.15 It is agreed that the appeal proposals would provide a policy compliant area of play within the site in a suitable area.

Trees

- 4.16 As set out within the committee report, the appeal application contained information to demonstrate that the applicants/landowners has not committed an offence by clear felling all the trees from this 3 acre site prior to the submission of the application in terms of the Forestry Act which deals with such matters.
- 4.17 The appellant demonstrated that the site was previously a garden and under the terms of the Act, a Felling Licence is not required to fell trees that are not the subject of a Tree Preservation Order within a garden

Highways

- 4.18 No objection to the appeal proposals was raised to the application from Wiltshire Council Highways Department or Highways England.

Flooding

- 4.19 No objection to the appeal proposals was raised by the Lead Local Flood Authority.

Archaeology

- 4.20 No objection to the appeal proposals was raised by the Wiltshire Council Archaeologist.

Nitrates

- 4.21 It is agreed between the parties that the foul water sewer network in Alderbury conveys flow to Petersfinger sewage works (paragraphs 7 and 8 refer) which discharges to the River Avon
- 4.22 It has been accepted that there will be no impact from the development on Nitrate Neutrality in the Solent.

Phosphates

- 4.23 It is agreed between the parties that Phosphates from the development would require mitigation.

5. Matters Not Agreed

- 5.1 The following matters are not agreed between the parties.

Principle of Development

- 5.2 The parties do not agree on the principle of development for the site.

River Test Catchment Area

- 5.3 The parties do not agree as to whether the impact of Nitrate or Phosphates from the development upon any designated sites could be dealt with by way of Grampian Condition attached to any outline planning permission.

Ecology / Biodiversity Net Gains

- 5.4 The comments as set out in the committee report regarding impact on ecology and lack of biodiversity net gain are not agreed between the parties.

Highways

- 5.5 It is not agreed as to whether the appeal proposals would have an adverse impact upon the highway network.

Phosphates

- 5.6 The mitigation required to deal with phosphates is not agreed between the parties.

6. Matters to be covered by a s106 Agreement

6.1 It is agreed between the parties that a s106 agreement is required which would include the following matters:

- The provision of affordable housing as set out within the committee report
- Open Space Contribution - £43,230.70
- Waste Management - £2,912
- Education – Early Years Provision (£52,366) and Secondary School Provision (£137,640)

7. Matters to be covered by Condition

7.1 The following conditions were set out in Appendix 7 of the Council SOC and have been agreed between the parties:

(1) OUTLINE PLANNING PERMISSION -COMMENCEMENT

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: 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) APPROVAL OF CERTAIN RESERVED MATTERS

No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development; (
- d) The landscaping of the site;

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

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

(3) RESERVED MATTERS TO BE SUBMITTED

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

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

(4) SUBSEQUENT APPROVAL OF MATERIALS FOR WALLS & ROOFS

No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to

and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the

area.

(5) DETAILS OF MEANS OF ENCLOSURE

No railings, fences, gates, walls, bollards and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

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

(6) APPROVAL OF LANDSCAPING BEFORE COMMENCEMENT

No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities. The species to be used should be native, and ornamental non-native species should be avoided;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

(7) LANDSCAPING TO BE CARRIED OUT & MAINTAINED

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; 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.

(8) DETAILED PLANS OF SERVICES IN RELATION TO TREES

The detailed landscaping plans to be submitted pursuant to condition no. 6 shall include a plan at not less than 1:200 scale, showing the position of any trees proposed to be retained and the positions and routes of all proposed and existing pipes, drains, sewers, and public services, including gas, electricity, telephone and water. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 2015 (or of any Order revoking and re-enacting or amending that Order with or without modification), no services shall be dug or laid into the ground other than in accordance with the approved details. REASON: To ensure the retention of trees on the site in the interests of visual amenity.

(9) ARBORICULTURAL METHOD STATEMENT

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

- ☞ A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2013 and a plan indicating the alignment of the protective fencing;
- ☞ A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
- ☞ A schedule of tree works conforming to British Standard 3998: 2010;
- ☞ Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- ☞ Plans and particulars showing the siting of the service and piping infrastructure;
- ☞ A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- ☞ Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory

visits; and

☞ Details of all other activities, which have implications for trees on or adjacent to the site.

☞ Day and sunlight calculations must be submitted in accordance with Building Research Establishment guidance and British standards 8206 Part 2:1992 Light for buildings Part 2 - code of practice for daylighting.

☞ In order that trees to be retained on-site are not damaged during the construction works and to ensure that as far as possible the work is carried no demolition, site clearance or development should commence on site until a pre-commencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Planning Authority, to discuss details of the proposed work and working procedures.

☞ Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval. REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

(10) PROVISION OF PLAY AREAS BEFORE OCCUPATION OF DWELLINGS

No dwelling shall be occupied until:

- . a) A scheme for the laying out and equipping of the play area shown on the submitted plan, to include landscaping, boundary treatment and provision for future maintenance and safety checks of the equipment has been submitted to and approved in writing by the Local Planning Authority and;
- . b) The play area has been laid out and equipped in accordance with the approved scheme.

REASON: To ensure that the play area is provided in a timely manner in the interests of the amenity of future residents.

(11) APPROVAL OF LAYOUT BEFORE COMMENCEMENT - OUTLINE

- . 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, and provision of cycle parking, 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, and provision of cycle parking have all been constructed and laid out in accordance with the approved details. REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the roads are laid out and constructed in a satisfactory manner.

(12) CYCLE PARKING FACILITIES IMPLEMENTED

- No dwelling shall be occupied until the cycle parking facilities shown on the approved plans submitted in connection with Condition 11 above have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter. REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

(13) STORAGE OF REFUSE

No dwelling shall be occupied until details of the storage of refuse and recycling facilities have been submitted to and approved in writing by the Local Planning Authority, and; the approved refuse storage has been completed and made available for use in accordance with the approved details. The approved refuse and recycling storage shall thereafter be maintained in accordance with the approved details.

REASON: To ensure the provision of satisfactory facilities for the storage of refuse and recycling.

(14) Foul Drainage

No development shall commence on site until a detailed scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

(15) Implementation of Foul drainage

The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

(16) Surface Water Drainage

No development shall commence on site until a detailed scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

(17) Implementation of Surface Water Drainage

The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

(18) CONTAMINATION INVESTIGATION-SUBMIT AND IMPLEMENT FINDINGS (MAJOR SITES)

No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments; This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance. Step (ii) Submission of Remediation Scheme: If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme

to bring the site to a condition suitable for the intended use must be prepared. This should detail the

works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report should be submitted to the Local Planning Authority. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the

scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

. **(19) Hours of Operation**

- . No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays REASON: In the interests of the amenities of local residents

. **(20) No burning**

- . No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development. REASON: In the interests of the amenities of local residents.

. **(21) Archaeological Investigation**

No development shall commence within the area indicated (proposed development site) until:

■ A written programme of archaeological investigation, which should include on-site work and off- site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

■ The approved programme of archaeological work has been carried out in accordance with the approved details. REASON: To enable the recording of any matters of archaeological interest. Informatives: The work should be conducted by a suitably experienced, professionally recognised archaeological contractor, in accordance with a Written Scheme of Investigation approved by this office and in line with the Standards and Guidance of the Chartered Institute for Archaeologists. There will be a financial implication for the applicant.

(22) CONSTRUCTION METHOD STATEMENT

No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

(23)

- . a) the parking of vehicles of site operatives and visitors;
- . b) loading and unloading of plant and materials;
- . c) storage of plant and materials used in constructing the development;
- . d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- . e) wheel washing facilities;
- . f) measures to control the emission of dust and dirt during construction;
- . g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- . h) measures for the protection of the natural environment.

- . i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, 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.

Ecological Mitigation and Enhancement Strategy:

An Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to the local planning authority alongside the reserved matters application for approval in writing. Details of all ecological avoidance, mitigation, compensation and enhancement measures shall be clearly set out within the EMES and shown on a corresponding site plan. The EMES shall include biodiversity calculations in full obtained using the Natural England Biodiversity Metric (current version is 2.0), and must be produced by a suitably qualified and competent professional ecological consultant. The development shall be carried out in strict accordance with the approved strategy.

