Wiltshire Council

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WILTSHIRE COUNCIL'S STATEMENT OF CASE

Appellants name:	Gladman Developments Limited
Appeal Site:	Land off The High Street, Sutton Benger, SN15 4SP
Planning application Ref:	PL/2023/06204
Appeal reference	APP/Y3940/W/24/3349828
Proposed Development:	Outline planning application for the erection of up to 60 dwellings, including affordable housing with public open space, structural planting and landscaping, land for the provision of allotments and sustainable drainage system (SuDS) with vehicular access point. All matters reserved except for means of access.

1 INTRODUCTION

Background and Structure of this Statement of Case

1.1 Further to the Planning Inspectorate letter dated 18th September 2024, please find set out below Wiltshire Council's ('the Council') Statement of Case ('SoC') together with associated appendices.

1.2 The Case Officer's delegated report (referred to hereafter as 'the Officer's Report') prepared at the time of the determination of this planning application is attached at **Appendix 1**. The Decision Notice is attached at **Appendix 2**. The Officer's Report should be regarded as

constituting the Council's statement in respect of this appeal, supplemented by the additional commentary in this SoC.

1.3 The additional commentary in this SoC sets out further justification regarding the Council's Reasons for Refusal where applicable, and further support and updates for the key considerations that led the Council to refuse permission in this case, as well as highlighting relevant changes in circumstance since determination of the application. The Council's response to some of the matters raised in the Appellant's Statement of Case is also included below where relevant.

1.4 After this Introduction section, this SoC is structured as follows:

Section 2: The Proposal
Section 3: Planning History
Section 4: Appeal Site
Section 5: Relevant Policies & Guidance
Section 6: Reasons for Refusal
Section 7: Other Planning Matters
Section 8: Conclusion
List of Appendices (inc. Draft Schedule of Conditions)

Statement of Common Ground

1.5 The Council will endeavour to continue to respond to the draft Statement of Common Ground ('SoCG') prior to the commencement of the hearing, within the context of technical consultee responses and allowing scope for appropriate third party comment on any additional information as may be deemed necessary and / or appropriate

2 THE PROPOSAL

2.1 This appeal proposal remains substantively similar as set out in the Officer's Report, seeking outline planning permission for up to 60 dwellings with associated access (being the only matter not reserved), public open space including area for play, and landscaping. Access is proposed to be taken mid-way along the southern boundary of the application site directly off the B4069, with a separate pedestrian access formed towards the south-western corner of the site.

2.2 Landscape planting is shown around the boundaries of the site with integrated 'recreational routes' linking into the existing public right of way at the northern extent of the site. Also included within the application site is land for the provision of allotments in the south-eastern corner of the site (shown within the adjunct land) and sustainable drainage system.

2.3 24no. of the dwellings (40%) are proposed to be affordable units and the built form is shown set back from the highway (the B4069), with a landscape strip and attenuation basin fronting the highway. The layout is formed around a 'central green' which will include the local play area.

2.4 Revised plans and documents were submitted during the course of determination of the application to address objections raised regarding matters of highways, ecology, archaeology and amenity in particular. These were subject to re-consultation with the appropriate statutory consultees, the responses to which are included within the 'Consultations' section of the Officer's Report; further consultee responses provided since determination, and with regard to the further information submitted by the Appellant, is referenced in this SoC where relevant.

Works proposed outside of the red (or blue) land

2.5 At the time of determination, the extent of the Applicant's ownership was unclear and there was a question as to whether the red-line on the submitted Site Location Plan extended to meet the public highway (as referenced in the 'Assessment' section of the Officer's Delegated Report).

2.6 Since determination, the extent of highways land appears to have been amended such that this does now extend to meet the red-edge area at the frontage of the site.

2.7 It is understood that the land shown within the visibility splays is within the control of either the owner or the Council (as highway land).

3 PLANNING HISTORY AND RELEVANT APPLICATIONS

Planning history of the site

3.1 There is no planning history relating to the site.

Spatial planning context and other relevant applications

3.2 In terms of other relevant or related planning history, The Officer's Report sets out in broad terms the scale of housing development which has taken place in this designated 'Large Village' over recent years. That summary is expanded upon as follows:

	App Ref. No.	Site	Dwellings	Status
1	N/09/02245	Sutton Lane	7	Implemented
2	N/11/02286/OUT	Faccenda Chicken Factory	63	Implemented
3	14/03544/FUL	Hazelwood Farm	21	Implemented
4	14/12070/FUL	The Park, High Street	13	Implemented
5	16/04961/OUT	Arms Farm	14	Implemented
6	16/11427/FUL	Sharplands, Sutton Lane	10 (aff.)	Implemented
7	19/11845/OUT	Gate Farm, High Street	4	(Part) implemented
8	20/03487/FUL	Sutton Lane	21	Under construction
9	20/03876/OUT	Land to the east of Church View	19 (24)	Extant
10	20/08773/FUL	3 Chestnut Grove	1	Extant
	TOTAL		**178**	

3.3 For contextual relevance, Census data for Sutton Benger (as below) demonstrates a growth in population between 2001 and 2021 from 986 to 1271, ie. some 285, representing a magnitude of growth of some 29%.

Year	Population(1)
2001	986
2011	1045
2021	1271

(1) Census, Parish

3.4 Also as set out in the Officer's Report, it is of contextual relevance that, due to this level of housing growth over recent years in this 'Large Village', there is a 'zero' residual requirement (at the base date of 01/04/2022) for Sutton Benger over the forthcoming plan period 2020 – 2038, as set out at Table 4.4 of the emerging Local Plan[1], extract below:

[1] Wiltshire Council Local Plan: Pre-Submission Draft 202-2038 (July 2023)

Table 4.4

	Housing growth (2020-2038)	Completions and commitments (2020-2022)*	Residual at 1st April 2022*
Local Service Centre			
Market Lavington	117	62	55
Large Village			
Ashton Keynes	42	29	13
Atworth ■	66	0	66
Box	26	23	3
Bromham	66	5	61
Christian Malford	37	37	0
Colerne	25	3	22
Crudwell	39	28	11
Derry Hill/Studley	33	3	30
Great Somerford	88	88	0
Hullavington	76	76	0
Kington St Michael ■	38	4	34
Oaksey	29	14	15
Potterne	78	24	54
Rowde ■	67	20	47
Rudloe	255	255	0
Seend ■	27	4	23
Shaw/Whitley	73	23	50
Sherston	87	57	30
Sutton Benger	77	77	0
Urchfont	65	31	34

3.5 This context of recent growth of the village is considered in more detail in Section 6 of this SoC.

4 APPEAL SITE

4.1 Sutton Benger is centred around the B4069 ('Main Road') which runs east-west centrally through the village. This site, which is formed by part of an agricultural field with open aspect, is located at the very eastern fringe of Sutton Benger to the immediate the north of the B4069 which thus forms the southern boundary to the site. To the west the site is bound by the residential cul-de-sac of High Street, which runs north from the B4069; to the north and west is open agricultural land to which visually this site forms a part.

4.2 The eastern boundary of the site is not well defined 'on-the-ground', in that it does not follow any existing established field boundary or hedgeline and includes an adjunct at the southern end. At this eastern extent of the site, a small spur of land some 3m wide is included within the site, which runs off north across separate agricultural fields to meet a tributary of the River Avon.

4.3 The application site is in the open countryside beyond the settlement boundary of Sutton Benger, which is defined as a 'Large Village' in the Core Strategy. The established use of the site is agricultural.

4.4 There is currently no access to the site directly off the B4069, with the site being served by an agricultural access some 150m further to the east along that highway. Public Right of Way SBEN18 (footpath) runs along the northern boundary of the site and crosses over the spur of the site which heads north, described above.

4.5 The Sutton Benger Conservation Area extends to include High Street and the site thus abuts this designated area along its western boundary. There are a number of listed buildings within the designated Conservation Area, the most relevant of which are the properties which front the northern side of the B4069 at this eastern edge of the village, namely: nos. 62/64, 66, 68/70 and 74 High Street, and to which this site forms part of the settings of these buildings.

5 RELEVANT POLICIES AND GUIDANCE

5.1 For the purpose of this appeal, the development plan for the area comprises the adopted Wiltshire Core Strategy 2015 (WCS) as well as the saved policies contained within the North Wiltshire Local Plan 2011. The Officer's Report (**Appendix 1**) contains the full list of policies that were considered in the determination of the application. Policies of particular relevance to the reasons for refusal and this SoC are as follows:

Local Policy

Wiltshire Core Strategy (WCS, adopted 2015)

Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 3: Infrastructure Delivery
Core Policy 10: Spatial Strategy for the Chippenham Community Area
Core Policy 41: Sustainable Construction and Low Carbon Energy
Core Policy 43: Providing Affordable Homes
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 50: Biodiversity and Geodiversity
Core Policy 51: Landscape
Core Policy 52: Green Infrastructure
Core Policy 55: Air Quality
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment
Core Policy 60: Sustainable Transport
Core Policy 61: Transport and New Development
Core Policy 62: Development Impacts on the Transport Network
Core Policy 64: Demand Management
Core Policy 67: Flood Risk

Wiltshire Housing Site Allocations Plan (WHSAP)(February 2020)

5.2 Settlement Boundary Review includes revisions to the settlement boundary for Sutton Benger. Site allocations in the North and West HMA at Table 5.2 [sites H.2.1 – H.2.11 at Trowbridge, Warminster, Chippenham (H2.10 30 dwellings at Yatton Keynell) and Westbury – a total of 1250 dwellings].

Chippenham Site Allocations Plan (CSAP)(May 2017)

5.3 This allocates land for housing growth at Chippenham and sought to identify land for a further 1660 homes to meet identified needs and the following policies allocate sites for mixed use development:

- Policy CH 1 – South West Chippenham Rowden Park – 1,000 dwellings Smaller extension – up to 400 dwellings
- Policy CH2 – Rawlings Green 650 dwellings

North Wiltshire Local Plan 2011 – Saved Policies (June 2006)

Policy H4: Residential Development in the Open Countryside
Policy NE14: Trees and the Control of New Development
Policy CP3: Provision of Open Space

National Policy & Guidance

- National Planning Policy Framework (NPPF, 2023)
- Planning Practice Guidance (PPG)

Other Considerations

- Wiltshire Design Guide (March 2024)
- Art and design in the public realm in Wiltshire (May 2024)
- Wiltshire Planning Obligations Supplementary Planning Document (SPD)(Adopted May 2015)
- Wiltshire Climate Strategy, adopted February 2022. This builds on the Council's February 2019 resolution to acknowledge a climate emergency and subsequent commitment to seek to make the county carbon neutral by 2030.

6 REASONS FOR REFUSAL

6.1 As set out in the decision notice dated 13th February 2024 (**Appendix 2**), planning permission was refused for 6no. reasons. These are considered in turn below – the first two being taken together as these both relate to the principle of the proposal in terms of whether it represents a sustainable form of development.

Commentary on Reason for Refusal nos.1 & 2

"1. The site is located outside of any defined settlement boundary within the open countryside and is not allocated for housing development and would not meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. The proposal fails to promote a sustainable pattern of development and amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Wiltshire Core Strategy Core Policies 1, 2, and 10 (WCS) and Saved Local Plan Policy H4 (saved Policy, NWLP) and paragraphs 2, 8, 11, 12 & 47 of the NPPF."

"2. The scale of the proposal exceeds the small scale residential development requirement at the Large Village level as specified under paragraph 4.15 of the Wiltshire Core Strategy, resulting in an imbalance within the community between the provision of homes and the available services, facilities and means of employment. This is considered to result in the need for a significant amount of excess travel via the use of private motor vehicles which is not a sustainable form of development contrary to WCS Core Policies 1, 2, 10, 60 and 61, and paragraphs 8, 108, 109, 114 and 116 of the NPPF."

6.2 Since the determination of the application, a recent appeal decision (reference: APP/Y3940/W/24/3340811 Land off Storridge Road, Westbury, BA13 4HJ, **Appendix 3**) concludes that the Council cannot demonstrate an NPPF compliant supply of housing land. For the purposes of this appeal, it is therefore accepted that the Council cannot currently demonstrably meet its housing land delivery requirement. As such, the tilted balance set out at paragraph 11(d)(ii) of the NPPF is engaged, whereby development proposals should be approved without delay unless: *"… any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

6.3 The engagement of paragraph 11(d)(ii) does not mean that the adopted policies carry no weight, and the weight which can / should be attributed to these policies is a matter for the decision maker, based in part on the extent to which they conflict with those set out in the

NPPF.

6.4 Clearly, a plan-led solution to the issue of housing delivery is being advanced and progressed through the emerging Local Plan, although only very limited weight can be given to that at this stage. However, in that recent above referenced appeal decision at Storridge Road, Westbury, the Inspector clearly gave the spatial strategy weight, stating:

> *"I acknowledge that this is part of the emerging evidence base and that the eLP has limited weight. However, it still provides an indication of the possible spatial strategy moving forward. Therefore, whilst I reduce the weight to be applied to the conflict with the spatial strategy, this is only to a limited degree"* (paragraph 24).

6.5 In that instance and for these reasons, the Inspector placed 'significant weight' (paragraph 25) on the conflict with the spatial strategy, including the conflict with Core Policies CP1, CP2 (and CP32) of the Core Strategy and the WHSAP.

6.6 It is also noteworthy that in that recent Appeal Decision, the Inspector cast doubt on the degree to which the proposed houses would contribute towards addressing the shortage of 5-year housing land supply, stating that: *"I would not expect the homes to be delivered within five years, because even if allowed this appeal is in outline and the site is being promoted by a strategic land company not a developer"* (paragraph 113). This is relevant inasmuch as the Appellants for that appeal were the same (strategic land company) as for this current appeal.

6.7 Relating to matters of sustainability, there are two issues which are considered pertinent to this particular appeal proposal, as follows:

1. Cumulative impact and settlement hierarchy

6.8 The scale of growth of Sutton Benger over recent years is set out in the SoC above (Section 3), and that scale is clearly recognized in the emerging Local Plan which, based on this recent scale, sets a residual housing allocation requirement 0 (zero) over the next plan period.

6.9 Cumulative impact was acknowledged as a relevant issue by the Inspector in the appeal decision relating to 'Land to the East of Church View' (3292118, **Appendix 4**). Paragraph 42 of that Appeal Decision notes that in arriving at their view regarding the suitability of location, the Inspector: *"…had regard to the cumulative effects of previous housing developments allowed in the village as well as the effects of the Sutton Lane proposal."*

6.10 The Appellant's case for this appeal site rests on a balancing of benefits against harm, as per the NPPF. However, if any weight is attributed to Core Policies 1, 2 and 10 at all, then it is maintained that the delivery of a further 60 dwellings at this 'Large Village' would undermine the role of Sutton Benger in the settlement hierarchy – it is simply too large a scheme, following on from the recent scale of expansion, to be considered appropriate for a settlement designated as a 'Large Village.' The Core Strategy advises that the scale of development envisaged at 'Large Villages' will: *"… predominantly take the form of small housing and employment sites within the settlement boundaries,"* and goes on to explain that: *"Small housing sites are defined as sites involving fewer than 10 dwellings"* (paragraph 4.15).

6.11 On the assumptions that: (i) this site would be built out within this Census period; (ii) based on a population / dwelling ratio of 2.4; and (iii) notwithstanding birth and death data, this would result in a further population increase of some 144, taking the total in 2031 to some of some (1,415). Section 3 noted the 29% increase between 2001 and 2021, if allowed, this appeal scheme would result in a further increase between 2021 and 2031 of some 11%, or a 44% increase in total from the 2001 base. This is far in excess of the scale of growth envisaged in the Core Strategy for a designated 'Large Village'.

6.12 One of the implications arising from this is the extent of out-commuting necessary from this location to access employment, as well as basic services and facilities – for example, there is no convenience store or post-office in the village and there is anecdotal evidence regarding the ability and capacity of the doctors surgery to accommodate such growth. This issue is also recognized in the response from the Highway Officer and is the reason given in their response for conflict arising with Core Policies 60 and 61. Moreover, this was clearly an important consideration for the Inspector in their consideration of a scheme for 'just' 24 dwellings at Land to the East of Church View (as above).

6.13 It is maintained that this cumulative harm, and the extent to which the overall settlement hierarchy is compromised, should carry weight in the decision making process.

2. Form and character of the edge-of-settlement site

6.14 Visually, the site appears to be a somewhat contrived site, introducing a new boundary in what is part of a larger agricultural field, and with a clearly visually artificial adjunct in the south-eastern corner, for use as allotments.

6.15 These issues are given greater consideration in terms of landscape impact separately in this

SoC below. However, in planning terms, because the site boundaries have been artificially created, the site is not considered to represent a 'logical' extension to the village. Indeed, were Sutton Benger to be considered to accommodate more growth over the next plan period, more appropriate and logical sites would very likely be identified. The bisection of the field is arbitrary and appears to have been drawn based on the number of dwellings which are sought to be delivered rather than the existing field pattern and boundary features.

6.16 The illogical nature of the site in terms of its relationship with the existing built form is compounded by the constraints offered in terms of the necessary visibility splays and also the fly and odour nuisance protection zone (as considered below). This results in a set-back frontage which contrasts starkly with the existing built form of the village which fronts the road, and adds weight to the evidence that the site does not represent a 'logical' edge of settlement site.

6.17 For these reasons, the conflict arising with Core Polices 1, 2, 10 – as well as Core Policy 57 in these regards – continues to carry weight. Whilst that weight is diluted in terms of conflict with the NPPF due to the current housing land supply position, the illogical nature of the site in spatial and visual terms justifies continued objection in terms of the spatial strategy for growth set out in the adopted and emerging plans.

Commentary on Reason for Refusal no.3

"3. The development will extend the village well beyond its existing extent and will result in an incremental physical and perceived reduction of the existing rural gap and open countryside separating the village of Sutton Benger from Christian Malford. The result is unacceptable harm to the local character of the area and important public views and visual amenity, giving rise to conflict with Core Policy 51 (criterion i, ii, iii, v, vi, vii 3) and Core Policy 57 (criterion i, vi), as well as paragraphs 135c and 180b of the NPPF."

6.18 Reason for Refusal 3 (RfR3) relates to the Council's case that unacceptable harm would arise from this proposed development upon the local character of the area, and on public views and visual amenity. The following harmful landscape and visual effects are identified to arise for this development proposed at this location:

Landscape effects (landscape resource: landscape features, characteristics and function)

Agricultural land

6.19 **Identified Value:** The site comprises circa 3.65 Hectares of existing greenfield agricultural

'Grade 2' farmland which is identified as 'Best and most versatile' within the agricultural land classification system.

6.20 **Resulting Harm:** The location of development will result in the permanent physical loss of circa 3.65 hectares of best and most versatile farmland, replaced by a new area of urban housing and associated infrastructure and landscaping. The appeal site occupies part of a larger field unit, resulting in the proposed creation of a new enclosing field boundary hedge along the eastern edge of the development site. An indicatively proposed community allotment area juts forward of this proposed new field boundary enclosure which is considered to be uncharacteristic of the agricultural field pattern.

6.21 **Policy conflict:** The resulting effects arising from the proposed location and scale of the proposed development upon the existing agricultural land and field unit is considered to result in conflict with the following identified aspects of landscape character listed under Core Policy 51 i) *'The locally distinctive pattern and species composition of natural features such as trees, hedgerows, woodland, field boundaries, watercourses and waterbodies.'*

Landscape Setting to the northeast quadrant of the Village and Conservation Area

6.22 **Identified function / value:** The adjoining countryside to the east of Sutton Benger village and its Conservation Area falls within landscape character area '12B: Avon Open Clay Vale' as identified within the Wiltshire Landscape Character Assessment, and within landscape character area '11: Avon Valley Lowland' as identified within the North Wiltshire Landscape Character Assessment.

6.23 Countryside adjoining the eastern side of the village comprises an open swathe of flat agricultural land that extends north and east from the existing village edges towards tributary watercourses of the River Avon. The landscape character of this local area includes key characteristics that are consistent with the description of Landscape Character included within the available hierarchy of published landscape character assessments such as, low lying river landscape with wide open skies and views to distant ridges and downs; pastoral land use on heavier clay soils with arable on the lighter sandy soils; large scale geometric fields with hedgerows or drainage channels defining boundaries; presence of rivers, tributaries, drainage channels; small settlements with vernacular core constructed of a mix of limestone and local brick; riparian willows lining rivers and watercourses, influence of overhead transmission lines; area crossed by major transport corridors but settlement linked by network of rural roads.

6.24 The rural characteristics of this local area are important to conserve and enhance in order to protect a characteristic landscape setting to the northeast quadrant of Sutton Benger village and fronting the eastern edge of the Sutton Benger Conservation Area.

6.25 **Resulting harm:** The development will permanently remove the adjoining farmland context to the east of the village and Conservation Area. The development will introduce a large new urban development and associated artificial lighting into part of an existing arable field unit which lacks existing landscape structure along its eastern and southern boundaries to help integrate and associate new development with. The presence of long open boundaries will result in the creation of prominent harsh new urban development edges fronting open countryside. The development of this site would create a harsh new urban outcrop from the existing eastern edge of the Conservation Area and introduce new urban development edges fronting open countryside along 3 of its 4 perimeter boundaries which will drastically change the setting to the village and conservation area and the eastern approach and views from footpath SBEN18 and public highway B4069. Development will also introduce new artificial light sources emanating from new dwellings and from street lighting adjoining an existing unlit area of the village. The new development will be highly prominent in this existing rural village setting viewed from the east from footpath SBEN18 and public highway B4069 and from rising countryside located northwest of the site from footpath SBEN12.

6.26 **Policy conflict:** WCS, Core Policy 51 Landscape, seeks to protect, conserve and where possible enhance landscape character. The resulting effects arising from the proposed location and scale of the development upon the landscape setting to the northeastern village quadrant is considered to result in unacceptable localised landscape and visual harm, that conflicts with the following identified aspects of landscape character listed under Core Policy 51, (ii) *'the locally distinctive character of settlements and their landscape settings', (iii) 'The transition between manmade and natural landscapes at the urban fringe', (v) Landscape features of cultural, historic and heritage value.' (vi) 'important views and visual amenity'* and vii) 'in part', relating to *'the need to protect against intrusion from light pollution.'*

Settlement Edge Character

6.27 **Identified function / value:** The current northeastern quadrant of Sutton Benger village has a mature established and well-integrated settlement edge character that provides a transition between existing village settlement and adjoining rural countryside. The northeastern edge of settlement includes a varied mix of rural housing with common unifying limestone vernacular, including use in boundary walls. Houses are set in generous plots often with mature

landscaping and trees located within gardens, which are visible through gaps between buildings and rooflines. Existing trees, hedges and woodland are present on rising land located to the north of the site south of Upper Seagry, and tall riparian trees growing along the tributary watercourses all contribute to the treed/wooded skyline and backdrops to settlement in views.

6.28 **Resulting harm:** The insertion of a new housing development at this location will effectively screen and/or heavily dominate views of the existing well integrated traditional settlement edge character including the Conservation Area and some listed buildings. The existing associations of the existing settlement edge and conservation area directly fronting onto farmland and open countryside will be permanently lost. The existing eastern settlement edge and conservation area will no longer be viewed across agricultural land. It will instead be screened and heavily influenced by the new suburban housing estate introduced into the foreground of eastern approach views to the village along the B4069 road, and footpath SBEN18. The development will also introduce urbanising artificial light from the new homes and from street lighting, including for the new road access with the B4069.

6.29 **Policy conflict:** WCS, Core Policy 51 Landscape, seeks to protect, conserve and where possible enhance landscape character. The resulting effects arising from the proposed location and scale of the proposed development upon the existing northeastern village settlement edge character will result in unacceptable localised landscape and visual harm, which conflict with the following aspects of landscape character listed under Core Policy 51, (i) 'the locally distinctive character of settlements and their landscape settings', (iii) 'The transition between man made and natural landscapes at the urban fringe', (v) Landscape features of cultural, historic and heritage value.' (vi) 'important views and visual amenity', and in part vii) in so far as 'the need to protect against intrusion from light pollution,'

Rural countryside gap separating village settlement

6.30 **Identified function / value:** The countryside to the east of Sutton Benger currently comprises a consistent swathe of existing agricultural land that functions to separate the large neighbouring villages of Sutton Benger and Christian Malford.

6.31 **Resulting harm:** The development would be viewed and perceived as large prominent uncharacteristic new urban outcrop extending from the eastern edge of Sutton Benger Conservation Area that will harmfully intrude into this existing open area of separating rural countryside. The development will also introduce new artificial light sources from proposed new housing and street lighting into this existing unlit dark rural landscape which currently

functions to provide a consistent rural gap separating the settlements of Sutton Benger and Christian Malford, and which provides the rural context and landscape setting to existing villages.

6.32 The existing separating distance between the existing defined village limits of Sutton Benger and Christian Malford is approximately 842m at the narrowest point of separation between the eastern edge of the Sutton Benger Conservation Area and the western edge of the nearest property within Christian Malford 'Bybridge' located off Avonweir Lane. This is measured on a straight line broadly parallel to, and north of the B4069. With the proposed development in place the northeastern edge of Sutton Benger would extend into open countryside by approximately 230m further east, reducing the existing rural separation between these two large villages to circa 608m at the new narrowest point. The urban development of the appeal site will remove the existing visual association with countryside along the northern side of the B4069 spanning between the eastern edge of Sutton Benger and the traveler site located on the southern side of the B4069. The development will also screen and obscure the distant rising topography and the wooded skyline forming the backdrop of existing views currently experienced from the B4069.

6.33 **Policy conflict:** WCS, Core Policy 51 Landscape, seeks to protect, conserve and where possible enhance landscape character. The resulting effects arising from the proposed location and scale of the proposed development upon the existing rural countryside gap functioning to separate individual village settlements will result in unacceptable localised landscape and visual harm, which conflicts with the following aspects of landscape character listed under Core Policy 51, (ii) 'the locally distinctive character of settlements and their landscape settings', (iii) The separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe,' (vi) 'important views and visual amenity', and in part (vii) in so far as 'the need to protect against intrusion from light pollution,'

Visual effects (views and public visual amenity)

6.34 The greatest visual change effects for the public will be experienced by users of the B4069 public highway (High Street / Main Road) which runs along the southern boundary of the site, and by users of public footpath SBEN18 which passes through the site along its northern edge. The development will result in a high degree of local change to existing views experienced by users of the B4069 (public highway) and users of footpath SBEN18 looking and travelling towards and away from the eastern side of the village.

Users of public highway B4069 (High Street/Main Road)

6.35 **Existing views:** Visual receptors looking and travelling west towards the eastern edge of the Conservation Area and approaching the village along public highway B4069 (High Street/Main Road), currently experience intermittent transient views across agricultural fields, through gaps in roadside hedgerows, field access openings, and some more open views where roadside hedgerows are absent approaching closer to Sutton Benger. The existing view is of a well-integrated settlement edge comprising a foreground hedge with trees, with housing demonstrating a strong stone vernacular, set amongst and against a well treed backdrop with a distant wooded skyline with occasional glimpses of the upper part of All Saints' church viewed above settlement from the east.

6.36 Looking north and east from the existing village limits in the western direction of travel, an open view across agricultural fields exists where roadside hedgerows are absent. Mature riparian willow trees growing along the meandering route of the tributary watercourse, in combination with tree cover on rising land further north providing the backdrop to views and form the skyline. Further east along the B4069, similar views are experienced through smaller gaps in roadside hedgerows and field access openings.

6.37 **Resulting visual change:** Road users will experience a change in views approaching Sutton Benger along this eastern road approach and entrance to the village. Existing views of the eastern settlement edge and Conservation Area viewed over agricultural fields will be permanently lost and changed to views of new intervening urban development in the foreground of views.

6.38 Where the illustrative development parameters and masterplan indicate that open views could be provided to the listed buildings at the end of the high street, and to the eastern edge of the Conservation Area by the inclusion of the narrow separating strip of informal open space along the sites western edge, and by the wider triangle area of open space fronting the B4069 in the southwest corner of the site. Views of the eastern edge of the Conservation Area will be completely screened by the new development from all existing vantage points along this road to the west of the site itself. Where these are stated and illustrated to be maintained, they will only provide a partial view, even then, these partial views will still be heavily dominated by the new foreground and peripheral urbanising development. Views and appreciation of the Conservation Area will be further diminished following the introduction of street lighting along new roads and adopted paths within the development itself.

6.39 Users of the B4069 will experience a visual reduction of separating countryside travelling along the road between settlements following the implementation of the development. The development will impose an urban character along this existing section of the B4069 between the proposed site access point and the Conservation Area, by the introduction of a new connecting footway extension from the village, and by the creation of the new access road with associated junction lighting and uncharacteristic set back to accommodate visibility splays.

6.40 WCS, Core Policy 51 Landscape, seeks to protect, conserve and where possible enhance various aspects of landscape character including important views and visual amenity. The development will result in harmful visual changes to existing views from the eastern approach into and from the village at its eastern edge viewed from the B4069 (High Street / Main Road), which conflicts with Core Policy 51 (vi) important views and visual amenity.

Users of public footpath SBEN18

6.41 **Existing views:** Visual receptors looking and travelling west towards Sutton Benger along public footpath SBEN18 currently experience open views of countryside which includes views of open agricultural fields enclosed by low hedges with few hedgerow trees, riparian trees lining meandering tributary water courses, rising rolling landform to the north and west of Sutton Benger village which provides a treed skyline in the backdrop of views, and views of the north eastern edge of Sutton Benger and its Conservation Area. Views of the settlement edge which includes a foreground hedge with trees, low density housing behind with a strong unifying stone vernacular, set amongst and against a well treed backdrop with glimpses of All Saints' Church tower. Detractors within the view along this footpath include a large pylon, smaller overhead transmission lines, and glimpses of moving traffic on the B4069.

6.42 **Resulting visual change:** The corresponding section of footpath SBEN18 which passes through the development site will be physically subsumed into the new urban area, permanently altering the user's visual context and perceptual experience of countryside approaching from the east and passing through the new development to continue along the edge of the Conservation Area heading further west. Users of this footpath will no longer see the eastern edge of the Conservation Area in views as these will be screened by new foreground urban development. Likewise views from further east, closer to Christian Malford from this footpath will view a harsh new urban eastern edge abruptly fronting agricultural fields in views. The new development will also screen and obscure views of the Conservation Area with new foreground development.

6.43 WCS, Core Policy 51 Landscape, seeks to protect, conserve and where possible enhance various aspects of landscape character including important views and visual amenity. The development will result in harmful visual changes to existing views from public footpath SBEN18 which conflicts with Core Policy 51 (vi) important views and visual amenity.

Conclusion

6.44 An objection to the development is maintained on landscape and visual grounds. The proposed development will result in unacceptable harm to the local character of the area and to important local public views and visual amenity, contrary to the following identified planning policies; Wiltshire Core Strategy (2015) - Core Policy 51 (criterion i, ii, iii, v, vi, and in part vii in so far as 'the need to protect against intrusion from light pollution,') and Core Policy 57 (criterion i, vi) and paragraphs 135c and 180b of the NPPF (2023).

Commentary on Reason for Refusal no.4

"4.The application does not demonstrate with clarity what the necessary and proposed ecological enhancement and mitigation measures are. In particular, there remain differences and inconsistencies between the submitted documents such as the required Ecological Parameters Plan, the Biodiversity Net Gain metric and the Development Framework Plan. As such, the appropriate evidence and clarity required to demonstrate that there will be no net loss of biodiversity and that net gain in biodiversity will be delivered has not been provided in support of the planning application. Therefore, it has not been demonstrated that the proposal would accord with Core Policy 50 of the Wiltshire Core Strategy (adopted January 2015) or paragraphs 180 and 186 of the NPPF."

6.45 Following the submission of the Appellant's Statement of Case, the Ecology Officer has been reconsulted and provided the following response, dated 08/10/2024:

"This response follows on from Wiltshire Council's ecology response on application PL/2023/06204 and has been prepared in light of appeal APP/Y3940/W/24/3349828.

I can confirm that the Council's ecology team withdraw our objection.

The mitigation strategy proposed to filter site run-off and protect the River Avon County Wildlife Site was found to be acceptable. Given the Environment Agency and Wiltshire Council's drainage team have no objection to the application (subject to conditions) it would be appropriate for detailed design of the proposed filtration system to be secured by condition.

Since the ecology team commented on this application Biodiversity Net Gain has become mandatory and the process for implementing Biodiversity Net Gain has been confirmed. Therefore, as this application was submitted prior to Biodiversity Net Gain (BNG) becoming mandatory on 12th February 2024, BNG per se is not obligatory. The

application must however be assessed against current planning policy which includes the NPPF and Wiltshire Core Strategy. Core Policy 50 of the Wiltshire Core Strategy requires all development to demonstrate no net loss of local biodiversity resource and to secure the integrity of local ecological networks. Core Policy 50 also requires development to seek opportunities to enhance biodiversity, whilst the NPPF encourages applications to deliver measurable net gains (para 186 d).

The submitted Development Framework Plan (no: CSA/3324/10 Rev G) and Ecological Parameters Plan (no: CSA/3324/129) show the retention of the northern and western boundary hedgerows. Buffers have been included on all retained hedgerows which appear sufficiently large enough to allow access for management. These documents demonstrate that the proposals can secure the integrity of local ecological networks by retaining existing wildlife corridors. Habitat creation and enhancements are proposed. Details of new features for biodiversity, such as bird and bat boxes, hibernacula and hedgehog gaps can be secured via condition.

The appeal documents include an updated Biodiversity Metric which demonstrates that the proposals can accommodate a net gain in habitat, hedgerow and watercourse units. The gain in watercourse units is achieved through the enhancement of a section of river outside of the red line application boundary (but within the blue line boundary). Habitat enhancement/creation outside of the site boundary should be secured using a suitable planning obligation. Paragraph 5.34 of the Ecological Impact Assessment sets out the measures proposed to enhance this area along the river however detailed design has not been provided. This can be secured via condition.

