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Planning Appeals
Wiltshire Council
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Your Ref: PL/2023/04996
Our Ref: APP/Y3940/W/24/3358026

26 September 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Miller Homes
Site Address: Land west of Milbourne, Malmesbury

Outcome

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

Thank you for your cooperation and patience while we reviewed your case and all relevant documentation.

What Next?

Please note that the Planning Inspectorate cannot change or revoke the outcome of the attached decision as only the High Court can quash this decision. The Planning Inspectorate is not the administrative body for High Court challenges. If you would like more information on the strictly enforced deadline for challenging a decision or a copy of the form for lodging a challenge, please get in touch with the administrative court on 02079476655.

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

Yours sincerely,

Philip James
Philip James

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Planning Inspectorate

Appeal Decision

Hearing held on 5 August 2025

Site visit made on 5 August 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/Y3940/W/24/3358026
Land west of Milbourne, Malmesbury

- 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 Miller Homes against the decision of Wiltshire Council.
- The application Ref is PL/2023/04996.
- The development proposed is outline planning application (all matters reserved except access) for erection of up to 92 dwellings (including 40% affordable housing) together with associated access, parking, pedestrian and cycle routes, public open space, play space, landscaping, drainage and associated infrastructure.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters save for access reserved for future consideration. As such, plans depicting the scale, layout and landscaping have been treated as broadly indicative in nature.

3. Following the submission of the appeal, the appellant sought to address some issues on the accessibility and pedestrian and cycle linkages through the submission of new plans and information, including plan references 23117-03-6 Rev G and 23117-03-5 Rev I. Whilst materially different to the scheme determined at application stage, the Council initiated a consultation with interested parties on the changes prior to the hearing, providing an opportunity to respond in writing. Whilst the Statement of Common Ground (SoCG)[1] outlines the main parties' agreement that these details satisfactorily addressed the related fifth and sixth reasons for refusal, subject to either conditions or S106 agreement, these aspects were fully explored as a main issue at the hearing.

4. The SoCG also outlines that the main parties had reached agreement on the third, fourth and seventh reasons for refusal which respectively relate to biodiversity, archaeology and the absence of a S106 agreement. The draft S106 agreement was submitted prior to and was discussed during the hearing. The engrossed version, dated 15 August 2025, was received within an agreed timeframe following the close of the hearing. I find no reason to reach alternative views in respect of these particular issues.

[1] And including appendix C, '*Response to LPA statement regarding matters of Transport and Accessibility Rev B'*, 1 July 2025

Main Issues

5. The main issues in the appeal are:

- whether the scheme accords with the development plan in respect of its scale, nature and location;
- whether the location of the site and means of connectivity to services and facilities would be adequate for future residents to help reduce reliance on private vehicles; and
- the effects of the proposal on the character and appearance of the area.

Reasons

6. The appeal site comprises two fields of around 5.7 hectares in area. The village of Milbourne lies to the east and the site is bound by the A429 on its western side. The town of Malmesbury lies a relatively short distance to the west, separated by the A429 and some agricultural land.

Scale, nature and location

7. The current development plan for the area comprises the *Wiltshire Core Strategy* (adopted 2015) (the Core Strategy), the *Wiltshire Housing Site Allocations Plan* (adopted 2020) and the *Malmesbury Neighbourhood Plan* (made 2015) (MNP).

8. The policies referred to in the first reason for refusal include policies 1, 2 and 13 of the Core Strategy and policy 3 of the MNP. Policies 1 and 2 of the Core Strategy set out a spatial strategy for the delivery of at least 42,000 homes in Wiltshire over the plan period by using a hierarchical approach to the growth of settlements. The largest amounts of growth are to be directed towards the principal settlements of Chippenham, Trowbridge and Salisbury; then market towns, followed by local service centres, with large and small villages being at the bottom of the hierarchy.

9. Policy 13 of the Core Strategy defines Malmesbury as the market town within the Malmesbury Community Area and Milbourne as a small village. The policy encourages the development of around 1,395 homes for the Community Area over the plan period, of which around 885 should occur at Malmesbury with 510 to be provided across the outlying villages. The preamble to the policy also refers to Malmesbury's rural location and characteristics preventing the ability to plan for significant growth, rather focussing on some growth to alleviate affordability issues in the area.

10. The site falls well outside of the settlement limits of Malmesbury as carried over to the Core Strategy[2] and the smaller village of Milbourne does not have a defined settlement limit. The site is therefore in the countryside in planning policy terms.

11. Policy 3 of the MNP sets out that housing development in Milbourne and Corston shall only be on 'windfall' sites and the number of dwellings should ideally not exceed single figures in order to preserve the rural character of the villages.