REASONS: To ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and the NERC Act (2006); and to ensure full details of all ecological avoidance, mitigation and compensation measures as well as ecological enhancements, are provided and implemented in accordance with Paragraph 118 of the NPPF 2019, Section 40 of the NERC Act (2006) and CP50 of the Wiltshire Core Strategy (Adopted January 2015) given that insufficient details were submitted prior to determination of the outline planning application.

Lighting Strategy:

A lighting strategy that has been prepared with input from, and/or has been reviewed and verified by, the commissioned professional ecological consultant shall be submitted to the local planning authority alongside the reserved matters application for approval in writing. The lighting strategy shall include the specification of proposed luminaires and stipulate heights of lighting columns, and the locations shall be shown on a corresponding lighting plan. The strategy shall also include a lux plot(s) / lighting contour plan(s) for external and internal light sources, and provide details of mitigating fixtures, where applicable, such as cowls, louvres or baffles. All lighting shall be installed in accordance with the approved lighting strategy and no other external lighting shall be installed without prior written consent from the local planning authority.

REASONS: To minimise light spill onto / illumination of, boundary habitats and vegetative features and adjacent habitats, and to maintain dark corridors for wildlife, particularly commuting and foraging bats. Required alongside the reserved matters application given that no corresponding details were submitted prior to the determination of the outline planning application.

(25) APPROVED PLANS

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

Land to the East of Wagtails, Southampton Road, Alderbury
Statement of Common Ground

Site Location Plan Drawing No. 1215_01 Rev 01 Dated 21.11.2019 REASON: For the avoidance of doubt and in the interests of proper planning.

8. Signatures

For the Appellant – Signed

Name - Andrew Black

Signature - 

On behalf of 1215 Heritage Homes

Date 15 March 2021

For the Local Authority – Signed

Name.....Lynda King.....

Signature.....L J King.....

On behalf of... Wiltshire Council.....

Date.....15th March 2021.....



Land to the East of Wagtails, Southampton Road,
Alderbury, Wiltshire, SP5 3AF

Appendix 6 – Linked Malmesbury Appeals

March 2022

Appeal Decisions

Inquiry held on 23 to 26 and 30 November, and 1 to 2 December 2021

Site visit made on 3 December 2021

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2022

Appeal A: APP/Y3940/W/21/3278256

Land at Filands Road/Jenner Lane, Malmesbury SN16 9HZ

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission (all matters reserved).
 - The appeal is made by Bloor Homes South West Ltd against Wiltshire Council.
 - The application Ref 21/01641/OUT, is dated 12 February 2021.
 - The development proposed comprises residential development, associated infrastructure and public open space.
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Appeal B: APP/Y3940/Q/21/3278923

Whychurch Farm, Malmesbury, Wiltshire SN16 9HZ

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
 - The appeal is made by Bloor Homes South West Ltd against Wiltshire Council.
 - The development to which the planning obligation relates is the discharge of Schedule 1, Part 1, Clause 4.5 of the planning obligation relating to N/11/04126/OUT.
 - The planning obligation, dated 15 February 2013, was made between Wiltshire Council and Michael Edward Weaver & Gleeson Developments Ltd.
 - The application Ref 20/05470/106, is dated 2 July 2020.
 - The application sought to have the following planning obligation discharged: "Not to Commence the Development Until the Owner has transferred the Primary School Land to the Council in accordance with the terms and conditions of transfer at Part 2 below."
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Appeal C: APP/Y3940/W/21/3282365

Land at Filands Road/Jenner Lane, Malmesbury SN16 9HZ

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission (all matters reserved).
 - The appeal is made by Bloor Homes South West Ltd against Wiltshire Council.
 - The application Ref 21/01363/OUT, is dated 5 February 2021.
 - The development proposed comprises residential development and land for a nursery, associated infrastructure and public open space.
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DECISIONS

1. Appeal A is dismissed and planning permission for residential development, associated infrastructure and public open space, on land at Filands Road/Jenner Lane, Malmesbury SN16 9HZ, is refused.
2. Appeal B is dismissed and the planning obligation, dated 15 February 2013, made between Wiltshire Council and Michael Edward Weaver & Gleeson Developments Ltd shall continue to have effect.
3. Appeal C is allowed, and planning permission is granted for residential development and land for a nursery, associated infrastructure and public open space on land at Filands Road/Jenner Lane, Malmesbury SN16 9HZ in accordance with the terms of the application Ref 21/01363/OUT, dated 5 February 2021, subject to the conditions set out in the attached schedule.

PRELIMINARY MATTERS

4. Malmesbury Town Council (MTC) and the Malmesbury Civic Trust (the Trust) were represented at the inquiry as independent parties, each with Rule 6 status.
5. Appeals A and C are for outline planning permission with all matters reserved. They both relate to the same site. It was a matter of agreement that only the site location plan forms part of the formal drawing set for each appeal, which only details the red line boundary of the site. However, the applications were accompanied by some illustrative details and drawings. In addition, in the lead up to the inquiry, the appellant submitted illustrative drawings regarding the proposed landscaping for Appeals A and C, and an illustrative layout for a proposed nursery with regard to Appeal C. Although these drawings were not consulted upon as part of the original applications, sufficient time was provided for the Council and the Rule 6 parties to review the documents. I therefore accepted these illustrative drawings to the inquiry, where they were explored in depth.
6. Precise residential dwelling numbers are not known at this stage, because of the outline nature of both Appeals A and C. However, based on reasonable density assumptions, themselves based on the illustrative landscape drawings, the appellant suggests predicted numbers at up to 70 dwellings for Appeal C and up to 78 dwellings for Appeal A. I view these dwelling numbers as useful indicators of the proposed scale of development, albeit acknowledging that they are not fixed, and have allowed for this as appropriate in my reasoning below.
7. The site for Appeals A and C lies immediately to the south of land which benefits from an extant outline planning permission¹ for residential development (the 'northern parcel'), which is also owned by the appellant, Bloor Homes Ltd. Although access is a reserved matter in relation to both appeals, access to the appeals site would be taken through the 'northern parcel', which I expand upon as relevant later on.
8. Appeal B relates to a wider that includes both the Appeals A and C land and land to the west, which has already been built out for a residential

¹ Permission Ref 19/11569/OUT, granted on 1 September 2020, for 71 dwellings

development² (the 2013 permission). The relevant section of that site corresponds, albeit not identically, to the land under consideration for Appeals A and C, and has not been developed. Again, I expand upon this as relevant later on.

MAIN ISSUES

9. The main issues are:

- whether or not the obligation still serves a useful purpose (Appeal B);
- whether or not the proposals would adequately provide for early-years/nursery education facilities, including consideration of alternative sites and facilities (Appeals A and C);
- the effect of the proposals on biodiversity, with particular regard to hedgerows (Appeals A and C);
- whether or not the appeals site is an appropriate location for housing, having regard to local and national planning policy and guidance (Appeals A and C); and,
- the effect of the proposed developments on the safe and efficient operation of the highway network in the vicinity of the appeals site (Appeals A and C).

REASONS

Planning Policy

10. The Development Plan includes the Wiltshire Core Strategy, adopted January 2015 (the CS), the Wiltshire Housing Site Allocations Plan, adopted February 2020, the Malmesbury Neighbourhood Plan, made in March 2015 (the MNP), and the 'saved' policies of the North Wiltshire Local Plan 2011, adopted June 2006 (the LP).
11. The Council is currently in the process of preparing a new Local Plan, but this is at the earliest stage of preparation and there are not yet any draft policies within the emerging Plan against which to consider the appeals.

Whether or not the obligation still serves a useful purpose? (Appeal B)

12. The Unilateral Undertaking the subject of Appeal B, dated 15 February 2013 (the 2013 UU), in relation to the 2013 permission, places covenants on the Appeals A and C land (called the Primary School Land in the 2013 UU). Schedule 1 Part 1 Paragraph 4.5 states "*Not to Commence the Development until the Owner has transferred the Primary School Land to the Council...*". The development to the west has not only commenced but is now completed and the land has not been transferred to the Council. However, I do not view the failure to transfer the land as a *de facto* breaking of the clause as necessarily rendering it irrelevant. Such an approach would mean that any 'prior to commencement' clause, or indeed condition, could be rendered null and void by an applicant/appellant simply commencing development. I also

² Permission Ref N/11/04126/OUT, granted 18 March 2013, for 180 dwellings and provision of land for a primary school

note that there is no specific end date in the 2013 UU for the safeguarding of the land.