Recommended conditions:

1. The development will be carried out in broad accordance with the following documents:

• Development Framework Plan (no: CSA/3324/10 Rev G)

• Ecological Parameters Plan (no: CSA/3324/129)

• Ecological Impact Assessment. October 2023.

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

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

a. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.

b. Working method statements for protected/priority species, such as nesting birds and otter.

c. Sensitive lighting strategy to ensure retained hedgerows and the river corridor are maintained as dark corridors throughout construction.

d. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

e. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

f. Pollution prevention measures including the location of site and storage compounds, the use of plant and machinery, measures to control of dust and noise, the location and use of wheel washing and vehicle washdown plant/machinery, and the location and use of oils/chemicals;

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

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

3. Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include:

a) Long term objectives and targets for retained, created and enhanced habitats, including the off-site river habitat enhancement area.

b) Management responsibilities and maintenance schedules for each ecological feature within the development and in the off-site river habitat enhancement area.

c) The mechanism for monitoring success of the management prescriptions.

d) A procedure for review and necessary adaptive management in order to attain targets.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

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

4. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals (ILP) Guidance Notes on the Avoidance of Obtrusive Light (GN 01/2021) and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

REASON: To avoid illumination of habitat used by bats.

5. Prior to the commencement of any works, including vegetation removal and demolition, details of the number, design and locations of features for biodiversity (in

accordance with Paragraph 4.45 of the Ecological Impact Assessment (October 2023)) shall be submitted to the local authority for approval. These details should be clearly shown on a relevant enforceable plan (e.g., site plan/technical elevations drawing/boundary treatment plan).

The approved details shall be implemented before occupation of the final works. These features will continue to be available for the target species for the lifetime of the development.

REASON: To provide enhancement for biodiversity.

6.46 Based on this recent response, the Council confirms that this Reason for Refusal has been addressed, on the understanding that the suggested Conditions (incorporated into the draft Schedule of Conditions, **Appendix 5**) are agreed.

Commentary on Reason for Refusal no.5

"5. The proposed layout, as expressed in the submitted Development Framework Plan and associated Design and Access Statement, would not allow for appropriate access to existing statutory body infrastructure. As such, it is not clear that the site can accommodate the level of development proposed, whilst including the appropriate and necessary landscape and ecological mitigation. As such, the proposal does not meet the requirement of Core Policy 57, in particular criteria: iii, vi, vii, xiii, and Section 12 of the NPPF, in particular paragraphs 131 and 135."

6.47 The responses from Wessex Water raised two particular points of concern / objection; these are taken in turn below.

1. Fly Nuisance: Implications on Layout, Design & Appearance

6.48 It is noted that the SoCG references only 2no. drawings for which approval is sought, these being the Site Location Plan (CSA/3324/126/A) and the Proposed Junction drawing (P22132/0303/P03). As such, the status of the submitted Development Framework Plan is somewhat unclear, although this has been listed (along with the Ecological Parameters Plan) as an approved drawing in the draft Schedule of Conditions on the basis that this is the layout which has been considered, consulted and commented on.

6.49 However, the layout as shown at outline stage does give rise to some potential concerns and complications on the design, layout and appearance of the development which will need consideration at Reserved Matters stage.

6.50 In particular, the original Wessex Water consultation response confirms that there should be

no development within a minimum of 150m of the sewage treatment works site boundary. Whilst it is accepted that Wessex Water withdrew this as a specific point of objection, it remains relevant in terms of residual design implications.

6.51 It is noteworthy that Wessex Water have clarified that the submitted FNRA is based on the assumptions relating to:

- normal conditions of the Water Recycling Centre
- an average sensitivity receptor
- non-extreme weather
- normal natural background levels of flies being present

6.52 Because of this, although Wessex Water withdrew their objection, they do clarify and confirm in so doing that: *"… there remain design implications arising from the area likely to not be free from flies at all times."* Furthermore, they do express concern that: *"… standing water which could occur in any SuDS basin may encourage fly populations such as Chironomids."*

6.53 As such, their 'strong' recommendation is that: *"… the receptors do not have windows, doors, outdoor lighting that faces the boundary of the WRC site."* They also state that: *"Any changes to the proposed layout should be re-assessed."*

6.54 The Council remain concerned regarding the layout in terms of the proposed siting of the attenuation basin, and the impact this might have on exacerbating this potential amenity issue, as well as the functional usability of the proposed allotments.

6.55 In addition, Wessex Water have confirmed the need for a 6m stand-off from the existing foul sewer which runs through the site (as included within the draft Conditions). Concern remains regarding the delivery of an appropriate landscaping scheme at reserved matters stage, and one which meets the objectives of the NPPF of ensuring that new streets are tree-lined (paragraph 136).

6.56 For these reasons, and the likely substantive impact that this constraint would have on the layout, design and appearance of the proposed dwellings – and in particular at an important frontage of the site, leads to significant concern as to whether a development of appropriate appearance and character in line with the Development Framework Plan – and which complies with the above constraints – can be delivered.

2. Statutory body infrastructure

6.57 Prior to determination, clarification was sought from Wessex Water that their second point of objection had not been resolved, to which their response (dated 25/09/2024) confirmed that their objection was maintained. On that basis, this Reason for Refusal no.5 was included within the Decision Notice.

6.58 Following the submission of the Appellant's Statement of Case, this was forwarded to Wessex Water for their review and further comment. By email dated 25/09/204 Wessex Water provided the following response:

> *"I have reviewed the Applicants SoC, and in particular, section 5 which refers to our objection on grounds of conflict with existing Wessex Water assets. I note the applicant is proposing to divert the existing 200m diameter rising main. A sewer diversion application can be considered, any diversion must be undertaken at the developers cost, the developer must prove satisfactory hydraulic conditions and that there will be no loss in capacity within the diverted sewer, all new sewers must be constructed to the standards set down in the Design and Construction Guidance (DCG) (formally Sewers for Adoption Guidance).*
>
> *Public sewer diversions must be undertaken wholly within land under the applicant's ownership or with consent of the third-party landowner.*
>
> *I further note the site layout as shown on Wessex Water Infrastructure drawing, ref 2016-021 111 Rev -, included at Appendix 10 of the Applicants SOC, that they are proposing to remove the abandoned 150mm diameter foul sewer running along the western boundary and the 315mm diameter foul sewer that diagonally bisects site sits within a proposed access road.*
>
> *In principle this is sufficient for us to remove our objection. However, it is important to flag that an application for a diversion does not guarantee an approval to divert, furthermore the proposed route must be agreed with Wessex Water and may be subject to change from that which the developer proposes which may entail a further reconsideration of the layout. There will also remain in place a requirement for the 5m standoff either side of the outer edge of the rising main within any diverted route.*
>
> *Bearing the above in mind, at this stage I am satisfied that our objection can be deemed as overcome. I would, however, be grateful for your advice, as to whether, should the inspectorate see fit to approve the development, a pre-commencement condition can be requested to ensure the removal of the abandoned main and the diversion of the rising main has been agreed in writing prior to any construction work commencing on site."*

6.59 Based on this recent response, whilst the second element of this Reason for Refusal appears to have been addressed – on the understanding that the suggested Conditions (incorporated into the draft Schedule of Conditions, **Appendix 5**) are agreed; concerns remain regarding the

proposed impact that this infrastructure has on the design and layout.

Commentary on Reason for Refusal no.6

"6. The application fails to provide and/or secure any mechanism to ensure that the provision of essential infrastructure, services and amenities made necessary by the development being highway improvement works, recreation and leisure, affordable housing, education, open space and waste collection can all be delivered. This is contrary to WCS Core Policies 3, 43, 45, 52 and Policy CF3 of the North Wiltshire Local Plan 2011."

6.60 This Reason for Refusal is being dealt with through the related Section 106 legal agreement process.

7 OTHER PLANNING MATTERS

7.1 The following planning matter did not feature as reasons for refusal but is a matter of considerable interest to third parties (as per the representations made) and which weighs in the balance of any planning decision.

Heritage

7.2 The Case Officer's report acknowledges and references the submission of the Archaeology and Built Heritage Assessment submitted in support of the application. That document concluded that the impact on the identified designated heritage assets would be 'less than substantial' in terms of the NPPF (paragraph 208).

7.3 References in that document regarding comparison with the Inspector's conclusions for the site at 'Land to the East of Church View' (3292118, **Appendix 3**) are considered somewhat spurious given the different spatial characteristics of the site, and the very different relationships these sites have with designated heritage assets, in particular that site does not abut the designated Conservation Area to anywhere near the extent to which this appeal site does, and there were no listed buildings on the immediate boundary of the site.

7.4 Paragraph 205 of the NPPF confirms that great weight should be given the conservation of designated heritage assets, *"… irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm* [as in this case] *to its significance."*

7.5 In line with the requirements of paragraph 208 of the NPPF, the harm arising, *" … should be weighed against the public benefits of the proposal…"*

7.6 The Council is not offering any further evidence on this point, other than to agree (as per the SoCG) that the proposal will lead to less than substantial harm to the impacted designated heritage assets.

8 CONCLUSION

8.1 It is accepted the Council cannot currently demonstrably meet its housing land delivery target. As such, the tilted balance set out at paragraph 11(d)(ii) of the NPPF is engaged, whereby development proposals should be approved without delay unless: *"… any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

8.2 The engagement of paragraph 11(d)(ii) does not mean that the adopted policies carry no weight, and the weight which can / should be attributed to these policies is a matter for the decision maker, based in part on the extent to which they conflict with those set out in the NPPF.

8.3 This SoC has set out the case that the scale of this appeal proposal, set in the context of the scale of growth of Sutton Benger over recent years, conflicts with the overall spatial strategy and settlement hierarchy in terms of the scale of growth which is envisaged at this designated 'Large Village'. As evidenced by other recent appeal decisions, this 'cumulative' impact and harm should be given weight in the overall planning balance and consideration of harm arising.

8.4 One of the implications arising from this unanticipated scale of growth is the extent of out-commuting necessary from this location to access employment, as well as basic services and facilities – for example, there is no convenience store or post-office in the village. This issue is recognized in the response from the Highway Officer and is the reason given in their response for conflict arising with Core Policies 60 and 61. A real world assessment leads to an obvious conclusion that the majority of residents will be travelling out of the village for the majority of their trips when meeting their work, leisure and retail needs.

8.5 In visual terms, the visually contrived nature of the site – through the creation of an artificial boundary, with an odd adjunct in the south-eastern corner – demonstrates that the site is not a logical 'edge-of-settlement' site. The boundary drawn is completely arbitrary and appears to be based on the number of dwellings which are sought to be delivered rather than the existing field pattern and boundary features.

8.6 The illogical nature of the site in terms of its relationship with the existing built form is compounded by the constraints offered in terms of the necessary visibility splays and also the fly and odour nuisance protection zone, which necessitate a set-back frontage which contrasts

starkly with the existing built form which fronts the road, and adds weight to the evidence that the site does not represent a 'logical' edge of settlement site.

8.7 For these reasons, the conflict arising with Core Polices 1, 2, 10 – as well as Core Policy 57 in these regards – continues to carry weight. Whilst that weight is clearly diluted in terms of conflict with the NPPF, the illogical nature of the site in spatial and visual terms justifies continued objection.

8.8 Based on the further information regarding matters of ecology, the Council confirms that this Reason for Refusal has been addressed, on the understanding that the suggested Conditions (incorporated into the draft Schedule of Conditions, **Appendix 5**) are agreed.

8.9 The objection on landscape and visual impact grounds raised at application stage remains and has been further expanded upon and justified in this SoC. The proposed development will result in unacceptable harm to the local character of the area and to important local public views and visual amenity, contrary to Core Policy 51 (WCS) (criterion i, ii, iii, v, vi, and in part vii) in so far as 'the need to protect against intrusion from light pollution,') and Core Policy 57 (criterion i, vi) and paragraphs 135c and 180b of the NPPF (December 2023).

8.10 Wessex Water originally objection on two main grounds, the first relating to fly nuisance and the second relating to statutory infrastructure. Although the first point of objection was withdrawn by Wessex Water prior to determination of the application, there remain significant implications on matters of layout and design arising from their remaining concerns. In particular, the siting of the attenuation pond and the potential for exacerbating fly nuisance, as well as relatively fundamental considerations of the layout and design of dwellings.

8.11 The proposed site layout shown on the illustrative Development Framework Plan drawing is that which has been considered and consulted on, and there is concern that these relatively fundamental concerns could have significant impacts on this proposed layout, ultimately leading to conflict with Core Policy 57 and the NPPF (in particular paragraph 136). This concern is partly evidenced by the apparent lack of commitment to approval of the Development Framework Plan drawing.

8.12 The Council agrees with the Appellant's assessment that the proposal will lead to 'less than substantial harm' to the designated heritage assets of the Conservation Area and the listed buildings which abut the appeal site.

8.13 The benefits arising from the appeal proposal include the delivery of both market and affordable housing, economic benefits associated with construction phase and increased local spend once operational. Other benefits set out in the Appellant's SoC relating to: accessibility, public open space, biodiversity and S106 contributions relate largely to mitigating the impact of the proposed development and the scale of net benefit is thus relatively limited.

8.14 The identified harm and impact relates to the conflict with the spatial strategy set out in the Core Strategy, the landscape and visual harm and related harm to the character and setting of Sutton Benger, and the acknowledged harm to the designated heritage assets of the Sutton Benger Conservation Area and setting of the listed buildings.

8.15 Taken together, these identified impacts and harm caused are considered to 'significantly and demonstrably' outweigh the benefits arising, as per paragraph 11(d)(ii) of the NPPF.

8.16 To confirm, this Statement of Case should be read alongside the Officer's Report for the application and other accompanying appendices, as comprising the Council's case in respect of this appeal. It is respectfully requested that the appeal be dismissed.

8.17 In the event that the Inspector is minded to grant planning permission, it is the Council's view, without prejudice to the outcome of the appeal, that the draft conditions suggested in **Appendix 5** are attached to any permission.

LIST OF APPENDICES

Appendix 1 – Delegated Report (PL/2023/06204)

Appendix 2 – Decision Notice (PL/2023/06204)

Appendix 3 – Appeal Ref: APP/Y3940/W/24/3340811 – Land off Storridge Road, Westbury, BA13 4HJ

Appendix 4 – Appeal Ref: APP/Y3940/W/22/3292118 – Land To The East Of Church View, Sutton Benger, Wiltshire SN15 4FD

Appendix 5 – Draft Schedule of Conditions

Wiltshire Council

The Town and Country Planning Act 1990

Refusal of Outline Planning Permission (Some Matters Reserved)

Application Reference Number: PL/2023/06204

Decision Date: 13 February 2024

Applicant:	Gladman Developments Limited Gladman House, Alexandria Way, Congleton Business Park, Congleton, Cheshire, United Kingdom, CW12 1LB
Particulars of Development:	Outline planning application for the erection of up to 60 dwellings, including affordable housing with public open space, structural planting and landscaping, land for the provision of allotments and sustainable drainage system (SuDS) with vehicular access point. All matters reserved except for means of access.
At:	Land Off The High Street, Sutton Benger, SN15 4SP

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

In pursuance of their powers under the above Act, the Council hereby REFUSE TO GRANT PERMISSION for the development referred to in the above application and plans submitted by you, for the following reason(s):

Refusal Reason(s): (6)

1 The site is located outside of any defined settlement boundary within the open countryside and is not allocated for housing development and would not meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. The proposal fails to promote a sustainable pattern of development and amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Wiltshire Core Strategy Core Policies 1, 2, and 10 (WCS) and Saved Local Plan Policy H4 (saved Policy, NWLP) and paragraphs 2, 8, 11, 12 & 47 of the NPPF.

2 The scale of the proposal exceeds the small scale residential development requirement at the Large Village level as specified under paragraph 4.15 of the Wiltshire Core Strategy,

resulting in an imbalance within the community between the provision of homes and the available services, facilities and means of employment. This is considered to result in the need for a significant amount of excess travel via the use of private motor vehicles which is not a sustainable form of development contrary to WCS Core Policies 1, 2, 10, 60 and 61, and paragraphs 8, 108, 109, 114 and 116 of the NPPF.

3 The development will extend the village well beyond its existing extent and will result in an incremental physical and perceived reduction of the existing rural gap and open countryside separating the village of Sutton Benger from Christian Malford. The result is unacceptable harm to the local character of the area and important public views and visual amenity, giving rise to conflict with Core Policy 51 (criterion i, ii, iii, v, vi, vii 3) and Core Policy 57 (criterion i, vi), as well as paragraphs 135c and 180b of the NPPF.

4 The application does not demonstrate with clarity what the necessary and proposed ecological enhancement and mitigation measures are. In particular, there remain differences and inconsistencies between the submitted documents such as the required Ecological Parameters Plan, the Biodiversity Net Gain metric and the Development Framework Plan. As such, the appropriate evidence and clarity required to demonstrate that there will be no net loss of biodiversity and that net gain in biodiversity will be delivered has not been provided in support of the planning application. Therefore, it has not been demonstrated that the proposal would accord with Core Policy 50 of the Wiltshire Core Strategy (adopted January 2015) or paragraphs 180 and 186 of the NPPF.

5 The proposed layout, as expressed in the submitted Development Framework Plan and associated Design and Access Statement, would not allow for appropriate access to existing statutory body infrastructure. As such, it is not clear that the site can accommodate the level of development proposed, whilst including the appropriate and necessary landscape and ecological mitigation. As such, the proposal does not meet the requirement of Core Policy 57, in particular criteria: iii, vi, vii, xiii, and Section 12 of the NPPF, in particular paragraphs 131 and 135.

6 The application fails to provide and/or secure any mechanism to ensure that the provision of essential infrastructure, services and amenities made necessary by the development being highway improvement works, recreation and leisure, affordable housing, education, open space and waste collection can all be delivered. This is contrary to WCS Core Policies 3, 43, 45, 52 and Policy CF3 of the North Wiltshire Local Plan 2011.

Informatives: (2)

7 This decision is based on the following plans and information:

- Site Location Plan
- Development Framework Plan

- Access Plan
- Proposed Junction on B4069 High Street
- Ecological Parameters Plan
- Planning & Affordable Housing Statement
- Design & Access Statement
- Archaeology and Built Heritage Assessment
- Arboricultural Impact Assessment
- Landscape and Visual Impact Assessment
- Statement of Community Involvement
- Framework Travel Plan
- Biodiversity Net Gain Assessment
- Flood Risk Assessment
- Odour Risk Assessment
- Ecological Appraisal
- Socio-Economic Statement
- Sustainable Energy Statement
- Technical Note on Highways
- Transport Assessment
- Framework Travel Plan
- Waste Audit Assessment
- Noise Screening Assessment
- Air Quality Assessment
- Phase 1 Site Investigation
- Sustainable Energy Statement

8 Reason for refusal no.6 relating to the legal agreement may be capable of being addressed through the completion of a planning obligation/S106 agreement.

Parvis Khansari **- Corporate Director, Place**

NOTES

1. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to refuse permission, they may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - Appeal a planning decision: Overview - GOV.UK (www.gov.uk)).

DELEGATED REPORT

Application Reference:	PL/2023/06204
Application Type:	Planning Permission

Site Address:	Land Off The High Street, Sutton Benger, SN15 4SP
Proposal:	Outline planning application for the erection of up to 60 dwellings, including affordable housing with public open space, structural planting and landscaping, land for the provision of allotments and sustainable drainage system (SuDS) with vehicular access point. All matters reserved except for means of access.
Recommendation:	Planning Permission be REFUSED

SITE DESCRIPTION

Sutton Benger is centred around the B4069 ('Main Road') which runs east-west centrally through the village. This site, which is an open agricultural field, is located at the very eastern fringe of Sutton Benger to the immediate the north of the B4069 which thus forms the southern boundary to the site. To the west the site is bound by the residential cul-de-sac of High Street, which runs north from the B4069; to the north and west is open agricultural land to which visually this site forms a part. The application site is in the open countryside beyond the settlement boundary of Sutton Benger, which is defined as a 'Large Village' in the Core Strategy.

The eastern boundary of the site is not well defined 'on-the-ground', in that it does not follow any existing established field boundary or hedgeline and includes an adjunct at the southern end. At this eastern extent of the site, a small spur of land some 3m wide is included within the site, which runs off north across 2no. separate agricultural fields to meet a tributary of the River Avon.

There is currently no access to the site directly off the B4069, with the site being served by an agricultural access some 150m further to the east along that highway. Public Right of Way SBEN18 (footpath) runs along the northern boundary of the site and crosses over the spur of the site described above.

The Sutton Benger Conservation Area extends to include High Street and the site thus abuts this designated area along its western boundary. There are a number of listed buildings within the designated Conservation Area, the most relevant of which are the properties which front the northern side of the B4069 at this eastern edge of the village, namely: nos. 62/64, 66, 68/70 and 74 High Street, and to which this site forms part of the settings of these buildings.

PROPOSAL

This application seeks outline planning permission for up to 60 dwellings with associated access (being the only matter not reserved), public open space including area for plan, and landscaping.

Access is proposed to be taken mid-way along the southern boundary of the application site directly off the B4069, with a separate pedestrian access formed towards the south-western corner of the site.

Landscape planting is shown around the boundaries of the site with integrated 'recreational routes' linking into the existing public right of way at the northern extent of the site. Also included within the application site is land for the provision of allotments in the south-eastern corner of the site (shown within the adjunct land) and sustainable drainage system.

24no. of the dwellings (40%) are proposed to be affordable units and the built form is shown set back from the highway, with a landscape strip and attenuation basis fronting the highway. The layout is formed around a 'central green' which will include the local play area.

Revised plans and documents were submitted during the course of determination of the application to address objections raised regarding matters of highways, ecology, archaeology and amenity in particular. These were subject to re-consultation with the appropriate statutory consultees, the responses to which are included within the 'Consultations' section of this report below.

POLICIES

Wiltshire Core Strategy ('WCS', Jan.2015)
Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 3: Infrastructure Delivery
Core Policy 10: Spatial Strategy for the Chippenham Community Area
Core Policy 41: Sustainable Construction and Low Carbon Energy
Core Policy 43: Providing Affordable Homes
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 48: Supporting Rural Life
Core Policy 50: Biodiversity and Geodiversity
Core Policy 51: Landscape
Core Policy 52: Green Infrastructure
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment
Core Policy 60: Sustainable Transport
Core Policy 61: Transport and New Development
Core Policy 62: Development Impacts on the Transport Network
Core Policy 64: Demand Management
Core Policy 67: Flood Risk
Core Policy 68: Water Resources

North Wiltshire Local Plan 2011 – Saved Policies (June 2006)
Policy H4: Residential Development in the Open Countryside
Policy NE14: Trees, Site Features and the Control of New Development
Policy CF3: Provision of Open Space

Sutton Benger & Draycot Cerne Neighbourhood Development Plan 2020-2035 (Draft)
The Draft (Reg14) Sutton Benger Neighbourhood Plan was consulted on during January to March 2023. It has not yet reached Examination and as such the policies contained within carry only limited weight.

Wiltshire Housing Site Allocations Plan (WHSAP)(February 2020)
Settlement Boundary Review includes revisions to the settlement boundary for Sutton Benger. Site allocations in the North and West HMA at Table 5.2 [sites H.2.1 – H.2.11 at Trowbridge, Warminster, Chippenham (H2.10 30 dwellings at Yatton Keynell) and Westbury – a total of 1250 dwellings].

Chippenham Site Allocations Plan (CSAP)(May 2017)
This allocates land for housing growth at Chippenham and sought to identify land for a further 1660 homes to meet identified needs and the following policies allocate sites for mixed use development:

- Policy CH 1 – South West Chippenham Rowden Park – 1,000 dwellings Smaller extension – up to 400 dwellings
- Policy CH2 – Rawlings Green 650 dwellings

National Planning Policy Framework ('NPPF', 2023)
Section 2: Achieving sustainable development
Section 4: Decision making
Section 5: Delivering a sufficient supply of homes
Section 8: Promoting healthy and safe communities
Section 9: Promoting sustainable transport
Section 11: Making effective use of land
Section 12: Achieving well-designed places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

Supplementary Planning Guidance

- The Wiltshire Planning Obligations Supplementary Planning Document (SPD)(Adopted May 2015)
- Wiltshire Climate Strategy, adopted February 2022. This builds on the Council's February 2019 resolution to acknowledge a climate emergency and subsequent commitment to seek to make the county carbon neutral by 2030.

ISSUES

The issues arising for consideration from this application proposal are as follows:

- the principle of the development
- form, layout, scale and design
- highways and access / sustainable transport and movement
- ecological impacts
- energy and sustainability

- loss of agricultural land
- trees, landscaping and landscape impact
- open space provision
- residential amenity and air quality
- archaeology and heritage impacts
- drainage and flood risk
- affordable housing
- education
- waste management
- planning obligations

PLANNING HISTORY

The site has not been subject to any previous planning applications, although has been the subject of an EIA Screening Opinion, as below:

- 20/07312/SCR: Environmental Impact Assessment Screening Opinion to install a new gravity sewer between the Chippenham Gateway Development and Sutton Benger Water Recycling Centre – EIA Not Required – 09/10/2020

That Screening Opinion was submitted by Wessex Water who have been consulted on this current planning application.

CONSULTATIONS

Sutton Benger Parish Council – Objection for the following reasons:

1. Spatial Planning
a. The site is situated outside the Sutton Benger settlement boundary – contrary to Core Policies 1 and 10 of the Wiltshire Core Strategy (WCS), which set the Local Plan's spatial strategy by identifying the locations where sustainable development will be directed towards. The development is contrary to Core Policy 2 (WCS) which states that development will not be permitted outside of the limits of development, as defined on the policies map, unless in accordance with one of the circumstances set out in paragraph 4.25 of the Core Strategy. The proposed development does not accord with any of the circumstances in paragraph 4.25, and nor does it accord with saved Policy H4 of the North Wiltshire Local Plan, which also strictly limits the types of new housing permissible in the open countryside. The proposed development is therefore not acceptable in principle, as it fundamentally conflicts with the spatial strategy of the Development Plan.
b. The scale, location and density of the development does not respect the form and pattern of developments in the village and conflicts with the sustainable development strategy of the plan as expressed in Core Policies 1, 2 and 45 (WCS).
c. Sutton Benger has experienced a high level of growth between 2006 and 2022 - 130 new houses were completed in Sutton Benger, with a further 45 in development and 4 awaiting appeal (c.40% increase).

d. The application incorrectly states that the population of Sutton Benger is 1,000. The 2021 census sets the figure at 1271 and there has been further residential development in the village since that date. The population figure in 2001 was 986, so we have seen a 22% increase
e. No further housing commitment to 2038 has been allocated for Sutton Benger, according to the HMA Rural Requirement in the (draft) Wiltshire Local Plan to 2038.

2. Conservation Area and Rural Life - The development contravenes Core Policy 58 (WCS), which states that development should protect, conserve and, where possible, enhance, the historic environment. The proximity of the development so close to the Conservation area would not enhance the historic environment but would detract from it and would impact views from SBEN8 public footpath towards the village.
The development does not meet the requirements of Core Policy 44 (Rural Exceptions Sites) and is contrary to Core Policy 48 in that it does not support rural life. The proposal would result in the significant urbanisation of this rural site, which would result in harm to the local character, appearance and visual amenity of the immediate locality. It would also result in the loss of the rural gap on the edge of the village between Sutton Benger and Christian Malford.

3. Sutton Benger Neighbourhood Development Plan - The Parish Council fully agree with and support the objections to this application that have been submitted by the Sutton Benger Neighbourhood Development Plan Steering Group as pertaining to the emerging NDP.

4. Sustainability - The development provides no employment opportunities or sustainable alternatives to private car use, contrary to Core Policies 1, 2, 60 and 61 (WCS). The increase in road use will further diminish the rural tranquillity.
The primary school is already expanding to cater for existing permitted development. It is on a small site and is unlikely to be suitable for further expansion. This will contribute to the need for a significant amount of out commuting which is not a sustainable form of development.

5. Highways Safety – The unsustainability of the location also places the proposal in conflict with Core Policies 60 and 61 (WCS), which aim to secure development that reduces the need to travel by car. The harm arising from the identified conflicts is not significantly and demonstrably outweighed by any benefits in accordance with paragraph 11 of the NPPF.
The development will see an increase in the need to travel, particularly by private car. The increase in traffic onto the B4069 from this and other recent developments in Lyneham to the east, the St Modwen Distribution Centre to the north-west and the Bird's Marsh Development to the west, raises concerns about highway safety and the safety of schoolchildren crossing further along at the High Street. This will be exacerbated by the lack of a suitable footpath set well back from the main road.
Due to the close proximity of a double bend to the site's proposed access point and the speed in which vehicles currently travel at, we are concerned by the lack of inclusion of traffic and risk management parameters to both control traffic flow and ensure the safety of road users and the general public alike.
We contend that there is presently an existing speeding issue along the B4069, within both Sutton Benger and Christian Malford. The highest reported speed for August 2023, captured on the Sutton Benger Speed Indicator Device (SID), was at 68mph with 39.32% of road traffic documented as breaching the 30mph speed limit. Christian Malford also reported a maximum

speed of 116mph at 11:30am on Saturday 19th August heading westbound, captured on their SID on Main Road.
The addition of circa 120 motor vehicles (averaging 2 vehicles per household) will also significantly exacerbate parking and access issues currently faced by local residents.
If the application is approved, the Parish Council would like to request that a substantial sum from S106 funds be allocated to Highways so that they can install appropriate traffic calming measures on the B4069 to mitigate against the potential dangers from speeding vehicles entering the village from the east.

6. Impact on Infrastructure and Services – The development offers no additional services or facilities, contrary to Core Policies 1 and 48 (WCS).
The development is unable to be supported by current village infrastructure and services – there is no village shop (the Post Office and Coffee Shop are due to close in September 2023), there is limited public transport (the bus service does not start early enough or finish late enough for many workers, students, etc., nor does it cater for people wanting to travel on to other towns and cities), the primary school is at capacity with no expansion possible, the doctor's surgery is over capacity and the drainage and sewage pipes cannot cope with the current outflow (this causes raw sewage overspill onto the High Street during heavy rain) – extra money will not help any of these services.

7. Biodiversity and Geodiversity - The development does not meet the requirements of Core Policy 50 (WCS) for:
a. Flooding and Drainage - The development will be affected by the regular significant flooding of the River Avon across the field and of the B4069 to the east of the site, with the public right of way and access road being closed for days at a time.*

The flood risk assessment is based on a number of assumptions which we consider to be invalid. It is a computer estimate based on land elevation and proximity to rivers etc. This completely ignores the regular incidents of flooding (annually) that occur on the proposed development access road between Sutton Benger and Christian Malford. Indeed, this road has been impassible to traffic on many occasions (See attached photos for Dec 27th 2020 and Jan 12th 2023).

We note that it is planned to discharge surface water into a stream that is in flood zone 3 – ie, an area with a high probability of flooding. We consider that the developer will probably look to attenuate flows, however, we note that the ground water table in that vicinity becomes saturated at times of prolonged rainfall, such that attenuation will not be possible. Therefore, we consider that this development will increase the likelihood of flooding upstream, where the village drainage system is already under capacity, and potentially downstream in the river Avon. We cannot find any information on ground water monitoring in the submission.

** Climate change has seen a steady rise in flooding incidents within the village and it is only going to get worse. The radial gates along the River Avon between the village and Chippenham remain closed to prevent Chippenham flooding – this flood water spills onto the fields to the east of the proposed development.*

b. Best and Most Versatile (BMV) Agricultural Land – The site is wholly within a tract of Grade 2 best and most versatile (BMV) agricultural land classified as "High likelihood of BMV land (>60% area bmv)" on the "Likelihood of Best and Most Versatile (BMV) Agricultural Land - Strategic scale map" for the South West from the Natural England and should be protected from unsustainable development.

c. Biodiversity, Ecological Impact and Habitat Loss – The development would cause a loss of natural capital and biodiversity assets within the Parish, this loss would include habitat for Lapwings, Skylarks and Swifts.

The project has been calculated to have a "net biodiversity gain" of about 10%, most major construction projects with any credibility look at 50% increase as a target – we would expect this as a minimum. We are concerned over the loss of habitat and the impact on the surrounding environment if this greenfield site is developed.

We feel that it's clear that a whole of list of recommend assessments need to be carried out to determine the full environmental impact of this development before any planning is considered.

8. Climate Change – the application is contrary to S14 of the NPPF in that they have not taken a proactive approach to mitigating and adapting the long-term approach to climate change within the design of the development. They have not included the use and supply of renewable and low carbon energy and associated infrastructure, such as the use of PVT solar panels, ground source heat pumps (rather than gas boilers), electric vehicle charging points, etc.

Points of Note on the Application

- *INCORRECT INFORMATION ON THE APPLICATION - The address should be Land off B4069 and not the High Street – being outside the settlement boundary it is not on the High Street.*
- *INCORRECT STATEMENT - They incorrectly state the population of Sutton Benger and the number of new dwellings built in the village since 2006 (see 1d and 1e above).*
- *INCORRECT STATEMENT - They state that there are only 3 main types of housing in the High Street Area (ref: Character Area A) – there are in fact 5 styles of house - which includes a listed thatched property on the western boundary of the site.*
- *POINT TO NOTE - The Post Office and Café will be closed before the end of September 2023 with no proposals as yet to possibly re-locate them.*
- *POINT TO NOTE – Allotments - who do they expect to cover the setting up and maintenance costs of these allotments (that were only asked for by 1 person in their survey and there is no-one on the waiting list for a plot at the existing allotments on Sutton Lane)?"*

Highways Officer – Objection on sustainability grounds, no objection on technical matters following revised details, comments as follows:

Initial comments:

“I refer to the above planning application dated 24/07/2023 with regard to outline permission with all matters reserved except for access for the erection of up to 60 dwellings on land to the north of High Street, Sutton Benger.