12. The appeal scheme for up to 92 dwellings would represent a large scale scheme far beyond the settlement limits of Malmesbury and would also significantly exceed the scale permissible for Milbourne as a small village with a rural character.

[2] From the North Wiltshire Local Plan 2011

Therefore, the scale and location of the development conflicts with Policies 1, 2 and 13 of the Core Strategy and policy 3 of the MNP.

Connectivity to facilities

13. The fifth and sixth reasons for refusal concern the location of the site outside of Malmesbury's development limits, limited connectivity to Milbourne and related reliance upon private vehicles by future residents. The lack of demonstration of safe and inclusive pedestrian and cycle routes is also a matter covered within these reasons for refusal.

14. Dwellings in Milbourne largely access onto Milbourne Lane, which leads to the B4040 (Charlton Road). The B4040 and A429 converge at Whychurch Roundabout. There would be a separate emergency access and pedestrian link onto Milbourne Lane West in the south-east of the site; a lane that also forms part of the National Cycle Network (Route 254). However, the main access and orientation point of the site would be away from Milbourne village and would instead be on the western side of the site, onto the A429.

15. Following revisions, the scheme now proposes a shared foot and cycleway of 3 metres in width with a 1.5m verge heading north from the point of access alongside the A429 to Whychurch Roundabout. Associated changes would also be made to existing sections of footway and the splitter islands to facilitate crossing over the northern side of the roundabout to the B4040, leading to Holloway and Malmesbury centre. Adaptations would also be made beyond Whychurch Roundabout to provide continuity of this route to the garden centre and supermarket further to the north. Access to Malmesbury via the B4014 would also be possible using these linking footways/cycleways, albeit that this would be one of the longest available routes.

16. Extending from the main appeal site in a southerly direction is an existing informal, roughly hardsurfaced footpath along the western edge of a field. The intention is to improve the surface and useability of this route and either offer it to the Council for adoption or secure it as a permanent permissive path. The route into Malmesbury in this direction passes under the A429 onto Baskerville Hill, St Johns Road and Silver Street and provides an alternative pedestrian or cycle route to Malmesbury.

17. An alternative, more direct route to Malmesbury is across the A429 and down Blicks Hill. Parts of Blicks Hill are rural in nature, without footways or lighting, but it is a relatively low traffic environment. Though warning signs exist to alert drivers to the potential for such, there is no existing crossing point for pedestrians or cyclists across the A429 to Blicks Hill. Despite that a fatality occurred there some time ago, it is evident that some people do risk crossing at this point. The proposal would not provide a dedicated crossing point and the A429 would remain a functional bypass road with vehicles travelling on it at high speeds. The introduction of the point of access with right turn lane, street lighting and foot/cycleway would be some distance to the north and would be unlikely to materially influence lower driving speeds on the A429 in the vicinity of the Blicks Hill junction.

18. In light of the absence of a dedicated crossing point, the Blicks Hill route is not part of the access strategy for the scheme. Nonetheless, as residents on foot or cycle would be directed out from the site in a westerly direction for facilities in Malmesbury, it is highly likely that at least a proportion of them would opt to cross the desire line over the A429 to Blicks Hill, rather than head north or far south.

19. I walked into Malmesbury along the B4040 route and noted its narrow footways and absent sections that necessitate crossing or using an on-road marked section of footway which do little to encourage or facilitate safe and easy journeys on foot, particularly for users with pushchairs or groups of small children.

20. The facilities to the north include the supermarket and petrol filling station. With the route along the A429 in place, the walking time to these facilities would be around 10 minutes from the site access point.

21. In my view, despite its width and the intervening verge of 1.5 metres, the new section of foot/cycleway along the A429 would feel intimidating for pedestrians given the traffic speeds of vehicles travelling on this section of road. Despite this, if it were used by pedestrians, adding the detour around the north side of Whychurch Roundabout and times spent waiting for safe breaks in the traffic at the unrelated unsignalised crossing points over the roundabout arms, the journey to St Joseph's School some 1100m away is suggested to take around 13 minutes at a walking speed of 1.4 m/s. For children of primary school age, this walking speed may not be achievable, so the walk could be expected to be longer in duration. The other primary school without an alignment to any specific religion is Malmesbury Primary School which is around 1,800m from the centre of the site. At a walking pace of 1.4 m/s, an adult would take around 21 minutes to walk there, but it could easily turn into a 30 minute walk with younger children. Taken with the other shortcomings with parts of these routes, the understated journey times for the most relevant users adds to the doubt about how frequently they would be used for such purposes.

22. Heading in a southerly direction from the site access, along the existing informal path, via Baskerville Hill up the stepped route on Silver Street, I took around 17 minutes to walk to the library some 1300m away. This is marginally different to the 15 minutes' walk time calculated in the SoCG[3], but may be explained by the stepped incline along Silver Street that made this route more challenging.

23. I have also considered the cyclability of the routes into Malmesbury. The A429 shared foot and cycleway would obviously provide some benefit, but beyond the crossing over the Whychurch Roundabout, cyclists would be required to rejoin the carriageway to cycle. Similarly, beyond the extent of the permissive path to the south, cyclists would rejoin the carriageway in Baskerville Hill and would need to go on a slightly longer route to avoid the steps on Silver Street. Whilst I do not doubt that these routes are cyclable, the length of the trips and nature and sections of carriageway to navigate to the key facilities would most likely limit such trips to more experienced or hardy cyclists and would be unlikely to include many school age children.

24. I note the Highway Development Management response which suggests that the range of active travel infrastructure offered would be beneficial to the wider area of Milbourne through improving accessibility into Malmesbury and would help to offset private vehicle trips associated with the development. Though the range of measures has been enhanced since the scheme's original submission and were considered sufficient for the Council to accept that these issues had been satisfactorily addressed, I do not share the same view. Relative to the scale of the development of many family-sized homes, the inability to facilitate safe movements

[3] SoCG, Table 1 – Distance from the site to various services and facilities

directly across the A429 to Blicks Hill is a material omission from the access strategy for the scheme and to ignore the inevitability of increased usage at the risk of user safety would be a particularly poor planning outcome.

25. Furthermore, the northerly and southerly alternatives, whilst beneficial in some respects, do not present a comprehensive solution to connecting future residents with facilities in Malmesbury given that most journeys using these routes have some compromised features and exceed the 800 metre walkable neighbourhood distances outlined in the Manual for Streets with many closer to the upper end of the maximum 2km range advocated by the same.

26. As such, despite the promoted close proximity to Malmesbury, the undisputed accessibility of bus services and offered Travel Plan measures, the genuineness of the alternatives and ability to meaningfully minimise vehicle dependency are overstated and regular journeys by the vehicles of up to 92 households to everyday facilities would be highly likely. These significant adverse effects conflict with policies 60 and 61 of the Core Strategy which seek to locate and design development to reduce the need to travel by private car, and to encourage the use of sustainable transport alternatives, with demonstration of consideration to all road users, including pedestrians, cyclists, public transport users and those with mobility impairments. These aims of the development plan are consistent with the objectives of the National Planning Policy Framework (the Framework) to reduce the need to travel, taking into account the different solutions available in rural compared to urban areas.

Character, appearance and urban design

27. The original application was submitted with a *Landscape and Visual Impact Assessment* (LVIA) and the appeal was supplemented with a *Landscape Statement* and *Urban Design Statement*. The LVIA outlines that under the Wiltshire Landscape Character Assessment (2005), the site is within landscape character type (LCT) 11 *Rolling Clay Lowland* and part of the *Minety Rolling Clay Lowland* landscape character area (LCA). The features of the LCT consistent with the appeal site includes its gently rolling, clay-based lowland composition; of mixed arable and pastoral land use with pasture concentrated around the water courses; laid out in a variable field pattern with hedgerow enclosures; and has a scattered settlement arrangement of towns, small villages and farmsteads. Though overlapping with the LCA, the more wooded and more sparsely settled characteristics of the Minety Rolling Clay Lowland are less evident at the appeal site level.

28. The nearby water tower and power lines are mentioned as detracting features of the *Minety and Malmesbury Rolling Lowland*[4] and are visible in views from the site. Otherwise, this LCA has features broadly consistent with those also described under the LCT.

29. Despite the urban influences of the A429 and to the north, the garden centre, petrol filling station and supermarket, the area currently has a degree of detachment from the urban extent of Malmesbury and the separation from the small rural village of Milbourne is apparent on the ground. When travelling along the A429, dwellings in Milbourne appear peripherally in some views, but its small scale and separation from Malmesbury are clear. Whilst the original village form

[4] As defined under the North Wiltshire Landscape Character Assessment, 2004

would have been more scattered, its form is still presently more linear, with only modest pockets of more recent development having exerted a change on this characteristic.

30. In my view, the proposal would blur the distinction between Malmesbury and Milbourne as distinct settlements. Whilst the submitted Framework Plan must be treated on an indicative basis, the underpinning principles have been considered in reaching a view about the likely effects of the development on the landscape and its visual and physical integration with the area. Due to its scale, the scheme would almost double the size of Milbourne in a concentrated area to the west, further altering its predominantly linear form. However, owing to the intention to access the development to the west onto the A429, its actual connections and integration with Milbourne would be relatively fragile. It would add to the settlement's overall scale, but with a limited foot and cycleway link in the south-eastern corner of the site. Rather than having a sense of place linked with Milbourne, it appears that the development would be orientated towards the A429 or to its own site features, such as a central area of public open space or sustainable urban drainage basin.

31. The visual envelope of the site is not extensive, but from where development would be seen, the changes would be highly visible and extensive. There would be no avoiding the inevitable change of character from open agricultural fields to a sizeable urban development with associated increased activity from viewpoints close to the site, including from Milbourne Lane West and from other local public rights of way (PROWs), including MAWL12 and more distantly from PROWS around Burton Hill. Whilst the existing hedgerows would be retained, the presence of the development and associated activity would still be apparent, even if only upper parts of the houses themselves were visible. Though the visual and perceptual effects would reduce over time with the establishment of landscaping, including new hedgerows and hedgerow improvements, they would not be as minimal as predicted in the submitted LVIA.

32. The access would result in direct change onto the A429 and offer open views to the site, the scale and siting of the scheme would mean that it would be highly visible to all users of the A429, and the latterly added shared foot and cycleway along part of the eastern side of the A429 and extending northwards would also generate direct change onto the highway through further urbanisation, resulting in a consolidating urbanising effect with the petrol filling station and other similar commercial uses to the north. There would also be increased activity on the foot/cycleway and a reduction in the greenness of the affected side of this route. Therefore, taken as a whole, the proposal would harm the settlement pattern and distinction of the settlements through overwhelming the scale of Milbourne and appearing as further urbanisation outwards from Malmesbury and further along the A429. Thus, taken collectively, the combined effects of the scheme would be highly adverse on completion and many would persist even after a 15 year period of landscaping establishment.

33. Aspects such as the storey heights of individual houses and balance of detached houses to other forms would be better resolved at reserved matters stage, but on the basis of its siting, extent, orientation and basic form of development and associated infrastructure, the scheme would irreversibly harm the character and appearance of the area and it would fail to maintain the separate distinctiveness of Milbourne and Malmesbury. This represents a substantial harm that weighs against the scheme and results in conflict with, in particular, policies 51 and 57 of

the Core Strategy which seek to ensure new development protects, conserves and where possible, enhances landscape character, responds to the existing pattern of development, topography and retains important views.

34. Policy 13 of the MNP is referenced in the related reason for refusal and requires consideration to be given to the Neighbourhood Plan Design Guide to ensure a high quality of design that respects the specific character of Malmesbury Town and the surrounding area. I have found harm to the character of the area in conflict with the key policy objective, but, in light of the outline nature of the scheme, have not considered any finer points of detail in the context of the Design Guide.

Other Considerations

35. The SoCG outlines that the Council cannot demonstrate a five year supply of housing land with minimum buffer as required by the Framework with a figure of 2.42 years' worth offered in the *Annual Housing Land Supply Statement* (2025) without further points of dispute from the appellant on the sources of supply. This shortfall equates to an undersupply of just under half the total five year requirement of 18,506 dwellings. On this basis, the parties agree that the provisions of paragraph 11 d) of the Framework are engaged and there is no Framework footnote 7 provisions applicable to the appeal site or scheme. I return to this below.

36. Despite not being a matter of dispute between the parties, the appellant's affordable housing witness emphasised a number of points about the levels of affordable housing need in Wiltshire, including that the scheme would comply with CS Policy CP43 which requires a 40% affordable housing provision. The mix that would be secured would be split between 60% affordable rent tenures and 40% intermediate tenure dwellings. The number of households in need in the area was recorded in the register as 4,285 as at 31 March 2024, and it was claimed that future affordable housing delivery will continue to fall below the level of need. I have taken account of these points and the other written evidence on the topic in light of the delivery of up to 37 affordable dwellings within the scheme.

37. The submitted S106 provides for 40% affordable housing and eligibility clauses in relation to the same; open space obligations seeking at least 4,700 sqm of space and a separate local area of equipped play; financial contributions towards early years provision, sports pitches, waste and recycling equipment; general PROW improvements, and travel plan monitoring. It also includes provisions for the southerly footway/permissive path and a management company if in the event that shared spaces are to be retained and managed privately. The Council also provided a statement outlining the necessity for the components of the S106 against the relevant development plan policies and I find no reason to disagree that these aspects would be necessary were I minded to grant permission.

38. Whilst I note that the appeal site has been promoted for development through the Local Plan Review, which is in the initial examination stages, and also through the Malmesbury Area Neighbourhood Plan Review, neither main party has drawn my attention to any site-specific or general policies of relevance to the appeal in either of these emerging plan documents that should attract more than limited weight.

39. The appellant has drawn my attention to a number of relatively recent appeal decisions for schemes in Wiltshire[5], all of which are relevant to the Council's inability to demonstrate a five year supply of housing land. Many of the decisions reach similar conclusions about the policies concerning the scale and location of development being affected by the undersupply of housing land, but each were also determined on the case specific factors including locational accessibility and landscape effects. As such, I have taken the relevant points into account but do not find any so similar to the current scheme that they dictate the outcome of this appeal.

Planning Balance

40. In respect of the scale, location and nature of the development, its compromised connectivity to services and resultant reliance by future occupiers on private vehicles, and given the harm it would cause to the character and appearance of the area, the scheme does not accord with the development plan when taken as a whole.

41. In light of the undersupply of housing at a considerable scale of over 9,000 homes, the provisions of paragraph 11 d) of the Framework are engaged and there is no Framework footnote 7 reasons for refusal in respect of flood risks, protected sites or heritage assets. Paragraph 11 d) therefore indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

42. The conflict with Core Strategy policies 1, 2, 13 and policy 3 of the MNP attract reduced weight on the basis of their constraining effect on the supply of housing. However, policies governing the accessibility of the site and promotion of sustainable transport and landscape and visual harms still attract substantial weight owing to their consistency with the Framework.

43. The delivery of up to 92 dwellings would be a sizeable contribution to the housing supply which attracts significant weight in the overall balance. The scheme would also include 40% affordable housing which would ensure an appropriate mix of units to meet the identified accommodation needs. This is an aspect which also attracts significant weight.

44. Other beneficial aspects of the scheme include the delivery of public open space, the delivery of biodiversity enhancements and economic benefits throughout the construction phase[6] and beyond. Separately, though I find them insufficient to address the connectivity issues with the scheme, the active travel improvements would still be useable by existing Milbourne residents and the public at large and can therefore attract a degree of positive weight in favour of the scheme. I attach moderate positive weight to all of these other benefits taken together.

45. On the other hand, the adverse harm to the character and appearance of the area attracts substantial weight and the inability to fully realise adequate connectivity to Malmesbury and minimise dependency on private vehicles are factors that also

[5] Including APP/Y3940/W/24/3345598, APP/Y3940/W/24/3351265, APP/Y3940/W/24/3351527 and linked appeal APP/Y3940/W/24/3351528, APP/Y3940/W/23/3324031 and APP/Y3940/W/24/3349828
[6] with reference *to The Economic Footprint of Home Building in England and Wales* as appended at NM6 to the Statement of Case

weigh significantly against the proposal. Considered overall therefore, my view is that the benefits of the proposal would be significantly and demonstrably outweighed by the adverse impacts when assessed against the Framework policies taken as a whole and having particular regard to aspects such as directing development to sustainable locations and securing well-designed places. As such, the presumption in favour of sustainable development does not apply.

Conclusion

46. Taking the totality of aforementioned benefits and other points advanced in favour of the scheme, there are no considerations of such weight that they indicate that a decision should be made other than in accordance with the development plan. Consequently, the appeal is dismissed.

H Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Jackson	Strategic Planning Director, Miller Homes
Thea Osmund Smith	Counsel for the appellant
Nick Matthews	Planning Director, Savills
Jon Sebbage	Associate Planning Director, Savills
Colin Richards	Director, Richards Urban Design
Paul Gibbs	Landscape Director, David Jarvis Assoc
Dave Neale	Associate Director, Highways - DTA
James Stacey	Managing Director – Affordable Housing, Tetlow King
Amy James	Associate Director – Affordable Housing, Tetlow King

FOR THE LOCAL PLANNING AUTHORITY:

Callan Powers	Senior Planning Officer
Adrian Walker	Planning Manager
Mark Goodwin	Senior Landscape Officer
Mark Wiltshire	Highways Officer
Brian Johnson	Senior Urban Designer

INTERESTED PARTIES:

Martin Smith	Wiltshire Councillor
Campbell Ritchie	Malmesbury Civic Trust
David Briggs	Councillor, St Paul Malmesury Without
Tom Hanwell	Local resident
Kim Power	Local resident
David Black	Local resident
Gavin Grant	Wiltshire Councillor
Alan Gay	Local resident
Jean Clayton	Local resident
Lorraine Levin	Local resident
David Bond	Local resident

DOCUMENTS RECEIVED AFTER THE HEARING:

Document 1	Engrossed S106
Document 2	Updated list of suggested conditions