Planning Inspectorate

Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line:
Customer Services:
0303 444 5000

Email: CHRIS.PRITCHARD@planninginspectorate.gov.uk
www.gov.uk/planning-inspectorate

Development Services
Wiltshire Council
Development Services
County Hall
Trowbridge
BA14 8JF

Your Ref: PL/2023/07797
Our Ref: APP/Y3940/W/25/3361710

21 August 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Lagan Homes and White Lion Land (Malmesbury) Limited
Site Address: Land off Park Road, Malmesbury, SN16 0QW

CORRECTION NOTICE

I am enclosing a copy of the corrected appeal decision letter, in pursuance of Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended. This decision corrects that issued on 29 July 2025.

A drafting error has been corrected in paragraph 1 of the appeal decision letter. The planning application reference stated in this paragraph is corrected to "Ref: 19/05898/OUT granted on 26 September 2022".

Information about the Inspectorate's complaints procedures can be obtained from our web site, which also gives information on the circumstances in which the validity of this decision may be challenged by making an application to the High Court: http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/

If you wish to learn more about how an appeal decision or related costs decision may be challenged, or to give feedback or make a complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Team at the address above. Alternatively, 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.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds

for challenging the decision you may wish to consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for making a challenge, please contact the Administrative Court on 0207 947 6655.

Yours sincerely,

Chris Pritchard
Chris Pritchard

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

Planning Inspectorate

Appeal Decision

Site visit made on 1 July 2025

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal Ref: APP/Y3940/W/25/3361710
Land off Park Road, Malmesbury, SN16 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for approval to details required by a condition of a planning permission.
- The appeal is made by Lagan Homes and White Lion Land (Malmesbury) Limited against Wiltshire Council.
- The application Ref PL/2023/07797 sought approval of details pursuant to condition No 1 of outline planning permission Ref 19/05898/OUT granted on 26 September 2022.
- The development proposed is described as 'Reserved Matters Application pursuant of Outline Permission 19/05898/OUT (Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access) relating to Appearance, Landscaping, Layout and Scale'.
- The details for which approval is sought are: appearance, landscaping, layout and scale.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 29 July 2025.

Decision

1. The appeal is allowed and the reserved matters are approved, namely; appearance, layout, scale and landscaping submitted in pursuance of condition No. 1 attached to planning permission Ref: 19/05898/OUT granted on 26 September 2022, and the plans submitted with it, subject to the conditions in the attached Schedule.

Background and Main Issues

2. As this is an appeal against the non-determination of the application, there was no decision notice. Following the submission of the appeal, the Council has not put forward any putative reasons for refusal or set out any objections to the proposal in its statement. Furthermore, a Statement of Common Ground dated 5 February 2025, submitted as part of the appeal, sets out that there are no matters in dispute between the main parties.

3. I have been provided with copies of relevant development plan policies and representations from statutory consultees and interested parties at application stage and in relation to the appeal. Planning permission for the development was granted at outline stage. An application for the approval of reserved matters is, by definition, an application for the approval of details pursuant to the permission, in this case the appearance, landscaping, layout and scale of the development. The principle of residential development was therefore established at the outline stage and is not for consideration as part of the appeal scheme. Moreover, the approval

of reserved matters excludes details required pursuant to the discharge of conditions attached to the outline permission, as they are subject to a separate approval process.

4. In light of these considerations, the main issues are the effects of the approval of reserved matters on the character and appearance of the area and the living conditions of the occupiers of the neighbouring properties.

Reasons

Character and appearance

5. The appeal site comprises an area of agricultural land on the edge of Malmesbury. It rises towards the rear boundary which adjoins the residential properties in White Lion Park. There are boundary hedges and trees to the front and side boundary, which is coterminous with the neighbouring site, at which residential development was under construction at the time of my site visit. Aside from a group of trees in the corner of the site, planting along the rear boundary is more sporadic and the remaining side boundary is not defined. Access to the site, which formed part of the outline permission, is off Park Road.

6. The proposed dwellings to the front of the site would be orientated to front Park Road, set back from it behind a driveway which would serve the properties. There would also be dwellings arranged to front the main internal road which runs through the site, and the spurs to secondary roads from it. The main internal road is shown to terminate at the rear of the site, where access to the adjoining public open space would be provided. This would create a legible layout and street hierarchy. Parking spaces would be located between and to the front of dwellings, and each would be served by a private rear garden area commensurate with the size of the dwelling. The proposed 2 storey terraced, semi-detached and detached dwellings would reflect the overall height, scale and external materials of residential properties nearby. The number of dwellings and subsequent density is considerably less than that of the outline permission, which was granted for up to 50 residential units, and would not appear cramped given its context. The proposal includes a comprehensive landscape scheme which comprises hedge and tree planting as well as the retention of existing vegetation to the site boundaries, would ensure the development would assimilate with the site context.