Sutton Benger is classed as a larger village which has a limited range of employment, services and facilities, as this would lead to separate dwellings outside of the identified core settlement framework boundary, the proposal would usually attract an adverse highway recommendation on sustainability grounds as follows:

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2021, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. However, I shall be guided by you on this sustainability issue and wish to advise with regard to highways in the instance that you would be minded to permit dwellings in this location.

The site is located to the north of the B4069 High Street, a B classified section of public highway subject to a speed limit of 50mph over the most of the site frontage with the highway, this limit changes to 30mph at the western extent of the site as you approach the village.

A development framework plan is contained within the application which includes indicative detail of the internal road layout, the access proposal and external footways.

The proposed access and external footway would be required to be part of a Section 278 Highways Agreement. Plans have been submitted to show the location of the access in context with the existing infrastructure, it includes an extension of the existing footway which terminates before the village extents within the public highway. A visibility splay of 2.4m x 160m has been demonstrated at the point of access with the public highway and this is within either highway land or land within the control of the applicant.

A PROW footpath, SBEN18, bounds the northern extents of the site and it would appear that this will be accommodated as it is highlighted in the development framework plan. With regard to the internal site layout each dwelling will be required to have vehicle and cycle parking in accordance with the minimum standards set out below:

Table 7.1 Minimum Residential Parking Standards (allocated parking)

Bedrooms	*Minimum spaces*
1	*1 space*
2 to 3	*2 spaces*
4+	*3 spaces*
Visitor parking	*0.2 spaces per dwelling (unallocated)*

Garages will only count as part of the allocated parking provision where they meet the minimum size requirement of 6m x 3m (internal dimensions).This is to ensure that there is sufficient room for an average sized family car, a cycle and some storage provision. Where

these minimum size requirements are not met, the council will require design statements and/or transport assessments to demonstrate the need for such provision and/or to set-out the role of alternatives (e.g. car ports which are unlikely to be used for storage and could therefore count towards allocated parking provision).

Where no garages are proposed an element of cycle storage is expected for each dwelling in accordance with Wiltshire Council's LTP3 Cycling Strategy, Appendix 4 of this document contains Cycle Parking Standards for which I attach an extract below for information:

Land Use	***Area***	***Minimum Cycle Parking Standards***
C3 Dwelling	*All areas*	*1 covered space per bedroom for up to 3-bedroom dwellings* *3 covered spaces per unit for 4-bedroom dwellings* *4 covered spaces per unit for 5-bedroom dwellings(etc)* *+ 1 visitor space per 20 bedrooms*

All properties with allocated parking should have a minimum of 1 EV charging space in line with Buildings regulations document S.

The access shown is included in full detail for approval as part of the outline application, this shows a simple priority junction with 7.5m radii and footway connections on either side which I assume would extend into the site. The footway would connect to existing pedestrian infrastructure in the west allowing walking into the village to be a viable option for travel.

The footway would be able to be accommodated but needs further thought in design and delivery terms and further information submitted as part of the outline application to look at options or mechanisms for delivery, there is available land within the public highway or highway verge. Concern has been expressed with regard to accessing local facilities such as the local school, further consideration should be given to access for pedestrians with particular reference to the facilities highlighted within the TA. A safe route to school should be identified and any improvements in terms of localised widening/crossing facilities to accommodate additional pedestrian movements should be investigated further.

The proposed access would be acceptable in terms of geometry as it appears to be in accordance with Manual for Streets. Visibility is demonstrated as 2.4m x 160m in either direction on exiting the access which is commensurate with the speed limit in the vicinity of the site. It would be useful to demonstrate forward visibilities for vehicles on the B4069 to assess the safety of the junction when operating as an access.

A Transport Assessment has been produced for the application which states the proposals are for up to a 60 dwelling scheme, including new access, pedestrian link into existing footway, landscaping and open space and land provision for allotments. Internal roads and footpath layout/access internally would be evolved and discussed at reserved matters.

Transport Policy is discussed and relevant policies at national and local level are identified.

Sustainability is then discussed with walking being the first mode to be identified, local facilities have been identified within the village, however I am aware that there is a high subscription to local schools, and amenities such as doctors, there is also an identified post office/coffee shop which may not exist in the future as a facility within the village. There are not a vast range of local facilities leading me to believe that there would be a need to travel further by private motor vehicle, although the available bus services and facilities have the potential to be utilised for some commuting or leisure purposes.

With regard to traffic impact, it has been indicated that the siting of the access has been based on the requirement to separate the approved access on the southern side for development from this access with a reasonable distance and design to DMRB standards for a staggered priority junction. The use of a simple priority junction is identified with visibility splays of 2.4m x 160m for vehicles exiting the site, I would consider that the applicant should provide forward visibility for vehicles on the B4069 demonstrating that the access would be safe for vehicles on this stretch of road when a vehicle is stopped to turn into the site and also when vehicles are exiting the site.

The new access would require a Section 278 highways agreement in order to permit work in the public highway, this would also be a requirement for any footway connections provided which extend from the site as proposed to the west of the access on the development side of High Street.

It is stated that the exact detail of footway should be discussed further at reserved matters when the final site layout is agreed, it is noted that the applicant accepts the principle of footway link provision, and I am satisfied that a solution can be agreed at reserved matters with a condition applied at this stage of outline permission. It would be useful if the applicant could investigate potential upgrading of existing footway provisions to enable better provisions for pedestrians with widening/upgrading of the existing infrastructure, the current conditions would not be considered suitable for increased use for pedestrians.

Traffic impact is discussed and the junction of the B4049 with the B4122 has been assessed due to previous capacity concerns. This has been assessed at the base 2022 flows from an existing survey, growth on the base year of 2022 to 2028 using TEMPRO and additional vehicle traffic from committed development, and the with development flows added to the established 2028 base flows. The junction has been tested using the PICADY Junctions 8 assessment tool, it has also been used to determine the functionality of the proposed access and any impact on the flow of the B4069. Both junction analysis demonstrate that the proposed development would not have a significant impact on the operation of the existing B4069/B4122 junction nor the B4069 at the point where the access is proposed.

There is a recognition of the traffic flow data not being wholly representative of the area due to an existing road closure, therefore detail of traffic flow data prior to the closure has been obtained as a comparison and assessed following the same methodology as the previous junction assessment, this also shows that the junctions both existing and proposed would operate within capacity with development flows.

A framework travel plan has been developed which covers the relevant detail and is considered a useful tool when attempting to reduce the reliance on the private motor vehicle. This would be updated following the initial travel pattern survey within 9 months of occupation, giving 6 months for the survey data and 3 months for the updated plan with confirmed or adjusted targets and will continue to be monitored for the five year lifetime proposed, with at least one annual major review to ensure the more sustainable travel modes are being encouraged.

A TRO proposal has been suggested in order to extend the existing speed limit when entering the village from the east, I do not feel that the proposal would offer the criteria required to lower the speed limit in this location and it has been suggested that speeds in the village are above the posted limit therefore it would be unlikely to be adhered to. The applicant has demonstrated that the required visibility splay for a 50mph limit can be achieved on exiting the access, albeit I require further demonstrable evidence that the visibility requirements can be achieved for all vehicles approaching and using this junction.

The access proposals for the outline application are acceptable in principle with regard to vehicular and pedestrian access, although I do feel that the pedestrian access should be given further consideration to incorporate this into the scheme at outline application stage. There is also a requirement to ensure forward visibility in line with standards for the vehicles travelling along the B4069 in this location to ensure the appropriate safety mitigation is applied.

Therefore, whilst the principle of the proposals for access for vehicles could be accepted, the further detail with regard to pedestrian access and forward visibility should be provided to progress the scheme in a clear and concise manner.

Once satisfactory amendments to the TA and access design have been finalised then I will be in a position to recommend any conditions/informatives relating to highways."

Revised comments:
"I refer to the above planning application dated 24/07/2023 with regard to outline permission with all matters reserved except for access for the erection of up to 60 dwellings on land to the north of High Street, Sutton Benger. Further information has been received with regard to the application and highways, for which I would wish to comment further.

The technical note suggests that the Settlement Framework Boundary issue highlighted has been addressed by previous applications within Sutton Benger for housing through appeal, however, those applications are for smaller developments with less dwellings and therefore I feel that given the scale of development, my previous comment is still applicable, which is restated below:

Sutton Benger is classed as a larger village which has a limited range of employment, services and facilities, as this would lead to separate dwellings outside of the identified core settlement framework boundary, the proposal would usually attract an adverse highway recommendation on sustainability grounds as follows:

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2023, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. However, I shall be guided by you on this sustainability issue and wish to advise with regard to highways in the instance that you would be minded to permit dwellings in this location.

The site is located to the north of the B4069 High Street, a B classified section of public highway subject to a speed limit of 50mph over most of the site frontage with the highway, this limit changes to 30mph at the western extent of the site as you approach the village.

The proposed access and external footway would be required to be part of a Section 278 Highways Agreement. Plans have been submitted to show the location of the access in context with the existing infrastructure, it includes an extension of the existing footway which terminates before the village extents within the public highway. A visibility splay of 2.4m x 160m has been demonstrated at the point of access with the public highway and this is within either highway land or land within the control of the applicant.

The access shown is included in full detail for approval as part of the outline application, this shows a simple priority junction with 7.5m radii at 5.5m width and 2m footway connections on either side which would extend into the site. The footway would connect to existing pedestrian infrastructure in the west allowing connectivity for pedestrians and walking into the village to be an option for travel.

The proposed access would be acceptable in terms of geometry as it appears to be in accordance with Manual for Streets. Visibility is demonstrated as 2.4m x 160m in either direction on exiting the access which is commensurate with the speed limit in the vicinity of the site. Forward visibility for vehicles on the B4069 has been indicated to the east of the access for vehicles appropriately, ensuring that turning vehicles from the B4069 can be seen when waiting at the junction access. West from the access is relatively straight and would not be as much of a concern due to the lower approach speeds and the forward visibility afforded by virtue of the road alignment, the splay on exiting to the west would be required to be kept clear within the site boundary with no obstructions over 900mm.

A safe route to school has been identified and discussed within the technical note, which highlights the pedestrian infrastructure on the surrounding network. It is noted that the footway provisions are substandard widths along the identified route, and this is detailed within the Technical Note.

It would be useful if the applicant could investigate potential upgrading of existing footway provisions as part of reserved matters to enable better provisions for pedestrians with widening/upgrading of the existing infrastructure, the current conditions would not be considered ideal for increased use for pedestrians.

Therefore, other than the previously highlighted sustainability issue and reliance on the private motor vehicle as the main mode of transport, I would not wish to raise an objection in relation to highway safety or capacity subject to the following conditions and informative:

PEDESTRIAN LINK
The development hereby permitted shall not be first brought into use/occupied until a footway provision has been made to link with the existing infrastructure on the north side of High Street from the development access as shown on the Proposed Junction on B4069 High Street plan Drawing number 0303 rev.P03.
REASON: In the interests of highway safety and sustainable travel.

VISIBILITY SHOWN ON DRAWING
No part of the development shall be first brought into use/occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.
Reason: In the interests of highway safety

INFORMATIVE
The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email vehicleaccess@wiltshire.gov.uk for further details."

Ecology Officer – Objection, concerns not fully addressed:

(Initial and further comments integrated):
"Further Information Required:

	Issue	***Policy/Legislative Compliance***	***Date information requested & Further information required***	***Satisfactorily addressed (Document & Date)***
1	*Ecological Impact Assessment (EcIA)*	NPPF, CP50, WCA, Hab Regs	**04/09/2023** *An Ecological Assessment has been submitted in support of this application however this contains insufficient information to determine potential impacts on the following habitats and protected/ notable species:* *- ~~Habitat (for BNG and INNS purposes)~~* *- Habitat: WSBRC Priority Habitat: Running Water (Sutton Benger Brook) and Bristol Avon River County Wildlife Site* *- ~~Bats (foraging and commuting)~~* *~~- Badger~~* *~~- Riparian Mammals (otter and water vole)~~*	***Partially*** *Ecological Impact Assessment, CSA/3324/10, Rev: B, Date: 20/10/2023 by CSA Environmental* *07/02/2024*

			~~- Great Crested Newt (GCN)~~	
2	*Ecological Parameters Plan (EPP)*	NPPF, CP50	**04/09/2023** *An Ecological Parameters Plan (EPP) is required*	***Partially*** *Drawing: Ecological Parameters Plan, CSA/3324/129, Date: October 2023 by CSA Environmental* ***07/02/2024***
3	*Biodiversity Net Gain (BNG)*	NPPF, CP50	**04/09/2023** An updated unlocked Biodiversity Metric spreadsheet accompanied by maps.	***Partially*** *Biodiversity Net Gain Assessment, Ref: CSA/3324/09, Rev: B, Date: 06/10/2023* *07/02/2024*

The outstanding document(s) listed above are needed to enable the council's ecology team to consider all the relevant impacts and benefits of the proposed scheme. The council's ecologists will provide a further response once all the above information has been submitted via the case officer.
Please Note: When resubmitting a revised document, ALL changes must be highlighted to enable review.

It should be noted that the comments below are reliant on the accuracy and completeness of the submitted reports (EcIA and BNG metric calculation), and we do not take any responsibility for incorrect data or interpretation made by the authors.

The ecology reports and plans submitted to this application are welcomed and are listed below to confirm which documents informed this consultation response:
- Ecological Appraisal, Ref: CSA/3324/04, Rev: D, Date: 15/05/2023 by CSA Environmental
- Biodiversity Net Gain Assessment, Ref: CSA/3324/09, Rev: A, Date: 30/06/2023
- Biodiversity Metric, Land at High Street, Sutton Benger, Rev: B, Date: 30/06/2023 by CSA Environmental
- Access Plan: Proposed Junction on B4069 High Street, DWG No. 0303, Revision: P03, Date: January 2023 by Stirling Maynard
- Site Location Plan, DWG No: CSA/3324/126, Rev: A, Date 27/06/2023 by CSA Environmental
- Development Framework Plan, DWG No: CSA/3324/120, Rev: G, Date 27/06/2023 by CSA Environmental
- Design and Access Statement

07/02/2024:
- Ecological Parameters Plan, CSA/3324/129, Date: October 2023 by CSA Environmental
- Ecological Impact Assessment, CSA/3324/10, Rev: B, Date: 20/10/2023 by CSA Environmental
- Biodiversity Net Gain Assessment, Ref: CSA/3324/09, Rev: B, Date: 06/10/2023

The design includes buffering the existing habitat corridors around the site with additional habitat that is outside of private domestic curtilage which is welcomed.

~~*The Ecological Appraisal confirms further surveys are required to determine the ecological baseline of the site and identify the need for mitigation measures to ensure the continued functionality of the area for biodiversity. This information is required prior to the determination of this application.*~~

The ecology report provides sufficient justification supported by evidence to confirm the likely absence of:
- Dormice
- Roosting bats
- Brown hare
- Harvest mice
- Rare/notable assemblages of terrestrial invertebrates
- Rare/notable bird species
- Badger (setts)
- Water vole

The reports confirm the site has low potential to host reptiles and amphibians and biological records have been returned in the area for low numbers of these species. In addition, the site has potential to support breeding birds. Therefore, in this instance it is considered further surveys for these species are too onerous but suitable avoidance and mitigation measures for reptiles, amphibians and birds should be detailed in a conditioned Construction Environment Management Plan (CEMP) if this application is approved.

Further surveys confirmed:
- The site supports populations of foraging and dispersing bat species (common pipistrelle, soprano pipistrelle, noctule, serotine, Myotis, brown long-eared, lesser horseshoe and greater horseshoe) with the majority of activity on the western boundary of Field 1. Although infrequent passes of lesser horseshoe and greater horseshoe were recorded, they are Annex II species bat. Therefore, the assemblage is not considered to be common and widespread.
- The likely use of the site by foraging and commuting badgers.
- American mink a (non-native invasive species) in Sutton Benger Brook.
- Evidence of otter in Sutton Benger Brook in the form of spraints with closest being 50m upstream from the proposed outfall location.

Access was not granted in 2023 to carry out Habitat Suitability Index (HSI) assessments in respect of great crested newts. The reasoning and evidence provided the report is considered sufficient to scope out further surveys for these species.

1. Ecological Impact Assessment (EcIA)

Habitat (for BNG and INNS purposes)

~~*The updated habitat surveys were completed on the 10 November 2022 which is outside of the optimal survey season for botanical surveys. The site has the potential to support notable floral species along its margins.* **Surveys that follow best practice guidance are required unless impacts to these habitats can be scoped out during the construction and operational phases of the proposed development.** *Any sections that will be retained and protected should be clearly mapped in the EPP (see Section 2 of this response).*~~

Additional, surveys have been completed in the optimal survey season which is welcomed and are considered suitable to inform the ecological baseline of the site. The surveys

confirmed the botanical assemblage include species which are common and widespread and are largely of Local importance.

In reference to the Access Plan a section of the vegetation along the southern boundary will be impacted to create the access and visibility splay. ***The ecology assessment and Biodiversity Net Gain (BNG) calculations need to be updated to include the potential impacts to the habitat(s) within the access and visibility splay area.***

Records of Himalayan balsam have been returned in this area which is an Invasive Non-Native Species (INNS). The ecology report states no invasive plant species were identified however the timing of the site visit is not in the optimal season to identify this species. Confirmation of the likely absence of this species is pertinent since the proposed works include development within Sutton Benger Brook which has high potential to host species such as Himalayan balsam.
Sufficient justification supported by evidence is required to confirm the presence / likely absence of INNS.

Habitat: WSBRC Priority Habitat: Running Water (Sutton Benger Brook) and Bristol Avon River County Wildlife Site

The proposed works include drainage directly into the Wiltshire and Swindon Biological Records Centre (WSBRC) Priority Habitat: Sutton Benger Brook and the ecology report confirms the hydrological link between the brook and Bristol Avon River County Wildlife Site (CWS). The report confirms a potential impact pathway through increased pollution of these waterbodies during the construction and operational phase of the development. ***Mitigation that is supported by suitable evidence is required to ensure these habitats remain functional for biodiversity and are not significantly degraded as part of the proposed development.***

If this application is approved the construction phase mitigation can be included in a conditioned CEMP which should also integrate the information requirements detailed in the Environment Agency's consultation response.

The operational phase mitigation plan is required prior to determination. The plan should clearly detail the type and amount of pollution anticipated to be discharged from the proposed development and how these pollutants will not enter Sutton Benger Brook and by association Bristol Avon River CWS.

A suitable mitigation strategy has been proposed to protect Sutton Benger Brook and Bristol Avon River CWS in the Ecological Impact Assessment with the creation of filter beds (SUDs) between the development and the brook instead of direct drainage via underground pipes. However, the location and specification of these filter beds/SUDs need to be shown on all relevant drawings such as but not limited to the EPP, BNG proposed habitat, illustrative master plans and Development Framework Plan.

Protected Species Surveys

The ecology report identifies the requirements for the following protected species surveys:
- Bats (foraging and commuting)
- Badger
- Riparian Mammals (otter and water vole)
- Great Crested Newt (GCN)

~~***The results of these surveys along with the suitable avoidance/mitigation measures are required prior to the determination of this application in order to avoid conflict with CP50 and NPPF.***~~

~~***Once these surveys are completed, a Biodiversity Mitigation and Enhancement Plan is required.*** *This plan should detail the number along with the indicative specifications and locations of the biodiversity mitigation and enhancement measures such as but not limited to bat and bird boxes, hedgehog highways and reptile hibernacula. Integral features on new residential developments should be created at the ratio of 1:1 feature to building in accordance with best practice guidelines. Integral features must seek to benefit a target species/s or group/s and demonstrate viability in terms of position on building, location and clustering in accordance with relevant guidance.* ***The exact location and specification of the features should be detailed in a conditioned Landscape and Ecological Management Plan (LEMP) and the integrated features should be included in the proposed building elevation drawings at Reserved Matters if this outline application is approved.***~~

07/02/2024 – Section 5.45 of the report Ecological Impact Assessment, CSA/3324/10, Rev: B, Date: 20/10/2023 by CSA Environmental details the suitable mitigation and enhancement measures which will need to be detailed in the conditioned LEMP if this application is approved.

2. Ecological Parameters Plan (EPP)

An Ecological Parameters Plan (EPP) is required. The EPP must clearly identify those areas of the site which are unconstrained, those areas where sensitive design or restrictions may be required, and any areas of the site which are to be retained, remain undeveloped, enhanced, form part of the landscaping for the purposes of protecting and enhancing biodiversity and any areas to be used as compensatory habitat in line with the submitted ecology documents, including the Biodiversity Net Gain Calculator spreadsheet. The EPP will become an 'approved document' of any outline permission granted and any reserved matters application must be in compliance with the plan.

1. A scaled drawing showing existing ecological features, distinguishing between those to be retained and those which will be lost e.g. hedgerows, root protection zones, water features, badger setts etc
2. Specify the minimum distance from each feature to the footprint of development e.g. to curtilage of properties, car parks, roads.
3. Specify the buffer distance from light sensitive ecological features where the increase in lux levels will be zero or, if lux contours have been modelled, show contour lines for 1, 0.5 or 0.1 lux depending on the sensitivity of ecological features
4. Identify where new habitats will be created on site, include minimum area in hectares or length in metres and habitat type
5. Identify areas where habitat enhancement will be undertaken, include minimum area in hectares or length in metres and habitat type.
6. Provide stand-off distances to the footprint of development e.g. curtilage to properties, car parks, roads for each tree to be retained, sufficient to ensure the tree will survive throughout the operational phase without risk of it being removed for health and safety, loss of amenity or liability reasons.
7. Provide cross-sectional drawing to show profile of SuDs, ponds or wetland features to demonstrate there is adequate room for these features to have gently profiled sides and thereby maximise their biodiversity potential.

07/02/2024 – Drawing Ecological Parameters Plan, CSA/3324/129, Date: October 2023 by CSA Environmental has been submitted to this application but it only partially address the above information request.

3. Biodiversity Net Gain (BNG)

The submission of the BNG report and metric are welcome however, unless suitable justification is provided these will need to be updated following the above information requirements. This information request is still applicable, particularly in the context of including the Sutton Benger Brook mitigation filter beds/SUDs.

~~*In addition, unless sufficient justification is provided, areas of proposed grassland that are readily accessible by members of the public and their pets are considered unlikely to achieve a higher distinctiveness than Modified Grassland.*~~

The updated BNG report concludes:
"Based on the Biodiversity Metric 4.0 calculations, the proposed development will result in an overall net gain of 1.01 Habitat Units (13.02% net gain), and overall net gain of 1.37 Hedgerow Units (41.94% net gain) and an overall net gain of 0.02 Watercourse Units (16.32% net gain)."

The updated metric used to inform the amended calculations should be submitted to the planning portal.

If this application is approved, the off-site mitigation shown in the Site Location Plan and detailed in the metric will need to be secured through a S106 or other legal agreement outside of planning conditions since it is outside of the red line boundary.

In carrying out its statutory function, the LPA must be reasonably sure that the proposal will not result in significant adverse effects on protected habitats or species. The information outlined above must therefore be submitted and reviewed by the LPA's ecology team prior to determination of the application.

CONDITIONS: to be finalised when all information detailed above has been submitted and approved."

1. Compliance with submitted documents

The development will be carried out in <u>strict</u> accordance with the following documents:

- Section 5.45 of the report: Ecological Impact Assessment, CSA/3324/10, Rev: B, Date: 20/10/2023 by CSA Environmental
- EPP [when updated and approved]

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

2. Construction Environment Management Plan (CEMP)

Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation

and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
b) Working method statements for protected/priority species and habitats, such as Sutton Benger Brook, nesting birds, otters amphibians, badgers and reptiles.
c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
Development shall be carried out in strict accordance with the approved CEMP.

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

3. Landscape and Ecology Management Plan (LEMP)

Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP should encompass the on-site and off-site mitigation areas and will include:
a) Long term objectives and targets in accordance with the Calculation of Biodiversity Net Gain using Defra Metric 4.0 report (REF TBC).
b) Monitoring, management and maintenance responsibilities and schedules for each ecological feature within the development for a period of no less than 30 years from the commencement of the scheme as identified in: (REF TBC).
c) The mechanism for monitoring success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheet(s).
d) A procedure for review and necessary adaptive management in order to attain targets.
e) Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

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

4. Lighting

No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of conserving biodiversity"

Landscape Officer – Objection, stating:

Matters Considered:

Landscape & Visual Matters - Landscape designations; landscape character; landscape features; public visual amenity; outline design/development parameters.

Background:

This proposed housing development site lies in open countryside, adjoining the northeastern edge of Sutton Benger Conservation Area. Sutton Benger is designated as a 'Large Village' in the Wiltshire Core Strategy. The application site is not identified as an existing site allocation for new housing growth within the 'Wiltshire Core Strategy' (WCS), or the 'Wiltshire Housing Sites Allocation Plan' (WHSAP) or by saved policies contained within the North Wiltshire District Local Plan. Neither is the site identified as an emerging site allocation for new housing within the 'Wiltshire Local Plan Review (Pre-Submission Draft 2020-2038) or emerging neighbourhood Plan', therefore this application is viewed as a speculative application seeking planning approval for major residential development in open countryside.

The site does not have any relevant planning history and the applicant has not to my knowledge sought any pre-application planning advice from the LPA. Neither to my knowledge has the applicant's appointed landscape consultant made any prior contact with this council's landscape team in relation to agreeing any finally selected representative landscape or visual receptors, or agreement of photo viewpoint locations used within the submitted landscape and visual assessment.

Policy & Guidance:

National Planning Policy Framework (NPPF) 2023 & National Planning Policy Guidelines (NPPG)

- *NPPF, Para. 8, Achieving sustainable development.*
- *NPPF, Section 12, Achieving well-designed places.*

Para.131 of the NPPF states that; "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

And at para 135.

"Planning policies and decisions should ensure that developments:
a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

- *NPPF Section 15, Conserving and enhancing the natural environment.*

Paragraph 180 (b) of the NPPF states 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."

Wiltshire Core Strategy (2015)

- **Core Policy 51: Landscape**

Requires that new development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative effects must be mitigated as far as possible through sensitive design and landscape measures. The policy highlights that proposals should be informed by and sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment/s and any other relevant assessments and studies. The policy lists 9 aspects of landscape character that are particularly important for new development to demonstrate have been conserved, and further enhanced where possible. The following aspects of landscape character are highlighted to be particularly relevant to conserve and enhance at this application site;

i. The locally distinctive pattern and species composition of natural features such as trees, hedgerows, field boundaries, watercourses, and waterbodies.
ii. The locally distinctive character of settlements and their landscape settings.
iii. The separate identity of settlements and the transition between man made and natural landscapes at the urban fringe.
v. Landscape features of cultural, historic and heritage value.
vi. Important views and visual amenity.
vii. Tranquillity and the need to protect against intrusion from light pollution, noise, and motion.

- **Core Policy 52: Green Infrastructure**

Core Policy 52 requires that development shall make provision for the retention and enhancement of Wiltshire's green infrastructure network and shall ensure that suitable links to the network are provided and maintained. If damage or loss of existing green infrastructure is unavoidable, the creation of new or replacement green infrastructure equal to or above its current value and quality, that maintains the integrity and functionality of the green infrastructure network will be required.

- **Core Policy 57: Ensuring high quality design and place shaping.**

Core Policy 57 requires a high standard of design in all new developments. Development is expected to create or maintain a strong sense of place through drawing on local context and being complementary to the locality. The following policy criterion are considered to be particularly relevant in this instance:

i. Enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the existing pattern of development and responding to local topography by ensuring that important views into, within and out of the site are to be retained and enhanced.
ii. The retention and enhancement of existing important landscaping and natural features, (e.g. trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development.
iii. Responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass scale building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting.

iv. Being sympathetic to and conserving historic buildings and historic landscapes.
vi. Making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area.
xii. 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.

North Wiltshire District Local Plan (2011) – (saved policies)
***Core Policy NE14**: Trees, Site Features, and Control of new development. Core Policy NE14 states that permission will not be granted for proposals that would result or be likely to result in the loss of trees, hedges, lakes/ponds or other important landscape or ecological features that could be successfully and appropriately incorporated into the design of a development.*

Sutton Benger Neighbourhood Plan (Regulation 14 stage, as of 24/01/2024)
Neither the author of the submitted Landscape and Visual Impact Assessment or I have considered any specific policies of this emerging neighbourhood plan due to its draft status. Should the LPA consider that any planning weight should be attributed to any relevant draft policies, then please further contact the landscape team for additional comment.

Designations
The site itself does not lie within any national or local landscape designation/s and the type of development proposed will not impact upon the settings of either the Cotswolds or North Wessex Downs AONB's (recently rebranded 'National Landscapes').

I am not aware of any existing trees within or adjoining the site, that are currently protected by means of a Tree Preservation Order (TPO).

The site lies adjacent to the northeastern boundary of the Sutton Benger Conservation Area. The closest Public Right of way to the site is footpath SBEN18 which extends from Seagry Road (west) heading east passing through and adjoining the northern extents of Sutton Benger Conservation Area before emerging into the open agricultural field into the northwest corner of the application site, the footpath extends within and along the northern boundary of the site and continues east towards Christian Malford where it exits onto the B4069 to cross the road bridge to the eastern side of the river to link with the wider public network of rural footpaths extending out from Christian Malford.

Beyond the Site there are a number of other public rights of way including SBEN12, which lies northwest of the Site and runs north from Seagry Road, and SBEN8 which runs north west from the village and climbs steeply towards the M4, allowing panoramic views in a southern viewing arc, back across the valley. East of the Site, public bridleways CMAL28 and SBEN7 provide access along the River Avon, and footpath CMAL1 runs north-south through countryside to the edge of Christian Malford.

Landscape Character
National Character
*The site and surrounding local area lie within **National Character Area Profile and countryside character area - 117 : Avon Vales**.*

Wiltshire County Landscape Character[1]

The site and the southern and eastern parts of the village fall within Landscape Character ***Type 12: Open Clay Vale*** *within Landscape Character* ***Area 12B: Avon Open Clay Vale****. The north and west side of the village fall with the adjoining Limestone Lowland landscape character type 16: Limestone Lowland within landscape character area 16A: Malmesbury to Corsham Limestone Lowland.*

North Wiltshire District Landscape Character[2]

*The site and majority of the village fall within Landscape Character Type '****Lowland River Farmland****' within Landscape Character* ***Area 11: Avon Valley Lowland****. The western limits of the village and adjoining countryside to the west fall within the Landscape Type 'Lowland Limestone (Forest Marble) Farmland' within Landscape Character Area '08: Hullavington Rolling Lowland'.*

The relevant extracts from these landscape character assessments are included at appendix F of the submitted 'Landscape and Visual Impact Assessment'.

Comments and observations:

Over recent years Sutton Benger has delivered new housing as small-scale infill development; as heritage conversion/restoration projects including as viability enabling development; as redevelopment of available brown field land, and at small greenfield sites. This site is large at 3.65 Hectares in area and is a prominent edge of village location. The site is not identified or allocated for strategic 'plan led' development evidenced by local need or required as sustainable urban growth.

Planning law requires that planning applications for development be determined in accordance with the Development Plan unless material considerations indicate otherwise. I understand that it is the LPA's opinion that paragraph 11d of the NPPF is not engaged and the 'tilted planning balance' is therefore not in effect.

In my view the proposed urban development of this site would be harmful to the setting of the village and should be resisted due to the resulting harm to the existing rural village edge character and the permanent loss of the remaining conservation area's setting that directly fronts onto open farmed countryside. Existing views of the conservation area, and of listed building/s viewed across open agricultural land will be permanently lost, changed to new intervening urban development when approaching the village from the east along the High Street and from public footpath SBEN18. It is likely that partial views of the new development will be visible from other public vantage points, but the visual change effects will be greatest and most evident viewed from the B4069 and footpath SBEN18.

The site is on low-lying flat topography set below the 55m contour. The site comprises part of a larger arable field unit with partially intact hedgerow boundaries, The Site has a rural lowland farmland character which is influenced by the Bristol Avon and its tributary

[1] *Wiltshire Landscape Character Assessment (scale 1:50,000) - Land Use Consultants (2005)*
[2] *North Wiltshire Landscape Character Assessment (scale 1:25,000) – White Consultants (2004)*

watercourses and associated riparian vegetation lining these meandering watercourses, and by the historic rural village of Sutton Benger. There is some traffic and noise emanating from the B4069road bordering along the southern edge of the site and some detracting urbanising visual elements such as from pylons supporting the overhead high voltage electricity lines and from the nearby traveller's site following the recent felling/removal of its western containing / screening boundary vegetation.

This development proposal represents a large 3.65 Hectare urban expansion of the existing village of Sutton Benger. The proposed development would permanently change the northeastern edge of the village as well as the existing rural aspect of farmed open countryside fronting directly onto Sutton Benger conservation area, to that of a harsh new area of urban residential housing development which will be particularly exposed from the south and east.

Public footpath SBEN18 which runs east from the Conservation Area to Christian Malford is the only rural footpath extending from the village into countryside to the east of the village. A significant length (about a third) of this would be subsumed into the proposed new urban development, and its rural setting permanently changed to an urban context. The existing open views south and east across farmland towards the vegetation lining the banks of the tributary water course and the elevated limestone ridge at Bremhill on the distant horizon and also looking west towards the edge of the conservation area from this footpath will be lost and obscured by the new intervening urban development within the site and/or by the proposed tree planting along the sites north and east site boundaries. Proposing to retain the sites existing western field boundary vegetation within a narrow landscaping strip. Offsetting proposed developable areas slightly from the edge of the conservation area would not successfully mitigate these resulting permanent visual effects.