13. The appellant attempted to transfer the land to the Council between October 2015 and January 2016. This was not taken up by the Council, which has since confirmed that it does not wish to take control of the land to provide a primary school. In light of that, it is now the appellant's contention that the land does not need to be transferred because the obligation no longer serves a useful purpose, hence the making of the application to discharge the obligation, resulting in the submission of Appeal B.
14. The key consideration in this case turns on the terms and conditions of the transfer of land and their remaining relevance, as set out in Schedule 1 Part 2 of the 2013 UU. The contentious consideration is set out in Paragraph 4.6.3.4, which covenants the land to be used for "*educational purposes by an educational institution which shall include play areas and pitches in connection with the use of the Primary School Land for such educational purpose*". Also of relevance is the definition of the Primary School Land, which is land "*to be transferred to the Council for the provision of primary school infrastructure*".
15. The clear intention for the use of the land, and therefore the appeals site, was for a primary school. The size of the land at 2 ha, the definition and title in the 2013 UU, and the reference to play areas and pitches in Paragraph 4.6.3.4 all point to this. However, the use of the land for alternative educational purposes by educational institutions is explicitly allowed for at Paragraph 4.6.3.4. This was purposefully and intentionally included, as is made clear at Paragraph 85 of the Decision letter for the planning permission granted at appeal³, where the Inspector makes it clear that the land should remain available for educational purposes, whether or not a primary school is provided.
16. I therefore conclude that the 2013 UU still serves a useful purpose. However, for what educational purpose and how much of the land should remain safeguarded, are important factors to which I now turn.

Adequacy of Provision for Early-years/Nursery Education Facilities (Appeals A and C)

Primary School

17. There are two existing primary schools in Malmesbury – Malmesbury Church of England Primary School (the CofE School) and St. Joseph's Roman Catholic School. Both are full. Lea & Garsdon Primary School (the L&G School) is also located nearby and has some, but limited, capacity for new pupils. Evidence has been provided that more primary school places are required in Malmesbury due to the pupil demand from committed developments, as well as the demand that would be created by either Appeal A or C. MTC also point to further potential pupil demand from current, but not permitted, planning applications. However, I do not take the latter into account because they are not yet firm commitments and each application

³ Appeal Ref APP/Y3940/A/12/2183526, AC12.1

will need to be responsible for its own effect on primary school infrastructure.

18. The increased demand is being met by an expansion to the L&G School⁴ that is currently being built. This school is located outside Malmesbury and some children need to use buses to attend the school. This is not a preferred form of transport for primary aged pupils but it is already in operation and I have been provided with no evidence that this is an insurmountable problem. I particularly note that the Education Authority raised no objection to the use of this school to meet the needs of Malmesbury children.
19. If further capacity is required, the CofE School recently secured the option to use 0.6 ha of land that lies between the school and the recently permitted Backridge Farm housing development⁵. The s106 Planning Obligation for this permission, dated 22 October 2021, secures the land as an option for the school for up to 10 years. It may take some time for this to be implemented and I am aware that the CofE School is an Academy and cannot be forced to expand. However, expansion of the CofE School is the preferred option for primary school expansion in Malmesbury, as set out in Policy 11 of the MNP. I also place weight on the fact that the Education Authority has confirmed that it does not wish to build a primary school on the appeal land and is content to rely on the expansion of existing facilities.
20. I am therefore satisfied that the currently anticipated demand for primary school places in Malmesbury can be accommodated either through the under-construction expansion to L&G School, or in the future through expansion to the CofE School. Consequently, I conclude that a primary school is not required at the appeal site at the present time. I therefore turn to the question of whether the appeals site, or part of it, should be safeguarded for alternative educational purposes by educational institutions.

Alternative Educational Purposes

21. The concrete proposal before me is for a nursery, for 0 to 5 year olds. This is as offered by the appellant through Appeal C. It is also what has been requested by the Council, which has requested that 0.3 ha of the appeal site land be safeguarded for nursery provision. Nurseries fall under the control of the Department of Education and are inspected by the Office for Standards in Education, Children's Services and Skills, more commonly known as Ofsted. The Childcare Act 2006, which relates to young children, defines the 'well-being' of young children as including education⁶. However, there is a clear difference between the unambiguous educational offer of a primary school and the blended responsibilities and provisions of a nursery. A nursery, particularly for the younger children/babies, is also a care provider. In my view, therefore, a nursery is partly an education institution and partly a care provider.
22. As such, a nursery falls into a grey area where it undeniably provides education, but only in part. In this context, the approach taken by the Council of only requesting that a small proportion of the safeguarded land remain safeguarded is reasonable, recognising the imperfect fit of a nursery

⁴ Planning permission Ref 18/08362/DP3

⁵ Permission Ref 16/06401/FUL, dated 22 October 2021

⁶ Part 1, Paragraph 2(c) of the Act

into the 2013 UU's definition whilst also retaining the intention of the development to the west providing educational accommodation.

23. The Trust also questions why the entire land, or part of it, could not be offered to other educational providers, such as colleges or Dyson's in-house education establishment. However, no concrete or detailed proposals from other educational institutions are before me. Although there is no time limit on the safeguarding of the land in the 2013 UU, I do not view it as reasonable, now that the clear original purpose of the land as a primary school will not be coming forward, to keep the land safeguarded in perpetuity on the off-chance that it may come into use in the future.

Need for a Nursery

24. It is difficult to gauge accurately the capacity of existing nurseries in Malmesbury because, amongst other factors, some children only attend for certain days of the week, and the demand in the summer term can be higher. For similar reasons, it is difficult to forecast demand for new nursery provision. Whilst acknowledging these difficulties, the appellant and the Council in its role as the Education Authority have agreed that there is demand for one new nursery in Malmesbury. It is also common ground that, if a new nursery is provided, it should be for 80-places irrespective of the precise demand, because anything smaller would be uneconomic to operate and would be unlikely to attract a provider.
25. One alternative site for a nursery was explored at the inquiry, on land at the CofE School. The CofE School is located more centrally in Malmesbury. Co-location of a nursery with a primary school has many benefits, including sharing drop-offs and pick-ups, staff training, transition from nursery to school for children, and shared resources. The school has set these out in its submission dated 17 March 2021. These remain valid points with which I agree. MTC has raised concerns regarding parking and access but I do not foresee these as insurmountable in the context of an existing and operational school with land to re-configure if necessary. In this context, provision of a nursery at the CofE School would appear to be preferable to one located on the appeal site.
26. However, deliverability also needs to be taken into account. A nursery at the school would likely be on land currently used for hard surfaced outdoor playspace. This would need to be re-provided and the school would need to secure additional land for this, which it has not yet achieved. There is no certainty or timetable regarding a nursery at the CofE School, whereas the appeal site would afford a blank canvas on land acquired for one pound. There is no operator on board at present, but there is no reason it could not be progressed quickly. I therefore see the appeal site as the preferable site in terms of deliverability. Moreover, if it were found that there is sufficient demand for two nurseries, then allowing a nursery at the appeal site would not prevent the provision of a further nursery at the CofE School. This would be a commercial decision at the time and one with which the CofE School have stated it is comfortable.

Area of Land Required

27. The allocated, safeguarded land for a primary school is 2 ha. The Council is requesting that only 0.3 ha of this land remain safeguarded for an 80-place nursery. The appellant contends that 0.2 ha is required, and the Trust and MTC request 0.4 ha.
28. I do not view comparison of the sizes of existing nurseries as particularly helpful here, because they are often in existing buildings and facilities and are likely to have evolved by accommodating and adapting to the existing nature of the building/site, and/or might be inefficiently using a larger building/site than they require, rather than being the optimum size or layout.
29. Government guidance⁷ sets the minimum internal space requirements for nurseries at 3.5 sq m per 0 or 1 year old child, 2.5 sq m per 2 year old, and 2.3 sq m per 3–5 year old. Without knowing the eventual breakdown of the children's ages, it is not possible to use these requirements to come to a definitive figure. However, the Council has set a likely configuration of 12x 0–2 year olds, 24x 2 year olds, and 44x 3–5 year olds. This would equate to 203 sq m. These are net areas, for classrooms, and do not include ancillary facilities. A reasonable expectation is that a nursery should also provide staff facilities, storage and buggy storage, a kitchen, and a utility area. A floorplan was provided at the inquiry for a proposed nursery at another site by an experienced provider, the YMCA. This is for up to 100 pupils, i.e. 20 more than that proposed at the appeal site, and also included a community offer. Its total internal floor area is 500 sq m, of which 107 sq m is allocated to community facilities.
30. The internal size of a nursery is not an exact science and related government guidance is only partial. There is no relevant planning policy. On the evidence before me, I consider a reasonable allowance for an 80-place nursery to be in the region of 400 sq m. That would accommodate sufficient classroom and ancillary space, based on the YMCA's proposal for a slightly higher pupil capacity nursery minus the space allocated for community facilities, and comfortably accommodating the only internal space figures available (i.e. 203 sq m as set out above), flexibility for alternate mixtures of child ages, and ancillary accommodation.
31. Government guidance also strongly encourages access to external areas. I consider that there should be access to high quality outside space on-site in a new build facility even with limited site constraints. In this regard, the Council has adopted the base area figure for a primary school from further government guidance⁸, which is 2,400 sq m, or 0.24 ha. However, a primary school has far greater outdoor space requirements than a nursery, for example for sports and leisure facilities amongst much else. I do not agree, therefore, that using a figure based on this provides a reasonable basis for calculating outside space for a nursery. The same government guidance sets the minimum gross outdoor site area for nurseries at 6 sq m per child. This equates to 480 sq m for an 80-place nursery, or 0.048 ha. The maximum is

⁷ Paragraph 3.58 of The Statutory framework for the early years foundation stage – Setting the standards for learning, development and care for children from birth to five, published 31 March 2011, by the DoE, ED05

⁸ Annex B, Area Guidelines for mainstream schools – Building Bulletin 103, dated June 2014, by the DoE, ED04

set at 7.5 sq m per child, which equates to 600 sq m (0.06 ha). It seems to me that the higher figure should be adopted for a new build provision on a site with minimal physical constraints and where seeking to allow for a high standard of development. The combined internal and external floorspace requirements would therefore be approximately 1,000 sq m, or 0.1 ha.

32. The allocated nursery land also needs to provide car parking for staff, and potentially parents, and drop-off facilities. There are no car parking standards for nurseries. Limited evidence was provided at the inquiry of what reasonable parking provision should be for a nursery at the appeal site, although the Council suggested 23 spaces, with MTC highlighting a potential nursery site in Yate with an alleged allocation of up to 34 spaces, albeit without any detailed information provided to confirm this. The proposed site layout and the relationship to internal roads and access points is also not yet known. Agency advice, from Jones Lang LaSalle, has been provided from the appellant that a total site area of 0.2 ha should be sufficient, but the advice lacks granular detail or empirical justification. The YMCA has stated that it would require a 500 sq m building and a total site area of 0.3 ha, including car parking and drop-off provision. It subsequently indicated a preference for a total site area of 0.4 ha, but this was based on potential future expansion, which is not being suggested is likely to be required at the appeal site, and extra parking so as not to negatively impact on local traffic flows, which, as set out later on, I consider not to be a particular issue at this site.
33. For the purposes of these appeals, the only reasonable approach I can adopt is to allow for sufficient land to accommodate a high quality 80-place nursery with associated outside space and car parking/drop-off, but without over-allocating land and thereby negatively affecting efficient use of the appeal site. Taking everything into account, and particularly taking note that the Education Authority and the YMCA both use this figure, I assess this to be 0.3 ha, comprising 0.1 ha for the building and outside play space and 0.2 ha for parking and drop-off etc. Some further flexibility within this space is also likely to be possible, because the nursery building could be two-storeys and therefore have a reduced footprint. A one-storey building would provide easier access to outside space but there are plenty of examples of nurseries successfully operating from two-storey buildings.
34. The location of the land to be allocated for the nursery is not set by Appeal C. At the inquiry, the presence of a small area of undevelopable land in the likely area where the nursery could be located was discussed. However, it was found that much of this land, if not all, could still be used for outside space and/or parking in any event because the 'undevelopable' label relates simply to a no foundations/no dig area around an underground electricity cable. Given the uncertainties of the eventual location and the minimal likely constraints provided by this area of undevelopable land, I do not consider this further.
35. Drawing all of the above together, I consider that there remains a need to safeguard land for nursery provision and that the amount of land required to be safeguarded for that purpose should be 0.3 ha. Subject to this, the land would adequately provide for early-years/nursery education facilities, as required by the 2013 UU.

Ecology (Appeals A and C)

36. Paragraph 180 of the National Planning Policy Framework (the Framework) sets out a clear hierarchy for proposals affecting biodiversity. The hierarchy is to: firstly, avoid harm; secondly, where this is not possible, to mitigate any harm on-site; thirdly, as a last resort, to compensate for any residual harm.
37. The appeals site is of relatively low ecological value. It mostly comprises grassland, with small areas of scrub, and hedgerows to some of the site boundaries. The primary feature of ecological value is a species-rich hedgerow that runs across the centre of the site from east to west. This not only provides habitat but also a transit route for wildlife. However, even this hedgerow is only of parish level importance in ecological terms.
38. Development of the site would inevitably lead to the loss of the majority of the existing grass and scrubland. It is also not possible to avoid the loss of the hedgerow and also develop the appeal site in an efficient manner for housing and/or a nursery. Or, for that matter, for a primary school, had the land been used as originally intended. This is because the hedgerow runs across the middle of the appeal site and any layout solutions that avoid it entirely would result in a proposal that did not make efficient use of the site, contrary to basic planning principles as set out in Paragraph 124 of the Framework. It is not possible to efficiently develop the appeal site and to avoid all harm to biodiversity.
39. The appellant has proposed mitigation in the form of native scrub and wildflower planting, sustainable urban drainage systems incorporating wet grassland, and replacement hedgerow planting. This has been illustrated on landscape masterplans for both Appeals A and C, and is cross-referenced to detailed data supporting a Natural England Biodiversity Metric 3.0 calculation. The assumptions made by the appellant regarding areas of landscaping and hedgerow provision appear reasonable, with significant proportions of the site set aside from built development, where both biodiversity and other infrastructure, such as drainage, could be provided. Importantly, the Council has accepted that the provision of hedgerows to the site boundaries would provide suitable replacement wildlife transit opportunities.
40. I acknowledge that the landscape masterplans are indicative and subject to change at reserved matters stage. However, there is no evidence before me that something in the order of the ecological mitigation the appellant has proposed could not be achieved on site, for either Appeal A or C. It should be remembered that the existing level of biodiversity to be mitigated is fairly low. It is common practice to set out a high level approach, subject to review at reserved matters and condition discharge stages. A condition could require the provision and agreement of a detailed Ecological Parameters Plan. The Council would remain in control of the level of on-site biodiversity mitigation to be provided through the approval of those submissions.
41. Full on-site mitigation is not achievable. Compensation for residual harm is therefore required. In this regard, although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is

not yet law and is not applicable to these appeals. Policy CP50 of the CS, and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. A net gain of just 1% would be policy compliant in these circumstances. This could be secured by a planning obligation.

42. The Trust has raised concerns regarding the effect of the proposals on Conygre Mead, a nearby nature reserve and County Wildlife Site. The specific concerns relate to use of the site as a transit for wildlife seeking access to the Mead, and the potential effect on the Mead from changes to surface water run-off caused by the proposals. However, no substantive evidence has been provided of harmful effects from the proposals on transit routes for wildlife. In any event, this could be considered as part of any future reserved matters and condition discharge submissions. Conditions could also control details of the proposed drainage measures to ensure that the effect from surface water run-off would be appropriately managed.
43. Overall, the proposals would meet the biodiversity hierarchy as set out in Policy CP50 of the CS and Paragraph 180 of the Framework, and, subject to further details that could be controlled at reserved matters and condition discharge submissions, and through an appropriately worded clause in the planning obligation, the proposals would not have an unacceptable effect on biodiversity, including hedgerows.

Location (Appeals A and C)

44. Malmesbury is an identified Market Town, the second highest category of settlement in the CS. Market Towns are considered to support sustainable patterns of living and to have the potential for significant development, as set out in Policy CP1 of the CS. However, Policy CP2 of the CS states that development will not be permitted outside the 'limits of development' as defined on the Proposals Map, other than for the exceptions set out in Paragraph 4.25 of the CS. It is common ground that the appeals site sits outside of the defined 'limits of development' and that none of the exceptions apply. Appeals A and C are therefore in conflict with Policies CP1 and CP2 as a matter of principle.
45. The CS makes it clear that the high-level development strategy set out in Policies CP1 and CP2 should be read in conjunction with the relevant Community Area policy. The appeals site sits in the Malmesbury Community Area, which is the subject of Policy CP13. This policy directs growth to reflect the constraints set out in Policies CP1 and CP2. Saved Policy H4 of the LP also restricts development in the countryside, other than in specified circumstances, none of which apply to the proposals. The proposals therefore also conflict with Policies CP13 and H4.
46. The appeals site falls within the Malmesbury Neighbourhood Plan area, within the 'Malmesbury Town' part of the MNP area. Five allocated housing sites are within this area, none of which cover the appeal site. There are no specific policies within the MNP which prohibit residential development coming forward outside of the allocations, but equally there are no policies which support it. The MNP is silent with regard to such development, although it is implicit that the allocated housing sites are deemed sufficient to meet the housing need for Malmesbury. There are also no policies with

regard to nursery provision. I consequently find no direct conflict with the MNP in these respects.

47. Therefore, having regard to the locational policies in the Development Plan, the appeals site represents an inappropriate location for housing or a nursery.

Highways (Appeals A and C)

48. As set out in the Statement of Common Ground, this is not a matter at issue between the Council and the appellant. It continues, however, to be a matter of considerable concern for the two Rule 6 parties, and local residents.
49. The appeals site is set to the south of Filands Road, with a further area of undeveloped land between the site and the road, i.e. the 'northern parcel'. Access to Filands Road would be through the 'northern parcel' land, the intention being to integrate the proposed development schemes with the future development on the 'northern parcel' site.
50. The applications for Appeals A and C were accompanied by detailed Transport Assessments, recording traffic levels, assessing highway safety and accident data, and using traffic modelling to predict the effects of the proposals and other commitments. The Transport Assessments conclude that Filands Road and nearby junctions are not particularly busy and do not suffer from unacceptable levels of congestion. The modelling for the proposals concludes that there would be relatively limited additional traffic generated by the proposals and that the surrounding road network would be comfortably able to accommodate the increased traffic flows. Safety data has been provided and there was only one recorded accident on Filands Road, with only a minor injury.
51. Anecdotal evidence was provided at the inquiry regarding the 'busyness' of the local roads and safety. However, no substantive evidence has been provided of safety issues or traffic congestion in the area, or of the likelihood of the proposals materially worsening the existing situation. There may well be incidents of speeding on Filands Road, but no evidence has been provided of any particular safety issue or high accident record along this road in comparison to the national highway network. I also note that the Highways Authority has assessed the proposals and raises no objection. Conditions and reserved matters submissions could control the detail and acceptability of visibility splays, highway layouts, and access points to Filands Road.
52. Consequently, the proposals would not have an unacceptable adverse effect on highway safety or the efficient operation of the highway network in the vicinity of the appeals site. There is no conflict, therefore, with Policies CP61 and CP62 of the CS, and Chapter 9 of the Framework.

OTHER MATTERS

Housing Land Supply

53. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites, thus engaging the so-called 'tilted balance' set out at paragraph 11d) of the Framework. However, the supply of housing, and therefore the degree of the shortfall, is contested. In this regard, the

housing land supply figure is calculated using the base date of April 2019. I have relied on evidence to the present day, but have only considered sites that were included as of April 2019. Therefore, recent sites such as Backridge Farm have not been taken into account. This is important for consistency and to ensure that the housing land supply situation is equally updated with regard to both demand and supply measures. The Framework is clear that for sites to be considered as 'deliverable', there must be a realistic prospect that housing will be delivered on them within five years, and for sites either without permission or with only outline permission this must be demonstrated through clear evidence.

54. I take the disputed sites in turn below⁹:

- Site 24, Land at Empress Way – there remain many unresolved objections to a current planning application, including from the Environment Agency with regard to nitrate pollution, which is a known problem for residential planning permissions and could be difficult and time consuming to resolve. There is therefore no clear evidence that these will be delivered. The homes should be removed from the supply;
- Site 64, Former Wiltshire College – the Council agreed to remove this site from the supply;
- Site 158, Land at Elm Grove Farm – an outline planning application was made in November 2019. There remain unresolved issues regarding access, layout and heritage and no convincing timetable or evidence has been provided that these could be overcome in a timely manner. There is therefore no clear evidence that these will be delivered. The homes should be removed from the supply;
- Site 163, Southwick Court – an outline planning application was made in January 2020, and is not yet determined. There remain outstanding objections, including from the Council's Design Officer and the Environment Agency. The timetable set out in the Statement of Common Ground¹⁰ relied on outline planning permission being granted in December 2019. There is no clear evidence that these homes can be delivered within five years, and the homes should be removed from the supply;
- Site 192, Land North of Hilltop Way – outline planning permission has been granted and the reserved matters application has been submitted. Although not yet determined, the reserved matters submissions have been made by a housebuilder, and the proposed development is relatively small at 10 homes and would be capable of being delivered relatively quickly following the granting of reserved matters consent. I am therefore satisfied that these dwellings are likely to be delivered within five years and should be retained within the supply;
- Site 215, Finch House – this is for extra-care, class C2 accommodation. Planning Practice Guidance (the PPG)¹¹ is clear that the contribution of such accommodation is based on the amount of accommodation released

⁹ Scott Schedule, dated 22 November 2021, ID07

¹⁰ See Appendix 44 to the Council's Housing Land Supply Proof of Evidence

¹¹ Paragraph: 035 Reference ID: 68-035-20190722

in the housing market, and does not distinguish or make allowance for self-contained class C2 accommodation. Therefore, the ratio of 1.8 should be applied to this permission to reflect the accommodation likely to be released onto the market. The permission is for 21 flats and applying the ratio reduces the contribution to housing supply to 12 homes;

- Site 227, Land at Netherhampton Road – outline planning permission was granted in June 2020 for approximately 600 units. Some pre-commencement conditions have already been discharged. The reserved matters application for the first 234 dwellings was submitted in October 2021 and is yet to be determined. There is no certainty of the timescale of the approval of this reserved matters application, but it is reasonable to assume that it could be approved in time to allow for delivery of the 60 homes from the reserved matters application that have been allowed for in the supply. These only constitute a relatively small proportion of the overall site, within five years. The homes should be retained within the supply;
 - Site 230, Land at Rowbarrow – an application for full permission was made in January 2020. In November 2021, revised information was submitted and negotiations are ongoing regarding resolving flood risk issues. The applicant is a developer, Bellway Homes, and they have entered into negotiations to finalise the relevant planning obligation, as well as agreeing to an extension of time to determine the application to try and secure a January 2022 committee date. These all point to momentum being behind the application. The Council has only included 70 of the proposed 95 homes in their supply. I view this as a reasonable assumption, and these homes should be retained;
 - Site 231, Clover Lane – this is an allocated site but there is no current planning application, no developer is on board, and no clear evidence has been provided that an application is forthcoming, nor of a reasonable or likely timescale for delivery of the allocated homes. The homes should be removed from the supply;
 - Site 232, Land off Larkhill Road – an outline planning application was made in May 2020. It is yet to be determined and there remain objections in relation to design and drainage. There is no certainty that these can be overcome, or what the timescales may be for resolving them. There is therefore no clear evidence that these homes can be delivered within five years, and the homes should be removed from the supply; and,
 - Site 233, The Yard – outline planning permission has already been granted. A current reserved matters application is due to be determined shortly and simultaneous condition discharge applications have been made. A developer is on board. The homes should be retained in the supply.
55. The agreed five-year housing need incorporating a 5% buffer is 10,533 dwellings. I calculate the housing supply to be 9,605 homes (the Council's deliverable supply number) minus the 316 homes that I have identified to be removed above. This equals 9,289 homes, which in turn provides a housing land supply figure of 4.41 years for the purposes of these appeals.

Letters of Objection

56. Letters of objection have been received regarding the three appeals. In addition to the matters covered above, they raise concerns with the lack of education capacity in Malmesbury, that the proposed homes would exacerbate this situation, overflow car parking, overall scale of the combined proposals along Filands Road, over-provision of housing in Malmesbury, surface water drainage, the capacity of local infrastructure to cope, requests that the entire land should be used for community use if not a primary school, and the potential effects on a right of way across the site.
57. I have taken all these factors into consideration. No substantiated evidence has been submitted to support these concerns. The technical information that accompanied the planning applications, such as the Transport Assessment and Flood Risk Assessment, have been considered by the Council and other relevant statutory authorities, and have been found to be acceptable. Other matters can be addressed by conditions or are dealt with by the planning obligations.

PLANNING OBLIGATIONS (APPEALS A AND C)

58. A s106 Planning Obligation, dated 16 December 2021, has been submitted in relation to Appeal C (the s106). A Unilateral Undertaking, dated 14 December 2021, has been submitted in relation to Appeal A (the 2021 UU).
59. The s106 secures the provision of at least 40% of the dwellings as affordable housing, of which 60% are to be affordable rented units with a rent at no more than 80% of open market rents, and 40% are to be shared ownership units. The mix is to be determined when the overall housing mix is known. This level of provision complies with Policy CP43 of the CS.
60. The s106 secures contributions towards early-years, primary school, and secondary school education. The precise contributions are to be calculated when the final housing mix is known, so that the contribution fairly relates to the demand for school places generated by the proposals. The early-years is necessary for Appeal C, despite the provision of land allocated for a nursery on-site, because the appeal only secures the land for a nursery, and providing new nursery provision, on the appeal site or elsewhere, still requires funding.
61. The s106 secures the land to be used to construct a nursery. For the reasons set out above, I set this at 0.3 ha of land. Construction of the nursery on this land is to commence within 10 years, otherwise the land is to revert back to the appellant.
62. The s106 secures open space and a play area to be provided on the site in perpetuity. The sizes of these areas are to be calculated when the final housing mix is known, so that they reflect the demand for open and play space created by the final housing mix. The provision accords with Policy CP52 of the CS and Saved Policy CF3 of the LP. The s106 secures various controls and commitments in relation to the provision of sustainable urban drainage infrastructure. It also sets out details of the management of the spaces and drainage infrastructure by a management company and the

funding of such management in perpetuity, also in accordance with the requirements of Policy CP52.

63. The s106 secures a contribution towards public art. The precise contribution is to be calculated when the final housing numbers are known so that it remains reasonable in scale to the final housing mix. Public art is required to ensure a high quality design is achieved, and its provision complies with Policies CP3 and CP57 of the CS.
64. The s106 secures £100,000 towards the improvement and conversion of a footpath, 'Malmesbury 8', to a shared foot and cycle path, including surface improvements and lighting. This path is located along the eastern boundary of the appeal site and its improvement would bring direct benefits to the future occupiers of the site, as well as improving links to the centre of Malmesbury. This would ensure that sustainable transport improvements are secured, in accordance with Policies CP52 and CP61 of the CS.
65. The s106 secures a £6,000 payment for the advertisement and sealing of the related prohibition of driving order (except for busses) at Gilmore Road, and the related provision of a Bus Gate between the appeal site and the existing residential area to the west along the road link proposed between the two sites. The s106 also secures a contribution towards erecting a number plate recognition camera. These measures are required to enforce the controls of non-bus traffic between or through the site to the existing development to the west. These controls are necessary to control traffic flows and prevent rat-running, whilst simultaneously allowing a bus route through the site to service the development. This accords with the requirements for sustainable transport choices as set out in Policies CP60, CP61 and CP62 of the CS.
66. The s106 secures a contribution towards the costs of upgrading the changing room and pavilion at Malmesbury Cricket Club. The precise contribution is to be calculated when the final housing numbers are known. On-site provision is not possible because of the requirement to provide biodiversity mitigation, drainage features, and landscaped open space. The proposed contribution to off-site provision is therefore reasonable and necessary, and accords with Policy CP3 of the CS.
67. The s106 secures a contribution towards the provision of waste and recycling containers for each proposed residential unit, in accordance with Policy CP3 of the CS.
68. The s106 secures a payment towards compensatory biodiversity measures, to secure a biodiversity net gain of 1%. This is the for the reasons set out in detail in the 'Ecology' section above, and ensures that the proposals comply with Policy CP50 of the CS.
69. The s106 also makes amendments to the 2013 UU in the event that Appeal B is dismissed and Appeal C is allowed. The changes reflect the provision of 0.3 ha of land for a nursery as secured through Appeal C and remove the current Primary School Land obligations.
70. The 2021 UU is substantively the same as the s106 save for not having any clauses in relation to the provision of nursery land, and not needing to link to the 2013 UU because no changes would be required to that document.

PLANNING BALANCE AND OVERALL CONCLUSION

71. In the section that follows, I have adopted the following ascending scale in terms of weighting – limited, moderate, significant, substantial.
72. The Council has instigated an action plan to remedy the lack of a five-year housing land supply. It is securing consultants to process applications and condition discharges on stalled sites, and provided examples of where this has yielded results, such as Backridge Farm. It has also begun to allow permissions outside of defined settlement boundaries, a matter I return to in detail below.
73. The lack of a five-year housing land supply was first identified in April 2020 when the Purton Road, Swindon decision was made¹², setting the housing land supply at 4.42 – 4.62 years. Since then, the trajectory of the shortfall has been largely flat, with the 4.41 years supply that I have identified above falling within the range set through Purton Road. Therefore, if the action plan is helping, the results have not yet been realised. Having said that, the lack of a five-year housing land supply was first identified relatively recently, in 2020. As such, I do not view the shortfall as persistent. The shortfall is relatively modest, at 0.59 years. The action plan may not yet have yielded concrete results in terms of the housing land supply calculation but it shows a genuine willingness to engage with the problem and to find a resolution.
74. Malmesbury, through a combination of permissions, completions and allocations in the MNP, is providing more housing than has been allocated to the area. However, this is mostly due to the provision of housing along the various Filands Road sites, none of which are allocated in the MNP. These sites have relieved the MNP of the need to formally allocate all of its true housing requirement. This is largely a distraction in any event. Wiltshire Council as a whole is failing to meet its housing land supply requirement. The marginal over-provision in Malmesbury, itself only a product of permissions being granted on unallocated sites, does not weigh heavily against this.
75. I acknowledge that the Housing Delivery Test 2020 shows that Wiltshire Council is currently over-providing housing, at 140% of their requirement. This is a promising figure and I have taken it into account.
76. All in all, due to the relatively modest shortfall, the clear steps being made to address the issue, the relatively high level of provision in Malmesbury, and the positive recent delivery results, I place moderate weight on the lack of a five year housing land supply. However, this conclusion is reliant on a key aspect of the action plan, which is to permit proposals outside of settlement boundaries where there are no other conflicts with the Development Plan. This is highly relevant to Appeals A and C.
77. Providing more housing is one of, if not the most important, aspiration of local and national planning policy. As set out above, the Council is failing to meet its requirement to provide a five-year housing land supply. In that context, the housing being proposed for Appeals A and C is being put forward by a housebuilder that is already active on adjacent sites and has

¹² Appeal Ref APP/Y3940/W/18/3202551, dated 6 April 2020

committed to the timely building of the proposed housing through the wording of the relevant conditions to submitting reserved matters application(s) within one year and to commence within one year of those application(s) being discharged. I therefore afford the proposed provision of housing for Appeals A and C substantial positive weight. The slightly reduced provision in Appeal C, after taking account of the nursery land, is of no material difference in this regard.

78. The proposed affordable housing would not be as cheap, either to rent or buy, as housing in some other parts of Wiltshire, because Malmesbury is a relatively high value area for housing. However, the housing would meet all policy requirements in terms of amount, mix, and type of provision. Both Appeals A and C would offer affordable housing products as defined by national and local planning policy. I do not diminish the weight to be provided to this provision because such housing might be even cheaper in a theoretical location elsewhere. In fact, that Malmesbury is a relatively high value area for housing adds more weight to the need for affordable housing products.
79. Evidence has been provided that there is more affordable housing either already provided or committed for Malmesbury than the identified need. However, that need is as identified in a Development Plan that is out-of-date in relation to housing, and there is an overall identified shortfall in Wiltshire as a whole. I therefore place substantial positive weight on the proposed provision of affordable housing in Appeals A and C. The slightly reduced provision in Appeal C, after taking account of the nursery land, is of no material difference in this regard.
80. A biodiversity net gain would be achieved for Appeals A and C, subject to control through reserved matters and condition discharge submissions, and through an appropriately worded clause in the planning obligation. There would, however, be a loss of on-site biodiversity and the likely net gain is modest. I place limited positive weight on this factor.
81. There would be economic benefits from both Appeals A and C, in the short term through construction employment, and in the longer term through expenditure by future occupants and/or workers in the area. I place significant positive weight on this.
82. For Appeal C, whilst the proposed nursery is required to meet the needs of future occupiers, it would also provide a benefit to the wider community because its capacity would be substantially greater than the likely demand to be generated from future occupiers. However, set against this, the provision of an educational establishment is a requirement of the previous 2013 UU. The amount of land to be safeguarded for educational purposes would actually be significantly reduced as part of the proposal. I therefore place only moderate positive weight on this.
83. Whilst the upgrading of the public right of way to the eastern boundary of the appeals site is intended to mitigate increased use by future occupiers of the proposals, there would be a mutual benefit to the wider community. I place limited positive weight on this.

84. No substantive evidence has been provided that local infrastructure could not cope with the demand created by the future occupiers of the proposed housing. Either the s106 or the 2021 UU would secure the relevant payments and measures to mitigate the effects of the proposals, as set out in detail above. The effect on local infrastructure therefore weighs neutrally in the planning balance.
85. The appeals site is outside the defined settlement boundary for Malmesbury. However, it is already bordered on two sides by residential development, and is likely to be bordered on a third side when the 'northern parcel' is built. Therefore, although there would be the loss of fields directly on the appeals site, the harm to the countryside setting of Malmesbury would be limited as a consequence of either proposal.
86. Malmesbury is an identified Market Town, the second highest category of settlement in the CS. Market Towns are considered to support sustainable patterns of living and to have the potential for significant development, as set out in Policy CP1 of the CS. The provision of housing in this location, and a nursery for Appeal C, is therefore broadly in accordance with the sustainable development principles set out in Paragraph 8 of the Framework. Nevertheless, development of either housing or a nursery outside of a defined Settlement Boundary conflicts with Policies CP1, CP2 and CP13 of the CS, and Saved Policy H4 of the LP. I place limited negative weight on this conflict. In addition, Saved Policy H4 of the LP, only carries limited weight because it is inconsistent with the Framework given the in-principle restrictions the policy places upon development in the countryside. I note that there is no direct conflict with any of the policies in the MNP, although there is implicit conflict with the MNP's aspirations because the appeal site is not one of the specifically identified sites for housing.
87. Safeguarding education provision on the appeals site is a key component of the 2013 permission. By not providing any educational facilities, there would be substantial harm to the community. I therefore place substantial negative weight on the lack of education provision in Appeal A.
88. However, for Appeal C, land is to be set aside for a nursery which I have concluded would meet the residual requirements for educational use of the land associated with the 2013 permission. The eventual nursery, when built, would provide places for children above and beyond the demand generated by the future occupiers of the proposal. However, the construction of the nursery is not part of the proposal, and therefore this weighs neutrally in the planning balance.
89. For Appeal C, the only conflict with the Development Plan I have found is with the locational policies as detailed above. Whilst these policies are the most important policies for determining the appeal, they are out-of-date which diminishes the weight that I apply to the conflict. In any event, the Council confirmed that parts of its action plan to respond to the lack of a five year housing land supply is to allow applications in situations where the only conflict is the location being outside of a defined settlement limit. Under cross-examination, the Council acknowledged that this would apply to both Appeals A and C if the education and ecology issues were overcome. I have found that in relation to Appeal C, these issues are addressed satisfactorily. In the overall planning balance, I consider that the adverse impacts that I

have identified are significantly and demonstrably outweighed by the benefits, when assessed against the policies in the Framework taken as a whole. For the reasons set out above, I conclude that Appeal C should succeed.

90. However, for Appeal A I have found harm with regard to education. I assess this level of harm to be substantial. The adverse impacts I have identified as a consequence of the lack of appropriate safeguarding of land for the future provision of educational facilities as required by the 2013 permission, significantly and demonstrably outweigh the benefits of the proposed housing and associated works, when assessed against the policies in the Framework taken as a whole. For the reasons set out above, I therefore conclude on balance that Appeal A should not succeed.
91. For the reasons above, I conclude that the Appeal B should not succeed.

CONDITIONS (APPEAL C)

92. A schedule of possible conditions was discussed at the inquiry. Given my conclusion in relation to Appeal C, I have considered those in relation to Appeal C in the light of that discussion and of government guidance on the use of conditions in planning permissions.
93. The two time limit conditions, for submission of the reserved matters and for commencement of development, have both been shortened to one year from the standard approach of two years. This is necessary because the provision of housing in a timely manner is a key benefit of the appeal and is reasonable because a developer is already on board and has committed to this timetable.
94. A condition specifying the relevant drawing provides certainty.
95. A condition to limit the number of proposed dwellings was put forward by the main parties. However, I do not see it as necessary or reasonable to arbitrarily limit the number of dwellings before the layout and design of the proposal has been finalised at reserved matters stage.
96. A condition setting a minimum size for the area of nursery land was put forward by the main parties. However, this is to be controlled by the s106 Planning Obligation, as set out in detail below. A condition would unnecessarily duplicate that.
97. A condition requiring a written archaeological report archiving the results of the already undertaken on-site archaeological investigations, and to publish the results in a journal, was put forward by the main parties. However, the appeal site has very limited archaeological potential and I do not view this as being necessary or reasonable.
98. Details of the estate roads, driveways, visibility splays and other similar measures are necessary in the joint interests of highway safety and protecting the character and appearance of the area. Details of the site levels are necessary to protect the character and appearance of the area and to ensure an appropriate relationship with existing and future development on adjoining land.

99. It is necessary to secure measures to protect existing ecology on the site and to mitigate construction effects on habitats and species on and adjacent to the site. Details of external lighting are necessary to mitigate disturbance to commuting and foraging bats.
100. Conditions in relation to protection of trees are necessary to protect the character and appearance of the area. However, whilst conditions were suggested regarding the detailing of landscaping and planting seasons, these matters would be addressed as part of the relevant reserved matters submission(s) and do not require separate control by condition.
101. Whilst conditions were suggested removing permitted development rights in relation to extensions to the proposed dwellings, that is not appropriate at this outline stage. Only when detailed plans are available can an informed assessment be made as to whether there is sufficient justification to warrant that level of control.
102. A contamination condition is necessary to control the effect of construction on contamination and to secure appropriate protection and remediation measures.
103. A Construction Method Statement is required to control the effects of construction on the living conditions of nearby occupiers, highway safety, traffic congestion, and the character and appearance of the site during construction.
104. In order to minimise the contribution of the proposal on air pollution, a condition regarding Ultra Low Energy Vehicle infrastructure is required to secure the provision of electric vehicle charging points, pursuant to Policy CP55 of the CS.
105. Conditions to control surface water and drainage, the culverting of existing ordinary watercourses, and sewerage, are necessary to implement mitigation measures identified as required to control surface water drainage and sewage in the Flood Risk Assessment & Drainage Strategy by Clarkebond, dated 4 May 2021, and to ensure there are no unacceptable impacts on biodiversity including to Conygre Mead.
106. A condition is necessary to secure the detail of the required ecological mitigation measures, and to ensure they are retained. This is required with the submission of the first reserved matters application because all reserved matters submissions have the potential to affect the proposed ecological mitigation measures. This is also reflected in the landscaping condition because of the overlap between some of the likely mitigation measures and landscaping.
107. The pre-commencement conditions are necessarily worded as such, because a later trigger for the submission and/or implementation would limit their effectiveness or the scope of measures which could be used.

OS Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Christopher Young, of Queen's Counsel. He called:

Jeff Richards MRTPI	Director, Turley
Jan Kinsman	Consultant, EFM Ltd
David Knight	Director, Clarkebond
Rosie Dinnen MRTPI	Consultant, Tetlow King Planning
Matthew Jones MCIEEM CEnv	Director, EAD Ecology
Richard Harding	Associate Director, Osborne Clarke

FOR THE LOCAL PLANNING AUTHORITY:

Hashi Mohammed, of Counsel. He called:

Lucy-Anne Bryant	Commissioning Manager for Families and Communities
Christopher Roe MRTPI	Spatial Planning Manager for Monitoring and Evidence
Steven Corbin	Senior Planning Officer
Fiona Elphick	Senior Ecology Officer
Dorcas Ephraim	Senior Solicitor
Lee Burman MRTPI	Area Team Leader, Development Management North Team

FOR MALMESBURY TOWN COUNCIL:

Councillor Kim Power	Town Councillor, Deputy Mayor of Malmesbury, and Chair of the Town Council's Joint Neighbourhood Plan Working Group
Thomas de Lange	Local resident and the Filands Speedwatch Team Leader
Andrew Kyte	Trustee of the Malmesbury River Valleys Trust

FOR MALMESBURY CIVIC TRUST:

Councillor Campbell Ritchie	Trustee of the Civic Trust and Town Councillor
Councillor Gavin Grant	Town Councillor

INTERESTED PERSONS:

Laurence Musett Chairman of the Governing Body, Malmesbury Primary School

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- DOC 1 Appellant opening statement
- DOC 2 Wiltshire Council witness list and opening statement
- DOC 3 Malmesbury Town Council opening statement
- DOC 4 Malmesbury Civic Trust opening statement
- DOC 5 Malmesbury Primary School letter, dated 19 November 2021
- DOC 6 Housing land supply round-table session agenda
- DOC 7 Housing land supply Scott Schedule, dated 22 November 2021
- DOC 8 Revised housing land supply calculations
- DOC 9 What's the plan? An Analysis of local plan coverage across England, report by The Countryside Charity, dated May 2020
- DOC 10 Appellant witness list
- DOC 11 Backridge Farm, Malmesbury s106 Planning Obligation, dated 22 October 2021
- DOC 12 Appeal decision Ref APP/Y3940/W/21/3275477 – Chilvester Hill, Calne, dated 22 November 2021
- DOC 13 Site notice photographs
- DOC 14 Malmesbury Community Area Joint Strategic Needs Assessment 2020
- DOC 15 Correspondence between the Council and Malmesbury Primary School, dated 24, 27 and 28 September 2021
- DOC 16 Briefing Note Ref 20-37 - Housing Land Supply Update, dated December 2020
- DOC 17 Committee Report Ref 20/08341/OUT – Land South West of Park Road, Malmesbury, dated 1 December 2021

ANNEX C: SCHEDULE OF PLANNING CONDITIONS FOR APPEAL C

- 1) The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan Ref 32441 9001.
- 5) Prior to commencement of development, 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 locations of street trees and street furniture, including the timetable for provision of such works, shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and timetable.
- 6) Prior to commencement of development, including any works of site clearance and preparation, full details of the proposed contours and 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, shall 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.
- 7) Prior to commencement of development, including any works of site clearance and preparation, an Ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the Local Planning Authority. The ECMS shall address the protection and detailed mitigation measures of all receptors within the site, or adjacent to it, likely to be affected by the development process as detailed in Section 4.1 of the Ecological Impact Assessment by EAD Ecology Ref 210205_P1088_EcIA_Final02, dated 5 February 2021. The ECMS shall also detail that no external lighting will be permitted during the construction phase other than in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved ECMS.
- 8) Prior to commencement of development, including any works of site clearance and preparation, an Arboricultural Method Statement prepared by an arboricultural consultant providing details of construction works in relation to retained trees and vegetation shall have been submitted to and approved in writing by the Local Planning Authority. All works shall

subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:

- a) A specification for protective fencing to trees and vegetation during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing;
- b) A specification for any scaffolding and ground protection within tree protection zones in accordance with British Standard 5837:2012;
- c) A schedule of tree works conforming to British Standard 3998:2010;
- d) Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- e) Plans and particulars showing the siting of the service and piping infrastructure;
- f) A full specification on how the construction of the access road and parking spaces will be achieved within the RPA of T16 including details of any no-dig method;
- g) Details of the length of G1 to be removed to facilitate the pedestrian access along with clarification of the impacts on G17;
- h) Details of how the cycleway will be constructed within the RPA of T1;
- i) Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and,
- j) Details of all other activities, which have implications for trees on or adjacent to the site.

Subsequently, and until the completion of all site works, site visits shall be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required shall then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

- 9) Prior to commencement of development, (other than as required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), Steps (i) to (iii) below shall have been fully complied with.

Step (i) 'A survey of the extent, nature and scale of contamination on site': The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages. If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and

concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants. An assessment of the potential risks to: • human health; • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; • adjoining land; • groundwater and surface waters; • ecological systems; and, • archaeological sites and ancient monuments. This must be conducted in accordance with the Environment Agency's "Land Contamination Risk Management" document and other authoritative guidance.

Step (ii) 'Submission of Remediation Scheme': If any unacceptable risks are identified as a result of the investigation and assessment referred to in Step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) 'Implementation of Approved Remediation Scheme': The approved remediation scheme under Step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Step (iv) has been complied with in full.

Step (iv) 'Reporting of Unexpected Contamination': In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of Step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of Step (ii) and submitted to and approved in writing by the Local Planning Authority.

- 10) Prior to commencement of development, including any works of site clearance and preparation, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved CMS, which shall include the following:
 - a) the on-site parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;

- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction and prohibition on burning of materials;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - i) hours of construction to be restricted so that no construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays;
 - j) drainage arrangements during the construction works;
 - k) on-site vehicle routing for construction vehicles including site access management strategy to manage access during construction works; and,
 - l) where piling is required this must be 'continuous flight auger' piling wherever practicable to minimise impacts.
- 11) Prior to commencement of development, a scheme of Ultra Low Energy Vehicle infrastructure for the site shall be submitted to and approved in writing by the Local Planning Authority. All Ultra Low Energy Vehicle infrastructure must subsequently be implemented prior to the occupation of the relevant dwelling. The scheme must thereafter be permanently retained.
- 12) Prior to commencement of development, a scheme for the discharge of surface water from the site (including surface water from the access/driveways), incorporating sustainable drainage measures, management of overland flow routes and a maintenance schedule for those drainage systems for the lifetime of the development and arrangements for the adoption by any public or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling on site, and shall be managed in accordance with the approved details thereafter.
- 13) Prior to commencement of development, a detailed assessment for the culverting of existing ordinary watercourses shall be submitted to and approved in writing by the Local Planning Authority. The assessment must demonstrate through hydraulic modelling that the culverting will not increase risk of flooding to the site/adjacent land and upstream catchments, and that the technical benefits of watercourse culverting outweigh any potential loss of amenity/biodiversity in the watercourse. The approved scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling on the site. The scheme must thereafter be permanently retained.

- 14) Prior to commencement of development, details of the works for the disposal of sewage including the point of connection to the existing public sewer shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details in relation to that dwelling have been fully implemented in accordance with the approved details.
- 15) The first reserved matters applications to be submitted shall be accompanied by an Ecological Parameters Plan showing the locations and specifications of all measures labelled as ecological enhancements in Section 4.2 of the Ecological Impact Assessment by EAD Ecology Ref 210205_P1088_EcIA_Final02, dated 5 February 2021, and proposals for on-site replacement hedgerow(s), together with a schedule of works to ensure the measures are retained and maintained in the approved form. Development shall not commence, including any works of site clearance and preparation, until the Plan has been approved in writing by the Local Planning Authority. All reserved matters applications shall accord with the approved details and the development shall be undertaken in strict accordance with those details. The approved measures shall be retained and maintained in the approved form.
- 16) The roads, including footpaths and turning spaces approved pursuant to condition 2, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

-----END OF CONDITIONS SCHEDULE-----