7. The Town Council is of the view that the design is poor and suggest that the layout of the proposed development in particular is flawed. However, my attention has not been drawn to any specific areas of concern. The officer's report sets out that the proposals, which have been subject to considerable negotiations with the appellant, are acceptable with regards to the scale, massing, height and design of the dwellings and their associated parking arrangements and amenities, in accordance with relevant local and national policies. In light of the above considerations, I have no reason to reach a different view.

8. Having regard to appearance, landscaping, layout and scale, the proposal would therefore successfully integrate with its surroundings and would not give rise to harm to the character and appearance of the area. As such, the development would accord with the high quality design aims of Core Policy 57 of the Wiltshire Core Strategy, adopted January 2015 (WCS), including that development is expected to complement the locality.

Living conditions

9. The layout of the scheme is such that the properties to the rear of the site would back onto the residential properties in White Lion Park, the side and rear garden boundaries of which adjoin the site boundary. Due to the existing layout of the adjoining development there is a degree of overlooking of neighbouring gardens, which is not uncommon in a built-up environment. Nonetheless the siting and orientation of the proposed dwellings, combined with the length of the rear gardens and resulting overall separation distances between them and the existing dwellings, would ensure there would be no direct overlooking or significant loss of privacy of the adjoining properties.

10. Moreover, while noting the residential nature of the proposal, there is no compelling evidence that the layout or scale of the development would be the cause of unusual levels or types of noise that would cause detriment to the living conditions of the occupiers of the neighbouring residential properties.

11. I therefore conclude, for the reasons set out, that the proposal would not harm the living conditions of the occupiers of the neighbouring properties. Accordingly, it would not conflict with Core Policy 57 of the WCS in so far as it requires new development to have regard to the impact on the amenities of existing occupants, including the consideration of privacy and noise.

Other Matters

12. Concern has been raised by interested parties in relation to several matters including flooding, ecology and biodiversity, highway safety and disruption during construction work, and the effect of the development on existing infrastructure and highway network, particularly through Malmesbury town centre. However, these relate to the principle of the development and not the reserved matters, for which approval is sought. In addition, details of the provision of an emergency access and egress, including details such as gates and surfacing, and arrangements for access, are required as part of a Flooding Emergency Access and Egress Management Plan, in accordance with condition 12 of the outline permission.

13. Whether or not changes to the Land Use Parameters Plan agreed by the Council were done so at officer level, without the agreement of elected members, is a matter for the parties to resolve outside of the appeal. Any implications of the revisions, in so far as they relate to the implementation of the scheme and the provisions of the legal agreement pursuant to s106 of the Town and Country Planning Act 1990 are not determinative to the appeal. Moreover, outline approval was granted subject to a condition which requires approval of a scheme for the discharge of surface water. The acceptability and enforceability of such a scheme, is therefore a matter for the Council to determine.

14. Whether the details submitted pursuant to other conditions attached to the outline permission are acceptable, and submitted within a timely manner, is beyond the scope of this appeal which relates solely to the approval of reserved matters. Furthermore, there is no compelling evidence that the requirements of the conditions imposed previously could not be satisfied.

Conditions

15. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the PPG. Any conditions which fall outside of the scope of the reserved matters application, cannot pass the test of necessity.

16. A condition requiring the implementation of the reserved matters approval within a prescribed period is not necessary given that the timeframe is set out in the outline permission. I have imposed a condition specifying the relevant plans to provide certainty. These include a revised external materials plan, as such, a separate condition requiring details and samples of materials is not necessary. Neither is a condition to require the implementation of the landscaping scheme necessary, as this is secured by condition 20 of the outline permission.

17. I have imposed a condition to secure the provision of cycle parking, which is in accordance with the sustainable development objectives set out in policies of the WCS, as this forms part of the layout of the development, for which approval is sought.

18. Permission has already been granted for residential development by virtue of the outline planning permission. Consequently, the suggested conditions relating to measures to be incorporated to deliver the energy standard, as set out in the appellant's Energy & Sustainability Statement, low carbon and renewable energy technologies and water consumption fall outside of the scope of the reserved matters being considered as part of the appeal scheme.

19. Requirements for the installation of electric vehicle charging points in new homes forms part of Building Control Regulations. It has not been explained why the regulations do not satisfactorily deal with this matter. As such, this suggested condition is not necessary or reasonable.

Conclusion

20. For the reasons given above and having regard to all other matters raised, the appeal should be allowed.

E Worley

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans: Documents Issue Register REF: 62445-MCB-XX-XX-IE-X-0002 Received 6th November 2024 and Landscaping 7 Ecology Register REF: edp7403 Received 6th November 2024.

2) Prior to the first occupation of any unit the cycle parking for that property shall be provided and made available to use as set out in the Energy & Sustainability Statement by Energist Revision 01 dated 23 November 2023. The facilities should be retained and kept available for such uses thereafter in perpetuity.

******** end of conditions********