The illustrated and promoted use of local natural limestone as a common character unifying building material, including its inclusion for use as boundary walls is welcomed. It will be important for any new development to respect and maintain the existing inherent stone vernacular of the Village, Conservation Area and High Street.

The form and scale of proposed development is likely to require the introduction of street lighting which will introduce artificial light into an area of existing rural countryside adjoining an area of the village which doesn't currently have any street lighting due to its inherent rural character.

The framework plan proposes to supplement the site's existing maintained field boundary hedgerow growing along its northern boundary with additional tree planting to help filter views of new housing. There is a line of existing wooden poles supporting overhead lines running along the site's northern hedged boundary. Unless there is clear commitment to divert this overhead line it would be unlikely that the proposed native tree / woodland planting presented in the Design and Access Statement as a mitigating landscaping measure along the sites northern boundary would be feasible or acceptable in its current location due to the foreseeable conflict between tree canopy / branches and these existing overhead lines.

It is not clear why the proposed allotments are being proposed in the form of an obvious protrusion out from the main development site area. This protrusion doesn't characteristically fit with the existing field pattern/ or new field boundary creation. The allotment area with its domesticating paraphernalia will extend this urbanising outcrop of development along the B4069 further towards Christian Malford to form a continuous urbanising land use extending east up to and opposite the Gypsy and traveller site and Wessex Water's treatment works.

Landscape and Visual Impact

A Landscape and Visual Impact Assessment (LVIA), dated June 2023, has been prepared by CSA Environmental to accompany this outline planning application.
The LVIA includes a summary conclusion of the landscape and visual effects assessed to arise following the introduction of the proposed development at chapter 6. I do not consider that the LVIA has appropriately considered the resulting effects upon the character and setting of the northeast part of the village, which aligns with the Sutton Benger Conservation Area boundary.

As a direct consequence of the proposed development, the existing integrated village edge and rural setting to the conservation area will be permanently and substantially changed by this introduced swath of new urbanising development and land use extending along the B4069 / High Street, eastwards to marry up with the Water Treatment / Gypsy and traveller site located further to the southeast and south of the High Street.

Conclusion

The site is located outside of any defined settlement boundary within the open countryside and is not allocated for housing development and would not meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy or the 'Wiltshire Housing Sites Allocation Plan' or by saved policies contained within the North Wiltshire District Local Plan, or the emerging Sutton Benger Neighbourhood Plan. The proposal fails to promote a sustainable pattern of development and amounts to new speculative residential development in the open countryside that is not related to the essential needs of agriculture, forestry or other rural based enterprise. The proposal is considered contrary to policies of the Development Plan.

The proposal would result in the significant urbanisation of this existing rural site and result in the corresponding loss of 3.64 hectares of Grade 2 (Best and most versatile) agricultural land. The proposed development will completely change the existing rural approach and appreciable rural setting and local views to and from the northeastern edge of the village and Sutton Benger Conservation Area, in particular, but not necessarily limited to road (B4069) users and public footpath (SBEN 18) users.

The proposal will extend the village well beyond its existing extent, with the proposed allotments at the site's southeast corner joining up with the Gypsy & Traveller site and Wessex Water's treatment plant south of the High Street (B4069). It will also result in an incremental physical and perceived reduction of the existing rural gap and open countryside separating the village of Sutton Benger from Christian Malford.

Recommendation

A landscape objection is advised to be necessary in this instance, as the proposed development will result in unacceptable harm to the local character of the area and important public views and visual amenity, which is considered contrary to the following identified planning policy; Wiltshire Core Strategy (2015) - Core Policy 51 (criterion i, ii, iii, v, vi, vii 3);and Core Policy 57 (criterion i,vi), as well as paragraphs 135c and 180b of the NPPF (2023)."

Archaeology Officer – Initial objection withdrawn following receipt of further information

Initial comments:

"The archaeological potential of the site has been partially characterised by an Archaeology and Built Heritage Assessment submitted as part of this application and a report of a geophysical survey forwarded to me by the applicant's archaeological consultant.
It is necessary to ground-truth the results of the geophysical survey by means of an archaeological trial trench evaluation. This will enable me to fully assess the potential impact of the proposed development upon the archaeological resource. I will then be in position to offer fully informed advice on the form future archaeological mitigation might take.
Until the archaeological trial trench evaluation has been completed, and a report produced, I must object to this application as I do not currently have enough information with which to offer fully informed advice."

Revised comments:

"CWI22371: PL/2023/06204: Land Off The High Street, Sutton Benger, SN15 4SP: Outline planning application for the erection of up to 60 dwellings, including affordable housing with public open space, structural planting and landscaping, land for the provision of allotments and sustainable drainage system (SuDS) with vehicular access point. All matters reserved except for means of access.
I received yesterday a report on the archaeological trial trench evaluation from the applicant's archaeological consultant and have reviewed it today.
I can confirm that I am now in possession of enough information to offer fully informed advice on the need for further archaeological work (to mitigate the impact of development on the archaeological resource within the application area) and as such am happy to withdraw my previous objection.
There will be a need for further archaeological mitigation but I am happy that this can be secured via condition. I will be in touch early in the new year with suggested wording for the condition; do let me know if you need anything before then."

Housing Enabling Team – Comments as follows:

Thank you for consulting the Housing Enabling Team on the above. I note that the proposed development site falls outside the Settlement Framework Boundary and may therefore be contrary to Planning Policy. However, if through the planning process the development site is considered suitable for the proposed residential development, my comments and observations in respect of the affordable housing requirement are as follows:

Policy Requirements:

Core Policy 43 of the Wiltshire Core Strategy (as amended by the National Planning Policy Framework) sets out a requirement for 40% on-site Affordable Housing provision within the 40% Affordable Housing Zone on all sites of 10 or more dwellings. There is therefore a requirement to provide 24 affordable units within a scheme of 60 dwellings, as proposed in the application documents. This would meet the policy requirement and would assist in addressing the need for affordable housing. The Affordable Housing should be secured, at nil subsidy, in a S106 Agreement.

Tenure Mix:
In accordance with Core Policies 43 and 45 of the Wiltshire Core Strategy the tenure mix should reflect local need for affordable housing. It should also meet the government's requirement that 25% of the Affordable Housing units are provided as First Homes. To meet these policy requirements, the Affordable Housing units should be provided with a tenure mix of 60% of the units (14 units) being for Affordable Rented housing, 25% of the units (6 units) being provided as First Homes and 15% of the units (4 units) being provided for Shared Ownership.

Unit Size Mix:
Core Policy 45 of the Wiltshire Core Strategy states that housing size and type will be expected to reflect that of the demonstrable need for the community within which a site is located. An indicative mix which would reflect current need would be:

Affordable Rented (14 units):
30% (4 units) - 1 bed / 2 person (maisonette style) flats.
45% (6 units) - 2 bed / 4-person houses or bungalows.
20% (3 units) - 3 bed / 6-person houses.
10% (1 unit) – 4 bed / 7-person house.

It should be noted that provision of a small number of 1 bed units on this scheme is important as there is an identified need for 1 bed rented accommodation in Sutton Benger. If no 1 bed units are provided, local households on the Housing Register with an identified 1 bed need will not be able to bid for properties on this scheme.

First Homes (6 units):
30% (2 units) - 2 bed / 3-person maisonette style flat.
50% (3 units) - 2 bed / 4-person houses.
20% (1 unit) – 3 bed / 5 person house.

Shared Ownership (4 units):
50% (2 units) - 2 bed / 4-person houses.
50% (2 units) - 3 bed / 5-person houses.

I would welcome the opportunity to discuss and review the unit size mix as proposals develop.

There is also a demonstrable need for adapted housing in Chippenham community area. On all schemes which provide more than 10 Affordable Housing units, it is requested that 10% of affordable units are provided as adapted units in order to help meet this demonstrable need.

These units should be provided as ground floor maisonette style flats or bungalows to Building Regulations M4(2) standards with a level access shower provided. On this scheme, two adapted units should be provided as either ground floor 1 bed flats or 2 bed bungalows in order to meet demonstrable need.

Design of Scheme (including Minimum Floorspace Standards):
Affordable housing in Wiltshire is expected to meet high standards of design and quality, and to be visually indistinguishable from open market housing. In designing the scheme, the following should be considered:

- *The Affordable Housing units should be evenly dispersed, in small clusters of no more than fifteen units, within mixed tenure developments.*
- *First Homes should be distributed across the entire site.*
- *1-bedroom units should be provided in maisonette style flats, each with a dedicated garden space.*
- *2-bedroom flats above ground floor level are considered unsuitable for affordable units (other than First Homes).*
- *Flats over garages or commercial units are considered unsuitable for affordable.*
- *Parking courts are not considered suitable for affordable homes unless serving a block of flats.*
- *Parking should be provided in curtilage or adjacent to the property.*

To ensure that the affordable housing units are eligible for inclusion in Homes England's Affordable Housing programme, we would advise that all affordable homes are built to meet at least 85% of the Nationally Described Space Standard (NDSS) relevant to the dwelling type and minimum person criteria. NDSS and 85% NDSS are shown in the table below:

Number of bedrooms	***Number of bed spaces***	***NDSS***			***Minimum 85% NDSS***		
		1 storey (sqm)	*2 storey (sqm)*	*3 storey (sqm)*	*1 storey (sqm)*	*2 storey (sqm)*	*3 storey (sqm)*
Studio	*1p*	*39 (37)**			*34 (32)**		
1b	*2p*	*50*	*58*		*43*	*50*	
2b	*3p*	*61*	*70*		*52*	*60*	
	4p	*70*	*79*		*60*	*68*	
3b	*4p*	*74*	*84*	*90*	*63*	*72*	*77*
	5p	*86*	*93*	*99*	*74*	*80*	*85*
	6p	*95*	*102*	*108*	*81*	*87*	*92*
4b	*5p*	*90*	*97*	*103*	*77*	*83*	*88*
	6p	*99*	*106*	*112*	*85*	*91*	*96*
	7p	*108*	*115*	*121*	*92*	*98*	*103*
	8p	*117*	*124*	*130*	*100*	*106*	*111*

**Where a one person flat has a shower room rather than a bathroom the floorspace may be reduced from 39 sqm to 37 sqm (NDSS) or from 34 sqm to 32 sqm (85% NDSS).*

Transfer of Affordable Rented and Shared Ownership Units to Registered Provider:
The affordable dwellings, other than First Homes, will be required to be transferred to a Registered Provider, approved by the Council, or to the Council, on a nil subsidy basis. It is strongly recommended that the applicant contacts Registered Providers and Wiltshire

Council's Residential Development Team as soon as possible to discuss the best option for the affordable dwellings including an indication of transfer prices that can be expected. A list of Registered Providers who work in partnership with Wiltshire Council, and contact details for Wiltshire Council's Residential Development Team, can be provided on request.

Sale of First Homes
Please note that First Homes must be discounted by a minimum of 30% against the market value, with the sale price, at first sale, no higher than £250,00 after the discount has been applied. They must be sold to qualifying first time buyers (with the discount and restrictions passed on to subsequent owners in perpetuity) in accordance with procedures and eligibility criteria set out in government guidance. Please see First Homes - GOV.UK (www.gov.uk) for more information.

First Homes should be marketed to households with a local connection to Wiltshire for the period that local eligibility criteria apply.

Nominations:
The Local Authority will have nomination rights to the affordable dwellings, secured through a S106 Agreement."

Education Officer – no objection, comments as follows:

"ASSESSMENT OF: *60 units- 36 open market and 24 affordable housing (AH). No size mix supplied.*

EXCLUSIONS/DISCOUNTS APPLIED: *Standard 30% AH discount applied to 24 x AH units = a reduction in qualifying properties of 7 units.*

NUMBER OF PROPERTIES QUALIFYING FOR ASSESSMENT: *53*

SCHOOL PLACES NEEDED BY DVLPT: PRIMARY = *16* ***SECONDARY =*** *12*

DESIGNATED AREA PRIMARY/IES:
- *Sutton Benger CE Primary.*
- *There are no other primaries within a 2 miles safe walking distance of the development site.*

DESIGNATED AREA SECONDARY/IES:
- *Nominally, Hardenhuish, Chippenham.*
- *But all three Chippenham secondaries serve the area = Abbeyfield, Hardenhuish, Sheldon.*

EARLY YEARS PLACES - ASSESSMENT DETAILS:
- *There are currently 1 preschools and 0 childminders within a two-mile safe walking route of this proposed development.*

- *The Local Authority has a duty to provide sufficient childcare for working parents under Section 6 of the Childcare Act 2006.*
- *Therefore, any increase in population as a result of this development will require additional childcare provision.*
- *Based on the 53 qualifying properties:*

Number of units	2-year olds and below 4 places per 100 dwellings	3- & 4- year-olds 9 places per 100 dwellings	Total of places	Total required:
53	2	5	7	£17,522 x 7 = £122,654

EARLY YEARS PLACES - S106 CONTRIBUTION REQUIREMENTS: Current pupil products:
0.04 per dwelling for 0-2-year-olds (4 per 100 dwellings) and 0.09 per dwelling for 3-4-yearolds (9 per 100 dwellings). Current cost multiplier = £17,522 per place. *(Please note however, that the cost multiplier quoted is due to be updated for the 2023/24 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

- ***Current provision in Sutton Benger is located in the village hall. With investment in facilities this could expand. Therefore, the total S106 contribution required is as per calculations above = £122,654, (but please see note * above), subject to indexation.***

- ***This contribution would be secured via a Section 106 Agreement, to which the Council's standard terms will apply.***

PRIMARY SCHOOL PLACES - ASSESSMENT DETAILS:
- *Capacity = 210 places*
- *May 23 NOR = 182 pupils.*
- *Recently updated forecasts peak at 160 in September (including in area housing already completed/underway).*
- *In addition, the total number of places required by housing already registered/approved but not yet built out in the village currently = 18 places.*
- *So, there is spare capacity currently available at the school.*

PRIMARY SCHOOL PLACES – S106 CONTRIBUTION REQUIREMENTS: Current Primary cost multiplier = £18,758 per place. *(Please note however, that the cost multiplier quoted is due to be updated for the 2023/24 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

- ***Sutton Benger CE has sufficient capacity to accommodate the need for primary school places generated by this development, without the need for expansion.***

- ***As a result, we have no requirement here for a developer S106 contribution from this application.***

SECONDARY SCHOOL PLACES - ASSESSMENT DETAILS:

Aggregated data for all three secondary schools serving Chippenham and the surrounding area.

- *The Chippenham secondary area is served by Abbeyfield, Hardenhuish and Sheldon secondary schools.*
- *Current combined PAN Years 7 – 11 capacity = 3691 places. (This includes new places already secured by CIL/S106).*
- *May 23 Yrs 7 -11 NOR = 3394 pupils.*
- *Recently updated forecasts peak at 3484 pupils in 2023 (includes in area housing already completed/underway).*
- *In addition, these figures do not yet reflect the full pupil product of the substantial level of housing development already registered/approved in the Chippenham area, at sites such as: Birds Marsh Wood, Hunters Moon, Rowden Park, Rawlings Farm and Langley Park, which are yet to be started/completed.*
- *Additional places currently needed by new in area housing, which is not yet completed and, in our forecasts, = 824.*
- *Based on latest projections there is already a significant shortfall in secondary places in the Chippenham area.*

SECONDARY SCHOOL PLACES – S106 CONTRIBUTION REQUIREMENTS: Current Secondary cost multiplier = £22,940 per place. *(Please note however, that the cost multiplier quoted is due to be updated for the 2023/24 financial year, and the new figure will apply to S106s signed in that financial year as per our S106 Methodology).

- ***The Council intends to substantially enlarge Abbeyfield School to meet the increase in demand for places generated by a substantial level of new housing. The first phase of 150 places will be provided by CIL. Subsequent phases, which will provide the places needed for this development, will be funded by Section 106.***
- ***Using the current capital cost multiplier of £22,940 per place (but please see note* above), we require a full developer contribution towards the places that this development requires: 12 places x £22,940 = £275,280 subject to indexation.***

- ***Contributions are to be secured by S106 Agreement, to which the Council's standard terms will apply.***

CAVEATS: (see attachment)"

Urban Design – No objection, comments as follows:

1. *"As the High Street that this proposed scheme is off, passes through the historic heart of the village, it is flanked by listed buildings and conservation areas. All proposed development schemes to this site must therefore aim to meet the high standards of design and build quality that can be clearly seen along the High Street. In that respect standard house types that have been tweaked or display token amounts of natural building materials will not be appropriate here.*

2. *If new development is to be considered at this site, then the Design and Access Statement prepared by CSA Environmental for Gladman Developments, illustrates how a masterplan has been skilfully crafted for this site. However, I would like to emphasise aspects of the design and build quality required for consideration at the next stage of the delivery process, should this application be approved.*

3. *All dwellings proposed to this site should be designed bespoke for this unique location, in accordance with the Council's adopted Core Strategy – Core Policy 67, HM Government's National Design Guid and Building for a Healthy Life. The elevations of standard house types can be re-worked, but whether designing from scratch or re-working standard house types, with a brief for a traditional or a modern aesthetic, high level design is best achieved by employing chartered architects.*

4. *With regards to building materials, the Design and Access Statement identifies three-character areas. Within Character Areas 1 and 3, all the dwellings, garages and garden walls should be built from the same local natural stone that can be seen in many parts of Sutton Benger. Roofs should be built using clay pantiles or small unit clay flat tiles, to be in keeping with the character of the conservation area, which is visually prominent along the High Street through the village.*

5. *Within Character Area 2 there is more flexibility with regards to materials, but standards must remain high. Instead of being built exclusively of natural stone, some dwellings can be part built of natural stone, with other elevations or parts of elevations built using a buff brick or render. Roofs should be clay pantiles or small unit sized clay tiles. The only exception being for dwellings that have a predominantly south facing aspect. Their roofs can be covered with a dark grey slate manufactured from different materials, provided that the south facing slope of these roofs are fully fitted out with solar panels. To maximise the area that solar panels can be fitted to, the south facing roof slopes should be rectilinear, devoid of mini hips, pitches, and dormer windows."*

<u>Climate Team</u>

Initial comments

"…Comments on the submission:

The climate team actively and strongly encourages developers of all scales to put the mitigation of and adaption to climate change as a golden theme to run through their development project. This will mean different things depending on the scale of the project, but to support the transition to a low carbon future, radical reductions in greenhouse gas emissions over the existing status quo will be required.

As set out above, s19 of the Act places a statutory duty for development plan documents, taken as a whole, to include policies designed to secure development that contribute to the mitigation of, and adaptation to, climate change. The Wiltshire Core Strategy achieves this through its locational, sustainable transport, sustainable construction and various climate adaptation related policies. If these policies are not addressed then the proposal will not contribute to addressing climate change.

The applicant is looking to address locational conflicts with the development plan. In these circumstances, one way to mitigate this conflict would be to take a more ambitious approach in relation to other climate change issues, such as providing a clear strategy to go above and beyond usual expectations on sustainable construction, sustainable transport and climate adaptation. The approach to this should be set out in the Sustainable Energy Strategy – a document required for all major proposals by Core Policy 41.

Given the lack of Sustainable Energy Strategy I would object to this proposal as I have no evidence that the proposal will seek to take a more progressive approach to reducing the carbon emissions associated with new development, let alone address the clear locational conflicts with the development plan. A spatial planning objective of the core strategy is to address climate change. This is consistent with national policy. Based on the evidence provided it appears that the proposal will not be contributing to the radical reduction in greenhouse gas emissions that the NPPF sets out planning needs to achieve.

The Sustainable Energy Strategy should inform the whole of the development submission, including the masterplanning, transport and waste audit work. This is because to achieve a development with low/net zero operational carbon, low embodied carbon, low transport related carbon and that is resilient to climate change, the masterplanning has to have full regard to the energy strategy. For example, the masterplanning seems to pay little or no regard to providing a layout that could orientate units that have roofs within circa 30 degrees of south suitable for large PV arrays and it provides a community allotment at the furthest most point of the existing village built up area.

Until a Sustainable Energy Strategy has been submitted, revised plans have been submitted that are in part informed by the energy strategy, and all of the evidence illustrates that overall, the scheme would be ambitious and contribute to transitioning the built environment sector towards net zero, then I must object to the proposals. I expect a holistic assessment to including water efficiency, nature-based solutions to adapt to a changing climate as well as more obvious items such as building regulation busting levels of energy efficiency, renewable and low carbon technologies and consideration of low carbon materials in the substructure, superstructure and external finishes.

In light of further information I would be happy to reassess the scheme. Climate change is the central issue to be addressed by the development plan. The direction of travel since its adoption in 2015 is very clear with the Council's adopted Climate Strategy in 2022 setting a framework for reducing carbon emissions in Wiltshire and for making the county resilient to climate change. Furthermore, the NPPF states that planning needs to shape places in ways that contribute to radical reductions in greenhouse gas emissions."

Revised comments

"I have reviewed the submitted Sustainability and Energy Statement. It does not show the degree of ambition to afford positive weight in terms of sustainable construction and at best should be treated as a neutral consideration in any planning judgement. As I set out previously the proposal has conflict with the development plan in terms of locational policies which in part are in place to address climate change. As such I would object to the proposal.

However, if minded to approve I would recommend that you condition:

- *further Sustainable Energy Strategy/ies to be submitted concurrently with any reserved matters;*
- *secure the higher water efficiency standard of 110 l/p/d as allowed to do in water stressed locations such as this."*

Public Protection Officer – no objection, comments as follows:

"I have reviewed this application and recommend the following conditions to be required at reserved matters stage from a public protection point of view.

Noise
An Acoustic Design Statement, as defined by the Professional Practice Guidance: Planning and Noise – New Residential Development (May 2017), for protecting the proposed development from noise from the M4 motorway and B4069 shall be submitted to and approved by the local planning authority; all works which form part of the scheme shall be completed before any part of the noise sensitive development is occupied.

For the avoidance of doubt, using closed windows to achieve the internal noise level target shall only be considered once all other good acoustic design acoustic mitigation measures have been utilised.
Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

Contaminated Land
In the event that contamination is encountered at any time when carrying out the approved development, the Local Planning Authority must be advised of the steps that will be taken by an appropriate contractor; to deal with contamination and provide a written remedial statement to be followed be a written verification report that confirms what works that have been undertaken to render the development suitable for use.
Reason: Core policy 56, To reduce the risks associated with land contamination

Construction Management Plan
No development shall commence until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

i. The movement of construction vehicles;
ii. The cutting or other processing of building materials on site;
iii. Wheel washing and vehicle wash down facilities;
iv. The transportation and storage of waste and building materials;
v. The recycling of waste materials (if any)
vi. The loading and unloading of equipment and materials
vii. The location and use of generators and temporary site accommodation
viii. Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.
Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

Air Quality
A scheme of Electric vehicle charge point infrastructure shall be submitted to the LPA. The scheme must comply with the requirements of Step 1: Good design as set out in the council's draft Air Quality Supplementary Planning Document. The scheme shall be be approved by the LPA prior to implementation and thereafter be permanently retained.
Reason: Core Policy 55

Drainage Officer – no objection, subject to Conditions

Matters Considered:
Documents Reviewed:
- *Flood Risk Assessment.pdf*

The application has been supported with a site-specific Flood Risk Assessment (FRA). It should be noted that our comments below are reliant on the accuracy and completeness of the FRA and we do not take any responsibility for incorrect data or interpretation made by the authors.

Attenuation basins will provide surface water storage and attenuation for the 1 in 100 year storm plus 45% climate change event including an allowance of 10% for urban creep

A surface water pump is required to take the attenuated surface water from the basin and lift flows to the highpoint between the site and the watercourse.

Permeable paving could be incorporated within private roads, shared surfaces and driveways that are part of the development. As the surface area available for permeable paving is currently unknown then the storage volume of permeable paving has not been included in the calculations at this stage however we would encourage the incorporation of this during detailed design

It is noted that the applicant has stated that the dimensions, volumes and location of the SuDS features will need to be revised as the masterplan develops and during the detailed planning stage. Detailed design of individual features is not part of the scope of this report. Preliminary design criteria have been based upon guidance given in the CIRIA publication 'The SUDS Manual.

The LLFA supports the application subject to the following conditions being met in the full application following detailed design:
1. *No development shall commence on site until the applicant has submitted:*
    - *Calculations and drawings for the drainage system design showing designated holding areas and conveyance routes based on no flooding on site for a 1 in 30 year rainfall event.*
    - *Calculations and drawings for the drainage system design showing designated holding areas and conveyance routes based on no flooding on site for a 1 in 100 year plus climate change rainfall event in respect to a building (including basement) or utility plant susceptible to water within the development;*

2. *No development shall commence on site until the applicant has undertaken a sensitivity analysis on the network considering surcharged outfall conditions. As the outflow from the basin will be pumped, this could effectively push flow into the watercourse when watercourse levels are high leading to localised flooding of third party land. IN addition, the applicant also needs to consider pump failure as a cause of flooding. Is there sufficient volume on site to fully attenuate the 1 in 100yr + cc storm?*
   REASON: To ensure that any flooding resulting from a surcharged outfall will not affect people or property.

3. *No development shall commence on site until the applicant has submitted calculations which demonstrate that the proposed drainage design provides a sufficient level of water treatment.*
   REASON: to prevent pollution of the receiving watercourse

4. *No development shall commence on site until the applicant has provided calculations which demonstrate that the required 20% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100year return period storm events.*
   REASON: Wiltshire Council requires post development discharges to provide 20% betterment over predevelopment (greenfield) discharges for both peak flow and volume. To demonstrate compliance, the applicant must provide pre and post development runoff rates for a range of return periods (1, 30 and 100 year), and pre and post development runoff volumes for the 100 year, 6 hour rainfall event. This takes account of national policy, as outlined in the SuDS Technical Standards

5. *The FRA / Ground investigations show that ground water has been encountered at a level that could interact with the attenuation. The applicant should provide details regarding lining of the attenuation pond to demonstrate that the interface with groundwater has been safely managed.*

6. *No development shall commence on site until the applicant has shown overland exceedance routes on the drainage plan for flows in excess of the 1 in 100 year plus climate change (40%) rainfall event.*
   REASON: To minimise the risk to people and property during high return period storm events.

7. *No development shall commence on site until clear arrangements are in place for ownership and ongoing maintenance of SuDS over the lifetime of the development.*
   REASON: To ensure that the SW drainage performs as designed and to avoid flooding due to lack of maintenance.

8. *No development shall commence on site until a construction management plan, which shall include monitoring of, and measures to retain, the existing vegetation across the site, together with details of drainage arrangements during the construction phase, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.*

REASON: There's a statutory duty to ensure that surface water quality and quantity is managed throughout construction and as not to increase flood risk, or pollution of watercourses.

Informatives

- *Within the calculations, the MADD factor must be set to zero and the margin for "flood risk" warning in hydraulic models been set to >= 300mm.*
- *If a value other than 0m3/ha is selected for the MADD value, the applicant will need to provide quantitative evidence to demonstrate that this is appropriate.*
- *WC issues land drainage consents for discharges to ordinary watercourses and for any works within 8m of one."*

Wessex Water – no objection subject to Condition(s), following further information

Initial comments

*"**Wessex Water OBJECTS to this application** – Reasons for the objections and further information for the applicant are given below.*

OBJECTION - Residential development in close proximity of Sutton Benger sewage treatment works (STW)– High Risk of Odour Nuisance

Users of the development will be susceptible to nuisance from odour which will affect future resident's amenity values. Wessex Water objects to planning applications where development sensitive to odour is located within high risk odour contours or within fly nuisance zones. (Shown in blue on attached asset map).

Odour Nuisance

The applicant has not submitted an odour assessment.

Wessex Water object to development that is not supported by an accurate and compliant odour assessment.

The masterplan should be developed to ensure that residential development is located outside the high risk odour contour to protect future resident's amenity values. To overcome this objection the applicant must submit an accurate and compliant odour assessment for approval by Wessex Water and demonstrate that no dwellings will be affected by loss of amenity from odour nuisance.

Fly Nuisance – For information

Sutton Benger STW is designated as a fly sensitive site. On designated fly sensitive sites such as this, DEFRA guidance is that there should be no sensitive receptor development within a minimum of 250m of the boundary of the sewage treatment works and there should be consultation on suitable development within 1km of the boundary of the site. There is a risk

of fly complaints being received if encroachment comes too close.

The STW has been reviewed by our scientist specifically for flies. Chironomid (non-biting midge) larvae have been detected on the filter beds and there has been adult Chironomid fly swarms detected in the trees on the boundary of the site.

For this specific development, we would recommend that there is no development within a minimum of 150m of the sewage treatment works site boundary.

The masterplan should be developed to ensure that the housing development is located a minimum distance of 150m from the sewage treatment works site boundary to protect future resident's amenity values We also advise that the planning authority consult with the Council's Environmental Health Officer to review fly and odour matters before any determination is made.

OBJECTION – Conflict between existing Wessex Water Assets and proposed dwellings

The applicant has not submitted a proposed site layout. The Development Framework Plan, drawing ref CS/3324/120, Rev G, dated 27/06/23, submitted in support of the application, does not indicate the position or orientation of proposed dwellings.

Assuming dwellings will be located along the highway network indicated in the Development Framework Plan, there will be direct conflict between existing services that cross the site and the proposed dwellings. Details of existing services and required standoff distances are given below.

Wessex Water object to development that conflict with existing assets and subsequently prevent unfettered access to enable Wessex Water to carry out or statutory duties. *To overcome this objection the applicant will need to demonstrate a layout that complies with the necessary standoff details, or that a feasible diversion (at developers cost) can be achieved. Details of existing assets and required standoff distances are given below.*

Existing Services

The following Wessex Water Assets are located within the red line site boundary
200mm diameter rising main
315mm diameter public foul sewer
150mm diameter public foul sewer
150mm diameter public foul sewer – now abandoned

Standoff Around Foul Sewers

Wessex Water requires access to undertake our statutory duties as set out in the Water Industry Act 1991 to maintain and repair our assets. Therefore, there must be no buildings within a minimum of 3m either side of the 150mm diameter public foul sewer. There must be no buildings within a minimum of 3m either side of the 315mm diameter public foul sewer. No

tree planting is permitted within a minimum of 6m. This includes no surface water attenuation features and associated earthworks in the standoff strip, changes in ground levels resulting in additional loading or excavation can lead to instability in the pipe. Wessex Water require unrestricted access to maintain and repair our apparatus.

Standoff Around Rising Mains

Wessex Water requires access to undertake our statutory duties as set out in the Water Industry Act 1991 to maintain and repair our assets. Therefore, there must be no buildings within a minimum of 5m either side of the 200mm diameter rising main and no tree planting within a minimum of 6m. This includes no surface water attenuation features and associated earthworks in the standoff strip, changes in ground levels resulting in additional loading or excavation can lead to instability in the pipe.

The rising main must not run through enclosed private rear gardens, it must be within a 6m (3m either side) open access strip or roads. Wessex Water require unrestricted access to maintain and repair our apparatus.

Protection Arrangements

The applicant will need to agree protection arrangements for the existing public foul sewers and rising main which cross the site (standoff details as given above). Any damage to our apparatus by third parties will result in a compensation claim.

All existing apparatus must be accurately located on site and marked on deposited drawings. A map showing all known Wessex Water Assets within the area of the proposed site is attached at the bottom of this response. Additional maps can be obtained from our website Mapping enquiries (wessexwater.co.uk)

Foul Drainage

Wessex Water will accommodate domestic type foul flows in the public foul sewer with connections made on a size for size basis, Developers fund the cost of connecting to the nearest 'size for size' sewer. The minimum diameter receiving sewer to meet size for size principles for a development of this magnitude is 150mm. Capacity is available to accommodate proposed foul flows from the 60 dwellings, the most appropriate point of connection would be to the 35mm diameter public foul sewer that crosses the site.

The point of connection to the public network is by application and agreement with Wessex Water.

Please Note: *Wessex Water will not accept any surface water runoff, land drainage or ground water into the public foul sewer network either directly or indirectly.*

Surface Water Drainage (rainwater falling onto, and running off, impermeable surfaces)

We note within Section 8.4.3 of the Fl is proposing to discharge surface water runoff to the existing watercourse outside the northern boundary of the site via land under the same ownership as the application site. Wessex Water has no objections to this proposal and would defer to the LLFA for approval of this drainage strategy.

Adoption

Wessex Water can adopt SuDS features as part of a surface water sewer network, SuDS schemes will be required to have full S104 technical approval and full planning approval before construction work begins. All drainage design requirements for the site (discharge rates, attenuation, climate change etc.) must be agreed, in consultation with the Local Planning Authority / Lead Local Flood Authority, prior to the submission of a formal S104 application. Adoption is by agreement with Wessex Water. More detailed information and guidance for adoptable standards can be found on our Developer Services Web Pages Sector guidance on sewerage and water adoption agreements (wessexwater.co.uk)

Water Infrastructure

Wessex Water will provide a point of connection for new water mains to be laid into the development site, either through a Section 41 agreement or a self-lay arrangement.

Developers may connect to our water network on a size for size basis at their cost and Wessex Water will undertake any network reinforcement that may be required to accommodate granted development, this is funded through our infrastructure charging arrangements. Upon grant of planning Wessex Water will undertake a modelling exercise to determine the impact on our network and manage any necessary improvements.

The minimum diameter supply main at point of connection, to meet size for size principles, for a development of this magnitude is 100mm. Reinforcement work to upsize part of the 3" main located on High Street is currently underway. A point of connection will need to be confirmed upon application.

For more details and guidance for applying to connect to our networks please see our website: https://www.wessexwater.co.uk/services/building-and-developing/building-multiple-properties-or-largedevelopments"

Revised comments

"Further to our previous planning consultation response dated 22nd August 2023, we have been liaising with the developer with regards to our Objection and requirements for both Fly and Odour Assessments. The applicant has now confirmed there will be no habitable dwellings at the southeast corner of the site and it is proposed to locate the SuDS basin and Allotments here, which is pleasing to hear, the use of a SuDS basin and allotments would be considered as low risk; however, we have advised that it should be noted that standing water which could occur in any SuDS basin may encourage fly populations such as Chironomids.

Further to this we have advised the applicant that Wessex Water have a fly management in place and in March 2023 published further guidance on how fly assessments should be

completed. Previous monitoring of the WRC site has indicated the presence of Chironomid and Window Gnat species.

Having now received clarification of what is proposed for the southeast corner and the proposed development being >150m from the nearest filter bed and not downwind of the prevailing wind direction I can confirm that we can now remove the holding objection. However, this does not mean that the area will be free of flies at all times. The risk assessment is based on normal conditions of the Water Recycling Centre, an average sensitivity receptor, non-extreme weather and normal natural background levels of flies being present. It is strongly recommend that the receptors do not have windows, doors, outdoor lighting that faces the boundary of the WRC site. Tree types such as populus, conifers, leylandii should not be planted as Chironomid species have been identified. Any changes to the proposed layout should be reassessed.

Therefore, please take this email as confirmation we now withdraw our previous objection, lodged on grounds of fly and odour nuisance.

All other advice and guidance without our previous planning consultation response dated 22nd August 2023 remain current and valid."

Waste & Refuse Officer

"Provision of containers for waste and recycling:
The council requests s106 contributions towards the provision of waste and recycling containers for each residential unit, under policies CP3 and WCS6. The following estimated contribution is required for the proposed development:

Property type category	***Contribution per house/per category***	***Quantity***	***Total***
Individual house	*£101.00*	*60*	*£6,060*
Bin store for block of 6-10 flats	*£815.00*		*£ 0*
Bin store for block of 11-14 flats	*£1,545.00*		*£ 0*
Bin store for block of 15-18 flats	*£2,276.00*		*£ 0*
		Total	***£6,060***

Access to waste collection services:
I attach a guidance document setting out the council's technical requirements to ensure that residents will be able to use the standard waste collection service. In general terms, following the attached guidance will allow the service to operate as intended and generally will mean that plans are acceptable to the waste management services team. The following paragraphs highlight some areas that would need to be addressed at the next stage of an application.

Vehicle access

Vehicle tracking is required to demonstrate that refuse collection vehicles (RCVs) can move through the development and turn at the ends of roads, especially taking account of cars parked in allocated spaces and at the roadside. Adequate turning room should be provided to take account of the restrictions on carry distances for residents set out in Part H of Building Regulations (25m), the limitations on carry distances for waste collection crews, where the vehicle should be able to stop within 10m of a collection point (see section 4.4 of the attached guidance) and due to the requirement to minimise reversing to meet the requirements of BS 5906:2005. Tracking on plans in future submissions should demonstrate the sufficiency of vehicle access.

***Required** - The council requires an indemnity in order to operate on any roads that are not adopted, including during any period where the council needs to deliver waste collection services prior to adoption. The required arrangements are set out in section 5.8 of the attached guidance with a sample indemnity provided in Appendix C*

Collection points

Each dwelling should have a collection point that is on level hardstanding off any roadway or footway at the curtilage of the property, as further described in section 5.2 of the waste SPD. Plans should identify these areas for each dwelling and demonstrate that they do not impact on space available on driveways and that soft landscaping won't prevent or encumber the collection crew when emptying bins.

Storage points

In accordance with the guidance in section 5.4 of the waste SPD, plans in future submissions should demonstrate that each property has suitable storage space that takes account of the guidance. Showing containers to scale in situ will help to demonstrate compliance.

Routes between storage and collection points

As noted in the 'Vehicle access' section above, residents should not have to carry their waste containers more than 25m from the storage point to the collection point. Plans should demonstrate that this is achievable for each dwelling, preferably with a supplementary table listing the carry distances per dwelling, for ease of reference. Section 5.3 of the waste SPD provides further details on matters to consider when designating these routes.

The collection service for flats

If final designs include communal bin stores for flats, the detailed guidance in section 5.6 of the attachment should be followed. Particular attention should be paid to the location and accessibility of bin stores, as the RCV should be able to park within 10 metres of the store without obstructions and with dropped kerbs in place to enable the bins to be safely manoeuvred to the rear of the RCV. We have experienced problems where poor location, insufficient storage space or doorways of inadequate width mean that services can't be delivered, which impacts on the quality of life of residents as waste accumulates. Final designs should demonstrate how these problems are mitigated."

Wiltshire Fire & Rescue – No objection, comments made relating to Building Regulations as follows:

"Building Regulation Matters

In the event the planning permission is granted for this development, the development would need to be designed and built to meet current Building Regulations requirements. The Authority raises the profile of these future requirements through this early opportunity and requests the comments made under B5 of Approved Document B, The Building Regulations 2010 be made available to the applicant/planning agent as appropriate.

The assessment of this development proposal in respect of Building Control matters will be made during formal consultation, however early recommendations are identified on the attached schedules and relate to the following areas:

- *Recommendations identified under B5 of Approved Document B relating to The Building Regulations 2010*
- *Recommendations to improve safety and reduce property loss in the event of fire"*

Environment Agency

*"We have **no objection** to the proposed development subject to the following conditions and informatives being included in any planning permission granted.*

River Enhancement and Green Infrastructure
We note that the location plan (Drg No. CSA/3324/126 Rev. A) shows in blue outline 'proposed river enhancements'. There is no reference to this in the submitted planning application we would welcome further detail post permission. We recognise and welcome the integration of green infrastructure in the site as set out in the application's submitted supporting Design and Access statement. We wish to see greater detail at discharge of condition stage.

Condition – Ecological Enhancement
No development approved by this outline permission shall be commenced until a Scheme for Ecological Enhancement and Green Infrastructure, has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable. All subsequent reserved matter applications shall be compliant with this condition.
***Reason:** To ensure main river ecological enhancements are carried out in an appropriate manner.*

Condition - Construction Environmental Management Plan (CEMP)
No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable. All subsequent reserved matter applications shall be compliant with this condition.
***Reason:** To prevent pollution of the water environment*

Informative
The submitted CEMP must include safeguarding measures to deal with the following pollution risks:
- the use of plant and machinery
- wheel washing and vehicle wash-down and disposal of resultant dirty water
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds

- the control and removal of spoil and wastes.

Groundwater Protection
The site falls within a groundwater Source Protection Zone 2 (SPZ 2). This is a zone of protection surrounding a nearby drinking water borehole, which is vulnerable to pollution. It therefore requires careful protection from contamination. Further information on SPZs can be found at http://www.environment-agency.gov.uk/homeandleisure/37833.aspx

Waste Management
Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility.

If the applicant require more specific guidance it is available on our website www.environment-agency.gov.uk/subjects/waste/.

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000.The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at http://www.netregs.co.uk

Water Efficiency and Climate Change
The incorporation of water efficiency measures into this scheme will:
- contribute to climate change resilience by minimising the impacts of drought (cumulatively)
- reduce abstraction pressure on water resources and riverine ecosystems
- benefit future residents by reducing water bills.

The following condition has been supported in principle by the Planning Inspectorate.

Condition – Water Efficiency
No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details. All subsequent reserved matter applications shall be compliant with this condition.
Reason: *In the interests of sustainable development and climate change adaptation.*

Informative
The development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a total (internal and external) usage level of 110 litres per person per day.

Informative – Works within proximity of a main river

The proposed development must not restrict essential maintenance and emergency access to the watercourse. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works.

Environmental permit - advice to applicant
The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- *on or within 8 metres of a main river (16 metres if tidal)*
- *on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)*
- *in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission*

For further guidance please visit https://www.gov.uk/guidance/flood-risk-activities-environmental-permits or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity."

Note on consultees

The following consultees have been consulted on this application but at this stage no response has been received. Relevant points on these technical issues and considerations are set out in the 'Assessment' section of this response:

- Spatial Planning
- Conservation Officer
- Rights of Way Officer
- Public Open Space
- Arboricultural Officer
- Natural England
- Policy Laison Officer

REPRESENTATIONS

The application was publicised by way of Site Notice and direct neighbour consultation. Some 108no. representations have been received (although notably a number of these are duplicates) regarding this planning application, the vast majority of which (some 105no.) being in objection, raising the following points:

- Queries regarding notification and the pre-application and application processes generally
- Noted inaccuracies regarding data provided
- Lack of capacity at doctors surgery and school and lack of facilities
- Traffic impact
- Highway safety issues / access is unsafe (traffic calming measures required)
- Lack of facilities within walking / cycling distance: Lack of shop / retail facility and the post office is closing (limited ability to solve these problems through s.106 funding alone)

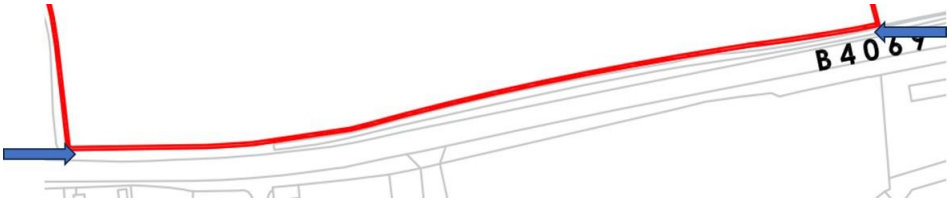
- Outside the settlement boundary
- Scale of development / density proposed is not appropriate for the size of the village
- Design of proposed dwellings / plot sizes not in keeping (DAS inaccurate in its analysis)
- Flood risk (stated inaccuracies with mapping based on recent events) and drainage
- Potentially 'annexing' of the site
- The need for downsizing opportunities for existing residents is not catered for
- Site in a conservation area and a green field
- Lack of sewage infrastructure
- Size and layout of allotments queried
- Loss of farmland
- Contrary to the Wiltshire's Local Cycling and Walking Infrastructure Plan (LCWIP) and Countryside Access Improvement Plan (CAIP)
- Ecological impacts
- Not justified given the growth of the village over recent years
- Lack of any employment opportunities
- Biodiversity and ecological impact
- Detrimental impact on the character and appearance of Sutton Benger
- Heritage impact (listed buildings / conservation area / pill boxes)
- Significant urbanisation of a rural site
- Harm to the local character, appearance and visual amenity
- Loss of rural gap
- No reference to the loss of trees
- Views from the right of way will be ruined
- Impact on rural life character
- Internet Access/speed will be adversely impacted
- Electrical network capacity cannot cope

ASSESSMENT

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the Framework (para. 2), applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan in respect of this application consists of the Wiltshire Core Strategy ('WCS', adopted January 2015), the 'saved' policies of the North Wiltshire Local Plan 2011 ('NWLP', adopted June 2006).

Extent of the application red line

During the course of determination of the application it has come to the LPAs attention that the red-line boundary shown on the submitted Site Location Plan does not extend to include a strip of verge land across the entire frontage (southern boundary) of the site, as shown on the extract below. That land is not shown as blue land and it is not recorded as being within the Council's ownership (also shown below).



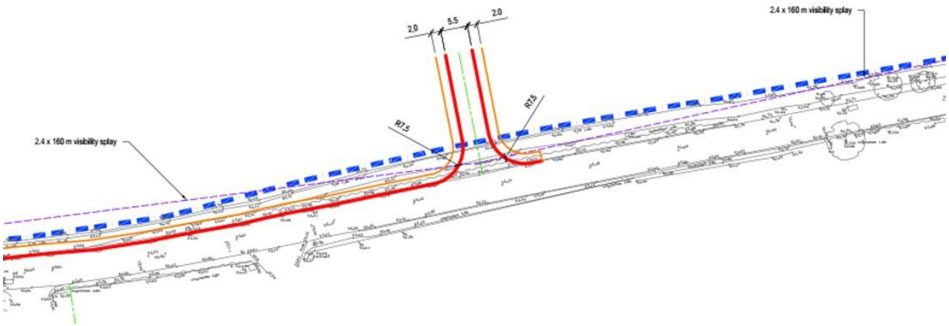
Extract from submitted Site Location Plan (dwg. no. CSA/3324/126)



Extent of highway land in Council's ownership

Ref. ID 14-024-20140306 of the Planning Practice Guidance confirms that an application red line: *'should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings)'*.

Ownership issues aside, it is clear from the submitted 'Proposed Junction' plan (dwg. no. P22132-0303/P03) – extract below – that the necessary visibility splays are not included within the red-line boundary.



Extract from submitted Proposed Junction plan (dwg. no. P22132-0303/P03)

The application was accompanied by a Certificate B, confirming that the applicant does not own all of the land within the application site. However, the necessary highway works for the creation of access points – both vehicular and pedestrian – fall in part outside of the red-line boundary and are not shown within blue land.

It remains unclear whether this land falls within the ownership upon whom Notice has been served as part of this application. It may be the case that those owners upon whom Notice has been served do own that land; however, as the ownership of that land is unknown that cannot be assumed and

it may be that a revised Certificate B would be required if there are additional owners, or alternatively a Certificate C (or D) should any owners be unknown. Section 65 of the Town & Country Planning Act 1990 and ref. ID 14-025-20140306 of the Planning Practice Guidance both say that unless the correct Certificate has been completed, an application is not valid.

On the one hand, it could be considered that an appropriate course of action would be to invalidate the application on that basis (indeed, should the Council's ultimate decision be taken to appeal, the Planning Inspectorate may conclude that an appeal would be invalid). However, the Council is within its rights to determine the application based on the submitted red line; invalidating the application at this stage would not, it is considered, be in the public interest.

On this basis, the application has not been made invalid and it is appropriate for the Council to proceed towards determination on the basis of the submitted details. This is touched upon again in consideration of highway matters below.

Principle of development

Local Plan Settlement Strategy

Paragraphs 7 and 8 of the NPPF state that there are three, interdependent objectives the planning system has in order to achieve sustainable development: an economic objective; a social objective; and an environmental objective. These objectives should be delivered through plan preparation and implementation and applying the policies in the Framework.

Sustainable growth is not just about considering whether a development is sustainable in its own right – for instance in terms of good design, safe access, mix of uses, accessibility of sustainable transport modes, infrastructure provision etc. Rather, it is also about the consideration of a proposal in the context of the wider plan area and the objectives of the development plan to deliver a sustainable spatial vision and strategy. The NPPF enshrines the principle that planning should be genuinely plan-led and empower local people to shape their surroundings and that to achieve sustainable development policies should be mutually supportive to deliver interdependent economic, social and environmental objectives (para 8).

In the first instance, the Core Strategy defines a settlement hierarchy for Wiltshire throughout which the assessed development requirements are distributed. WCS Core Polices 1 and 10 identify Sutton Benger as one of a number of Large Villages within the Chippenham Community Area. They are defined as settlements with a limited range of employment, services and facilities. Development at Large Villages will be limited to that needed to help meet the housing needs of these settlements and to improve employment opportunities, services and facilities. This position is clarified in paragraph 4.15 of the WCS, which explains that: *'At the settlements identified as villages, a limited level of development will be supported in order to help retain the vitality of these communities'*.

At Large Villages settlement boundaries are set out in the Core Strategy and the North Wiltshire Local Plan and can only be amended through adoption of a development plan document or Neighbourhood Plan. There is no 'made' neighbourhood plan for Sutton Benger but the settlement boundary for Sutton Benger was reviewed as part of the WHSAP. The application site remains

outside the settlement boundary, and the site is not allocated for residential development in any part of the development plan.

As set out in Core Policies 1 and 2 development will predominantly take the form of small housing and employment sites within the settlement boundaries. Small housing sites are defined as sites involving less than 10 dwellings (i.e. not a major application). WCS Core Policy 2, amongst other components, establishes a minimum housing requirement for each of the County's Housing Market Areas and sets out a role for settlement boundaries. Within a settlement boundary development is acceptable in principle; outside, other than in circumstances as permitted by other policies within the WCS as identified in paragraph 4.25, residential development will not be permitted. The boundary may only be altered through the identification of sites for development through subsequent Site Allocations Development Plan documents and neighbourhood plans. This clearly demonstrates that Core Policy 2 is not a bar on all development outside the settlement boundary and that there are exceptions where such development will be permitted.

Meanwhile, saved Policy H4 of the North Wiltshire Local Plan only allows new residential development in the countryside where it is essential for a rural worker, or would constitute a replacement dwelling. Whilst saved Policy H4 predates and is worded differently to the NPPF, appeal decisions have held that it is broadly in accordance with its aims and objectives, as well as those set out in Policies CP1 and CP2 of the Wiltshire Core Strategy. Nevertheless, it is considered reasonable to give greater weight to Policies CP1 and CP2.

Core Policy 10 says that by 2026: *"Modest levels of development to meet local housing need and to support rural services and local employment opportunities will have been delivered in the villages."* Sutton Benger has seen significant growth and / or sites being granted planning permission over recent years, including, but not exhaustively: Faccenda Chicken Factory (63 dwellings, N/11/02286/OUT); Hazelwood Farm (21 dwellings, 14/03544/FUL); land at Sutton Lane (21 dwellings, 20/03487/FUL); land to the east of Church View (24 dwellings, 20/03876/OUT).

Although the draft Local Plan[3] is awaiting Examination and thus carries only very limited weight at this point in time, it is pertinent to note that due to this level of housing growth over recent years (noted as being , there is a 'zero' residual requirement (at the base date of 01/04/2022) for Sutton Benger over the forthcoming plan period 2020 – 2038; this is set out at Table 4.4 of that draft Local Plan. In this context, an application proposal for 60 dwellings is manifestly excessive.

The site remains outside the settlement boundary following the most recent review in the WHSAP adopted in February 2020 and the proposal seeks a large residential development in the open countryside. WCS Core Policy 48 states that outside of the defined limits of development residential development will only be supported where it enables workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside Further to the requirements of the WCS, Saved Local Plan Policy H4 states that a new dwelling in the countryside outside of any defined framework boundary will only be permitted provided that it is in connection with the essential needs of agriculture or forestry or other rural based enterprise. The proposal would not accord with any such provisions and would result in very significant further growth outside this modest sized village.

[3] Wiltshire Local Plan – Pre-Submission Draft 2020-2038 (Regulation 19)

The WCS, namely Core Policies 1, 2 and 10 aim to distribute development in a sustainable manner within the housing market areas and in general conformity with the Community Area Strategies, which in this instance is set out in Core Policy 10 and as informed by the defined settlement hierarchy.

Core Policy 10 deals specifically with the strategy for the Chippenham Community Area. This sets out the aim to provide the majority of growth within Chippenham Town and a limited amount of growth, 580 dwellings, in the remainder area. Sutton Benger falls into the remainder of the community area. Pertinent to the proposal, the supporting text to Core Policy 10 at para 5.52 advises that modest levels of development to meet local housing need and to support rural services and local employment opportunities will have been delivered in the villages. In addition, paragraph 5.48 sets out the vision for the community area, which focuses growth in Chippenham Town but also includes the need to redevelop the chicken factory in Sutton Benger, which has been undertaken. That paragraph in the WCS at bullet 6 notes that the long-established policy of protecting the distinct character and identity of the villages and settlements remains a priority for local communities.

The proposal is not plan-led; does not accord with the strategy and pattern of development anticipated by the WCS in Core Policies 1, 2, and 10 does not constitute a form of development that is an exception to the plan strategy, including failing to comply with Saved Policy H4 of the NWLP in respect of residential development outside limits of development. From a spatial planning perspective and in terms of the principle of additional growth in this manner in Sutton Benger, the proposal does not constitute sustainable development and conflicts with the principle aims of the National Planning Policy Framework.

Therefore, in accordance with the WCS, the principle of development is not supported in this instance as the proposal involves the erection of up to 60 dwellings on land outside the defined settlement boundary to Sutton Benger where planning permission for this type of development would not normally be granted as it is not considered to be a sustainable location for development of this scale.

Location characteristics and access to local services

Core Policy 10 requires growth to accord with Core Policies 1 and 2, while Core Policies 60 and 61 require development to reduce the need to travel by car and be in the most accessible locations.

Core Policies 60 and 61 of the WCS set outs that the Council will help to reduce the need to travel by private car by planning developments in accessible locations. New development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable travel alternatives. The location of this proposal is not considered to accord with the objective of these policies, as confirmed by the response from the Highways Officer, and would also conflict with the broad aims of the NPPF which seeks to promote sustainable development and reduce growth in the length and number of motorised journeys.

The Highways Officer response confirm an ‘in-principle’ objection to housing development on the site for sustainability reasons, stating (in part):

"The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2021, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives…"

To support this view, the Inspector's conclusions regarding a recent appeal on the site at land to the East of Church View for 24 dwellings are pertinent (20/03876/OUT / 3292118). That appeal was allowed; however, the Inspector clearly grappled with the locational characteristics of the site and the inherent policy conflict arising, with paragraph 15 of the appeal decision stating:

"Having regard to its location outside the settlement boundary, the lack of evidence to show it would meet a local need and its scale, I find the proposed development would be contrary to the CS spatial strategy. Also, in light of the paucity of higher order facilities and places of employment within the village, it would not entirely reduce the need to travel by car. For these reasons, I conclude the development would not be in a suitable location having regard to CS Core Policies 1, 2, 10, 60 and 61 as well as LP policy H4. …"

In that case, the appeal was allowed due primarily to the issue of lack of housing supply, despite these in-principle locational conflicts as well as landscape and character impacts (paragraph 43) – the housing land supply context is considered separately below.

Moreover, this proposed development – being of up to 60 dwellings – would be of a significant scale and classed as a major development which would be at odds with the scale of development envisaged in the core strategy as set out in paragraph 4.15. In other words, the concerns expressed by the Highways Officer and the appeal Inspector previously for a scheme of 'just' 24 units, would be exacerbated given the scale of this proposal. This conflict is afforded substantial weight against the proposal.

As a related aside, it is noted that the submitted Planning & Affordable Housing Statement references the conclusions of the appeal Inspector regarding the site at Land to the East Of Church View[4] that paragraph 4.15 of the Core Strategy which sets out that the scale of development at large villages should take the form of small housing schemes of less than 10 dwellings 'does not formally comprise any CS policy', and also that the use of the word 'predominantly' is not a firm requirement. Whilst these conclusions can be respected in a linguistic sense, that application / appeal was for a scheme proposing 24 dwellings; a scheme such as the scale of this application proposal much more bluntly flies in the face of the overall approach to the strategic objectives in terms of broad scales and locations of growth across the County.

A real-world assessment of the situation would lead to the conclusion that the occupiers of the new dwelling would be reliant on the private car to undertake the majority of their regular activities – see also Highways Officer comments and objections on this point in this report below. It is also of note that the Post Office in Sutton Benger permanently closed in September 2023 following the closure and proposed sale of The Bell House Hotel which housed that facility.

[4] 20/03876/OUT / Appeal ref. no. 3292118 (08 June 2022)

It follows that the site is not a sustainable location for development, given the distance from higher-order facilities and services, such that future occupants would be highly car dependent. The proposal is therefore in conflict with Wiltshire Core Strategy Core Policies 1, 2, 10, 60 and 61, as well as North Wiltshire Local Plan saved Policy H4.

Housing land supply position

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. For housing supply and delivery, the revised NPPF (December 2023) contains important updates which are relevant. For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has reached an advanced stage, it is now required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing, rather than five years.

The council's most recent Housing Land Supply Statement (published May 2023) sets out the number of years' supply against our local housing need – 4.60 years. It is likely that this figure is a little higher than 4.6 years because the NPPF has removed the need to apply a 'buffer' to authorities that 'deliver' housing sites. As these figures exceed the 4-year threshold, in the context of paragraph 11 of the NPPF the planning balance is now 'level' rather than 'tilted'.

This position has been upheld through recent appeal decisions which have been issued since publication of the revised NPPF, in particular /3323540 (Southwick, Large Village) and /3329064 (Semington, Large Village). Indeed, for the latter of these, which was for a proposal of up to 30no. dwellings at a settlement at the same level in the hierarchy as Sutton Benger, the Inspector reached the view that despite the benefits – including the delivery of affordable housing – carrying 'considerable weight (paragraph 23), this did not outweigh the harm in terms of the site not being in an appropriate location as set out at Core Policies 1, 2 and 15 (paragraph 12). The Inspector concludes overall that:

> *"The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified" (paragraph 28).*

Form, layout, scale and design

The NPPF at Section 12 seeks to ensure a high quality of design. In this context, Core Policy 57 requires that: *"A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality."*

Although there have been a large number of local representations made regarding the proposed design of the dwellings and highlighting some factual inaccuracies in the baseline character analysis, it is acknowledged that matters of design will largely be dealt with under 'reserved matters' as the only matter for which approval is sought at this stage is access. In this context, the Urban

Design Officer has offered no objection to the proposals and confirms that the proposed layout is of an acceptable form.

The submitted Design & Access Statement demonstrates how layout is, at least in part, derived from the technical constraints of the site, in particular the underground pipework (foul sewer) running diagonally across the site, the requirement for visibility splays and to ensure the setting of the adjacent listed building of no.74 High Street is appropriately respected. In this sense, concerns regarding the appropriateness of the proposed layout, such as the degree of set back from the main road and the appropriateness of likely plot sizes are entirely valid.

Development of the site, due to its prominent location at this rural edge, would lead to a much more suburban transition from the built form to the west, and the historic village pattern which that represents, to the rural land to the east. The proposal would introduce a relatively dense, suburban form of development in a form akin to an estate layout. The site landscaping at the boundaries and central area of public open space do provide an attempt at screening and 'opening' the site; however, it will clearly change the character of the land and the interface between urban and rural areas. The residential development represents a significant urban extension which would be clearly visible from the B4069, leading to a significant urbanising of the rural views currently experienced from the rural road and the public right of way running through the site.

Wessex Water initially raised objection to the application for two specific reasons. The first of these relates to amenity and is considered in more detail below. The second point of objection was on the basis of: *'Conflict between existing Wessex Water Assets and proposed dwellings'*. Based on the submitted Development Framework Plan, and the details as set out in the associated Design & Access Statement regarding site layout, Wessex Water has confirmed that this point of objection remains unresolved. Specifically, the site is shown to be crossed by both rising main and foul sewer pipes; the Wessex Water representation notes that the site is crossed by the following existing services:

> *"The following Wessex Water Assets are located within the red line site boundary*
> *200mm diameter rising main*
> *315mm diameter public foul sewer*
> *150mm diameter public foul sewer*
> *150mm diameter public foul sewer – now abandoned"*

As such, with this unresolved Wessex Water objection it remains unclear whether the proposed quantum of development can be achieved and further consideration of the proposed layout would be required in order to demonstrate this to meet the Wessex Water objection.

Separately, given the abutment of the site with the designated Conservation Area, design would clearly need very careful and bespoke attention at reserved matters stage were this application to be acceptable in all other regards. This would include all standard details, but of particular importance would be details such as (but not exhaustively): plot frontages, materials and roof forms to ensure a development of appropriate and necessarily high quality – as is evidenced in the response from the Urban Design Officer.

Whilst it is acknowledged that in general terms the proposed layout and design are reserved matters, as noted above, the Urban Design Officer has offered no objection to the proposals and confirms that the proposed layout is of an acceptable form. However, the objection from Wessex Water regarding appropriate access to their facilities is of itself considered to warrant a reason for refusal given the potentially fundamental implication of this objection on the proposed layout, and the consequent ability of the site to accommodate the level of development being proposed. As such, the proposal does not meet the requirement of Core Policy 57 (in particular criteria: iii, vi, vii, xiii), and Section 12 of the NPPF (in particular paragraphs 131 and 135).

Highways and access / sustainable transport and movement

As noted above, the Highways Officer (HO) has raised concern regarding the locational aspects of the application site in terms of Core Policies 61 and 62. Their initial response also raised some points of objection / queries regarding the technical detail and issues relating to: the vehicular junction, forward visibility, the provision and delivery of the pedestrian walkway, and safe and accessible walking routes.

Further information and detail was subsequently submitted in the form of an additional Technical Note and Proposed Junction details. In their response, the HO confirmed that, contrary to the assertion in the submitted Technical Note, the 'settlement boundary issue' was not satisfactorily addressed, in part as those previous proposals and appeal decisions related to 'smaller developments with less dwellings.' The HO therefore maintained their objection in principle on the basis that:

> *"Sutton Benger is classed as a larger village which has a limited range of employment, services and facilities, as this would lead to separate dwellings outside of the identified core settlement framework boundary, the proposal would usually attract an adverse highway recommendation on sustainability grounds as follows:*
>
> *The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2023, which aims to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. …"*

The issues arising from this locational conflict have been considered above.

Regarding the technical highways matters, in particular the provision of the junction and the pedestrian access, the HO confirms that these can be satisfactorily addressed, subject to Condition and further detail to be resolved through subsequent reserved matter application(s).

However, the points set out above regarding land ownership and the extent of the red-line boundary have subsequently been discussed with the HO, who agrees that further examination and clarification on these points is necessary to ensure appropriate delivery of pedestrian and vehicular access can be achieved and appropriately delivered. Were the application to be acceptable in all

other regards, this uncertainty would clearly need to be resolved prior to the grant of any planning permission; it is not though, considered to warrant a specific reason for refusal.

Ecological impacts

Core Policy 50 requires proposals to demonstrate: *"…how they protect features of nature conservation and geological value as part of the design rationale."* The Ecology Officer has confirmed that the submitted information regarding ecology baseline, impacts and mitigation measures is acceptable and that: *"… the structures to be directly impacted have negligible bat roost suitability."* Paragraph 180 of the revised NPPF also seeks to protect and enhance sites of biodiversity value and minimise impacts on and provide net gains for biodiversity. In addition, the NPPF seeks to recognise the economic benefits of the best and most versatile agricultural land (as below).

The application was supported initially by an Ecological Impact Assessment and a 'locked' Biodiversity Metric Spreadsheet with accompanying maps. Following an initial review of this information the Ecologist confirmed that these contained insufficient information. Further details were submitted by the Applicant and these revised details have been reviewed by the Ecologist.

However, there remain concerns and objections regarding these revised details, set out in the revised consultation response (as detailed above) as well as supplementary responses, including in summary:

- Insufficient information has been provided in the Ecological Assessment to determine potential impacts on the following habitats and protected / notable species: Habitat: WSBRC Priority habitat: Running Water (Sutton Benger Brook) and Bristol Avon River County Wildlife Site.
  Specifically, the Ecologist states: *"A suitable mitigation strategy has been proposed to protect Sutton Benger Brook and Bristol Avon River CWS in the Ecological Impact Assessment with the creation of filter beds (SUDs) between the development and the brook instead of direct drainage via underground pipes. However, the location and specification of these filter beds/SUDs need to be shown on all relevant drawings such as but not limited to the EPP, BNG proposed habitat, illustrative master plans and Development Framework Plan."*
- The submitted Ecological Parameters Plan (EPP) only partially addresses the specific information requested. In particular, the EPP: *"… at least needs to specify the dark corridors around the entire site and the distances from the red-line boundary to the developed land. For instance, on the eastern side and southern aspects the width of the proposed planting and, SuDs grassland should be shown i.e. the 'created vegetated boundaries'."*
- The EPP conflicts with the BNG mapping (and Development Framework Plan). For example, on the north hedgerow the EPP shows a 5m buffer will be created whereas the BNG mapping shows the developed sealed surface is immediately adjacent to the hedgerow with minimal vegetation buffer between the path and the proposed road (the Development Framework Plan meanwhile shows a buffer larger than 5m from the hedge to the access road). Separately, the absence of new hedgerow on the eastern side of the site in the BNG report conflicts with the landscaping shown in the Development Framework Plan.
- The information requested forming part of the BNG report and metric remains applicable, particularly relating to the Sutton Benger Brook mitigation filter beds / SUDs.

- The Ecologist states: *"At the very least I need confirmation from the Drainage that suitable filter beds can be created within the redline boundary. The concern is the section of RLB that extends north to show the planned drainage is very narrow and would seemingly only be able to support a pipe and not a ditch of suitable dimensions to host a filter bed. This is a key mitigation requirements and so absolute certainty is required that this filter bed can and will be suitably incorporated into the design and currently no drawings have been created to show that this will be implanted or it is feasible – the filter beds should also be shown in the EPP."*

This lack of clarity and necessary information does not enable full assessment of the proposed impacts of the development on protected species and habitats and in the absence of this information it cannot be demonstrated that the proposal would accord with Core Policy 50 or the advice within paragraph 180 of the NPPF. On this basis this would warrant a specific reason for refusal of this application.

Energy and sustainability

Core Policy 41 references the need for climate change adaption in the context of the climate emergency, stating:

> *"New development, building conversions, refurbishments and extensions will be encouraged to incorporate design measures to reduce energy demand. Development will be well insulated and designed to take advantage of natural light and heat from the sun and use natural air movement for ventilation, whilst maximising cooling in the summer."*

Core Policy 57 reinforces this objective, criterion (v.) stating:

> *"v. the maximisation of opportunities for sustainable construction techniques, use of renewable energy sources and ensuring buildings and spaces are orientated to gain maximum benefit from sunlight and passive solar energy, in accordance with Core Policy 41 (Sustainable Construction and Low Carbon Energy)."*

The Climate Officer initially raised concerns to the proposals due to the lack of a Sustainable Energy Strategy and detail regarding how the proposed development will meet the declared Climate Emergency by taking a 'more progressive approach to reducing carbon emissions' and a 'radical reduction in greenhouse gas emissions that the NPPF sets out'. It also notes the implications arising from the *"… clear locational conflicts with the development plan."*

Following the submission of an Energy Statement, which set out details regarding: a 'fabric first approach', measures regarding energy demand and generation, low and zero carbon technologies and water consumption, the Climate Officer confirmed withdrawal of their initial objection. However, the expressed implications of the locational conflicts in terms of energy and sustainability remain.

Loss of agricultural land

The site is recorded on the South West Region Series Agricultural Land Classification map as being as being of 'Very Good' quality. Natural England map records show the site recorded as being Grade 2 agricultural land. No evidence or analysis of soil quality has been submitted with the

application so there is insufficient evidence or information to conclude that the site is anything other than 'very good' quality.

The NPPF is clear that the 'best and most versatile'[5] agricultural land should be reflected in planning policy and decisions. Specifically, paragraph 180 states that:

> *"Planning policies and decisions should contribute to and enhance the natural and local environment by:*
> *a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
> *b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;…"* (authors emphasis).

Footnote 62 provides clarification that: *"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development."*

The proposal would see the loss of 3.6ha from agricultural use, this is below the threshold of 20ha where the impacts would need to be assessed by Natural England. Natural England has been consulted and has not provided a response regarding the principle of the loss of this agricultural land. As such, it is not considered the loss of this land for agricultural purposes would warrant sufficient reason to refuse this application.

Trees, landscaping and landscape impact

Section 12 of the NPPF strongly encourages good design and Section 15 seeks for policies and decisions to enhance the natural and local environment by: *"… recognising the intrinsic character and beauty of the countryside"* (paragraph 180). In this context Core Policy 51 (WCS) requires that new development: *"… should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative effects must be mitigated as far as possible through sensitive design and landscape measures."* The Landscape Officer's comments highlight the relevant and important elements of this policy guidance with regard to this specific planning application.

Whilst noting the submission of the Landscape and Visual Impact Assessment, the view of the Landscape Officer is that this has not: *"… appropriately considered the resulting effects upon the character and setting of the northeast part of the village, which aligns with the Sutton Benger Conservation Area boundary."*

[5] ['**Best and most versatile agricultural land'** is defined in the NPPF Glossary as: 'Land in grades 1, 2 and 3a of the Agricultural Land Classification.']

The Landscape Officer has provided a detailed consultation response, explaining how this application proposal will harm the setting of the village and the existing rural edge which will lead to the permanent loss of the remaining part of the Conservation Area which directly fronts open countryside. They state that:

> *"Existing views of the conservation area, and of listed building/s viewed across open agricultural land will be permanently lost, changed to new intervening urban development when approaching the village from the east along the High Street and from public footpath SBEN18. It is likely that partial views of the new development will be visible from other public vantage points, but the visual change effects will be greatest and most evident viewed from the B4069 and footpath SBEN18."*

They also conclude that:

> *"The proposal will extend the village well beyond its existing extent, with the proposed allotments at the site's southeast corner joining up with the Gypsy & Traveller site and Wessex Water's treatment plant south of the High Street (B4069). It will also result in an incremental physical and perceived reduction of the existing rural gap and open countryside separating the village of Sutton Benger from Christian Malford."*

Separately, but related to this, concern is raised that a significant length of the only public footpath which runs east out of the village into the countryside would be subsumed into an urban setting. The views from this footpath, in various directions – including towards the conservation area – would be lost and offsetting the developable areas from the edge of the conservation: *"… would not successfully mitigate these resulting permanent visual effects."*

On a very practical level, the Landscape Officer notes that: *"… the form and scale of proposed development is likely to require the introduction of street lighting which will introduce artificial light into an area of existing rural countryside adjoining an area of the village which doesn't currently have any street lighting due to its inherent rural character."* This type of practical problem has arisen due to the fundamental inappropriateness of the proposal. Other practical concerns include: the conflict between the proposed mitigation planting and the existing overhead power lines; and the nature of the proposed allotments as an 'obvious protrusion' from the main development area – both extending the domesticating form and being uncharacteristic in terms of field patterns and boundaries.

Related to the above point, a significant element of landscape harm would arise from the creation of a new vehicular access to serve the dwellings but which is located at a point distance from the eastern edge of the village. The consequent effects of loss of the field hedging, new signage, street lighting etc. would all be unavoidably magnified at this point, even if it were possible that the dwellings could be well screened.

The conclusions of the Landscape Officer, that the proposed development will result in unacceptable harm to the local character of the area and important public views and visual amenity, carry sufficient weight to warrant a landscape reason for refusal of this application, based on the conflict arising with Core Policy 51 (criterion i, ii, iii, v, vi, vii 3) and Core Policy 57 (criterion i,vi), as well as paragraphs 135c and 180b of the NPPF.

Open space provision

Policy CP52 of the Wiltshire Core Strategy requires, inter alia, new development to make provision for accessible open spaces in accordance with the requirements of the adopted Wiltshire Open Space Standards. CP52 also requires new development to put measures in place to ensure appropriate long-term management of any green infrastructure directly related to the development. Saved Policy CF3 of the North Wiltshire Local Plan seeks to ensure all new development includes the provision of on-site open space in the first instance.

The application proposes a central area of public open space which includes a Locally Equipped Area for Play (LEAP); the submitted DAS explains that this will include 'timber play equipment and natural play features'. There are other examples of the provision of public open space in the general form proposed here elsewhere within the village – for example at Britains Close / Heath Avenue, and the Urban Design Officer has no concerns regarding the proposed layout and form. The central location ensures an appropriate level of 'overlooking'; this area is suitably set away from, and screened from, the existing Wessex Water facility to the south-east of the site with the potential odour and fly issues which could arise (see below).

At the point of determination of this application no response has been received from the Open Space Team. However, the securing of the proposed on-site open space and any further off-site contributions towards sports facilities by legal agreement would be appropriate. The detail of the proposed on-site open space and LEAP could be appropriately dealt with at reserved matters stage.

Residential amenity and air quality

With regard to amenity, Core Policy 57 (criterion vii) states that proposals should have regard to: *"… the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)."*

Paragraph 135 (Section 12) of the NPPF requires that decisions should ensure that developments: *"…f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

In terms of potential amenity impacts for occupants of existing dwellings, the most potentially directly impacted are those along the western boundary of the site at the High Street cul-de-sac. There can be no doubt that the outlook for the occupants of these properties will be altered. However, that outlook does not per se result in any adverse *amenity* impact, particularly given the strip of landscape buffer at the western end of the site which would result in a set-back of dwellings along that boundary from the edge of the application site.

In terms of amenity impacts for residents of the proposed dwellings, much of this detail and consideration would be dealt with at the reserved matters stage. However, at this outline stage the issue of odour and fly nuisance arising from the Wessex Water treatment facility on the southern

side of the B4069 is relevant. For these reasons, Wessex Water raised an objection to the application based on the originally submitted information and details. However, following further information submitted, specifically an Odour Risk Assessment, and confirmation regarding the layout and in particular lack of dwellings proposed in the south-east corner of the site, Wessex Water confirmed that their objection on these grounds has been addressed.

As such, the amenity impacts arising from the application, both relating to existing and potential future occupiers would not warrant refusal of the application when considered against Core Policy 57 (WCS) and Section 12 of the NPPF.

Archaeology and heritage impacts

The site is immediately adjacent to the designated heritage asset of the Sutton Benger Conservation Area, within which there are a number of designated and non-designated heritage assets. The most directly affected are the properties which front the northern side of the B4069 at this eastern edge of the village, namely: nos. 62/64, 66, 68/70 and 74 High Street, and to which this site forms part of the settings of these buildings.

In dealing with conservation areas, the statutory duty for local authorities is set out at Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. This requires that local planning authorities pay 'special attention' to: *"… the desirability of preserving or enhancing the character or appearance of that area."* The tests of 'preservation' and 'enhancement' does not necessarily mean that any particular approach to design is preferable, but rather that the quality of the design is of an appropriately high standard – as considered in the previous section.

The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66) as well as giving special attention to preserving or enhancing the character or appearance of the conservation area (s.72).

Section 16 of the NPPF sets out national planning policy guidance regarding the historic environment. Paragraphs 200 and 201 of the NPPF require local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 207 and 208 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset.

Core Policy 57 requires, amongst other things, that new development must be sympathetic to and conserve historic buildings, requiring that: *"designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance."*

Many local representations have referenced the impact on the affected heritage assets and this concern is acknowledged. The application submission includes an Archaeology and Built Heritage Statement which concludes that the development would lead to 'less than substantial harm' to the designated heritage assets, at the minor end of this scale.

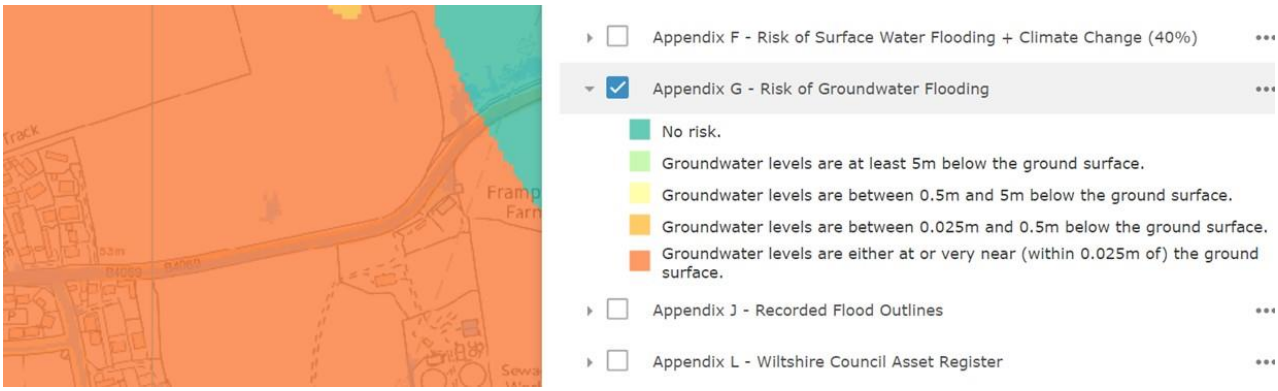
Following review of the application proposal and that submitted detail, the Conservation Officer's conclusion is that the proposal will lead to 'less than substantial harm' to the designated heritage assets. As such, in accordance with paragraph 208 of the NPPF, this harm would need to be weighed against any public benefits arising from the proposed development.

In terms of archaeology, following the submission of further additional detail based on further evaluation, the Archaeology Officer has confirmed no objection to the proposal, subject to appropriate condition(s).

Drainage and flood risk

Flood risk and drainage issues are increasingly important technical issues and the recent update to the NPPF (December 2023) confirms that the plan-led form of development should, *"… manage flood risk from all sources"* (para.166) and that: *"All plans should apply a sequential, risk-based approach to the location development – taking into account all sources of flood risk and the current and future impacts of climate change"* (para. 167). Footnote 59 of the NPPF explains that for sites within flood zone 1, a site specific flood risk assessment should be provided for (inter alia): *"… land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use."* This recent update to the NPPF post-dates Core Policy 67, but the increased importance of flooding and drainage in the planning decision making process has been made clear through recent appeal decisions[6] and High Court rulings[7].

Although the site falls within flood zone 1, it is shown on the SFRA as having ground water levels which are 'either at or very near (within 0.025m)' the ground surface (as shown on the extract below). Indeed, this situation is reflected in numerous representations from locals which have referenced the localised flooding which occurs, particularly on the highway.



A site specific Flood Risk Assessment was submitted with the application, which includes an 'Outline Drainage Strategy'. The application plans include an attenuation basis in the south-east corner of the site, adjacent to the highway, with the associated text stating: *"An attenuation basin will be located in the lower of the Site to manage surface water run-off during periods of heavy rainfall. Additional, a surface water pump station will be located alongside the attenuation basin."* The submitted document explains that:

[6] For example, APP/D1265/W/23/3316590 [13/10/2023]
[7] Wathen-Fayed v Secretary of State for Levelling Up, Housing and Communities, 20 January 2023

"The SuDS strategy proposed for this site includes the use of an attenuation basin in the areas of lower topography. This strategy shows the feasibility that the site can be drained; however, at detailed design the inclusion of further SuDS elements could be considered.

Surface water discharge from the proposed development will be via discharge to the nearby watercourse which has proven to be a viable method of discharge.

It is recommended that finished floor levels should be set at or above the existing ground levels to protect the properties from surface water flooding."

On the basis of the information included within the application submission, which obviously includes reference the proposed attenuation basins and SUDS features, the Drainage Officer has confirmed 'no objection' to the application proposal, subject to a (large: 8no.) number of Conditions, notably all but one of which are pre-commencement conditions; Wessex Water have not raised any objections on these grounds. On this basis, drainage and flood risk are not considered to be reasons which would warrant a justifiable refusal of the application.

Affordable housing

In line with Core Policy 43, the proposal for 60 dwellings generates a need for 24 affordable units. This quantum of affordable housing forms part of this application proposal, as confirmed within the submitted Planning & Affordable Housing Statement.

The Housing Enabling Team has set out a tenure mix which, should the application proceed, would be supported, as follows: *"60% of the units (14 units) being for Affordable Rented housing, 25% of the units (6 units) being provided as First Homes and 15% of the units (4 units) being provided for Shared Ownership."*

The application submission confirms the 40% affordable housing provision and the detailed mix could be secured through legal agreement and reserved matters submission.

Education

The Education Officer has commented on the application, confirming that it generate the need for a total of 7no. early years places, 16no. primary school places and 12no. secondary school places.

The current provision for pre-school is located in the village hall and the Education Officer has confirmed that 'with investment' this could expand to accommodate the additional derived need, in which case a contribution through s106 mechanism would be appropriate and necessary (see below).

In terms of Primary provision, the Education Officer response confirms that there is capacity at the existing school without the need for expansion and as such there is no need for any s106 contribution in this instance.

The Chippenham secondary area is served by Abbeyfield, Hardenhuish and Sheldon secondary schools. The Education Officer response explains that: *"… based on latest projections there is*

already a significant shortfall in secondary places in the Chippenham area," and that: *"The Council intends to substantially enlarge Abbeyfield School to meet the increase in demand for places generated by a substantial level of new housing. The first phase of 150 places will be provided by CIL. Subsequent phases, which will provide the places needed for this development, will be funded by Section 106."* Accordingly, a s106 contribution would be requested to meet this derived need should the application proceed.

Waste management

The on-site infrastructure required by the proposal is the provision of waste and recycling containers for each residential unit. A s106 contribution is required for the provision of this essential infrastructure to make the application acceptable in terms of WCS Core Policy 3 and Policy WCS6 of the Wiltshire and Swindon Waste Core Strategy. The contribution is £101 per unit equating to £6,060. This can be secured and agreed by legal agreement.

Planning obligations

In terms of potential financial and other contributions arising from the development, these have been identified to date as:

Education – Early years	£122,654 (subject to indexation)
Education – Primary	n/a
Education – Secondary	£275,280 (subject to indexation)
Provision of waste storage	£101 per dwelling (subject to indexation)
Leisure and Sport	contributions potentially required but precise amounts not yet known
Air quality monitoring	contributions potentially required, but precise amounts not yet known

Non-financial requirements

- Affordable housing as required by the needs set out in the consultation response
- Provision and Management of open space / LEAP
- Highway works as required, including any necessary traffic calming measures
- Ecological enhancement and mitigation

Consultation and discussion regarding the extent of section 106 has not been entered into with the agent. However, these requirements, should it be accepted that the development proceeds despite the in-principle, sustainability and other objections, are considered to meet the tests of planning obligations in the NPPF.

CONCLUSION AND PLANNING BALANCE

The proposed dwelling in this location is fundamentally unacceptable as a matter of principle. The relevant planning policies, in particular Core Policies 1, 2, 10, 60 and 61 (WCS) and Saved Policy H4 (NWLP) and consideration of the acceptability in terms of the nature and accessibility of the application site by sustainable means, all justify refusal of this application.

The Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the draft Local Plan having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need.

In a recent appeal decision[8] the Inspector concluded that, in their view: *"… the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework,"* and it is thus not the case that the presumption in favour of sustainable development is engaged, and accordingly a straight planning balance of scheme benefits against identified adverse impacts is necessitated.

The benefits arising from this application include the provision of additional open-market dwellings and a policy compliant level of affordable dwellings, set in the context of the NPPF's objective of significantly boosting housing supply. The proposal would also create jobs during the construction phase and provide support to the local economy. Any landscape, public open space or biodiversity benefits are considered to be relatively minor given the nature of the existing site.

Overall, these benefits are not considered to outweigh the conflict with the strategic locational policies of the Core Strategy, and the aim of the NPPF to securing sustainable development. The concern over these in-principle conflicts, has been set out in this report and is also expressed and maintained by relevant statutory consultees. Furthermore, concerns remain regarding: ecological impacts and appropriate mitigation; landscape impact, and retention of appropriate access for a statutory undertaker to maintain its existing infrastructure.

RECOMMENDATION: That Planning Permission be REFUSED for the following reasons:

1. The site is located outside of any defined settlement boundary within the open countryside and is not allocated for housing development and would not meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. The proposal fails to promote a sustainable pattern of development and amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Wiltshire Core Strategy Core Policies 1, 2, and 10 (WCS) and Saved Local Plan Policy H4 (saved Policy, NWLP) and paragraphs 2, 8, 11, 12 & 47 of the NPPF.

2. The scale of the proposal exceeds the small scale residential development requirement at the Large Village level as specified under paragraph 4.15 of the Wiltshire Core Strategy, resulting in an imbalance within the community between the provision of homes and the available services, facilities and means of employment. This is considered to result in the need for a significant amount of excess travel via the use of private motor vehicles which is not a sustainable form of development contrary to WCS Core Policies 1, 2, 10, 60 and 61, and paragraphs 8, 108, 109, 114 and 116 of the NPPF.

[8] Appeal ref. no. /3329064 – Pound Lane, Semington

3. The development will extend the village well beyond its existing extent and will result in an incremental physical and perceived reduction of the existing rural gap and open countryside separating the village of Sutton Benger from Christian Malford. The result is unacceptable harm to the local character of the area and important public views and visual amenity, giving rise to conflict with Core Policy 51 (criterion i, ii, iii, v, vi, vii 3) and Core Policy 57 (criterion i, vi), as well as paragraphs 135c and 180b of the NPPF.

4. The application does not demonstrate with clarity what the necessary and proposed ecological enhancement and mitigation measures are. In particular, there remain differences and inconsistencies between the submitted documents such as the required Ecological Parameters Plan, the Biodiversity Net Gain metric and the Development Framework Plan. As such, the appropriate evidence and clarity required to demonstrate that there will be no net loss of biodiversity and that net gain in biodiversity will be delivered has not been provided in support of the planning application. Therefore, it has not been demonstrated that the proposal would accord with Core Policy 50 of the Wiltshire Core Strategy (adopted January 2015) or paragraphs 180 and 186 of the NPPF.

5. The proposed layout, as expressed in the submitted Development Framework Plan and associated Design and Access Statement, would not allow for appropriate access to existing statutory body infrastructure. As such, it is not clear that the site can accommodate the level of development proposed, whilst including the appropriate and necessary landscape and ecological mitigation. As such, the proposal does not meet the requirement of Core Policy 57, in particular criteria: iii, vi, vii, xiii, and Section 12 of the NPPF, in particular paragraphs 131 and 135.

6. The application fails to provide and/or secure any mechanism to ensure that the provision of essential infrastructure, services and amenities made necessary by the development being highway improvement works, recreation and leisure, affordable housing, education, open space and waste collection can all be delivered. This is contrary to WCS Core Policies 3, 43, 45, 52 and Policy CF3 of the North Wiltshire Local Plan 2011.

Informatives: (2)

This decision is based on the following plans and information:

- Site Location Plan
- Development Framework Plan
- Access Plan
- Proposed Junction on B4069 High Street
- Ecological Parameters Plan
- Planning & Affordable Housing Statement
- Design & Access Statement
- Archaeology and Built Heritage Assessment
- Arboricultural Impact Assessment
- Landscape and Visual Impact Assessment
- Statement of Community Involvement
- Framework Travel Plan

- Biodiversity Net Gain Assessment
- Flood Risk Assessment
- Odour Risk Assessment
- Ecological Appraisal
- Socio-Economic Statement
- Sustainable Energy Statement
- Technical Note on Highways
- Transport Assessment
- Framework Travel Plan
- Waste Audit Assessment
- Noise Screening Assessment
- Air Quality Assessment
- Phase 1 Site Investigation
- Sustainable Energy Statement

Reason for refusal no.6 relating to the legal agreement may be capable of being addressed through the completion of a planning obligation/S106 agreement.

The Planning Inspectorate

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BA14 8JN

Your Ref:
Our Ref: APP/Y3940/W/24/3340811

30 August 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Gladman Developments Ltd
Site Address: Land off Storridge Road, Westbury, BA13 4HJ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Helen Skinner
Helen Skinner

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Inquiry held on 9 to 12 and 16 to 18 July 2024

Site visit made on 18 July 2024

by O S Woodwards MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2024

Appeal Ref: APP/Y3940/W/24/3340811
Land off Storridge Road, Westbury, BA13 4HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Wiltshire Council.
- The application Ref is PL/2022/09842.
- The development proposed is the demolition of number 13 and 14 Storridge Road and the erection of up to 200 dwellings (including affordable housing), with public open space, structural planting, landscaping, sustainable drainage system and vehicular access point.

DECISION

1. The appeal is dismissed.

PRELIMINARY MATTERS

Documents and Drawings

2. The appeal is for outline planning permission with all matters reserved except for access, which is applied for in full. An Indicative Development Framework Plan[1] (DFP) and an Illustrative Masterplan[2] were submitted with the application the subject of the appeal. I refer to these documents as appropriate throughout my Decision, whilst acknowledging their illustrative nature.

3. A number of other submissions were received prior to, during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents and drawings.

Policy

4. The adopted Development Plan includes the Wiltshire Core Strategy 2015 (the CS) and the Wiltshire Housing Sites Allocation Plan 2020 (the WHSAP). The Council began work on its emerging Local Plan (the eLP) in 2017. A Regulation 19 draft of the eLP was consulted upon between September and

[1] Ref CSA/2974/116 Rev B
[2] Ref G.W2.PSS.01

November 2023. The current timetable is for the eLP to be submitted for examination towards the end of this year, with adoption in 2025. Because the eLP has not yet undergone its examination, it is likely that it will be the subject of modifications. It is common ground, and I agree, that it therefore carries limited weight. I refer to the eLP as appropriate throughout my Decision.

5. On 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Proposed Framework) and other changes to the planning system. I provided the main parties with the opportunity to comment. The Proposed Framework and other changes to the planning system are draft and therefore may be subject to change before being adopted. They therefore carry limited weight but are nonetheless material planning considerations to which I refer as appropriate throughout my Decision.

Adjacent Site Planning Application

6. On land to the north of the appeal site, known as 'Glenmore Farm', a planning application[3] for up to 145 dwellings and associated works was refused permission on 11 March 2024. I refer to this application as appropriate throughout my Decision.

Flood Risk and Drainage

7. The fourth reason for refusal is in relation to flood risk and drainage. However, additional information has since been submitted and further discussions held between the main parties and the Local Lead Flood Authority. In light of this, and as set out in the Drainage Statement of Common Ground May 2024, the Council did not pursue this reason for refusal.

Affordable Housing

8. The Council agreed through the Statement of Common Ground that the level of proposed affordable housing is acceptable. Additionally, under cross-examination the Council agreed that the revised proposed affordable housing mix[4] meets the Council's requirements as set out in its Planning Consultation Response dated 6 November 2023[5], and that it could be satisfactorily accommodated within the proposal. This element of the second reason for refusal is not, therefore, in dispute.

Character and Appearance

9. The DFP indicates the extent of built development that could come forward. Based on an assumption of 38 dwellings per hectare (dph), the site could accommodate up to 200 dwellings within this land. The Council confirmed during cross-examination that it has no concerns with the character and appearance of the proposal so long as it is not more than 38 dph and is within the areas allocated for built development. The extent of built form and the allowable dph could both be controlled by condition. In this context,

[3] Ref PL/2021/03749
[4] See Appendix 3, Mr Lee's Proof of Evidence
[5] CD3.24

there is no dispute regarding the character and appearance of the proposal and this element of the second reason for refusal has therefore fallen away.

10. There is, however, remaining dispute regarding whether or not the proposed areas allocated for built development would be acceptable with regard to ecological and noise concerns, which I deal with as appropriate throughout my Decision.

Local Infrastructure

11. The seventh reason for refusal is in relation to the effect on local infrastructure in the absence of a completed s106 Planning Obligation. The final s106 Planning Obligation, dated 30 July 2024 (the s106), secures:
- a contribution towards early years education;
- a contribution towards strengthening the rail underbridge on Station Road;
- a landscaping plan, including open space of not less than 6,986 sq m and a play area of at least 354 sq m, and the management and maintenance of the open space and play area by a management company;
- a monitoring fee for the Council;
- a contribution towards primary healthcare;
- a contribution towards community sports facilities;
- a contribution towards mitigating the recreational impact arising from the future occupants of the proposal on the Pickett and Langer Site of Special Scientific Interest (SSSI);
- a contribution towards mitigating the loss of bat habitat in the Trowbridge Community Area as a result of the proposal;
- a contribution towards the provision of waste and recycling containers for the proposed residential units; and,
- the provision of at least 40% of the proposed residential units to be for affordable housing, with a split of 60% affordable rented units, 15% shared ownership units and 25% First Homes, with a mix as set out in Schedule 3 of the s106.

12. The contribution towards strengthening the rail underbridge is necessary because the bridge cannot currently bear busses. It is related to the appeal proposal with regard to the accessibility of the site. The likely costings have been estimated and the contribution is a proportionate percentage of this cost. The s106 allocates the contribution for the works to the bridge, and has provisions ensuring that the money is spent as stated or is returned if not used within 10 years. It therefore meets the tests set out in Regulation 122 of the CIL Regulations 2010 (the CIL Regs) and at Paragraph 57 of the National Planning Policy Framework 2023 (the Framework).

13. The proposal would create demand for the use of primary healthcare facilities by the future occupants of the proposed dwellings. The NHS has confirmed[6] that there is not sufficient capacity in existing primary healthcare facilities to accommodate the increased demand. The NHS has therefore requested a contribution towards the delivery of additional primary care floorspace, proportionate to the number of expected new residents. This has been reflected in the s106. However, the responsibility of allocating and funding primary healthcare falls to the NHS, not the Council, and is outwith

[6] CD3.30

the planning system. The NHS has not identified specific works that the funding would go towards.

14. Therefore, it has not been demonstrated that the primary healthcare contribution is necessary to make the development acceptable in planning terms and it fails to meet the tests for a planning obligation. In accordance with Paragraph 3.4 of the s106, this obligation therefore carries no weight and is not enforceable. Otherwise, the Council's CIL Compliance Statement sets out the detailed background and justification for each of the obligations, and I am satisfied that the provisions of the submitted agreement that relate to the effect of the proposal on local infrastructure would meet the tests set out in the CIL Regs and the Framework, and I have taken them into account. The seventh reason for refusal is not, therefore, a main issue for the appeal.

15. I assess the obligations in relation to ecology later in my Decision. In general, I return to matters of weight and detail of the s106 throughout my Decision as appropriate.

Biodiversity Net Gain

16. The sixth reason for refusal is in relation to Biodiversity Net Gain (BNG). However, additional details have been submitted by the appellant, as set out in detail in the Ecology Statement of Common Ground dated 18 June 2024. The Council has reviewed the information and has confirmed that it has been adequately demonstrated that there would be no net loss of biodiversity and that the proposal can deliver a degree of BNG. The Council did not, therefore, pursue this reason for refusal.

MAIN ISSUES

17. The main issues are:
    - whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance;
    - whether or not the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to noise from the West Wiltshire Trading Estate (WWTE), and the capacity of the site to accommodate proposed noise mitigation works;
    - whether or not the proposed development would create potential future risks to the operation of the WWTE, with particular regard to the 'agent of change' principle and noise; and,
    - the effect of the proposal on ecology, including on the integrity of the Bath and Bradford on Avon Bat Special Area of Conservation (SAC) particularly with regard to bat mitigation, and the capacity of the site to accommodate proposed ecological works.

18. In addition to the above, housing land supply (HLS) is a disputed issue and I will, of course, need to consider the overall planning balance.

REASONS

Principle

19. The appeal site is located adjacent to, but outside of, the defined settlement boundary (SB) for Westbury, a second-tier settlement 'market town' in Wiltshire's settlement hierarchy. It is not allocated for development in the CS

or in the WHSAP. It is common ground, and I agree, that the site is therefore in the 'countryside' in planning policy terms.

20. Core Policy 1 of the CS sets out the settlement strategy for the Council. It states that market towns have the potential for significant development to sustain and enhance their services and facilities. Core Policy 2 of the CS sets out the delivery strategy for the Council, with a distribution strategy for new homes. In particular, it states that development will not be permitted outside SBs, unless permitted by other policies within the CS as set out at Paragraph 4.25. None of the other policies are relevant to the appeal proposal.

21. Core Policy 32 of the CS relates to development in the Westbury Community Area, within which the appeal site sits. This allocates housing to the Westbury area but does not allocate the appeal site for any of this housing. In addition, approximately 115 homes are expected to be accommodated on unallocated sites in the area. However, this should be read in the context of Core Policy 2, which states that development will not be permitted outside SBs.

22. There is no cap on the provision of housing. The size of the proposal, whilst not insignificant, is not to such a degree that by itself it would materially distort the spatial distribution of housing in the Council as a whole. Nevertheless, the three policies taken together set out the spatial strategy for housing development in Wiltshire as it relates to the appeal proposal. It is clear that development on the appeal site conflicts with the spatial strategy, because it is not within the SB, nor is it allocated, and nor does it meet any of the special exemptions set out.

23. There is some conflict between the Council's spatial strategy and Paragraph 180 of the Framework, which recognises the intrinsic character and beauty of the countryside but does not set out an in-principle objection to the provision of housing in countryside locations. This was agreed by the Council under cross-examination. This reduces the weight I attach to the conflict with the spatial strategy that I have identified above.

24. However, the Council has adopted the WHSAP and the appeal site remains outside the SB and unallocated. The WHSAP was adopted in the context of the Framework. In addition, the evidence base for the eLP includes a site selection process[7] regarding the potential site allocations in and nearby to Westbury. The site selection process is thorough and considers the potential sites against the key place shaping priorities for the eLP. The appeal site has not been allocated. I acknowledge that this is part of the emerging evidence base and that the eLP has limited weight. However, it still provides an indication of the possible spatial strategy moving forward. Therefore, whilst I reduce the weight to be applied to the conflict with the spatial strategy, this is only to a limited degree.

25. Overall, therefore, the appeal site is not an appropriate location for development of this type, having regard to local and national planning policy and guidance. Although not full weight, I place significant weight on this conflict with the spatial strategy that I have identified, including the conflict with Core Policies CP1, CP2 and CP32 of the CS and the WHSAP.

[7] Planning for Westbury, dated July 2023

Living Conditions

Existing

26. The appeal site is located close to the WWTE, which lies to the west. There is a buffer of woodland along the western border of the site which provides some protection from noise from the WWTE to the southern part of the appeal site. However, to the northern element, and particularly where it dog-legs around the top of the existing woodland, the appeal site is subject to noise pollution from the various activities on the WWTE. The appellant's Noise Assessment by Sharps Acoustics, dated October 2023, shows that this noise is at least 43 dB across this top part of the site in daytime and at least 38 dB at nighttime.

27. There are other noise sources, including road traffic. However, the primary point of dispute is regarding noise pollution from the WWTE. This is because the noise levels from the WWTE are higher than those from road traffic and other sources and also because of the nature of the noise. The WWTE creates specific noise from the operation of the various commercial premises on the estate. This is of a different character to the anonymous, relatively consistent background noise created by road traffic.

28. Within the WWTE is the Venom nightclub. This is licensed to operate internally until 05:00 every day of the year. It can also hold up to three outside events including marquees per year, as set out in its licensing restrictions[8]. This is a further source of noise from within the WWTE that I need to consider.

Methodology

29. The aim of Wiltshire Council's Planning Consultation Guidance Note Noise and Vibration 2023 (the Guidance Note) document is to avoid likely significant adverse effects (SOAEL) and where there would likely be lowest adverse effects (LOAEL) to seek to minimise and mitigate against them. The same approach is broadly adopted through national and international policy and guidance and is set out in the Statement of Common Ground. I therefore agree this is a suitable framework for assessing the effect of noise on the living conditions of the future occupiers of the proposal.

30. The World Health Organisation Guidelines for Community Noise 1999 (the WHO Guidelines) set out[9] that noise levels of 35 dB would generate moderate annoyance in the daytime, and 30 dB would create sleep disturbance in bedrooms at nighttime. This is reflected in the guidance at Table 4 of BS8233:2014. As these are the levels where beyond which annoyance would be more than moderate or where sleep disturbance would occur, they can be sensibly used as guidance for being the threshold above which noise levels move from LOAEL to SOAEL.

31. With regard to the WWTE, there are clear impulsive and tonal elements to the noise. BS4142:2014+A1:2019 (BS4142) sets the penalty at up to 6 dB for tonality and up to 9 dB for impulsivity. BS4142 additionally states that these penalties can be additional to one another but only if the characteristics are both present without one being dominant. As

[8] CD7.34
[9] See Table 4.1, CD7.02

acknowledged by BS4142, attributing the correct penalty is a subjective exercise, albeit based on careful consideration of the nature of the noise source. It is not clear if one or the other is dominant from the WWTE. A penalty for each element should therefore be applied additional to one another.

32. The appellant has adopted this approach, albeit whilst disputing its necessity, and used a penalty of 4 dB for tonality and a further 3 dB for impulsivity. This is a reasonable approach based on the nature of the noise from the WWTE, eg vehicle turning alarms or the operation of plant and machinery, and that neither characteristic is dominant. I therefore adopt the 7 dB penalty applied by the appellant. In addition, it is common ground, and I agree, that the typical noise reduction from even a partially open window is 13 db.

33. Based on this, ie the addition of 7 dB and the subtraction of 13 dB from the WHO/BS8233 baselines, the appropriate LOAEL thresholds are 28 dB during the daytime and 23 dB at nighttime for internal noise for the proposed dwellings, and 43 dB within the gardens at anytime. The external noise at the elevation is 41 dB daytime and 36 dB nighttime.

Assessment

34. The appellant has used the DFP layout to provide an assessment of the noise levels that would be experienced by the future residents of the proposal. The proposal is in outline. However, the proposed DFP provides a reasonable expectation of the likely final layout based on the density being applied for and the developable areas as set out on the drawings. I therefore view this assessment as robust and use it, along with all other relevant evidence, as the basis for my assessment.

35. The Guidance Note sets out a hierarchy of approaches to seeking to mitigate noise effects, as follows: 1. Control noise at source; 2. Site layout and design; 3. Dwelling layout and orientation; 4. Planning restrictions; 5. Building envelope for mitigation. Planning Practice Guidance[10] (PPG) sets out mitigation types, including avoiding noisy locations in the first place, design of the development, mitigation through noise barriers and other measures, and then optimising sound insulation within the building envelope. PPG does not specifically use a hierarchy. However, the list of measures is provided in order. The Council's Guidance Note adopts the same factors and broadly reflects PPG. I therefore assess the proposals using this framework as a guide, and broadly considering it as a hierarchy but whilst considering all the factors, and other relevant material considerations, in the round.

Noise source

36. The WWTE operates with very few restrictions on noise. The over-arching planning permissions for the WWTE[11] include no restrictions on noise emissions or hours or nature of operations on the estate. The Copart unit has controls on operating hours and the location and direction of a hydraulic crusher, Welton Bibby Baron has a requirement for an acoustic bund and noise restrictions, and SPC has noise restrictions. The other units on the estate have no restrictions. It is, by its nature, a largely unrestricted

[10] Paragraph 010 Reference ID: 30-010-20190722, dated 22 July 2019
[11] Refs W/89/01395/OUT, W/94/01067/OUT and 4/01431/OUT

industrial estate. This is one of the defining features of the WWTE and is integral to its operation and character. It is not, therefore, possible or desirable to meaningfully restrict the WWTE with regard to noise pollution.

Site layout and design

37. It is proposed to construct residential homes throughout the appeal site, within the defined developable areas. This includes areas within the dog-leg of the site that is most affected by noise from the WWTE. An acoustic bund is proposed along the two boundaries with the WWTE. The appellant has stated that all private gardens could be surrounded by a 1.8m high fence or other screen. These features could be secured by condition. Subject to this, it is common ground, and I agree, that acceptable noise levels would be achieved within gardens.

38. It has been demonstrated that the appeal site has the capacity to accommodate the proposed acoustic mitigation measures, for example the noise bund. However, the proposal includes homes across the majority of the appeal site, including the areas most affected by noise from the WWTE. Alternative layout options include moving the proposed build area further eastwards but still within the northern section of the appeal site. However, this would likely have limited effect on reducing noise at the facades of the proposed residential buildings because the noise levels only fall by approximately 2 dB across the appeal site. There will always need to be a barrier block, ie the first one that receives the noise from the WWTE.

39. A further alternative layout to that as proposed would be to restrict the proposed built form to the southern part of the site, to the east of the existing woodland buffer to WWTE. This would remove nearly all the properties affected by noise above the LOAEL threshold from the proposal. However, this is not before me.

Dwelling layout and orientation

40. There could be further refinement of the layout of the homes within the proposed buildings to ensure that as many as possible retained at least one façade not materially affected by noise from the WWTE. However, this has already been considered by the appellant and it is unlikely that any significant improvement could be made on the illustrative layout whilst maintain the density as proposed.

Building envelope for mitigation

41. It is common ground, and I agree, that acceptable, ie below LOAEL, internal noise levels could be achieved within all proposed residential properties with windows closed, subject to control of the specification of the windows by condition. However, an area in dispute between the main parties is whether or not expecting the residents of some of the proposed properties to need to close their windows in order to achieve this suitable noise environment, ie to minimise and mitigate the noise above the LOAEL thresholds in accordance with policy and guidance, is an acceptable approach.

42. The Guidance Note is inconsistent in that it sometimes states that a strategy relying on closed windows is unacceptable and in other places it states that closed windows could be considered depending on how often it is necessary to close them, or that applications relying on closed windows will only

normally, but not always, be refused. The Wiltshire Design Guide 2024 (the WDG) states, at Paragraph 9.1.3, that noise levels within habitable rooms should always be assessed on the assumption that windows are open. PPG acknowledges[12] that any strategy that requires closing windows is an important consideration, but it does not explicitly seek to prevent such a strategy. Core Policy 57 of the CS requires proposals to achieve appropriate levels of amenity for future occupiers but does not have specific guidance regarding closed windows.

43. It is therefore clear that policy and guidance, whilst not always supportive, does not explicitly prevent the use of closed windows as part of the mitigation strategy relating to noise pollution. However, the effect such a strategy might have on the living conditions of future occupants must be carefully considered. For example, the number of closed windows and affected rooms and dwellings, how long and the frequency that they need to be closed, and the general feeling of airlessness that it could create.

44. In this regard, the appellant's assessment finds that, with windows open, all the facades along the properties closest to the north west boundary of the site, and some of those facing northwards, would not be able to achieve 41 dB at the elevation during the daytime. At nighttime, all those facades and several further ones on properties further to the east would not be able to achieve 36 dB at the elevation at nighttime. It is not possible at this stage to have precise figures for the numbers of affected properties, but the appellant's own evidence finds 91 bedroom windows and 12 living room windows would be affected. 21 of those bedroom windows would be at least 43 dB (nighttime). Overall, it is common ground that approximately 70 units, ie 35%, would need to have at least one window closed for at least some of the time to achieve an acceptable internal environment.

45. This is a relatively high proportion. I acknowledge that in all cases there would be at least one façade that would not require closed windows but it is likely that several individual rooms, including bedrooms at nighttime and living rooms in the daytime, would require closed windows. Because of the largely unrestricted nature of the operation of the WWTE, including at night, this is likely to require closed windows for significant periods of time.

46. This would have a significant effect on the living conditions of a relatively large proportion of the future occupiers for a relatively large proportion of the time that they occupy the homes. Although mechanical ventilation would be provided there would still be a perception of airlessness. It would create a feeling of not being able to fully enjoy their own property without restrictions on how they use it. It is an acknowledgment that a sub-optimal solution to the creation of acceptable internal living conditions within the propose homes needs to be adopted to mitigate a factor that could have been designed out entirely by adopting a more restricted are of built development for the site layout, as set out above. The approach adopted by the appellant has designed-in the requirement for a mitigation measure that causes a meaningful reduction in the quality of accommodation that can be provided.

[12] Paragraph 006 Ref ID 30-006-20190722

Venom nightclub

47. Indoor events at the nightclub do not result in harmful levels of noise above background noise levels on the appeal site. The outdoor events could cause some level of harmful noise pollution, particularly because loud music can be particularly harmful to well being through, for example, bass music and its particular location in the octave range. However, this is strictly controlled to up to three events per year. In addition, the nightclub's licensing restrictions control the noise from the nightclub and, in effect, provide the Council with the ability to prevent the nightclub creating any more noise than it does from its current operations. Therefore, whilst there could be some harm to the living conditions of the future occupiers, this would be extremely limited due to the infrequency of the events.

Existing residents

48. The nearest existing residents are those on Hawkeridge Park, to the east of the appeal site. This is located up the hill from the appeal site and is further away from the WWTE. It is common ground, and I agree, that the current noise levels experienced by the residents on Hawkeridge Park with properties facing the WWTE are typically 41 dB in the daytime within their gardens and 38 dB at nighttime on bedroom windows. This is similar to or worse than the expected noise conditions for many of the proposed properties. However, this does not mitigate the poor quality of living conditions that would be created for the future residents of the appeal proposal, which I must consider on its own merits.

Glenmore Farm

49. At Glenmore Farm, the nearest dwellings were pulled back away from the industrial estate and are more than 100m further from the boundary with the WWTE than the proposed dwellings at the appeal site. The sound environment is also different at the Glenmore Farm site, which is at a different angle to the WWTE. In addition to this, traffic noise has a greater impact on the background at Glenmore Farm because of the proximity to the B3097. In any event, I must consider the appeal proposal on its own merits.

Context

50. The appeal site is a green field but it is sandwiched between the existing residential areas of Westbury and the WWTE. Future residents would have some expectation of noise from surrounding sources and would not be expecting to move into a rural location. Nevertheless, there would be a reasonable expectation from residents that they would be able to open their windows without experiencing unacceptably high noise pollution for significant periods of time.

Overall

51. It has been demonstrated that the appeal site has the capacity to accommodate the proposed noise mitigation works in the sense of the noise bunds and other physical requirements within the layout. However, as set out above, the proposed development proposes residential units on parts of the appeal site where noise from the WWTE would require closed windows to create an acceptable internal environment. This would create unacceptable internal living conditions for future occupiers.

52. The proposal therefore conflicts with Core Policy 57 of the CS which requires proposals to achieve appropriate levels of amenity. It also fails to comply with Paragraph 135 of the Framework which requires developments to provide a high standard of amenity for future users. Core Policy 32 of the CS is referenced on the decision notice. However, the policy relates to the spatial strategy for the Westbury Community Area and does not relate to living conditions. It is not, therefore, relevant to this main issue.

Agent of Change

53. As set out above, the proposal would create a significant proportion of dwellings where the residents would be required to close some of their windows for significant periods of time to achieve a satisfactory internal noise environment and by extension satisfactory living conditions. There would therefore be a very real risk that the proposal would give rise to complaints by the future residents regarding operations on the WWTE.

54. In addition, the assessment of noise from the WWTE provided by the appellant includes assumed expansion of the WWTE, based on interviews with the existing businesses on their operational plans, and on assumptions on the increases in activities and noise that might occur. The appellant therefore contends that its modelling is in relation to the maximum feasible levels of noise pollution from the WWTE. However, the future use of the WWTE could include new businesses locating on the estate. On many of the plots, they would be completely unrestricted. Also, although the appellant has interviewed the current occupiers regarding likely future expansion plans, it is feasible and realistic that the plans of the companies might change over time. None of these factors have been captured by the noise assessment.

55. There would be some restrictions on the noise that could be generated by the WWTE in the future because the Council has duties and powers through Part III of the Environmental Protection Act 1990 to investigate and act to prevent statutory nuisances due to noise. Therefore, a significant adverse noise impact would be stopped, if it was to occur. However, a statutory nuisance is a greater effect on living conditions than that relating to the LOAEL and SOAEL thresholds.

56. In addition, there are existing residents at Hawkeridge Park that also act as a constraint on excessive noise from the WWTE. However, the noise experienced by residents at Hawkedridge Park is not the same as that as would be experienced by some of the future residents on the appeal site, which would be much nearer the WWTE, and therefore potentially more affected, if not by absolute dB levels then by tonality or other factors.

57. It has not therefore been satisfactorily demonstrated that the proposal would not create potential future risks to the operation of the WWTE with regard to noise pollution and the agent of change principle. The proposal therefore conflicts with Core Policy 57 of the CS which expects proposals to be compatible with adjoining buildings and uses, and Core Policy 35 of the CS which safeguards the contribution of Principal Employment Areas[13] to the Wiltshire economy. It also fails to comply with Paragraph 191 of the Framework which requires new development to be appropriate with regard

[13] Which Core Policy 32 confirms applies to the WWTE

to the wider area and the impacts that could arise, and Paragraph 193 which requires that new development integrate effectively with existing businesses and that they should not have unreasonable restrictions placed on them as a result of the development permitted.

Ecology

Appropriate Assessment - Bath and Bradford on Avon Bat SAC

Responsibilities

58. The appeal site is within the consultation area for the Bath & Bradford on Avon Bats Special Area of Conservation (the Bat SAC), located 10.25 km to the north. Therefore, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regs) indicates the requirement for an Appropriate Assessment (AA). As the Competent Authority, I have therefore undertaken an AA.

The species and habitats

59. The conservation objectives for the SAC, as set out by Natural England (NE), are to maintain or restore the habitat for qualifying species and the populations and the distribution of qualifying species within the SAC. The qualifying species are the lesser horseshoe bat, greater horseshoe bat, and the Bechstein's bat. Bechstein's bats, in particular, are of exceptional importance and their rarity contributes towards their importance, as agreed by the appellant in cross-examination.

60. The SAC itself comprises extensive networks of caves, mines and man-made tunnels which are used by bats for hibernation, mating and as a staging post prior to dispersal. It also includes areas of calcareous grassland, scrub and woodland which are used as feeding and commuting habitat by the bats.

61. The Westbury Leigh Core Roost for greater horseshoe bats has a 4 km buffer that washes over the appeal site, as set out in the Bat Special Areas of Conservation Planning Guidance for Wiltshire 2015 (the Guidance). The appellant's ecological surveys found regular recordings of greater horseshoe bats on the appeal site.

62. There is also a core roost for Bechstein's in the Picket and Clanger Wood SSSI, also within the SAC. The Guidance identifies a 1.5 km wide core area for this roost, which are the areas regularly used for foraging and commuting. This covers the northern part of the appeal site. The mist trapping and other survey work did not definitively find presence of Bechstein's on the appeal site. However, Bechstein's can sometimes commute beyond core sustenance zones and it is very difficult to distinguish Bechstein's bats from general myotis bats, which were regularly recorded in the surveys. Given their rarity and importance it is therefore appropriate to assume that Bechstein's bats use the appeal site for foraging and commuting.

63. The appeal site includes hedgerows with semi-mature trees along its boundaries to the western and northern boundaries. H1 and H2[14] are relatively mature and deep. H3 is relatively thick and includes lots of trees.

[14] References taken from the Ecological Parameters Plan – Core Bat Habitat Buffers & Enhancements Ref 7289-E-03

H4 is slightly gappy and quite thin even where not a gap. H5 less so and relatively thick. Overall, although with some areas of limited habitat, the hedgerows provide navigational and foraging habitat for the bats, as demonstrated by the fact that bats were recorded along the hedgerows in the surveys.

64. The hedgerows and trees provide connectivity to suitable nearby habitat, in particular the woodland to the west and the semi-mature woodland by the north east. The habitat then links onwards via an integrated network of commuting roots and foraging areas to the core roosts for the bats for which the Bat SAC has been designated, as set out in the Ecology Statement of Common Ground. The appeal site therefore provides functionally linked habitat for bats.

65. Outside of the hedgerows, the majority of the appeal site, ie the agricultural field, provides limited suitable habitat. However, there is an area of grassland to the northeastern part of the site. This provides opportunities for bat foraging.

Would there be a likely significant effect (LSE), either alone or in-combination

66. It is proposed to introduce built form to much of the appeal site, primarily through residential development and associated access roads and works. The appeal site is over 10km away from the SAC. However, the proposal has the potential to affect the integrity of the SAC either by recreation pressures on the SAC itself generated by the future residents or with regard to how the proposed works on the site would affect foraging areas and commuting corridors within the functionally linked habitat, which both NE and the main parties have confirmed are vital in supporting the bats associated with the SAC, and therefore to protecting its integrity.

67. In addition, the northernmost part of the appeal site is within the Trowbridge Bat Mitigation Strategy SPD 2020 (the TBMS) and 'Yellow Zone', where there is a medium risk of negative impact on bat populations based both on impact of habitat and due to increased recreational pressure associated with the Bechstein's core roost.

68. There is, therefore, a likely significant effect on the integrity of the SAC from the proposal, both from the proposed works to the appeal site and in-combination with other developments with regard to recreational pressure on the SAC.

Mitigation

Directly on the SAC

69. The s106 secures a contribution towards mitigating the loss of bat habitat in the Trowbridge Community Area as a result of the proposal. The contributions from this would be adequate to purchase, plant up and maintain an amount of habitat in proportion to the effect of the proposed development on this habitat. The future residents of the proposal would likely result in an increase in dog walking in the Picket & Clanger Wood SSSI within the SAC, which could cause harm to the habitat within the SAC. The s106 secures a contribution towards mitigating this recreational impact. It is

therefore common ground, and I agree, that these contributions adequately mitigate the effect of the proposal in these regards.

The appeal site

70. Although the proposal is in outline, save for access, an Ecological Parameters Plan[15] (EPP) and TBMS Compliance Plan[16] have been submitted which provide details regarding the proposed approach to matters affecting the bats and therefore the integrity of the SAC.

71. The habitat of most value to bats, ie the hedgerows, would be retained and enhanced through more tree and other planting to add structure, diversity and depth to the hedgerows. Buffer zones with no no or very low lighting would also be provided. These areas would comprise retained and enhanced hedgerows, greenspace buffers and general landscaping including trees and grassland within the appeal scheme.

72. It is common ground, and I agree, that all the proposed works would be an enhancement on the existing situation, where there is an arable field directly abutting the relatively narrow hedgerows. It is also common ground, and I agree, that all the works would also meet the requirements of The Guidance, as set out in Chapter 5 of that document. These include that foraging areas and commuting corridors be created with associated dark corridors, to maintain and extend the quality of habitats for foraging and commuting, and that such land should be within public areas and to be maintained and managed in the future as is secured in the s106.

73. In addition, within the wide buffer to the north western boundary, ie H2 and beyond, the proposed drainage features would sometimes flood but this would attract insects that would provide a source of nourishment for the bats. The allotments would provide some activity from the users of them, but this would be relatively limited. These are also both outside the primary hedgerow buffer zone of 15m. The grassland area would also be within this area. The specific detail of the grassland could be controlled by condition to ensure that the habitat provided enhanced that by the existing grassland in this area.

74. However, whilst The Guidance does not specify specific widths for the foraging and commuting corridors and associated dark corridors, within the Yellow Area to the northern part of the appeal site, the TBMS provides specific guidance. This is that a commuting and foraging area of a minimum width of 15m is provided and, adjacent to this, a further 15m minimum width dark corridor is provided, with a maximum light level of 1 Lux.

75. Although a 15m wide commuting and foraging area is proposed, the adjacent dark corridor area is not consistently achieved by the proposal. There are pinch points where there would be Lux levels in excess of 1, in places significantly in excess of 1. As set out above, there are also areas within the wide swathe of land to the north west boundary where there would be some interventions, such as allotments, that would slightly compromise the buffer zone.

[15] Ref 7289-E-03, dated 6 June 2024
[16] Ref 7289-E-05, dated 6 June 2024

76. However, the TBMS states that the most important principle is that wide swathes of land be provided for bat commuting and foraging. These are provided along the northern and western boundaries as is agreed by the main parties, even if in places the swathes do not quite meet the specific widths set out in the document. The TBMS also states that development is expected to result in no net loss of habitat, which is proposed, and that core bat habitat must remain connected to the wider habitat network and be adequately buffered, which is also proposed. The relatively minor pinch points would not prevent the proposal meeting the over-arching principles of the TBMS.

77. There are other boundary areas where the swathe would not meet TBMS standards but these are outside the Yellow Zone and therefore the TBMS standards are not applicable. Whilst I recognise that bats don't fly to lines drawn on a plan, the Yellow Zone has been drawn for a reason. Outside, it is reasonable to expect a relaxation in standards as long as suitable habitat is provided ensuring there would be no likely significant effects on the integrity of the SAC.

78. The proposed noise bund would result in a physical barrier. However, it could be controlled by condition to provide suitable planting that would aid commuting and foraging for bats, and provide suitable habitat for the insects that the bats feed upon. It might require bats to expend energy to fly over or around the bund, but the overall effect of the bund would be positive with regard to bats.

79. I acknowledge that allocated sites in the Development Plan are required to meet, in full, the standards set out in the TBMS. However, I must assess the proposal before me, which I have found to be acceptable in this regard.

Conclusion

80. The proposal would meet the Guidelines in full. It would represent a demonstrable improvement and enhancement on the existing habitat and wide swathes of suitable bat habitat would be provided. The improvements to bat habitat would enhance the functional linkages of bats to the core roosts within the Bat SAC. The proposal would fail to comply with the TBMS with regard to the specific widths of the dark corridors but would comply with the over-arching principles of the document. As set out above, the s106 secures adequate mitigation for the effect of the proposal with regard to recreational pressure on the SAC itself and wider bat habitat within the Trowbridge Community Area.

81. Overall, therefore, the proposal would not harm the integrity of the Bat SAC, either alone or in-combination with other projects. It is therefore also demonstrated that the appeal site has the capacity to accommodate the proposed ecological works. The proposal therefore complies with Core Policy 50 of the CS, which seeks to maintain ecological value and to secure the integrity of local ecological networks. It also complies with Paragraph 180 of the Framework which seeks to protect and enhance sites of biodiversity value, and Paragraph 185 which states that development on land outside of a SSSI that is likely to have an adverse effect on it should not normally be permitted.

OTHER MATTERS

S52 Agreement

82. There is an historic agreement under s52 of the Town and Country Planning Act 1971 which affects part of the appeal site and prevents development on much of it. If the appeal is allowed, then prior to implementation of the proposal, the s52 would need to be revoked. This would be a parallel process. The legal test to be considered is whether or not the s52 continues to serve a useful planning purpose. The granting of a planning permission for development over all the s52 land would, in itself, prove that the land is appropriate for development and would therefore demonstrate that the s52 no longer serves a useful planning purpose. I therefore agree with the main parties that the s52, whilst a material planning consideration, has limited weight because it no longer serves a useful planning purpose.

Housing Land Supply

Need

83. It is common ground, and I agree, that, in accordance with Paragraph 226 of the Framework, the Council only needs to demonstrate a four year supply of housing land because its eLP has reached Regulation 19 stage including a policies map and proposed allocations towards meeting housing need.

84. It is also common ground, and I agree, that because the Council's strategic policies are more than five years old the supply should be measured against the local housing need as calculated using the Standard Method (SM). No buffer is required because there has not been a significant under delivery of housing over the previous three years. This is as set out at Paragraph 77 and Footnotes 42 and 43 of the Framework. The SM calculated local housing need is 1,952 dwellings per annum (dpa), ie total dwellings over five years of 9,760.

Supply

Windfall

85. The Council's windfall allowance is 1,369 dwellings, comprising 710 on small brownfield sites, 408 on small greenfield sites, and 251 on large brownfield sites. As required by Paragraph 72 of the Framework, where windfall sites are to be relied upon, there must be compelling evidence that they will provide a reliable source of supply. In this regard it is common ground, and I agree, that the 251 dwellings on large brownfield sites have been justified through compelling evidence.

86. For the small sites, the historic delivery rates in the Council area from 2006 to 2023 have been 250 dpa on small brownfield sites and 110 dpa on small greenfield sites, ie 360 dpa in total for small sites. Various factors can influence windfall trends, including but not limited to macro-economic conditions, both local and national politics, and both local and national planning policy. Predicting where this might go in the future is extremely difficult. I have seen no compelling evidence that the future delivery of small windfall sites would be materially different to the aggregate delivery of small sites in the period 2006 to 2023. In addition, the Council has stated that sites in its Strategic Housing and Economic Land Availability Assessment

have historically made a very low contribution towards windfall development[17].

87. The calculation should relate to the delivery of homes, not planning permissions which do not necessarily translate into homes on the ground. It is also possible that more than one planning permission is granted on the same site, only one of which would be built out, therefore leading to over-counting if basing the windfall allowance at least partially on planning permissions.

88. Occasionally, large unallocated greenfield sites will come forward. However, they will almost certainly be in conflict with the spatial strategy of the Development Plan and will have been granted permission because material considerations indicate otherwise, most likely because of a lack of a suitable supply of housing land and the application of the 'tilted balance'. That does not mean the houses are not built, of course. However, including an allowance for such sites would, in effect, elevate the calculation of housing land supply to helping dictate the spatial strategy of the Council. Therefore, the greenfield allowance should not be raised to include delivery on large unallocated greenfield sites. I note that this is consistent with the position adopted by the Inspector for a recent appeal[18].

89. The Council's small sites windfall contribution should therefore be 1,800 dwellings, ie 360 x 5, to reflect the long term historic trend. 1,159 of these are already accounted for from deliverable small sites with planning permission. 641 dwellings are therefore to come from a small site windfall allowance. This is in addition to the 251 dwellings from large brownfield sites, leading to an overall windfall dwelling contribution of 892. This is a reduction of 477 dwellings compared to the Council's position.

Disputed sites

90. The Glossary to the Framework defines deliverable sites as those with a realistic prospect that housing will be delivered within five years. The realistic prospect needs to be considered in the context of the further parts to the definition. Part a) states that all sites with extant detailed planning permission should be considered deliverable unless there is clear evidence otherwise. Part b) states that where a site has outline planning permission, is allocated in a Development Plan, has a Permission in Principle, or is in a brownfield register, it should only be considered deliverable where there is clear evidence that completions will begin within five years.

91. I set out below my assessment of the disputed sites, under these two broad categorisations. The site references are taken from the submitted Scott Schedule[19].

Part a) sites

92. Site 1 - Sales data and Council Tax data do not directly relate to completions. The email from the developer dated 5 December 2022 regarding a pending slowdown is fairly old and has no meaningful evidence, justification, or assessment of a slowdown. I place limited weight on this.

[17] See A28, Housing Land Supply Statement June 2024
[18] Ref APP/Y3940/W/23/3315432, dated 21 July 2023
[19] ID06

The build out rate of 65 dpa adopted by the Council is based on a pro rata calculation from the first year's delivery. This is a reasonable basis for the calculation and no clear evidence has been provided otherwise. The dwellings should therefore remain in the supply.

93. Site 2 – The build out rate based on comparators in Devizes should be 38 dpa. But, based on a comparator of the developer of this site, Linden Homes, it could be up to 72 dpa. Both are relevant considerations. The build out rate adopted by the Council of 55 dpa falls between them and is, therefore, a reasonable position to adopt. The dwellings should therefore remain in the supply.

94. Site 4 – This is an office to residential conversion that has been granted prior approval, although it has since been confirmed that prior approval is not required[20]. The expiry of the most recent prior approval in July 2024 is not therefore an impediment to delivery of the dwellings. I acknowledge that two previous prior approvals were not implemented. However, photographic evidence has been provided that works have begun on site. The dwellings should therefore remain in the supply.

95. Site 5 – It is common ground that this has been completed. Whether or not this was prior to 1 April 2023, ie the base date, is ambiguous. I have evidence from March 2022 that it was not complete and from July 2024 that it was complete. However, in the context that this is a site where I require clear evidence otherwise on deliverability, the dwellings should remain in the supply.

96. Site 6 – It has been shown through Land Registry records that 10 dwellings were completed prior to the base date. However, this has not been accounted for in the Council's completions data. They therefore need to remain in the housing land supply otherwise they would be lost from both delivery and supply calculations. The dwellings should therefore remain in the supply.

97. Sites 9 and 10 – The dispute for these sites goes to the same point as Site 6 regarding the completions data. For the same reasons, the dwellings should therefore remain in the supply.

98. Site 17 – It was agreed at the Inquiry, and I concur, that this is a permission for 11 net dwellings. The Council's supply allocated 12 dwellings to the site and therefore one dwelling should be removed from the supply.

99. Site 18 – It is common ground, and I agree, that the proposed seven dwellings, as pro-rata'd to take account of their C2 use class, will not be delivered within five years. The seven dwellings should therefore be removed from the supply. The existing care home is now vacant but the bedrooms nevertheless remain in the existing supply, in much the same way that an existing but vacant house would not be subtracted from the supply. Therefore, the 13 dwellings, as pro rata'd from the 24 use class C2 bedrooms, should remain in the supply.

100. Site 19 – It is common ground, and I agree, that this site was included in the Council's supply twice and that there was a mis-calculation with regard

[20] Ref PL/2021/07628, dated 23 November 2021

to the net increase in dwellings. Therefore, 12 of the 16 dwellings in the Council's original calculations should be removed from the supply.

Part b) sites

101. Site 3 – A full planning application was approved subject to completion of a s106 Agreement in March 2024. The s106 has not yet been signed. In April 2024, the only remaining disputed elements of the s106 were a relatively small discrepancy in the Nitrogen Mitigation Contribution and other minor technical matters. Nevertheless, it has not yet been signed and no evidence has been provided regarding this delay. I also am conscious that the original outline planning permission for this site was granted in December 2017 and progress towards gaining a full permission has been very slow. There is not, therefore, clear evidence that the full application will be granted and subsequently delivery will commence within five years. The 24 dwellings should therefore be removed from the supply.

102. Site 7 – The developer has confirmed there are issues which are currently preventing implementation of the outline planning permission, although not what these issues are. There is clear intent to progress, including the submission of a reserved matters application. I acknowledge that a national housebuilder is progressing the site, which indicates a willingness to deliver. However, that the site sits adjacent to and nearby to sites from rival national housebuilders does not indicate either a speedy or a slow build out rate. There are various competing commercial pressures which might lead the housebuilder to either try to compete or to try and stagger sales in this context. In addition, I cannot have confidence regarding deliverability without understanding the issues delaying progress on the site. I also am conscious that the reserved matters application is the subject of objections from the landscape, urban design and tree officers at the Council. These might be resolvable, but I have no clear evidence at this stage if this will be achieved and/or how long it might take. There is not, therefore, clear evidence that delivery will commence within five years. The 70 dwellings should therefore be removed from the supply.

103. Site 8 – Phases 1 and 2 have full permission for 145 and 168 dwellings respectively. Phase 3, for 193 dwellings, is the subject of a reserved matters application that has not yet been approved. However, it was only submitted in May 2024 and there is no reason to believe, given the progress on Phases 1 and 2, that approval will not be forthcoming. The developer set out in December 2023 an anticipated build out rate across all the phases of 90 dpa. I see no reason to deviate from the developers predicted build out rates, given that it made them recently. As a sense check, the same developer has achieved 91 dpa on a large multi-phased site in Trowbridge, which is a reasonable comparator. The dwellings should therefore remain in the supply.

104. Site 11 – Outline planning permission was granted at appeal, subject to shorter than usual timescales for the submission of reserved matters applications at one year from the permission and commencement of development at one year from approval of the last reserved matters. The subsequent reserved matters application was submitted on time but is not yet determined. It is currently subject to objections with regard to urban design and highways. However, there is no indication that there are fundamental concerns with the proposal that cannot be overcome. The speed

of the submission of the reserved matters application and the special conditions requiring quick delivery point to a proposal that will likely come forward quickly. This is clear evidence of deliverability within five years and the dwellings should therefore remain in the supply.

105. Site 12 – This is in a very similar position to Site 11. In addition, the housebuilder has provided forecast build out rates and the Council's adopted position is slightly less than this, on a precautionary basis. Therefore, there is clear evidence of deliverability within five years and the dwellings should therefore remain in the supply.

106. Site 13 – This is in a similar position to Site 12. However, this site is being promoted by a strategic land company, rather than a housebuilder. The submitted but not determined reserved matters application was likely submitted to keep the outline permission alive and is the subject of holding objections pending the submission of further material. There is therefore doubt regarding the timing, or even the principle, of approval of the reserved matters submission. In addition, even if granted, then the timing of delivery of housing is in doubt because the site would need to be sold to a housebuilder. There is not, therefore, clear evidence that delivery will commence within five years. The 71 dwellings should therefore be removed from the supply.

107. Site 14 – This is a large multi-phased site, some of which has full planning permission and some of which is in outline only. The delivery adopted by the Council is based on recent, January 2024, forecasts by the housebuilders. In the context of such a complex site, I view the use of the developers' recent data as clear evidence of delivery. The dwellings should therefore remain in the supply.

108. Site 15 – The site has had a full planning application with a resolution to grant permission since April 2022. The delay has been due to agreeing nutrient neutrality mitigation. This is now agreed. The final s106 Agreement is imminent. The developer, a housebuilder, provided likely build out rates in November 2023. This has been adopted by the Council. The build out rates were based on the s106 being signed in January 2024. However, there is sufficient float in the predicted delivery that, even with this delay and any likely further delay in signing the s106, all the 86 dwellings can be delivered within five years. This is clear evidence of delivery and the dwellings should therefore remain in the supply.

109. Site 16 – The development gained full permission in August 2023, after the agreed base date of 1 April 2023. It should, therefore, be included in the list of Part b) sites. However, I am entitled to consider evidence from after the base date. In this regard, the site has full permission and the development was commenced in April 2024. This constitutes clear evidence that the dwellings will come forward within the five years and should therefore remain in the supply.

110. Site 20 – It is common ground, and I agree, that the two dwellings at this site should be removed from the supply because the permission lapsed before the base date. Therefore, the two dwellings should be removed from the supply.

111. Site 21 – This site has a resolution to grant full planning permission, dating from August 2022. The delay in securing permission is related to nutrient neutrality. Because of the delays, further information and amendments to the proposal are required. Material in this regard has been submitted. There remain unresolved objections but the principles of the proposal have been agreed. Full permission is therefore likely to be forthcoming in a relatively timely manner. The housebuilder is the same as for the adjacent Phase 1 of the same scheme. This constitutes clear evidence that the dwellings will come forward within the five years and should therefore remain in the supply.

Calculation and conclusion

112. The Council's position is that it can demonstrate a 4.2 year supply of housing land, through 8,193 homes versus the target of 9,760. As set out above, based on the evidence before me, I deduct 477 dwellings from the windfall allowance and a further 187 homes from the disputed supply sites. This results in a supply of 7,529 homes, which equates to 3.85 years.

PLANNING BALANCE

Positive

Market housing

113. The proposals are for up to 200 homes, of which 60% would be for market housing. The Council can only demonstrate a 3.85 year supply of housing land, below its target of four years. I would not expect the homes to be delivered within five years, because even if allowed this appeal is in outline and the site is being promoted by a strategic land company not a developer. However, there is no reason to believe they would not be forthcoming in a reasonable timescale if permission were granted. The provision of housing is a key part of national and local planning policy, as has recently been re-enforced by a Written Ministerial Statement[21].

114. It is also common ground, and I agree, that the appeal site is in an accessible location, within walking distance of the large employment centre of WWTE and the services and facilities of Westbury, as well as its particularly well served train station.

115. Overall, therefore, I place substantial positive weight on the proposed market housing.

Affordable housing

116. The proposal would deliver 40% affordable housing, therefore up to 80 dwellings. This is above the adopted policy requirement of 30% for Westbury, as set out in Core Policy 43 of the CS. The Council currently has a shortfall of 936 affordable homes against its target in the CS. This is a significant shortfall, as agreed by the Council under cross-examination. There are 4,270 households on the housing register, a 76% increase since 2017. I therefore place substantial positive weight on the proposed affordable housing.

[21] Made by Angela Raynor, Deputy Prime Minister and Secretary of State for Housing Communities and Local Government, on 30 July 2024, titled "Building the Homes We Need".

Economic

117. The proposal would generate short term economic benefits during construction. It would also generate long term economic benefits from the expenditure on local goods and services by the future occupants of the proposal. The proposal is relatively large and the benefits would therefore be relatively large as well. I place significant positive weight on these benefits.

Biodiversity

118. As set out in the Ecology Statement of Common Ground, the proposal could achieve a BNG of 14% both for habitat and hedgerow units. This could be secured by condition. The level of BNG goes beyond the requirement for a biodiversity net gain, but without specific targets, as set out at Paragraph 180 of the Framework. I therefore place moderate positive weight on the proposed BNG.

Open space

119. The proposal includes significant areas of formal and informal open space, including an equipped play area and allotments. These facilities would be useable both by future residents of the proposal and by existing residents and visitors to the area. I therefore place moderate positive weight on these elements of the proposal.

Highways

120. The proposal includes improvements to the footway in the vicinity of the site along Storridge Road, a contribution towards strengthening a rail underbridge so that it could accommodate busses, and upgrading existing zebra crossings to puffin crossings on The Ham and Station Road as they run into the roundabout to the east of the appeal site. All these works would enhance highway safety and accessibility both for the future occupants of the proposal and for existing residents and users of the highway. I place limited positive weight on these elements.

Ecology

121. The proposal would represent a demonstrable improvement and enhancement on the existing habitat and wide swathes of suitable bat habitat would be provided. However, the enhancements would be relatively limited and there would be areas where lightspill, in particular, moderate the benefits of the proposed wide swathes of land. I therefore place limited positive weight on this factor.

Neutral

Local infrastructure

122. The contributions and other obligations in the s106 that would mitigate the effect of the proposal on local infrastructure, other than those otherwise assessed in this section of my Decision, would not give rise to any benefit beyond mitigation. These therefore weigh neutrally in the planning balance.

Ecology

123. The site falls within the Zone of Influence for the Salisbury Plain Special Protection Area and Special Area of Conservation (the Salisbury SPA and SAC). It is common ground, and I agree, that the effect of the proposal on these sites, in-combination with other developments, would be appropriately mitigated by the provision of on-site open space that would help deflect recreational pressure away from the sites. The appeal site also falls within the Zone of Influence for the River Avon Special Area of Conservation (the River Avon SAC). However, there would be no likely significant effects on this site because of the intervening distance between the appeal site and the SAC and the lack of a hydrological linkage.

124. The s106 secures a contribution towards mitigating the recreational impact arising from the future occupants of the proposal on the Pickett and Langer SSSI and a further contribution to mitigate the loss of bat habitat in the Trowbridge Community Area as a result of the proposal.

125. The above ecological factors weigh neutrally in the planning balance.

Negative

Principle

126. The proposal does not comply with Core Policies 1, 2 and 32 and the WHSAP, which are the key policies dealing with the principle of development in this location and setting out the spatial strategy of the Council. Whilst I reduce the weight I apply to this conflict, for the reasons set out above, it still carries significant negative weight.

Noise

127. The proposal would create unacceptable living conditions for the future occupiers of some of the proposed homes, through requiring that many of the windows be kept closed to avoid unacceptably harmful levels of noise pollution. This would apply to approximately 35% of the proposed properties for significant periods of time, including at nighttime and to bedrooms and living rooms. The quality of the proposed accommodation would not, therefore, be acceptable. This is a fundamental issue with the proposed development. I place significant negative weight on this factor.

Agent of change

128. It has not been satisfactorily demonstrated that the proposal would not create potential future risks to the operation of the WWTE with regard to noise pollution and the agent of change principle. This is particularly important because of the size and economic importance of the WWTE. I place moderate negative weight on this factor.

Character and appearance

129. Although character and appearance is not a disputed issue, it is common ground, and I agree, that the development of a field into a housing development would cause some intrinsic harm to the character and appearance of the appeal site. Because of the amount of open space proposed the harm would be limited. In addition, because of the surrounding

built form and other screening the harm to the wider landscape would be very limited. Overall, I place limited negative weight on this harm.

Construction

130. There would be some harm to the living conditions of nearby occupiers and to the free-flow of traffic and highway safety during the construction period for the proposal. However, this could be controlled by condition to limit the disruption. I place limited negative weight on this factor.

The Balance

131. The proposal fails to comply with the spatial strategy for the Council, and there are also significant adverse effects regarding the living conditions of the future occupiers of the development with regard to noise. In addition, it has not been satisfactorily demonstrated that the proposal would not create potential future risks to the operation of the WWTE, there would be limited harm to the character and appearance of the area, and limited short term harm to living conditions of nearby occupiers during construction. The proposal therefore fails to comply with the Development Plan, when considered as a whole.

132. The Framework is an important material consideration. There is only limited inconsistency between the spatial strategy and the Framework. The Proposed Framework has not been adopted and might be the subject of modification. It also does not fundamentally alter the approach with regard to the spatial strategy as it relates to the appeal proposal. Therefore, in accordance with Paragraph 225 of the Framework, I do not consider the policies to be out-of-date with regard to consistency with the Framework.

133. I have been directed to the Haygate Road appeal decision[22], where the Inspector concluded that the inconformity between the Framework's approach to development in the countryside and the greater restrictions in the spatial strategy policies was in itself reason to consider the policies out-of-date. However, the precise wording of the policies are not before me and I am unable to consider how similar the policies are to those under consideration for this appeal. In addition, the decision was over eight years ago, was in a different local authority with a much older Development Plan adopted prior to the Framework and had a spatial strategy based on out-of-date housing figure, all of which are different to the situation for Wiltshire Council.

134. However, the Council can only demonstrate a 3.85 year supply of housing land. None of the provisions of Paragraph 11di apply. Therefore, in accordance with Paragraph 11dii and Footnote 8 of the Framework, the 'tilted balance' is engaged.

135. I acknowledge that the Council stated under cross-examination that if I found no harm against ecology and a tilted balance, then the appeal should be allowed. However, I do not agree. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This is primarily because of the conflict with the spatial strategy of the Council and the poor quality of accommodation that would be provided because of the design

[22] Ref APP/C3240/W/15/3025042, dated 15 April 2016

approach that has ensured that a significant proportion of the proposed dwellings would require closed windows for significant periods of time to create adequate living conditions.

APPROPRIATE ASSESSMENTS

136. The site falls within the Zone of Influence for the Salisbury Plain SAC and SPA and the River Avon SAC. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an AA relating to each site as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken the AAs.

FUTURE RESIDENTS

137. Clause 7.4 of the s106 was discussed at the Inquiry, relating to whether or not future occupants of the proposal should be bound to the agreement. This is not a material planning consideration and is instead a legal matter. Because I am not minded to grant planning permission, I do not need to consider this matter further.

REVISED DRAWING

138. During the Inquiry the appellant submitted a revised Development Framework Plan[23]. The revised plan reduced the area of proposed built development from 5.04 hectares (ha) to 4.74 ha, by bringing the proposed built up areas back from the north west and north east boundaries of the site. This change reduced the proposed residential development to up to 180 dwellings. However, although I accepted the document during the Inquiry and it was discussed throughout, it was only submitted as a potential alternative approach with regard to ecology and it was confirmed by the appellant that it would not make a material difference to the main issue regarding noise and living conditions. As set out above, I have found the original proposal to be acceptable in this regard. I do not, therefore, refer to the revised Plan in my Decision.

CONCLUSION

139. For the reasons above, the appeal is dismissed.

O S Woodwards
INSPECTOR

[23] Ref CSA/2974/119

ANNEX A: APPEARANCES

FOR THE APPELLANT:
Mr Richard Kimblin KC – No.5 Chambers
Dr Suzanne Mansfield PhD MCIEEM CMLI – Senior Ecology Director, FPCR Environment & Design Ltd
Mr Clive Bentley CIEH MIEnvSc MIOA CEnv CSci – Acoustic Consultant and Partner, Sharps Acoustics
Mr Barry Redman – Consultant, Silcock Dawson and Partners Ltd
Mr Ben Pycroft MRTPI – Director, Emery Planning
Mr Christien Lee MRTPI – Planning Director, Gladman Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:
Mr Gary A Grant, of Counsel – Kings Chambers
Mrs Elizabeth Burrows CIEEM – Senior Ecology Officer, Wiltshire Council
Mrs Vicky Brown CIEH – Senior Environmental Health Officer, Wiltshire Council
Mr Chris Roe MRTPI – Strategic Planning Manager, Wiltshire Council
Mr Andrew Burgess MRTPI FRSA – Managing Director, Andrew Burgess Planning Ltd
Christopher Mead - Highways Officer, Wiltshire Council

INTERESTED PARTIES:
Mr Francis Morland – Local resident
Mr David Jenkins – Local resident

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

DOCUMENTS

ID1: Housing Land Supply – Rebuttal Statement, by Wiltshire Council (inc appendices)
ID2: Appellant's Appearances
ID3: Draft Conditions Schedule
ID4: Appellant's Opening Statement, by Richard Kimblin KC, dated 9 July 2024
ID5: Opening on behalf of the LPA, by G.A.Grant, dated 9 July 2024
ID6: Scott Schedule of Disputed Sites
ID7: Site Notice Locations and Photographs
ID8: List of Appearances for LPA
ID9: Draft Conditions Schedule (inspector comments)
ID10: s106 Draft (inspector comments)
ID12.1: s106 Agreement Version A
ID12.2: s106 Agreement Version B
ID12.3: Note on S106 Agreement Version A and Version B
ID12.4: S. 106 Note on Non-Enforcement Clause
ID14.1: Email from Mr Jenkins, dated 16 July 2024
ID14.2: Letter from Environment Agency to Mr Jenkins, dated 19 June 2024
ID15.1: Email from appellant, dated 16 July 2024, regarding off-site highways works
ID15.2: Note on Proposed Highways Improvements
ID16: Email from Mr Morland regarding the s52 agreement, dated 16 July 2024
ID17.1: Draft Conditions Schedule Appellant Comments
ID17.2: GDL proposed condition amends
ID18: Procedure for the assessment of low frequency noise complaints, Revision 1 December 2011 Contract to NANR45
ID19: s106 Agreement, dated 17 July 2024
ID20.1: s106 Agreement, dated 29 February 2024, relating to Land at Mount Royal, 46 Lymington Bottom, Four Marks, Alton, Hampshire, GU34 5AH
ID20.2: s106 Agreement, dated 15 June 2023, relating to Land off Melksham Road, Holt
ID20.3: s106 Agreement, dated 17 June 2024, relating to Land on the south side of Elm Close, Wells, Somerset
ID20.4: s106 Agreement, dated 3 August 2023, relating to Land south of London Road, Newington, Kent
ID20.5: s106 Agreement, dated 14 May 2021, relating to Land at Green Farm, Chippenham Road, Lyneham, Chippenham SN15 4PA
ID21.1: Appeal Decision Ref APP/Y3950/W/23/3315432, dated 21 July 2023
ID21.2: Appeal Decision Ref APP/Y3940/W/22/3290305, dated 31 October 2022
ID21.3: Appeal Decision Ref APP/Y3940/W/22/3309170, dated 5 May 2023
ID21.4: Appeal Decision Ref APP/Y3940/W/20/3253204, dated 22 November 2021
ID22: Closing on behalf of the LPA, by G.A.Grant, dated 18 July 2024
ID23: Closing submissions on behalf of the appellant, by Richard Kimblin KC, dated 18 July 2024
ID24: Appellant response to the WMS and Consultation Draft of the NPPF
ID25: Council response to the WMS and Consultation Draft of the NPPF, in email dated 1 August 2024
ID26: Signed and engrossed s106 Agreement, dated 30 July 2024

PLANS

ID11.1: Development Framework Plan Ref CSA/2974/119, dated July 2024

ID11.2: Trowbridge Bat Mitigation Strategy (TBMS) Compliance Plan Figure 5 Ref 7289-E-05, dated 15 July 2024
ID11.3: Ecological Parameters Plan 2. – Habitat Creation & Enhancement Figure 4a Ref 7289-E-18, dated 15 July 2024
ID11.4: Ecological Parameters Plan – Core Bat Habitat Buffers and Enhancements Figure 4 Ref 7289-E-04, dated 15 July 2024
ID13: Proposed Waling Route & Points of Interest Ref 2019-048 301
ID15.3: Proposed Upgrade of Zebra Crossings to Puffin Crossings Ref P22036-002

The Planning Inspectorate

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Development Services
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Development Services
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BA14 8JF

Your Ref: 20/03876/OUT
Our Ref: APP/Y3940/W/22/3292118

08 June 2022

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Chappelll and Land Allocation Ltd
Site Address: Land to the East of Church View, Sutton Benger, SN15 4FD

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Jenni Ball
Jenni Ball

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 24 May 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2022

Appeal Ref: APP/Y3940/W/22/3292118
Land To The East Of Church View, Sutton Benger, Wiltshire SN15 4FD

- 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 Land Allocation Ltd against the decision of Wiltshire Council.
- The application Ref 20/03876/OUT, dated 30 April 2020, was refused by notice dated 15 September 2021.
- The development proposed is described as "outline planning permission, with all matters reserved except for access, for up to 24 dwellings and associated infrastructure."

Decision

1. The appeal is allowed and planning permission is granted for up to 24 dwellings and associated infrastructure at Land to the East of Church View, Sutton Benger, SN15 4FD in accordance with the terms of the application, Ref 20/03876/OUT, dated 30 April 2020, subject to the conditions in the Schedule at the end of this decision.

Preliminary Matters

2. The description of development in the header above is from the application form. In my decision I have omitted reference to outline planning permission and all matters being reserved except access as these phrases do not describe an act of development.

3. The application leading to this appeal sought outline planning permission and approval of details of access. The appeal plans show details of the layout of the development but are marked as being indicative. I have treated the layout details as being submitted for illustrative purposes.

4. The appellant has submitted a signed unilateral undertaking (the UU) pursuant to section 106 of the Act. This includes planning obligations relating to the provision of affordable housing and open space as part of the development as well as financial contributions towards off-site sports pitches and courts, waste and recycling bins, air quality monitoring equipment and the expansion of Abbeyfield Secondary School in Chippenham. The Council has had the opportunity to comment on the UU and I have taken it into account.

5. Reference is made in the submissions to an emerging Sutton Benger Neighbourhood Plan. However, this is at an early stage towards adoption and so I attach limited weight to its contents.

6. As well as this appeal, I have determined a separate appeal[1] relating to residential development for 21 dwellings with associated infrastructure, landscaping and construction of new access at a nearby site on Sutton Lane (hereafter referred to as the Sutton Lane proposal). While each appeal has been considered as a separate entity, I have taken account that I have allowed this other appeal as a material planning consideration in my assessment.

Main Issues

7. The main issues are (i) whether the development would be in a suitable location having regard to the policies of the development plan, the National Planning Policy Framework (the Framework) and accessibility to services, (ii) its effect on the character and appearance of the area, and (iii) the aforementioned planning obligations.

Reasons

Suitability of the location

8. Under Core Policy 10 of the Wiltshire Core Strategy 2015 (the CS), Sutton Benger is identified as a large village. CS Core Policy 1 defines large villages as those with a limited range of services and restricts development to that needed to help meet local housing needs. There is limited evidence that demonstrates any particular need for housing in Sutton Benger and indeed reference is made to various recent developments in the village. In the absence of such evidence, the development would be contrary to CS Core Policy 1.

9. Moreover, the site lies outside, albeit close to, the defined boundary for Sutton Benger. CS Core Policy 2 states that development outside settlement limits would not normally be permitted unless for one of the circumstances set out in paragraph 4.25 of the CS. None of these apply in this case and so in these regards the development would be contrary to CS Core Policy 2. Also, the proposal would not accord with saved policy H4 of the North Wiltshire Local Plan 2001 (LP) which allows only replacement dwellings or residences required in connection with a rural enterprise on sites outside settlements.

10. Paragraph 4.15 of the CS states that development at large villages will predominantly take the form of small housing schemes of less than 10 dwellings. However, paragraph 4.15 does not form part of any CS policy and the use of the word "predominantly" indicates that this is not a firm requirement. As such, the failure of the development to comply with the terms of paragraph 4.15 is afforded limited weight.

11. The Framework advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Due to their proximity, it is probable that residents of the proposed housing would use the range of facilities in Sutton Benger which includes a primary school, village hall, recreation facilities, pubs, post office and doctors' surgery. As such, the development would help sustain the vitality of the village.

12. All the village facilities would be within a reasonable walking distance from the development. Also, short lengths of new pavements are proposed on the road outside the site that would form a pedestrian link with existing roadside footways to the village services. Future residents and visitors would have to

[1] Appeal ref no APP/Y3940/W/21/3285458

cross the B4069 to get to and from the development but there is no firm evidence to show that this would be particularly hazardous. The Council's highway development control officer indicates that access via the B4069 would not provide a safe pedestrian route but fails to indicate the reasons why it would be unacceptable. On my visit, I saw there was good visibility along the road in both directions outside the site. As such, the need to cross the road would not discourage walking between the proposal and the village facilities.

13. Moreover, the development would be within a reasonable walking distance of local bus stops. These would provide occupiers of the dwellings with reasonable access to bus services that run on weekdays and on Saturdays. The number of buses is limited but even so the services would provide an opportunity to travel by public transport to Chippenham and to a wider range of facilities. Also, the development would be within a reasonable cycling distance from Chippenham.

14. Notwithstanding the above, it is highly likely that a significant proportion of trips to and from the development would need to be by car. In particular, this is likely to be the mode of travel to shops, higher order leisure facilities and work places. In these regards, the development would not reduce the need to travel by car and so it would not accord with CS Core Policies 60 and 61. However, the proposed roadside pavements would promote walking and consequently the use of local bus services. In these regards, the development would comply with the terms of the Framework. Also, I have taken into account that the opportunity to maximise sustainable transport solutions will vary between urban and rural areas, as emphasised in the Framework.

15. Having regard to its location outside the settlement boundary, the lack of evidence to show it would meet a local need and its scale, I find the proposed development would be contrary to the CS spatial strategy. Also, in light of the paucity of higher order facilities and places of employment within the village, it would not entirely reduce the need to travel by car. For these reasons, I conclude the development would not be in a suitable location having regard to CS Core Policies 1, 2, 10, 60 and 61 as well as LP policy H4. The harm caused in these respects is tempered by the scheme's accordance with the Framework's provisions on the location of rural housing and the potential for residents to walk to the facilities and public transport links in the village. The Council's refusal reasons also refer to CS Core Policy 48. This is irrelevant as the proposal would not be a type of development referred to in the policy.

Character and appearance

16. The site is a pasture field with agricultural buildings and hedgerow along large parts of its boundaries. Residences on Church View lie to the west and the recently constructed dwellings on Sutton Gardens are immediately to the south. Open fields are to the east with an access onto the B4069 to the north.

17. The areas of pasture, hedgerows and agricultural buildings give the site a distinctly rural appearance. However, it is a fairly narrow plot and visually separated from the extensive tracts of field to the east by the boundary hedgerow. Also, the influence of the adjacent residences leads to an edge of village or semi-rural character.

18. The proposal would plainly result in a more developed and domestic character to the site. The proposed works would also formalise the access which would to a minor degree reduce the roadside vegetation and visual qualities of the road.

Traffic and lighting associated with the development would also erode the pastural nature. Even so, the proposed houses would be adjacent to properties on Church View and Sutton Gardens. Therefore, while it would erode the rural character of the site, the development would not be significantly out of keeping with its surroundings and it would not appear isolated from the village.

19. The development would be seen through the access gap from the B4069. Also, it would be visible when approaching the village along the road, although hedgerow on the roadside and the site boundary would obstruct some views. In addition, it is probable the development would be visible from the public footpath that runs through fields on the opposite side of the road. All of these views would to a degree undermine the semi-rural aspects of the locality.

20. The development would also be clearly seen from the adjoining houses on Sutton Gardens and Church View. From these viewpoints, the resulting encroachment of the village into the surrounding countryside would be readily apparent. The development would move the edge of the built up extent of Sutton Benger further to the east. However, the scheme would be perceived as a minor expansion into the countryside given the narrowness of the site. The development would not significantly reduce the gap between Sutton Benger and Christian Malford, the nearest village to the east.

21. The plans indicate the dwellings and gardens set away from the eastern boundary. Such positioning would allow the potential to retain existing hedgerow and to provide additional planting so to reduce the visibility of the development. Nonetheless, it is likely the houses would have a visual influence on the adjacent fields, albeit that from these viewpoints the development would be seen alongside properties in Sutton Gardens and Church View.

22. The village contains a number of residential cul de sacs and so the proposed development would follow a common layout form. The site is long and narrow but the indicative layout pattern is similar to the properties on Church View. As a cul de sac, it is likely the proposed dwellings would back on to the adjacent residences and so they would not fully integrate with any existing streets. However, this pattern of development is already present in the locality.

23. Criticisms are raised in respect of the layout of the proposal, the lack of garden space and parking and other design issues. However, I am mindful that this appeal does not seek approval for layout, scale, appearance or landscape details. The narrowness of the site would be an influential factor in the design of the development. However, from my observations and the information provided I am satisfied a high design quality scheme of up to 24 dwellings could be accommodated on the plot.

24. In summary, the proposal would erode the openness and other rural aspects of the site. This effect would be noticeable to a reasonable degree from the road when approaching and leaving the village, from the adjacent fields and from the land on the opposite side of the road. The proposal would also make a marked visual change in views from adjacent and nearby dwellings. The development would not appear isolated or out of keeping with its surroundings, which includes existing residential cul de sacs. Even so, it would represent an encroachment into open countryside, albeit a minor extension compared to the built up extent of the village as a whole. As such, the development would be harmful to the character and appearance of the area and in these regards it

would not accord with CS Core Policies 51 and 57. Amongst other things, these seek to protect landscape character and natural features

Planning obligations

25. There is no dispute between the main parties that the aforementioned planning obligations are fair and reasonable. Also, it is agreed that they would be necessary to address the Council's objections as set out in its 4th refusal reason. I find no grounds to disagree with the parties on these matters.

26. The Council has raised no concerns in respect of the UU. Therefore, I conclude the planning obligations are fair, reasonable and necessary and the UU would be effective in securing the obligations. As such, the development would accord with CS Core Policies 3, 43, 45, 52 and 55 and LP policy CF3.

Other considerations

27. Several other concerns have been raised. The appellant's transport statement demonstrates that the development would lead to only a modest increase in traffic. Even when taking into account the traffic generated by the Sutton Lane proposal and other schemes in the wider area, there is no substantive evidence to show the development would lead to highway capacity problems. The proposal would be served by an appropriate vehicular and pedestrian access and it would not prejudice highway safety.

28. Information on drainage for the scheme has been accepted by the Council's drainage engineer and Wessex Water (WW) also raise no objections. As such, I am satisfied a planning condition could be reasonably imposed to ensure surface water would be disposed of appropriately and without increasing flood risk elsewhere. There is no firm evidence such as flood risk maps to show that the development would be at flood risk. There is no objection from the Council or Environment Agency that flooding on nearby roads would prevent reasonable and safe access. WW raise no concerns in respect of foul water drainage capacity or water supply pressure and so I have no reason to conclude the development would lead to problems in these regards.

29. The sewerage treatment site would be far enough away to avoid odour problems for future occupants. Also, the appeal site is not subject to excessive noise so as to prevent acceptable living conditions.

30. The development would be next to a small part of Sutton Benger Conservation Area (CA). However, it would be set away from the historic buildings and attractive street scenes towards the centre of the village and from which the CA gains its significance. Therefore, the proposal's effect on the setting of the CA results in no harm to its most important features. The significance, character and appearance of the CA overall would be preserved. Also, the development or any additional traffic would have no meaningful effect on the significance of any other heritage assets, including archaeological remains.

31. There is no evidence to demonstrate that any features of particular wildlife importance would be harmed by the development. The Council accepts the appellant's claim the scheme would enhance the site's biodiversity value. I find no reason to arrive at a different opinion on this matter and enhancement measures could be secured through reserved matters applications.

32. The site includes pasture land which would be lost as a consequence of the development. However, as it is an enclosed and small plot, the loss of agricultural land would be acceptable. Like the Council, I am satisfied that concerns in respect of ground contamination on the site could be appropriately addressed through the imposition of a planning condition.

33. I note concerns that the proposal would increase the use of the village surgery and the primary school. However, there is no firm evidence to show that the development on its own or with the Sutton Lane scheme would lead to unacceptable pressure on local health services. Also, the information provided by the Council indicates that the school has capacity to accommodate pupils from this scheme and the Sutton Lane proposal.

34. My assessment is based on the appeal development and the evidence and information before me. It does not follow from any decision to allow this appeal that other developments would be found acceptable.

35. The concerns raised fail to justify dismissing the appeal. As such, they do not affect my overall assessment.

Housing land supply and planning balance

36. For the reasons set out in respect of the first and second main issues, the proposal would not accord with development plan policies when read as a whole. It follows to consider whether other factors justify allowing the appeal contrary to the development plan.

37. The Framework requires local authorities to identify a supply of deliverable sites sufficient to provide a minimum of 5 years' worth of housing. With reference to the Annual Housing Monitoring Report April 2022 (AHMR), the Council states it can demonstrate 4.72 years of supply for the county as a whole. Also, it sets out the various actions taken to address the shortfall in housing supply. These include granting planning permissions for residential development in Sutton Benger, in the wider local housing market area and elsewhere in the county. It is suggested that housing delivery figures show the land supply position is improving.

38. The appellant highlights recent appeal decisions where it has been found that the housing land supply figure is less than that suggested by the Council, although it is noted that these pre-date and so do not refer to the AHMR. In any event, both main parties accept that the Council is currently unable to demonstrate the minimum 5 year supply. In such circumstances, paragraph 11 of the Framework states that relevant development plan policies which are most important for determining the application are deemed out-of-date. Planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies as a whole.

39. Even if the 4.72 year figure as suggested by the Council is accepted, the proposal would make a meaningful contribution towards addressing an identified shortfall in housing land supply. Moreover, half of the development would be affordable housing so ensuring an appropriate mix of units to meet a variety of accommodation needs and demands. Given these factors and the scale of the development, I attach considerable weight to the scheme's benefits in terms of housing provision.

40. In addition, the proposal would create construction employment and it would be close enough to allow future occupants to support village services. These economic benefits attract moderate weight. The submissions indicate that the development would lead to a net gain in the biodiversity of the site. This attracts limited positive weight given the scale of the overall benefit as claimed. The planning obligations would address needs raised by occupants of the development but enhancements from the contributions towards sports pitches and courts may also benefit the existing population. This attracts limited weight in support of the scheme.

41. The Framework reiterates that the development plan is the starting point for decision-making. However, paragraph 11 advises that where the tilted balance applies, there may be justification to grant planning permission contrary to the development plan.

42. The proposal would not accord with the development plan spatial strategy and policies on the location of housing. However, it would accord with the Framework's aim to locate rural housing where it would maintain the vitality of communities. Also, in line with the Framework, the development would allow the potential for walking, cycling and public transport trips to some facilities, despite the reliance on the private car to access places of employment and higher order services. As such, I attach only moderate weight to the unsuitability of the development's location. In arriving at this view, I have had regard to the cumulative effects of previous housing developments allowed in the village as well as the effects of the Sutton Lane proposal.

43. The scheme would go against the aim of the Framework to ensure development recognises the intrinsic character and beauty of the countryside. Given the particular effects of the development, the harm in these regards attracts moderate weight in my assessment.

44. When considering all factors together, I find the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the Framework. As such, the presumption in favour of sustainable development at paragraph 11 of the Framework applies. In such circumstances, the Framework states planning permission should be granted

45. The scheme would conflict with development plan policies when read as a whole. However, for the reasons given above, its benefits and other considerations are of sufficient weight to justify granting planning permission contrary to the development plan.

Conditions

46. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons and to avoid unnecessary pre-commencement conditions.

47. The first 3 conditions are required by law. I have included a condition that requires the access to be constructed as shown on the approved plans as such details are not reserved matters. There is no need for a condition that sets the maximum number of dwellings allowed as this is included in the description of development and the appeal decision.

48. A condition requiring approval of a construction management plan is needed to avoid harm to the living conditions of nearby residents, to the environment and to highway safety. Also, a condition is necessary to ensure ground contamination on the site is dealt with appropriately without harm to the environment or human health. A condition is imposed to ensure existing trees to be retained are adequately protected during construction works.

49. To ensure surface and foul water is disposed of appropriately, drainage conditions are required. There is no need for a separate condition preventing infiltration of surface water to the ground as the adequacy of any drainage system can be assessed under the terms of the imposed conditions. There is a requirement to ensure the development incorporates water efficiency measures so as to meet the demands of climate change.

50. A condition requiring the provision of visibility splays is included in the interests of highways and pedestrian safety. For the same reason, a condition is imposed that requires road and footpath access to be completed to each individual dwelling prior to occupation. However, there is no need for a condition regarding estate roads as these details would be required under the reserved matters and other conditions.

51. Conditions are attached regarding air quality monitoring and ultra low energy vehicle infrastructure. These are required to ensure the development avoids or mitigates against adverse effects on air quality. To ensure the satisfactory appearance of the development, a condition is imposed that requires the hard and soft landscaping to be provided.

Conclusion

52. For the above reasons, I conclude that the appeal should succeed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

1) Details of the 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.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall be begun either before: (i) the expiration of five years from the date of this permission, or (ii) 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.

4) The access to the development hereby permitted shall be constructed in accordance with the site access option 2 drawing included as appendix A to the Newell Edwards Transport Statement dated 4 March 2020.

5) The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following measures:

- an introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- a description of management responsibilities;
- a description of the construction programme;
- site working hours and a named person for residents to contact;
- detailed site logistics arrangements;
- details regarding parking, deliveries, and storage;
- details regarding dust and noise mitigation;
- details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- communication procedures with the local planning authority and local community regarding key construction issues – newsletters, fliers etc.

Where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts. Stone crushing shall be limited to 1030 to 1530 Monday to Friday with no crushing at weekends or bank holidays.

There shall be no burning undertaken on site at any time. Construction hours shall be limited to 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays and no working on Sundays or Bank Holidays. The development shall be carried out in accordance with the approved CEMP.

6) No development hereby permitted shall commence until an investigation of the history and current condition of the site to determine the likelihood of contamination arising from previous uses has been carried out and all of the following steps have been complied with:-

i. a written report has been submitted to and approved in writing by the local planning authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether it is likely that contamination may be present on the site.

ii. if the above report indicates that contamination may be present on or under the site, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance. A report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the local planning authority.

iii. if the reports submitted pursuant to (i) or (ii) indicates that remedial works are required, full details of remediation shall be submitted to and approved in writing by the local planning authority. The approved remediation shall be implemented prior to the

commencement of the development or in accordance with a timetable that has been approved by the local planning authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the local planning authority that the works have been completed in accordance with the agreed remediation strategy

7) Prior to commencement of development, including any works of site clearance and preparation, an Arboricultural Method Statement providing details of construction works in relation to retained trees and vegetation and tree protection measures shall be submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved details.

8) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for the discharge of surface water from the site (including surface water from the access/driveways) has been submitted to and approved in writing by the local planning authority. The details shall include proposed sustainable drainage measures, management of overland flow routes information and a maintenance schedule for 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. The scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling and shall be managed in accordance with the approved details thereafter.

9) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for the disposal of foul water from the development has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the first occupation of any of the dwellings hereby permitted.

10) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for water efficiency to be incorporated as part of the development has been submitted to and approved by the local planning authority. The approved scheme shall be implemented prior to the occupation of any individual dwelling hereby permitted.

11) No dwelling hereby approved shall be occupied until the visibility splays shown on the site access option 2 drawing have been provided with no obstruction to visibility. The visibility splays shall be maintained free of obstruction at all times thereafter.

12) No individual dwelling hereby approved shall be first occupied until the roads, footpaths, parking and turning spaces to serve that dwelling and allow access to and from the public highway have been provided and constructed to at least base course level.

13) No dwelling hereby approved shall be first occupied until an air quality assessment (AQA) has been submitted to and approved in writing by the

local planning authority. The AQA must quantify the effect of the development on existing local authority air quality monitoring locations and sensitive receptors as well as the development. It must also identify and make adjustments for all core strategy based development in the locality.

14) No dwelling hereby approved shall be first occupied until a scheme of ultra low energy vehicle infrastructure has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and the approved infrastructure shall be provided in accordance with the approved timetable and thereafter retained.

15) All soft landscaping as approved under the terms of condition 1) shall be carried out in the first planting and seeding season within or following the completion of each phase, first occupation of the development or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping approved under the terms of condition 1) shall also be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority.