

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	19 th March 2025
Application Number	PL/2024/06897
Site Address	Land off Sherston Rd, Malmesbury
Proposal	Application for outline planning permission for up to 55 residential units (all matters reserved other than access)
Applicant	Hollins Strategic Land
Town/Parish Council	Malmesbury Town Council
Electoral Division	Malmesbury ED
Type of application	Outline application
Case Officer	Adam Madge

REASON FOR THE APPLICATION BEING CONSIDERED BY COMMITTEE

The application was previously brought before committee on the 23rd January 2025 when it was deferred by members to obtain the view of the Cotswolds National Landscape. These views have been obtained and therefore the application is brought before committee again for consideration.

1. PURPOSE OF REPORT

The purpose of this report is to assess the merits of the proposed development against the policies of the development plan and other material considerations. Having considered these, the report recommends that planning permission be APPROVED subject to satisfactory completion of a Section 106 Agreement and subject to planning conditions.

The original officer report is appended to this report.

2. MAIN ISSUES

National Landscape response

Members will recall that this application was previously brought before Strategic committee on the 23rd January 2025 when members requested that the Cotswolds National landscape Board be consulted on this application. Officers have done that and the Landscape Boards response is contained at Annex A below.

In summary the response from the national Landscape board is that they do not object to the application subject to the following recommendations (in italics) being included in any decision made. Officers have therefore included those where they were not already in the recommendation.

A landscaped and planted buffer zone along the western and southern boundaries of the site should be secured through the inclusion of the submitted parameters plans as conditioned approved plans;

This is included in the approved plans conditions.

A limit on the maximum height of dwellings to two storeys should be imposed to avoid breaching the treed skyline from viewpoints within the CNL

A condition has been added in the officer recommendation to achieve this.

A detailed lighting scheme should be submitted to demonstrate compliance with the requirements of with ILP Guidance Note 01/21 on The Reduction of Obtrusive Light and other best practice guidance for lighting in protected landscapes referred to below to ensure that the impact upon the dark skies of the CNL is minimized

A condition has been added to achieve this

Any reserved matters scheme should reflect the advice contained within the National Landscape Board's Landscape Character Assessment, Landscape Strategy and Guidelines, Landscape-Led Position Statement and Local Distinctiveness and Landscape Change guidance to enhance the sense of place through use of locally traditional building materials including boundary treatments.

An informative has been added to achieve this.

Other matters

Since the last planning committee meeting the applicants have offered to pay for public Art associated with the proposal at £300 per dwelling totaling up to £16,500. This aligns with the councils public art policy contained within policy CP57 of the councils core strategy which at xii requires a high standard of development including the integration of art and design in the public realm. It all also complies with the councils adopted guidance of May 2024, Art and design in the public realm. This additional contribution has been added to the S106 requirements in the recommendation below.

Some minor errors to the original officer report were reported to members at the original committee meeting in January and the original report has now been amended to remove those errors.

The officer recommendation remains as previously, to approve the application as set out below.

RECOMMENDATION

That the Director of Planning be given delegated authority to GRANT planning permission subject to satisfactory completion of a legal agreement to deliver the following and as set out in the officers report of the 23rd January 2025—

- The provision of 40% affordable housing
- The provision of on site open space and play areas and
- A contribution of £15,576.00 towards off site provision
- A requirement for Early years provision, 6 places at a cost of £17,522 each with a total cost of £105,132.00.
- A requirement to identify who will be responsible for maintaining the biodiversity habitat and commit the body(ies) to be responsible to doing so within the application site and within the public open space.
- A contribution towards waste management of £5,555.00
- A requirement that the open spaces are served by a management company
- A S106 monitoring fee which would be 1% of the total financial contributions capped at £10,000.00.
- A requirement to fund the off site highway works.
- The requirement for a travel plan.
- A contribution towards access furniture on the local footpath network of £5400
- A contribution of £16,500 towards Public Art

And subject to the following conditions

Conditions:

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

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

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

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

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

Informative: The council will expect the reserved matters above to be accompanied by a sustainable energy statement that has been taken into account in the design and orientation of dwellings proposed on the site in order to comply with policy CP41 of the local plan.

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

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

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

Proposed site access arrangements Drawing no 2831-F01 rev E Proposed Off site pedestrian improvements Drawing no 2831-F02 rev A

Landscape Parameters Plan Drawing no 3 rev C The urbanists

Proposed Landscape plan Drawing prepared by Collington Winterno 20-1652 rev 1

Proposed Location plan Rev A dated 29/7/2024

Affordable housing statement July 2024

Flood risk assessment and drainage strategy Dated July 2024 Preliminary ecological appraisal July 2024

Phase 1 desk study report Brownfield Solutions Ltd May 2024 Transport statement by Eddisons April 2024

Waste Audit Statement by EdgePlan July 2024

Arboricultural report by AWA tree consultants May 2024

Archaeological report by CFA archaeology dated June 2024

Planning statement July 2024 by Edgeplan

Topographical land survey drawing dated 30/11/18 drwg no S18-1094

Landscape and Visual appraisal by Tyler Grange, Report No. 16755_R01c_

OK Design and access statement dated July 2024.

Biodiversity net gain assessment July 2024

REASON: For the avoidance of doubt and in the interests of proper planning.

5. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

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

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

Highways

7. No development shall commence until a Construction Traffic Management Plan (to include details of all development phases) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out

in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a) Construction vehicle numbers, type, routing;
- b) Access arrangements to the site;
- c) Traffic management requirements
- d) Construction and storage compounds (including areas designated for car parking, loading /unloading and turning areas);
- e) Siting and details of wheel washing facilities;
- f) Cleaning of site entrances, site tracks and the adjacent public highway;
- g) Timing of construction activities (including delivery times and removal of waste);
- h) Provision of sufficient on-site parking prior to commencement of construction activities;
- i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;

REASON: In the interest of highway safety

8. Prior to any approved access as shown on plan 2831-F01 Rev E – Site Access Arrangement being brought into operational use full details of the approved off-site works generally shown on the approved highway plan shall be submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with the approved details.

REASON: In the interest of highway safety

9. Prior to any occupation of the approved development full details of the approved off-site works generally shown on the approved highway plan 2831-F02 Rev A – Offsite pedestrian improvements plan shall be submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with the approved details.

REASON: In the interest of highway safety and to secure infrastructure that provides a genuine choice of travel mode opportunity.

10. No development shall be occupied or brought into use until such time as a Full Travel Plan including the appointment of a Travel Plan Co-ordinator and monitoring has been

submitted to and approved in writing by the Local Planning Authority.

REASON: To promote and support sustainable travel and a genuine choice of travel modes.
Landscaping

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

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

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner;
All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

Ecology

13. 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 CEMP will be prepared in accordance with recommendations set out in Section 4 of the Preliminary Ecological Appraisal (July 2024). 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 reptiles, nesting birds, badger, brown hare and hedgehog.
- c) Restrictions on artificial lighting and any measures to be implemented to reduce light spill on sensitive ecological features.
- d) Details of pollution prevention measures including 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.

e) 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.

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

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.

14. 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.

REASON: In the interests of conserving biodiversity.

INFORMATIVE:

The submitted details should demonstrate how the proposed lighting will impact on bat habitat, including trees with bat roost potential (identified in Table 3.1 of the Preliminary Ecological Appraisal (July 2024)) compared to the existing situation. The plans should 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.

15. Prior to the commencement of any works, including vegetation removal and demolition, details of the number, design and locations of features for wildlife (i.e., bat and bird boxes, hedgehog highways, hibernacula and enhancements for invertebrates) shall be submitted to the local authority for approval. These details should be clearly shown on an enforceable plan (e.g., site plan/technical elevations drawing). 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.

16. No development shall commence on site until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:

- a. a non-technical summary;
 - b. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - c. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - d. the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
- has been submitted to, and approved in writing by, the local planning authority.
The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the delivery of biodiversity net gain.

17. No development shall take place until surface water drainage strategy, complying with Wiltshire Council requirements, NPPF, and the Non Statutory Technical Standards for SuDS has been submitted to and approved in writing by the Local Planning Authority.

REASON: To minimise the risk to people and property during high return period storm events

18. No development hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

REASON: In order to ensure adequate drainage of the site

19. No dwelling approved by this permission shall exceed two storeys in height.

REASON In the interests of protecting the special character of the Cotswolds National landscape.

20. No development shall take place above slab level until a detailed lighting scheme has been submitted to and approved in writing by the local planning authority demonstrating compliance with the requirements of ILP Guidance Note 01/21 on The Reduction of Obtrusive Light and other best practice guidance for lighting in protected landscapes

REASON: to ensure that the impact upon the dark skies of the Cotswolds National Landscape is minimized

Informatives: (4)

1. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated TBC

2. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.

3. Wiltshire Council is the land drainage authority under the Land Drainage Act 1991. Land drainage consent is required if a development proposes to discharge flow into an ordinary watercourse or carry out work within 8m of an ordinary watercourse. [An ordinary watercourse is a watercourse that does not form part of a main river. The term watercourse includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows].

4. Any reserved matters scheme should reflect the advice contained within the National Landscape Board's Landscape Character Assessment, Landscape Strategy and Guidelines, Landscape-Led Position Statement and Local Distinctiveness and Landscape Change guidance to enhance the sense of place through use of locally traditional building materials including boundary treatments.

Annex A



**Cotswolds
National
Landscape**

Adam Madge
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

By email only to: adam.madge@wiltshire.gov.uk;

4 February 2025

Dear Adam,

REFERENCE NO: PL/2024/06897

DESCRIPTION: Application for outline planning permission for up to 55 residential units (all matters reserved other than access)

LOCATION: Land off Sherston Road, Malmesbury

Thank you for consulting the Cotswolds National Landscape Board¹ ('the Board') on this proposed development, which would be located within the setting of the Cotswolds National Landscape ('the CNL')².

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to seek to further the statutory purpose of conserving and enhancing the natural beauty of the National Landscape.³ This duty should be explicitly addressed within the decision including an explanation of how the LPA considers the duty has been discharged. Further information on this new duty is provided in Appendix I below and the Board recommends that, in fulfilling this 'duty to seek to further the purpose', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications⁴:

- Cotswolds National Landscape (CNL) Management Plan 2023-2025 ([link](#));
- Cotswolds AONB Landscape Character Assessment ([link](#)) particularly, in this instance, with regards to Landscape Character Types (LCT) 14 Cornbrash Pastoral Lowlands;
- Cotswolds AONB Landscape Strategy and Guidelines ([link](#)) particularly, in this instance, with regards to LCT 14 ([link](#)), including Section 14.1;
- Cotswolds AONB Local Distinctiveness and Landscape Change ([link](#)); and
- Cotswolds National Landscape Board Position Statements ([link](#)) with regards to Development in the Setting of the AONB ([link](#)), Landscape-Led Development Position Statement ([link](#)) and its Appendices ([link](#)), Housing Position Statement ([link](#)) and its appendices ([link](#)), Tranquillity Position Statement ([link](#)) and the Dark Skies and Artificial Light Position Statement ([link](#)) and its appendices ([link 1](#), [link 2](#), [link 3](#)).

For the reasons set out below and expanded upon within Annex I, if, without prejudice, the Council is minded to grant planning permission, the Board **does not object** to this application subject to the inclusion of the submitted parameters plans as conditioned approved plans to be accorded with at reserved matters stage and that the other recommendations contained within this response are incorporated into conditions and/or informatives to be reflected within any reserved matters scheme.

These recommendations include:

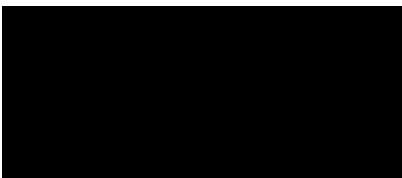
- Securing a landscaped and planted buffer zone along the western and southern boundaries of the site through the inclusion of the submitted parameters plans as conditioned approved plans;
- Limiting the maximum height of dwellings to two storeys to avoid breaching the treed skyline from viewpoints within the CNL;
- A detailed lighting scheme should be submitted to demonstrate compliance with the requirements of with ILP Guidance Note 01/21 on The Reduction of Obtrusive Light and other best practice guidance for lighting in protected landscapes referred to below to ensure that the impact upon the dark skies of the CNL is minimised; and
- Any reserved matters scheme should reflect the advice contained within the Board's Landscape Character Assessment, Landscape Strategy and Guidelines, Landscape-Led Position Statement and Local Distinctiveness and Landscape Change guidance to enhance the sense of place through use of locally traditional building materials including boundary treatments.

The Board would then consider that the development would respond positively to the Board's previous advice relating to the site submitted in response to consultations on the Council's Local Plan Review and by extension would comply with the requirements of Core Policy 51 of the Wiltshire Core Strategy and paragraph 189 of the National Planning Policy Framework (December 2024).

For the avoidance of doubt, the Board considers that the statutory purpose of designation would only be furthered if the recommendations contained within this response are reflected in any subsequent reserved matters scheme and/or applications to discharge planning conditions relating to the development.

Please don't hesitate to contact me if you wish to discuss this response further. Without prejudice, should the Council be minded to grant outline planning permission for the development, the Board would welcome an opportunity to comment upon any subsequent reserved matters scheme in the interests of the conservation and enhancement of the natural beauty of the CNL.

Yours sincerely,



Simon Joyce MRTPI
Planning Officer



Cotswolds Conservation Board

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The Cotswolds National Landscape is a designated Area of Outstanding Natural Beauty (AONB), managed and looked after by the Cotswolds Conservation Board.

cotswoldsaonb.org.uk

Chairman:
Brendan McCarthy

Vice Chair:
Rebecca Charley

ANNEX 1. COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO PLANNING APPLICATION PL/2024/06897

Background

The Board notes that this site is included within the emerging Wiltshire Local Plan Review as a reserve site allocation under policy 3 and policy 16. The Board has commented upon the emerging site allocation in its representations to previous Local Plan Review consultations and most recently in commenting upon a draft Statement of Common Ground between the Council and the three national landscapes that overlap with the Council's administrative area in advance of the Local Plan Review examination.

In the Board's response to the Local Plan Review pre-submission consultation dated 22 November 2023 we originally objected to the proposed allocation. This site is located outside of, but directly adjacent to the Cotswolds National Landscape. We were concerned with the conclusion, in Wiltshire Council's Landscape Appraisal, that, even with proposed mitigation measures in place, housing development on this site would have a moderate adverse effect in relation to landscape objectives.

However, having undertaken a site visit in June 2024, we acknowledge that there is limited intervisibility between the site and publicly accessible locations (such as public rights of way) within the CNL due to the mature hedgerows and trees that line the southern and western boundaries of the site. With this in mind, we then outlined in our comments upon the draft Statement of Common Ground referred to above that, if the mitigation measures that are proposed in the Landscape Appraisal and Sustainability Appraisal are explicitly required in Policy 16, then any potential adverse effects could be moderated to an acceptable degree.

We also considered that limiting the number of dwellings to 55 is necessary in order to deliver the mitigation measures that are identified in the Landscape Appraisal and Sustainability Appraisal, such as limiting the scale and density of development and having an appropriate landscape buffer along the west of the site.

As a result at present the Board has withdrawn its previous objection to the allocation of the site as a reserve site in the emerging Local Plan Review conditional on the mitigation that is identified within Wiltshire Council's Landscape Appraisal and Sustainability Appraisal being explicitly addressed in draft Policy 16 and the understanding that 55 dwellings should be the maximum number of homes to be delivered on the site.

Planning Policy and Guidance

National Planning Policy Framework (December 2024)

Paragraphs 187 and 189 of the National Planning Policy Framework ('NPPF') provide the highest status of protection for the landscape and scenic beauty of National Landscapes. Paragraph 187 states that planning decisions should both contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Paragraph 189 then outlines the 'great weight' to be given to the conservation and enhancement of the landscape and scenic beauty of National Landscapes. This 'great weight' is relevant in this instance as the site forms part of the National Landscape's setting and a development of the scale proposed could, in the view of the Board, potentially have a significant adverse impact on its landscape and visual character and quality.

Furthermore, the requirement that development within the setting of National Landscapes "*should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas*" was also

added into what is now paragraph 189 with the July 2021 publication of the NPPF. Therefore, any adverse effects on the National Landscape need to be assessed properly and fully taken into account when determining this application, with the appropriate weighting applied in the decision.

The Board's Position Statement on Development in the Setting of the AONB referred to above outlines how the surroundings of the Cotswolds National Landscape are also important to its landscape character and quality. Development proposals that affect both views into and out of the National Landscape need to be carefully assessed to ensure that they conserve and enhance the natural beauty and landscape character of the National Landscape.

The National Planning Policy Guidance ('NPPG', 2014, Paragraph: 039 Reference ID: 8-039-20190721) also confirms in relation to the former Section 85 duty⁵ (that relevant authorities 'shall have regard' to their purposes for which these areas are designated) that *"This duty is particularly important to the delivery of the statutory purposes of protected areas. It applies to all local planning authorities, not just National Park authorities, and is relevant in considering development proposals that are situated outside National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on their setting or protection."* Although the Section 85 duty has now been superseded by the duty at Section 245 of the Levelling Up and Regeneration Act, until the NPPG is updated the Board considers the NPPG to be equally relevant to the new duty in this respect.

A High Court decision (Stroud District Council v Secretary of State for Communities and Local Government (Gladman Development Ltd) February 2015) helps to confirm the application of what is now paragraph 189 of the NPPF as far as 'great weight' is concerned. Mr Justice Ouseley stated in this case that paragraph 115 (now paragraph 189) of the NPPF *"certainly covers the impact on the scenic beauty of the land actually within the AONB. It seems to me that it would be unduly restrictive to say that it could not cover the impact of land viewed in conjunction with the AONB from the AONB. But to go so far as to say that it must also cover land from which the AONB can be seen and great weight must be given to the conservation of beauty in the AONB by reference to that impact reads too much into paragraph 115."*

The above decision helps to clarify that there are differing ways of assessing impacts on the setting of the National Landscape which require the application of different policies and guidance: (i) harm directly to land in the designated National Landscape itself from views out of the National Landscape and between parts of the National Landscape towards new development in its setting (where paragraph 189 of the NPPF is relevant) and: (ii) as a separate material consideration, harm to land outside the designated National Landscape, for example views of new development in the context or backdrop of the National Landscape (where paragraphs 189 or 190 are not relevant).

Any impact upon views back towards the National Landscape, from outside the National Landscape, may be a separate material consideration and subject to separate policy and guidance, for example paragraph 187 of the NPPF also states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

This approach is supported by appeal decisions. In considering an appeal at Ashmead Drive, Gotherington (Tewkesbury District, appeal ref. APP/G1630/W/20/3256319), the Inspector states at paragraph 28 of her decision letter that *"Having regard to case law presented, along with the Planning Practice Guidance, in my view, although the proposal is outside the AONB, the effect on views out of the AONB, gained from within the AONB would result in paragraph 172 [now paragraph 189] being relevant"*.

Adopted Development Plan

Wiltshire Core Strategy Policy 51 requires development to protect, conserve and where possible enhance landscape character and for proposals for development within or affecting National Landscapes to demonstrate that they have taken account of the objectives, policies and actions set out in the relevant Management Plan. Proposals for development outside of a National Landscape that is sufficiently prominent (in terms of its siting or scale) to have an impact on the area's special qualities (as set out in the relevant management plan), must also demonstrate that it would not adversely affect its setting.

The Cotswolds National Landscape Management Plan 2023-2025 is a material consideration in planning decision making and identifies the Cotswold escarpment including views from and to the National Landscape, the tranquillity of the area and its dark skies as three of its 'special qualities'. The special qualities of the National Landscape are those aspects of the area's natural beauty which make the area distinctive and which are valuable, especially at a national level. They are also the key attributes on which the priorities for the National Landscape's conservation, enhancement and management should be based.

Policy CE1 states that proposals that are likely to impact on, or create change in, the landscape of the Cotswolds National Landscape, should have regard to, be compatible with and reinforce the landscape character of the location, as described by the Cotswolds National Landscape Board's Landscape Character Assessment and Landscape Strategy and Guidelines. There should be a presumption against the loss of key characteristics identified in the landscape character assessment. Proposals should have regard to the scenic quality of the location and its setting and ensure that views – including those into and out of the National Landscape – and visual amenity are conserved and enhanced.

The Board's Tranquillity Position Statement referenced above recommends that proposals that have the potential to impact on the tranquillity of the National Landscape accord with Policy CE4 of the Cotswolds National Landscape Management Plan 2023-2025, gives great weight to conserving and enhancing the tranquillity of the National Landscape and assess potential impacts on tranquillity, particularly with regards to noise, vehicle movements and landscape and visual impacts.

Policy CE5 states that proposals that are likely to impact on the dark skies of the National Landscape should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution.

Policy CE10 states that development and transport in the Cotswolds National Landscape and in the setting of the National Landscape should have regard to – and help to deliver – the purposes of conserving and enhancing the natural beauty of the National Landscape and increasing the understanding and enjoyment of the National Landscape's special qualities. They should also contribute to the economic and social well-being of National Landscape communities. Proposals relating to development and transport in the Cotswolds National Landscape and in the setting of the National Landscape should comply with national planning policy and guidance. They should also have regard to – and help to deliver – the Cotswolds National Landscape Management Plan and be compatible with guidance produced by the Cotswolds National Landscape Board, including the: (i) Cotswolds AONB Landscape Strategy and Guidelines (LS&G); (ii) Cotswolds AONB Landscape Character Assessment; (iii) Cotswolds AONB Local Distinctiveness and Landscape Change; and (iv) Cotswolds National Landscape Board Position Statements.

Policy CE11 states that proposals for major development in the setting of the National Landscape must comply with national planning policy and guidance and should have regard to and be compatible with the guidance on major development provided in Appendix 9 of the Management Plan.

Assessment of proposal

In assessing the proposal we note the previous responses of the Council's Senior Landscape Officer dated 17 October 2024 and 12 December 2024. We concur with the Senior Landscape Officer's assessment of the site and surrounding context contained within his initial response and agree that the applicant's submitted LVA underestimates the potential impact of the development on the setting of the CNL which overall is assessed as having a neutral effect.

Notwithstanding, we also note that the applicant has since revised the scheme to address the concerns of the Senior Landscape Officer and he has subsequently withdrawn his previous holding objection.

Our previous representations to the Council in respect of the Local Plan discussed above contained the recommendations listed below in bold italics. In line are our comments in respect of this application which form the basis of our assessment.

i) Limit the scale, density and height of development, in-keeping with the rural qualities of the surrounding landscape and to avoid breaking treed skylines.

It is noted that the application is made in outline form for up to 55 dwellings and is accompanied by a number of plans including an indicative sketch layout (ref. XXXX-URB-XX-XX-SK-UD-002B, rev. D, 16/07/2024) and a landscape parameter plan (ref. XXXX-URB-XX-XX-SK-UD-003, rev. C, 07/11/2024), the latter of which is proposed by the Case Officer in his Committee Report to be included within the list of approved plans under draft condition 4.

The illustrative layout shows development blocks located in the central and eastern parts of the site with densest development along eastern boundary, furthest from the CNL, along with a healthy set-back and much lower development densities through the centre of the site on the blocks closest to the southern and western boundaries. This should help enable a smoother transition between the urban edge and surrounding countryside and minimise visibility from locations within the CNL.

Noting that this application is made in outline form with matters relating to scale, layout and appearance reserved, we recommend that a condition is imposed to limit the height of dwellings to two storeys to ensure that they do not break the skyline. This is in line with the commentary contained at pages 47 and 50 of the applicant's Design & Access Statement (DAS).

We consider that subject to the parameter plans being secured and an assurance that dwelling heights are limited at reserved matters stage, the scale, density and height of development would be sufficiently controlled to minimise the impact upon the setting of the CNL.

ii) Retain and enhance hedgerows and trees as part of a mature landscape framework to contribute to a soft, well-integrated settlement edge and rural transition between Malmesbury and the rural, open designated landscape to the west.

We note the comments of the Senior Landscape Officer in his most recent response that *"Since the original application was submitted the applicants have provided a revised parameters plan which now offers certainty that substantial new structured tree planting will be necessary to deliver along shared boundaries with the CNL as part of the development but as long as the parameters plan is included as a conditioned approved particular of development which any subsequent RM submission proposals need to be substantially in accordance with this will be acceptable in landscape terms"*.

The parameters plan shows a substantial area of open space along the northern, western and southern boundaries and confirms that this area will feature structured tree planting to retain and enhance perimeter screening to soften the settlement edge and ease the transition between Malmesbury and the CNL. This buffer area will be between 20m and 50m deep along the western boundary. With regards to new trees along these hedgerows, we recommend that as an absolute minimum, suitable, native trees species should be planted to substitute for trees that are likely to be lost due to ash dieback.

Subject to the parameters plan being conditioned and the submission of a suitable landscaping scheme at reserved matters stage (as per draft conditions 11 and 12) which reflects the mitigation measures that are identified in the Landscape Appraisal and Sustainability Appraisal and our advice above, we consider that the development could satisfy this criterion.

iii) Guard against increased light pollution and reduced tranquillity in proximity to the Cotswolds National Landscape by incorporating an appropriate landscape buffer along the west of the site that supports local character.

As per our comments in relation to ii) above, the parameter plans incorporate an area featuring structured tree planting which could, subject to appropriate detailed design, be sufficient to ensure an appropriate landscape buffer is provided along the west of the site.

We also note that draft condition 14 requires lighting details to be submitted to and approved by the Local Planning Authority. Without prejudice, should the Council be minded to grant planning permission, we recommend that the condition be worded (or an informative included) to require that these details

demonstrate compliance with the requirements of with Guidance Note 01/21 on The Reduction of Obtrusive Light, published by the Institution of Lighting Professionals (ILP) (which forms Appendix 2 of the Board's Position Statement on Dark Skies and Artificial Light, referenced above). We would recommend that the relevant 'environmental zone' for which compliance should be assessed is Environmental Zone EI which relates to AONBs to mitigate any adverse impact and ensure that all lighting meets the standards to preserve the dark skies and landscape character of the Cotswolds National Landscape. Although we recognise that the site is within the setting of the National Landscape, the Guidance Note states where an area to be lit lies close to the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone (Note 1 on page 10).

We would also recommend that the lighting strategy should comply with relevant aspects of Towards a Dark Skies Standard ([link](#)) and the Lighting Design Guide – Dedham Vale National Landscape and Coast & Heaths National Landscape ([link](#)), both of which are considered best practice guides for development within protected landscapes and their settings. We would consider that this would be appropriate to ensure that the development minimises light pollution and helps to conserve the dark skies of the National Landscape.

iv) Avoid creation of any new direct vehicular access connections from the site onto Park Lane and avoid unnecessary or unsympathetic highway improvement works such as new kerbing or lighting, to protect rural character and setting to the Cotswolds National Landscape and the rural approach to existing cottages and hamlet settlement further north along this road.

The application is proposed to be served by a single vehicular access from Sherston Road with the only access proposed to Park Lane being a pedestrian access in the northwest corner with no associated kerbing or lighting. This will reduce the impact of the development on this rural lane which marks the CNL boundary and the rural approach to settlements further north on Park Lane.

We support the provision of a pedestrian link in the southeast corner of the site onto Sherston Road and the creation of a pedestrian path within the site rather than along the Sherston Road frontage to retain the hedgerow and oak trees along the site's frontage and help conserve the rural approach to Malmesbury along Sherston Road. We also understand that no streetlighting will be provided along Sherston Road, which again is supported.

v) Seek opportunities to conserve existing and introduce new trees in keeping with local landscape character, as part of the landscape strategy for the site, to contribute to local green links and a soft, integrated settlement edge.

The submitted plans for access show the retention of trees along the boundaries of the site and as discussed above, the submitted revised parameter plans show areas for structured tree planting which subject to the submission and approval of a satisfactory landscaping scheme at reserved matters stage has the potential to create a soft settlement edge. Pedestrian links are shown through the site on the parameter plans to ensure pedestrian permeability through the green spaces.

vi) Seek opportunities to enhance the sense of place through use of locally traditional building materials in respect of new development including boundary treatments.

Whilst the application is made in outline form with layout, scale, landscaping and appearance reserved for future determination, the accompanying Design & Access Statement shows a range of precedent images.

We agree with the Senior Landscape Officer's comments that appropriately coloured natural limestone as a core building material is important for local character at this elevated edge of countryside location in such close proximity to the CNL. Without prejudice, should the Council be minded to grant planning permission, we also recommend that any subsequent reserved matters scheme should reflect the advice contained within our Landscape Character Assessment, Landscape Strategy and Guidelines, Landscape-Led Position Statement and Local Distinctiveness and Landscape Change guidance.

vii) Seek opportunities to screen visually intrusive development where appropriate with the landscape character

Please see advice contained above at i)-iv).

Duty to seek to further the purpose of CNL designation

We note the lack of reference within the Officer's Committee report to the Council's statutory duty to seek to further the purposes of National Landscape designation (s.85 of the Countryside and Rights of Way Act 2000 as amended by s.245 of the Levelling Up and Regeneration Bill 2023), although we acknowledge and welcome the fact that the statutory duty is referenced within the Senior Landscape Officer's initial consultation response.

The Board's standing advice in respect of the statutory duty at is included at Appendix A and we recommend that the duty should be explicitly addressed within the decision, including an explanation of how the LPA considers the duty has been discharged.

DEFRA has recently published further advice relating to the duty ([link](#)) which the Board is currently reviewing. The DEFRA advice is clear that the duty also applies to functions undertaken outside of the designation boundary which affects land within the CNL (i.e. on land within the setting such as in this case), and therefore in making its decision, the Council must evidence how the duty has been adequately discharged – i.e. how it has proactively sought to further the purpose of CNL designation (the conservation and enhancement of its natural beauty) through its decision.

For the avoidance of doubt, the Board considers that the purpose of designation would only be furthered if the recommendations contained within this response are reflected in any subsequent reserved matters scheme and applications to discharge planning conditions relating to the development.

APPENDIX 1: THE STATUTORY DUTY ON RELEVANT AUTHORITIES TO SEEK TO FURTHER THE STATUTORY PURPOSE OF THE COTSWOLDS NATIONAL LANDSCAPE, SECTION 245 OF THE LEVELLING UP AND REGENERATION ACT 2023

Section 245 of the Levelling Up and Regeneration Act (LURA) 2023¹ places a duty on relevant authorities² to seek to further the statutory purposes of protected landscapes³ (the ‘seek to further’ duty). With regards to national landscapes, this requirement has been incorporated into Section 85 of the Countryside and Rights of Way (CROW) Act, which now states:

- *In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*⁴

This replaces the previous version of Section 85 of the CROW Act, which required relevant authorities to have regard to the statutory purpose of national landscapes.

Section 245 was inserted into the Levelling Up and Regeneration Bill by the House of Lords as it made its way through Parliament. The Government’s Explanatory Notes on the Lords Amendments to the Bill for this Act provide that (emphasis added):

- *The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this.*⁵

The ‘seek to further’ duty is, therefore, clearly intended to impose new and more onerous requirements with respect to the statutory purposes than existed before.⁶

In this regard, the Government’s press release, when the Levelling Up and Regeneration Bill became law in October 2023, stated that (emphasis added):

- *The Act will enhance our national network of beautiful, nature-rich protected landscapes that can be enjoyed right across the country.*⁷

The ‘seek to further’ duty is, therefore, clearly intended to ensure that the natural beauty of protected landscapes (including national landscapes) will be enhanced as a result of relevant authorities exercising or performing their functions.

The LURA confers powers on the Secretary of State to make provisions for how a relevant authority is to comply with the ‘seek to further’ duty, including what the authority may, must or must not do to comply with the duty. It is also anticipated that the Government will provide guidance on how the duty should be applied in due course. However, the duty is not dependent on these provisions or on this guidance – it is in force now, and must be complied with as part of any decision or course of action that has implications for these protected areas.⁸

¹ Section 245 of the Levelling Up and Regeneration Act 2023 ([link](#)).

² ‘Relevant authority’, in this context, includes any Minister of the Crown, public body, statutory undertaker or person holding public office.

³ ‘Protected landscapes’ means national parks, the Broads and national landscapes.

⁴ Section 85 of the Countryside and Rights of Way Act 2000 ([link](#)).

⁵ UK Parliament (2023) *Levelling Up and Regeneration Bill – Explanatory Notes on Lords Amendments*. Updated version, 12 October 2023. ([Link](#)). Page 35.

⁶ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)). Paragraph 6.

⁷ <https://www.gov.uk/government/news/new-laws-to-speed-up-planning-build-homes-and-level-up>

⁸ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)). Paragraph 2a.

At the present time, the two most useful reference points relating to the ‘seek to further’ duty are the advice produced by Natural England⁹ and the legal opinion obtained by Campaign for National Parks (CNP)¹⁰.

The Natural England advice states that:

- *The duty to ‘seek to further’ is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or an AONB) can be furthered.*
- *The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose. If it is not practicable or feasible to take those measures the relevant authority should provide evidence to show why it is not practicable or feasible.*
- *The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England’s view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape’s statutory management plan. The relevant protected landscape team/body should be consulted.*

The CNP’s legal opinion sets out a number of principles to help ensure compliance with the ‘seek to further’ duty:¹¹

- (a) The new duties are very broad in scope, applying to “any functions” in relation to, or so as to affect, land in the protected areas. Relevant authorities would do well to assume that if their decision touches in any way upon an AONB, National Park or the Broads, the relevant duty is engaged.*
- (b) The duties are pro-active, and not merely an afterthought: the authority must “seek to further” the stated purposes in the exercise of their functions. That means that the duties should be pro- actively considered as part of any decision to which the duty applies. A failure to consider those duties, or a failure to understand their pro-active and mandatory nature, would be an error of law.*
- (c) An authority must factor in the relevant duty before the adoption of a proposed policy and not merely as a “rearguard action”, following a concluded decision.*
- (d) It will be important for relevant authorities to record the steps taken by the decision maker in seeking to meet the statutory requirements and demonstrate how the decision complies with the duty.*
- (e) While there is no obvious requirement to expressly reference the new duties in every decision, they are not merely a box-ticking exercise, and they must be rigorously applied as part of any relevant decision.*
- (f) General regard to the benefit of protecting these landscapes is not the same as having specific regard to the statutory purposes, by way of conscious approach to the statutory criteria.*
- (g) These duties are outcome-based: they do not simply require “due regard” to be had to them. If, having considered the implications of a decision, an authority reaches the view that the decision does not “seek to further” the applicable legislative purpose, it would be hard to argue that the decision would in fact be open to the relevant authority: because it would appear to be in breach of the applicable duty. In those circumstances, the decision would need to either be withdrawn or modified such that the relevant authority could confidently say that it did seek to further the relevant purpose.*
- (h) To be clear, however, this does not mean that the duty precludes decisions that are “net harmful” to an AONB, National Park or the Broads: if that were so, the duty would be to “further the purpose” rather than to “seek to further the purpose.” But what is required is positive evidence*

⁹ This advice ([link](#) – Annex 2) was submitted, in December 2023, by Natural England, as a statutory consultee, to the Examining Authority for the examination of the Lower Thames Crossing, which is a Nationally Significant Infrastructure Project (NSIP).

¹⁰ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)).

¹¹ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)). Paragraph 17.

that the relevant authority has, in all the circumstances, sought to further the purpose: not merely through mitigation of harm but by taking all reasonable steps to further the purpose.

- (i) *As to whether a decision or course of action in fact seeks to further the relevant purpose ... this is a question for the relevant authority in the first instance, subject to challenge on Wednesbury principles. But a positive conclusion that the decision or course of action does seek to further that purpose is clearly required.*

The legal opinion goes on to pose a number of questions that a relevant authority should ask itself when considering whether it has complied with the duty:¹²

- i. *What are the required statutory purposes my decision must seek to further?*
- ii. *Does my decision in fact pro-actively seek to further those purposes? If so, how does it do so? If not, how can my decision be modified so that I can confidently conclude that it does seek to further the relevant purposes?*
- iii. *As a matter of best practice, have I recorded how I have concluded that my decision seeks to further the required purposes, which I can produce in the event of a subsequent legal challenge?*

The legal opinion makes the following additional points:¹³

- *[Relevant authorities] would be well-advised not treat the new duties as “business as usual” and to consider the pro-active duties now placed on them to seek to further the purposes of AONBs, National Parks and the Broads. I agree with Natural England that this means that relevant authorities should ensure, with evidence, that their decisions do all they reasonably can to further the statutory purposes, including going beyond merely mitigating harm. This could include, for example, delivering enhancements to the natural beauty of the area, or creating new opportunities for the understanding and enjoyment of the special qualities of national parks by the public (rather than merely maintaining or supporting existing opportunities). Moreover, if there is an obvious alternative approach that better furthers the statutory purposes and the relevant authority cannot evidence (1) why it cannot reasonably adopt that approach or (2) that its chosen approach also seeks to further the statutory purposes, the decision will be open to legal challenge.*

¹² Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)). Paragraph 19.

¹³ Landmark Chambers (2024) *Re: section 245 of the Levelling Up and Regeneration Act 2023*. Instructed by the Campaign for National Parks. ([Link](#)). Paragraph 21.

NOTES:

1. The name used for the organisation associated with the AONB designation is the Cotswolds National Landscape Board. At times this is abbreviated to National Landscape Board or The Board. The legal name of the organisation remains the Cotswolds Conservation Board but this name is no longer used in most circumstances.
2. Cotswolds National Landscape is the new name for the Cotswolds Areas of Outstanding Natural Beauty (AONB). The new name takes forward one of the proposals of the Government- commissioned 'Landscapes Review' to rename AONBs as 'National Landscapes'. This change reflects the national importance of AONBs and the fact that they are safeguarded, in the national interest, for nature, people, business and culture.
3. Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023.
<https://www.legislation.gov.uk/ukpga/2023/55/enacted>
4. The documents referred to in our response can be located on the Cotswolds National Landscape website under the following sections
 - a. Cotswolds National Landscape (CNL) Management Plan 2023-2025
www.cotswoldsaonb.org.uk/management-plan
 - b. Cotswolds AONB Landscape Character Assessment
www.cotswoldsaonb.org.uk/lca
 - c. Cotswolds AONB Landscape Strategy and Guidelines
www.cotswoldsaonb.org.uk/lsg
 - d. Cotswolds AONB Local Distinctiveness and Landscape Change
www.cotswoldsaonb.org.uk/ldlc

Cotswolds National Landscape Board Position Statements www.cotswoldsaonb.org.uk/ps1
www.cotswoldsaonb.org.uk/ps2

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	23 January 2025
Application Number	PL/2024/06897
Type of application	Outline planning permission: Some matters reserved
Site Address	Land off Sherston Road, Malmesbury
Proposal	Application for outline planning permission for up to 55 residential units (all matters reserved other than access)
Recommendation	Approve with Conditions
Applicant	Hollins Strategic Land
Town/Parish Council	Malmesbury Town Council
Electoral Division	Malmesbury ED
Case Officer	Adam Madge

1. Reason for the application being considered by Committee

The application is before the Strategic Planning Committee because the proposal involves a departure to the policies of the statutory development plan and the recommendation is to approve subject to completion of a S106 agreement.

The application was also called to Committee if recommended for approval by Councilor Grant for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Design Bulk, Height and general appearance

2. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved subject to completion of a Section 106 agreement.

3. Report Summary

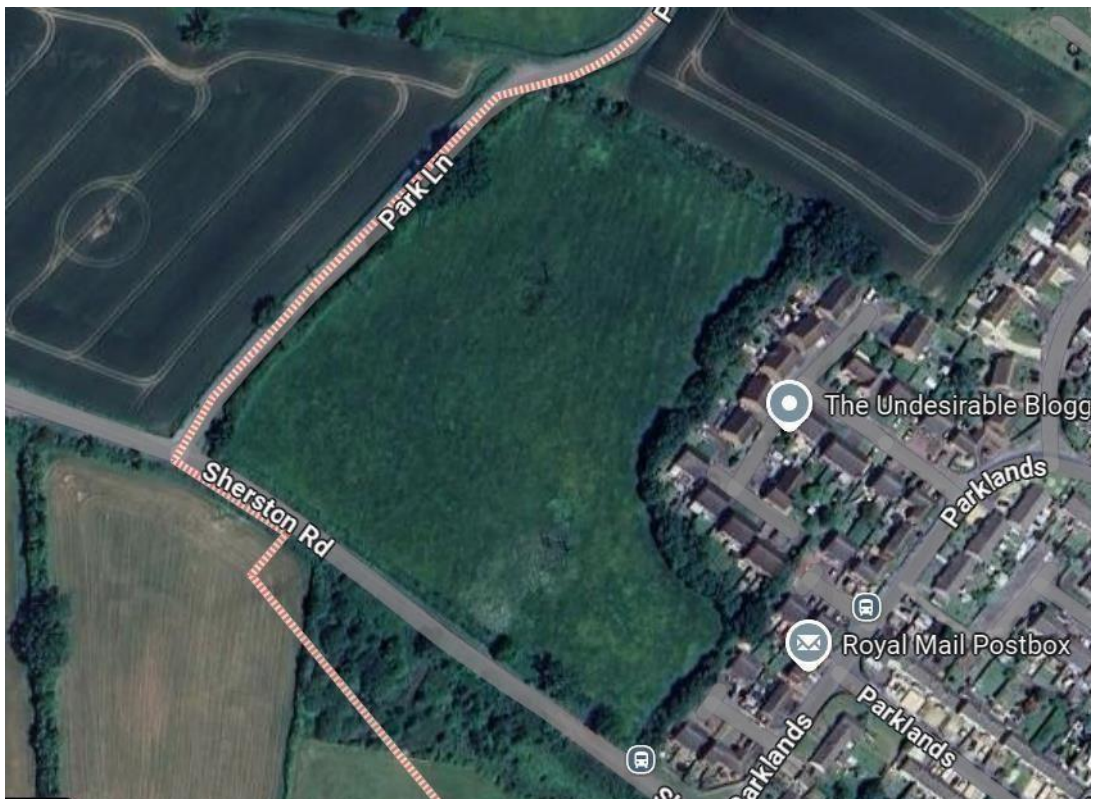
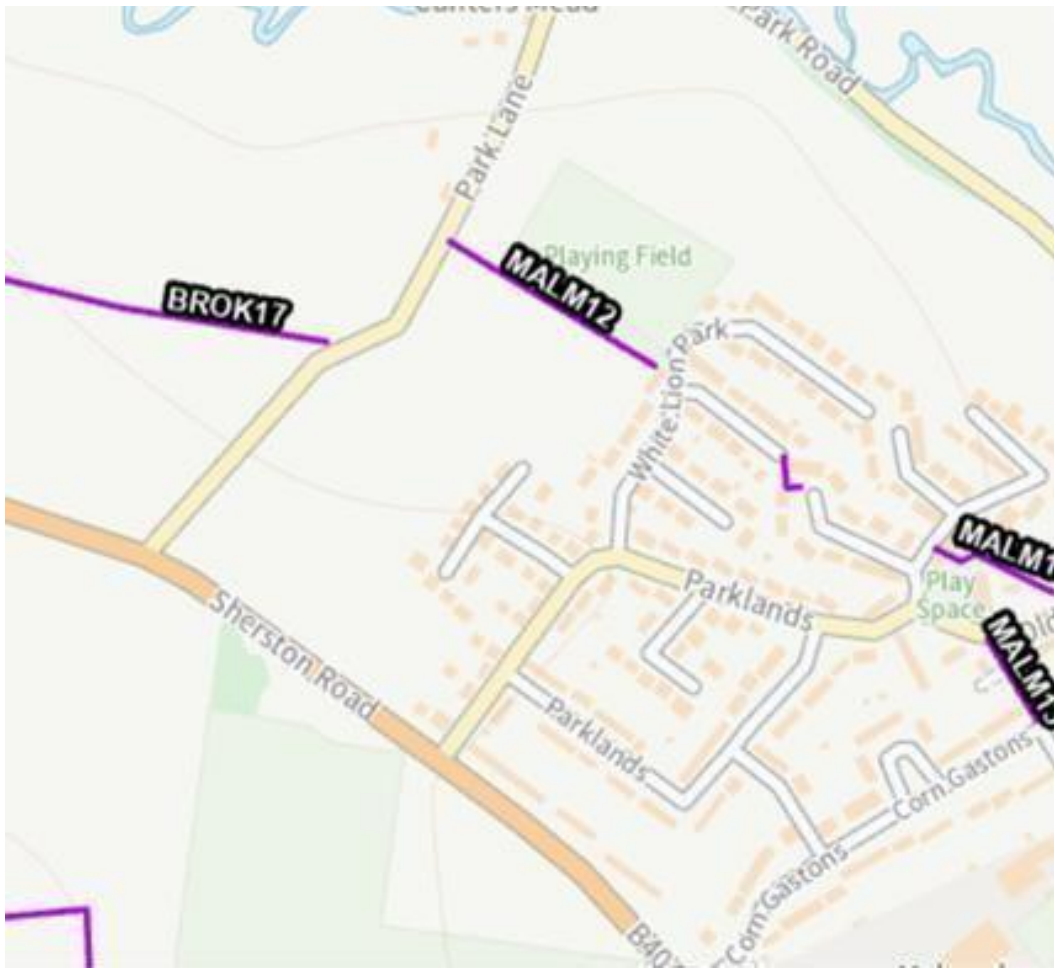
The main issues to be considered are:

- Principle of development
- Impact on the scale and character of the area
- Ecology
- Impact on the significance of heritage assets,
- Archaeology
- Impact on neighbour amenity
- Highway matters
- Public Rights of Way
- Drainage
- Section 106 Legal Agreement
- Planning Balance
- Conclusion

4. Site Description

The site is located on the Western side of Malmesbury adjacent an existing development of residential properties which form the Eastern boundary to this site. The sites Southern edge is bounded by the main Sherston Road. Whilst to the West the site is bounded by Park Lane. Field Hedges provide the boundary on three sides. The site is relatively flat in its appearance and has power lines running across it in an East/West direction.





5. Planning History

There is no planning history relating to the site.

The site is allocated as a reserve housing site in the forthcoming Wiltshire Local Plan which has reached regulation 19 stage.

6. The Proposal

The site measures 3.08 hectares with a development area (hardstanding and buildings of 1.15 hectares) and 1.93 hectares being made available for green infrastructure, gardens and attenuation features. The proposal seeks consent for the construction of up to 55 dwellings with associated infrastructure including gardens, garages, driveways, roads and public open space. Access to the site will be via a new junction on the southern boundary of onto Sherston Road. Also proposed is an on site local equipped play area.



7. Planning Policy

National Context:

- National Planning Policy Framework (NPPF) – revised December 2023 Planning Practice Guidance (PPG)
- Planning (Listed Buildings and Conservation Areas) Act 1990 Habitat Regulations
- Natural Environment and Rural Communities (NERC) Act 2006 Environment Act 2021
- Streets for a Healthy Life – A companion to Building for a Healthy Life Building for a Healthy Life
- Manual for Streets

Local Context:

Wiltshire Core Strategy (WCS) adopted 2015:

- CP1 – Settlement Strategy,
 - CP2 – Delivery Strategy,
 - CP3 – Infrastructure Requirements
 - CP13 - Spatial Strategy Malmesbury Community Area,
 - CP41 – sustainable construction,
 - CP43- Providing Affordable Homes, CP48 – Supporting Rural Life,
 - CP50 – Biodiversity and Geodiversity,
 - CP51 – Landscape,
 - CP52 – Green Infrastructure,
 - CP56 – Contaminated Land,
 - CP57 – Ensuring High Quality Design and Place Shaping,
 - CP58 – Ensuring the Conservation of the Historic Environment,
 - CP60 – Sustainable Transport,
 - CP61 – Transport and New Development,
 - CP64 – Demand Management,
 - CP67 - Flood Risk Saved Policies from the North Wiltshire District Local Plan:
- NE14- Trees and the control of new development.
 - NE18 Noise and pollution
 - H4 Residential development in the open Countryside.
 - CF3 Provisions of open space.

Other

- Wiltshire Leisure Services Strategy – Indoor Facilities Action Plan 2011 – 2025 adopted April 2012
- Open Space provision in New Housing Developments – A Guide (Supplementary Planning Guidance)
- Affordable Housing Supplementary Planning Guidance adopted August 2004 Art and Design in the Public Realm in Wiltshire May 2024
- Air Quality SPD (July 2023)
- Leisure and Recreation Development Plan Document Wiltshire Car Parking Strategy
- Malmesbury Neighbourhood Plan (made 25th May 2015)
- Bat SAC Planning Guidance for Wiltshire, 2015

- LTN1/20 – Cycle Infrastructure Design
- Wiltshire Active Travel Standards and Travel Parking Standards Wiltshire Design Guide
- Housing Land Supply Statement 2024

8. Consultation responses

Malmesbury Town Council: Object.

Malmesbury Town Council objects in the strongest possible terms to this significantly large development (up to 55 units) and the application will be Called-In. Given the increased development in Malmesbury, contrary and in excess of Wiltshire Council housing allocation land supply, we object to development on a hitherto earmarked 'reserve' site. It remains above the housing allocation allowance for Malmesbury and there are serious concerns of the impact of this development on Malmesbury's infrastructure and resources. Also concerning is the proposal of a new gas main which is contrary to a government white paper and does not accord with moving to renewable systems and creating sustainable housing stock.

This development sits directly within the Area Of Outstanding Natural Beauty, Malmesbury's town perimeter and therefore undermines the core tenants of green-belt land. Not only does it fall outside of the settlement framework boundary and is potentially contrary to planning policy, the fact that it is also in breach of the boundary detailed in Malmesbury's Neighbourhood Plan is of paramount importance to this council and to the people of Malmesbury.

Brokenborough Parish Council: Object.

on the basis of comments already raised and the following:-

- The site was not earmarked for development in the Neighbourhood Plan;
- Malmesbury has already developed more than originally required;
- The development would increase traffic through Brokenborough village and most likely used as a "rat run".

Wiltshire Council Highways Officer: No objection subject to conditions and S106 contributions

Wiltshire Council Drainage Officer: No objections subject to conditions

Wiltshire Council Archaeology Officer: No objection

Wiltshire Council Housing Officer: No objection subject to S106 obligation

Wiltshire Council Climate Change Officer: Holding objections subject to a sustainable energy strategy.

Wiltshire Council Landscape Officer: No objection subject to conditions

Wiltshire Council Public Rights of Way Officer: No objection subject to 106 contribution.

Wiltshire Council Waste Officer: No objections subject to conditions and 106 contribution

Wiltshire Council Ecology Officer: – No objection subject to conditions

Wiltshire Council Education: - No objections subject to early years 106 contribution

Wiltshire Arboricultural Officer: – No objections

Dorset and Wiltshire Fire Rescue Service: No objection subject to informative

9. Publicity

8 letters of objection have been received from the general public over the period of the public consultation which make the following comments which have been summarised:

Principle

- There is plenty of land to build on why build on this land that supports wildlife.

Impact on Area

- There are Swifts nesting in the neighbouring area. Requests that 110 swift bricks are installed at the development. Policy and good practice suggest swift bricks and nesting boxes should be provided at a 1:1 ratio.
- Concern is expressed that the infrastructure does not exist to support 55 dwellings as well as those at Filands. Only one doctors surgery and limited primary and early years provision exists locally. No NHS dentist
- Would like TPO's put on the two Oak trees bordering Sherston Road.
- Development would have a negative effect on the Kestrels and bats that use the two Oak trees
- We see all types of wildlife come from the field, deer, hedgehogs, green woodpeckers and bats, amongst a variety of other birds. What will happen to them?
- believe the land was gifted to the people of Malmesbury many years ago, Henry Wheeler, fought hard and proved this to be the case.
- Land is known to flood

Highway

- Malmesbury has built hundreds of houses on what was beautifully rich natural habitats, and this is a further proposed encroachment that will add to the traffic in the neighbouring estates, which have far too much traffic passing through residential areas
- There are no amenities within walking distance of the proposed site which will mean even more cars on roads not suitable for the volume of traffic they convey.

10. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

10.1 Principle of development

Beginning with the development plan (the Wiltshire Core Strategy (WCS)), the site lies outside the Limits of Development of Malmesbury which is allocated as a 'Market Town' under Core Policies 1 and 2 'Market Towns have the potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self containment and viable sustainable communities.' (CP1)

However, as the site falls outside of the Limits of Development and has not been brought forward through either a Neighbourhood Plan or through an allocation in a development plan document for the area, the proposal does not comply with the requirements of Core Policies 1, 2 and 13 of the WCS.

Housing supply and delivery

Paragraph 72 of the revised National Planning Policy Framework (NPPF) requires local planning authorities to be able to demonstrate a deliverable supply of housing sufficient to meet five years against their housing requirement set out in adopted strategic policies (or against their Local Housing Need where the strategic policies are more than five years old) As the Council's adopted strategic policies in the Wiltshire Core Strategy (WCS) became 5 years old on 20 January 2020, the housing requirement used in the housing land supply calculation is the Local Housing Need (established using the standard methodology set out in the Planning Practice Guidance). The housing requirement in the calculation should also include a 20% buffer if the Council's Housing Delivery Test results indicate under-delivery of 85% or lower against the housing requirement.

In July 2024 the Council contested an appeal for a proposal for residential development at Land off Storridge Road, Westbury. As part of the inquiry, the NPPF requirements on the housing land supply position was challenged. In the appeal decision (issued 31 August 2024) the Inspector considered that only a 3.85 years supply could be demonstrated. The Council have accepted the Inspector's findings. As a result, the Council have accepted that the requisite housing land supply cannot be demonstrated. Since that point the new NPPF has been published which requires local authorities to recalculate their housing land supply. The current position to be used in decision-taking is 2.06 years supply.

Paragraph 11 (d) and footnote 7 of the NPPF state that where a five-year housing land supply cannot be demonstrated then, for applications including housing provision, the policies which are most important for determining the application should be considered out- of-date. As a result, the presumption in favour of sustainable development (often referred to as the 'tilted balance') should be applied and permission should be granted unless protection policies set out in footnote 7 of the NPPF apply, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The implications of the housing land supply position, and in particular the weight to be attributed to the development plan policies, must be taken into account when determining applications. The weight to be attributed to such policies is a matter of judgment for the decision-taker. The extent of the housing land supply shortfall and how it has arisen, the actions being taken to recover the shortfall, and the

potential for the proposal to deliver housing in the forthcoming five-year period to help remedy the current shortfall should also be taken into account in the balancing exercise which will be done at the end of the report.

Wiltshire Council on 31 May 2023 published the “5 year housing land supply and housing delivery test briefing note No 22-09” (the briefing note) which outlined how the Council would restore its 5 year housing land supply in the face of the acknowledged shortfall. In paragraph 6.1 the third point states that the Council will positively consider speculative applications where there are no major policy obstacles material to the decision other than the site being outside the settlement boundaries or unallocated. Whilst the Council only need to demonstrate a 5 year housing land supply, this briefing note would hold some weight in the decision making process.

Neighbourhood Plan

The Malmesbury (NP) was made on 25 May 2015. Paragraph 14 of the NPPF (DEC 23) states: *14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:*

- a) The neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-78)*

The Malmesbury NP has policies and allocations within it to meet its identified need and therefore is a relevant up to date document that has to be taken into consideration when making a recommendation on this application. The Planning Inspectorate at other appeals in Malmesbury has previously stated that there are no specific policies within the MNP which prohibit residential development coming forward outside of the allocations, but equally there are no policies which support it. The MNP is silent with regard to such development, although it is implicit that the allocated housing sites are deemed sufficient to meet the housing need for Malmesbury. In comparison, CP2 of the WCS clearly identifies that development outside the limits of development will be strictly controlled and sets out where development would be supported. Whilst not explicitly saying so in the policy, it is considered that the proposed development would conflict with Policies of the Neighbourhood Plan.

The site is an allocated site within the upcoming Wiltshire local plan and is allocated as a reserve site under policy 3 and policy 16 of that forthcoming plan. That plan has been submitted to the planning inspectorate but can be given very limited weight at this stage until such time as it moves forward for adoption. None the less its allocation shows the councils intent and in principle suitability for dwellings.

The proposed residential development scheme of up to 55 dwellings would represent new purpose built dwellings within the countryside which at face value would not accord with the settlement strategy of the WCS. The site is also not allocated within the MNP. The proposed development would therefore conflict with the Council's plan-led approach to sustainable development as originally set out within these plans. However, the current status of the development plan documents and the councils lack of 5 year housing land supply are important considerations which must be considered within the overall planning balance as detailed below.

10.2 Impact on the scale and character of the area

Core Policy 51 ('Landscape') of the Wiltshire Core Strategy states that new development should protect, conserve and where possible enhance landscape character, and should not have a harmful impact on landscape character. The policy requires applications to demonstrate how development proposals conserve and where possible enhance landscape character through sensitive design, landscape mitigation and enhancement measures.

A Landscape and Visual Appraisal has been submitted with the application which has been assessed by the Councils Landscape Officer.

The site lies within National Character Area Profile (NCAP) 117: Avon Vales. The NCAP 107 (Cotswolds) lies a short distance to the north and west of the site wrapping around the northern and western countryside edges of Malmesbury.

The site lies within Landscape Character Type 16: Limestone Lowland within Landscape Character Area 16A: Malmesbury-Corsham Limestone Lowland. "Malmesbury-Corsham Limestone Lowlands is the only area within the Limestone Lowlands Type. It covers a large area of northwest Wiltshire occurring between areas of limestone valleys and higher limestone wold to the west (outside the County) and clay to the east.

The area is predominantly rolling mixed pastoral and arable farmland, in a pattern of large fields bounded by hedgerows with hedgerow trees. The hedgerows vary in condition with some gappy and low flailed hedges in evidence for example around Grittleton. Changes in the underlying geology and land use cause subtle localised variations throughout the area within an overall graduation from higher ground founded on limestone to the west to lower ground on clay to the east. On the higher and steeper ground of the Forest Marble Limestone to the west, and particularly to the south of Corsham, hedgerows are less prominent with dry stone walls dividing the fields. With less visual obstruction, there are panoramic and distant views of the farmland as it falls away gently to the east. There are also some more open areas around Biddestone and to the north of the area. Here a comparative scarcity of tree cover creates a greater sense of exposure. Shallow valleys along the numerous springs and brooks in the area have a more intimate and enclosed feeling. The most prominent of these is along the River Avon where the locally steep valley sides give a sense of containment, and the rich vegetation including willows line the riverbank. There are also areas of estate and historic parkland, often associated with large houses. Areas of open pastoral land with numerous standard trees can be found throughout the area, some contain more designed elements such as the large avenue near Monkton Farleigh.

A key element in this area is the distinctive limestone villages and towns, connected by a network of winding rural lanes and straight Roman roads. Some brick-built dwellings and farmhouses appear to the east of the area reflecting the changing geology. Traditional buildings are frequently centred around village greens and ponds or form a more linear settlement forming a main street along one of the rural roads.

Malmesbury Neighbourhood Plan

Volume 1 Main body

Policy 13: "The Neighbourhood Plan Design Guide as set out in Volume II of this Plan should be taken into consideration in all developments to ensure a high quality of design that respects the specific character of Malmesbury Town and the surrounding area"

Volume II – Design Guide (2015 Designations)

The site itself does not lie within a national or local landscape designation. However, and importantly the site lies adjacent to and fronts onto a boundary with the Cotswolds National Landscape (formerly Cotswolds AONB) along both its southern and western edges, only separated by Sherston Road and Park Lane respectively. In this regard the site is considered to fall within the setting of a nationally valued landscape.

Cotswold AONB Management Plan & Cotswold Landscape Strategy and Guidelines

WCS, Core Policy 51: Landscape, references under point (ix) that 'Special qualities' of Areas of Outstanding Natural Beauty (AONBs) will be afforded great weight in relation to conserving and enhancing landscapes and scenic beauty, and further states that "proposals for development within or affecting the Areas of Outstanding Natural Beauty" ... "shall demonstrate that they have taken account of the objectives, policies and actions set out in the relevant Management Plans for these areas. Proposals for development outside of an AONB that is sufficiently prominent (in terms of its siting or scale) to have an impact on the area's special qualities (as set out in the relevant management plan), must also demonstrate that it would not adversely affect its setting."

Cotswold AONB Management Plan Policies

Cotswolds AONB Management Plan

POLICY CE1: LANDSCAPE

CE1.1 Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds National Landscape, should have regard to, be compatible with, and reinforce the landscape character of the location, as described by the Cotswolds Conservation Board's Landscape Character Assessment and Landscape Strategy and Guidelines. There should be a presumption against the loss of key characteristics identified in the landscape character assessment.

CE1.2 Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds National Landscape, should have regard to the scenic quality of the location and its setting and ensure that views – including those into and out of the National landscape – and visual amenity are conserved and enhanced.

CE1.3 Conserving and enhancing landscape character should be a key objective of Environmental Land Management and rural development support mechanisms in the Cotswolds National Landscape.

CE1.4 Rural skills training and the utilisation of those skills – such as dry stone walling, stonemasonry, traditional woodland management and hedge laying – will be supported to ensure the long-term retention, creation and management of the key features of the Cotswolds National Landscape.

POLICY CE3: LOCAL DISTINCTIVENESS

CE3.1. Proposals that are likely to impact on the local distinctiveness of the Cotswolds national landscape should have regard to, be compatible with and reinforce this local distinctiveness. This should include:

- being compatible with the Cotswolds Conservation Board's Landscape Character Assessment, Landscape Strategy and Guidelines and Local Distinctiveness and Landscape Change;
- being designed and, where relevant, landscaped to respect local settlement patterns,

building styles, scale and materials and in accordance with design guidance prepared by local planning authorities;

- using an appropriate colour of limestone to reflect local distinctiveness.

CE3.2. Innovative designs, compatible with the conservation of natural beauty – which are informed by local distinctiveness, character and scale – should be welcomed.

CE3.3. The development of design guidance – which is supported by a robust evidence base and which reflects relevant guidance published by the Cotswolds National Landscape Board – will be encouraged.

CE3.4. Provision should be made for the quarrying of limestone, at an appropriate scale, in order to provide building materials that help maintain and enhance the local distinctiveness of the National Landscape. Any production of aggregate and agricultural lime should be secondary and necessary for local and necessary operational purposes. Any such mineral sites should be required to demonstrate that they do not have any significant adverse effects on the natural beauty of the National Landscape including its special qualities or the integrity of existing wildlife sites.

POLICY CE5: DARK SKIES

CE5.1. Proposals that are likely to impact on the dark skies of the Cotswolds National Landscape should have regard to these dark skies, by seeking to avoid and where avoiding is not possible, minimise light pollution.

CE5.2. Proposals that are likely to impact on the dark skies of the CNL should have regard to recognised standards and guidance, in particular, that published by the Institution of Lighting Professionals and the Commission for Dark Skies. CE5.3. Measures should be taken to increase the area of dark skies in the Cotswolds National Landscape by removing, and where removal is not possible, minimising existing sources of light pollution.

CE5.4. Consideration will be given to seeking a formal dark sky designation for those parts of the Cotswolds National Landscape that are least affected by light pollution.

The site lies in an elevated location on a rolling ridge above and separating the two river valleys that confluence just north of Avon Mills, Malmesbury. The site's few perimeter trees, and taller hedgerows contribute to the wooded skyline visible on the local rolling ridgeline/plateaux, viewed from the wider landscape and when approaching the town from the west. The agricultural land and its peripheral vegetation serve and function to provide an effective transitional landscape buffer from the town's existing westernmost modern urban influences and the CNL. In this regard the site provides an important standoff and contribution to the setting of the National Landscape. The development of this site for housing alongside the creation of a new means of vehicular access into it, will extend the westernmost limits of the existing urban area into countryside further west and will increase the town's urban influence up to the Cotswolds National Landscape (AONB) boundaries. The proposed development site is fronted on 3 sides by open countryside, separated from the boundary with the NL by the existing retained site hedgerows and adjoining rural roads.

Since the original application was submitted the applicants have provided a revised parameters plan which now offers certainty that substantial new structured tree planting will be necessary to deliver along shared boundaries with the CNL as part of the development but as long as the parameters plan is included as a conditioned approved particular of development which any subsequent RM submission proposals need to be substantially in accordance with this will be acceptable in landscape terms.

The landscape officer previously identified concerns regarding conflicts between the new

frontage footway and retained roadside hedgerows and oak trees which have been addressed which would permit the footpath connection within the site (thereby demonstrating that the existing frontage hedgerow and Oak tree/s could be retained as part of the development proposal).

Detailed hard and soft landscaping can be suitably controlled at Reserved Matters stage, and conditions are included as part of this recommendation.

10.3 Ecology

Core Policy 50 requires all development proposals to *“incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development”*... *“all development should seek opportunities to enhance biodiversity. Major development in particular must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services”*... *“Sustainable development will avoid direct and indirect impacts upon local sites through sensitive site location and layout, and by maintaining sufficient buffers and ecological connectivity with the wider environment. Damage or disturbance to local sites will generally be unacceptable, other than in exceptional circumstances where it has been demonstrated that such impacts:*

- i) Cannot reasonably be avoided*
- ii) Are reduced as far as possible*
- iii) Are outweighed by other planning considerations in the public interest*
- iv) Where appropriate compensation measures can be secured through planning obligations or agreements”*

The application is supported by a Preliminary Ecological Appraisal (July 2024) and a Biodiversity Net Gain Assessment (July 2024). I consider that the level of survey has been thorough and appropriate to both the nature of the site and the scale of the development.

The Preliminary Ecological Appraisal report makes a series of recommendations in Section 4 for measures to be implemented as part of the development, to ensure that sensitive ecological features are not adversely impacted by the works. These comprise:

- Production of a Construction Environmental Management Plan to be implemented during the construction phase of the development. The Plan should include pollution prevention measures, reasonable avoidance measures for reptiles, pre-commencement survey for invasive species, precautionary working measures for common amphibians, nesting birds, badger (to include a pre-commencement badger survey) and common mammals such as brown hare and hedgehog.
- Retention and protection of hedgerows and mature boundary trees. Replacement tree planting at a 1:3 ratio.
- Sensitive lighting strategy

Paragraph 5.3.2 sets out recommendations to enhance the site for biodiversity which comprise:

- Bat and bird boxes
- Planting of linear features to add commuting features within the site
- Hedgehog highways to facilitate movement across the site
- Hibernacula for reptile/amphibian
- Creation of habitats to benefit wildlife e.g., wildflowers for invertebrates and a pond for amphibians.

Any subsequent reserved matters application will be expected to adhere to the recommendations in the Preliminary Ecological Appraisal.

To provide increased opportunities for biodiversity/ fauna/ animals it is expected that new developments will provide features to benefit biodiversity such as for birds, bats and invertebrates. Integrated features are preferable and can include integrated bird/bat boxes or features such as access tiles for roosting bats. It is recommended that features are provided at a ratio of 1:1 feature to building. Features must seek to benefit target species/s or group/s and demonstrate viability in terms of position on building, location and clustering in accordance with relevant guidance.

The Illustrative Masterplan shows the retention of mature oak trees and boundary hedgerows, a green buffer along the northern and southern edges and a minimum 25 m green buffer along the western edge of the site. In total the proposals are anticipated to provide 1.27 ha of public open space which may include attenuation features, wildflower and tree planting (Sketch Layout, Rev D). Although the Parameters Plan does not show the locations of high value trees, the green buffers do appear wide enough to incorporate the Root Protection Zones of these trees as shown in the Arboricultural Report (Ref: AWA5901). Any detailed design at reserved matters stage will be expected to ensure the protection of retained trees and hedgerows and the incorporation of large, unlit, green corridors to secure the integrity of local ecological networks. If any of the mature trees with bat roost potential are likely to be impacted (e.g., by root impaction or light spill) then further survey will be required to inform an appropriate mitigation strategy.

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night can have a substantial adverse effect on biodiversity. Any new lighting should be for the purposes for safe access and security and be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

Biodiversity Net Gain

Under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) this application is required to deliver 10% Biodiversity Net Gain (BNG). The Biodiversity Gain Plan condition will automatically apply if approval is forthcoming.

A completed statutory metric calculation (completed 5 July 2024) confirming the pre- and predicted post- intervention biodiversity value of site has been submitted.

A plan showing the baseline habitats onsite has been submitted (Sherston Road – UKhab 20.03.2024). This plan shows the grassland onsite to be 'other neutral grassland'. An updated metric has not been provided but in the interests of moving this application forward the grassland type in the submitted metric has been updated from modified grassland (poor condition) to other neutral grassland (poor condition). Biodiversity Net Gain Metric_WC Edit is now the accepted metric.

It is accepted that at this stage no trees are anticipated to be lost due to development and therefore trees within hedgerows will not need to be recorded individually in the metric.

The Biodiversity Gain Plan condition will require the submission of a Biodiversity Gain Plan demonstrating how the biodiversity objective (10% biodiversity net gain) will be met. The development can only legally commence once the Biodiversity Gain Plan condition has been

discharged.

The Biodiversity Gain Plan must be accompanied by a completed Biodiversity Metric (supported by corresponding habitat maps) with the following issue addressed:

- Habitats within the private curtilage can only be recorded as 'unvegetated/vegetated garden' and enhancement of hedgerows within gardens can therefore not count towards BNG.

In order for the council to fulfil its BNG monitoring responsibilities. A BNG monitoring contribution will be required and secured via a separate legal agreement.

The Council's Ecologist and Natural England have raised no objections to the scheme subject to conditions regarding the submission of an Ecological Parameters Plan, Landscape and Ecology Management Plan and a Construction Environmental Management Plan.

Details regarding the construction of the SuDs, details of integrated roosting/nesting features, restrict new external lighting and the development to be built in accordance with the Biodiversity Metric (or subsequent Biodiversity Metric that may be submitted with any future reserved matters application that would need to broadly align with that submitted on the current application) all of which are considered to be acceptable. As such the proposal is considered to comply with CP50 and has overcome the previous reason for refusal relating to ecology.

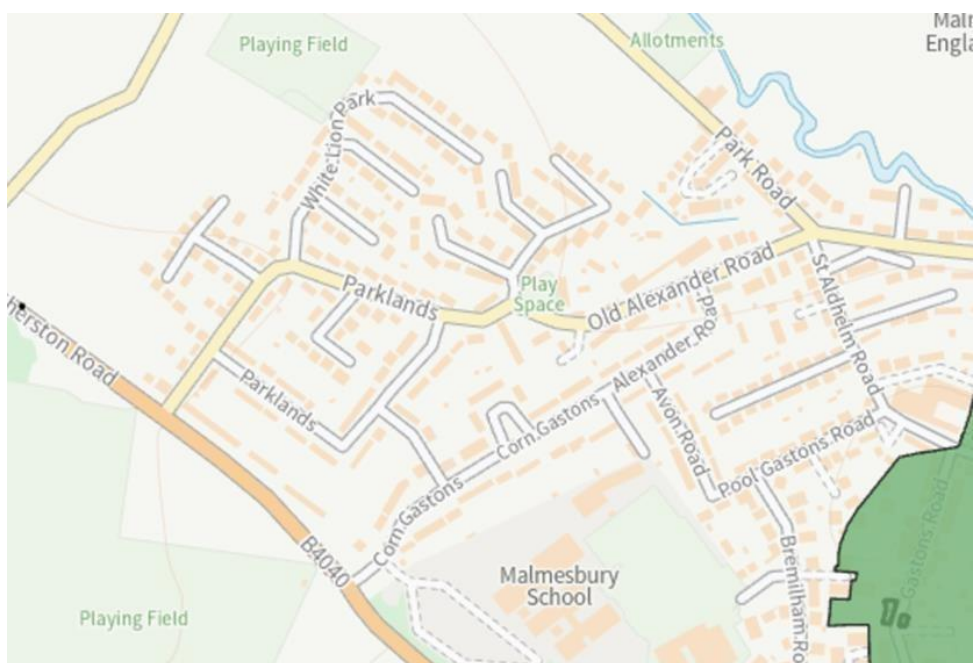
10.4 Impact on the significance of heritage assets, such as listed buildings and conservation areas

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting. Paragraph 199 of the NPPF states that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. ..This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Core Policy 57 of the Wiltshire Core Strategy states: "A high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through... being sympathetic to and conserving historic buildings"

Core Policy 58 of the Wiltshire Core Strategy echoes the above national policy in seeking the protection, conservation and, where possible, enhancement of heritage assets.

There is only one listed structure close to the site which is a listed milestone located on Sherston road which will largely be unaffected by the proposal. The nearest conservation area is the main Malmesbury town centre conservation area which will be unaffected by the proposal.



10.5 Archeology

The application was submitted with an Archaeology and Historic Assessment. Trial trenching has since taken place. The Councils Archaeologist has assessed the submitted information and as a result of the findings of the evaluation no further archaeological investigations need to be carried out on the site. The proposal is therefore considered to comply with the requirements of CP58 and has overcome the previous reason for refusal.

10.6 Impact upon neighbouring amenity

The site is bounded by residential properties on its Eastern boundary from properties in Silveston Way and White Lion Park both of which roads have houses that back onto this site. As an outline application at this stage there is little information on where dwellings will be precisely located at the site. However it is considered with the number of dwellings proposed and the potential layout of the site including drainage, open spaces roads and Natural Greenspace that it would be possible to design a scheme that would not have an adverse effect on the amenity of neighbouring properties.

Whilst the exact detail would be a reserved matter issue, the amenity of future occupiers should be taken into consideration and therefore the proposed dwellings would need to ensure that they meet the minimum sizing requirements noted in the Governments Technical Housing Standards and their associated gardens should be at least the same size as the ground floor of the dwelling they serve in accordance with the Councils Design Guide. In addition to the appropriate garden each dwelling in Wiltshire has access to 1 x 180 litre household waste bin, up to 2 x 240 litre wheeled bins, up to 2 x 55 litre black recycling box and the option of 1 x 180 litre chargeable garden waste bin and as such sufficient space should be provided for each dwelling for the storage of these waste bins/boxes alongside appropriate cycle storage. The submitted details appear to show that it is capable of delivering these requirements alongside no overlooking or overshadowing taking place between the proposed dwellings.

As such it is considered that whilst views from neighbouring properties will be affected by this development it should be possible to preserve the outlook from the existing dwellings such that

planning permission can be granted for this development and as such the proposal is considered to comply with policy CP57 of the Wiltshire Core Strategy.

10.7 Highway Matters

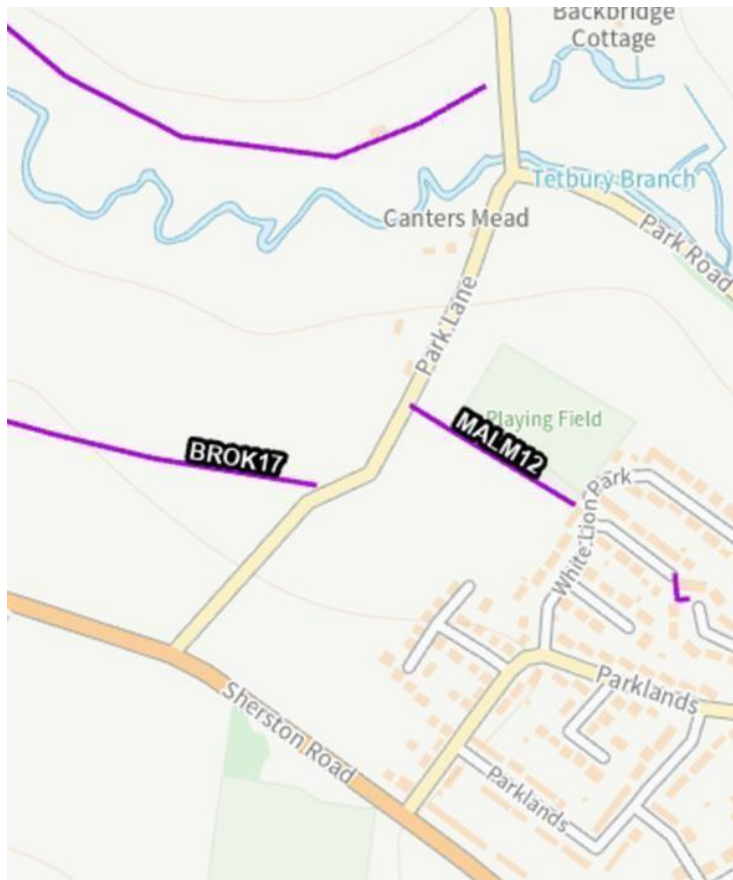
The objectives of Core policies 60 and 61 are to reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire, and identify that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.

There are two bus stops locally, one at Parklands to the South East of the site where the no 90 bus runs circular around the town on a regular basis roughly 9 -5.30. The second bus stop is slightly further away where the number 41, 278 and C62 buses run to chipping Sodbury/Yate, Tetbury (once a day) and the C62 is a college bus running once a day to Cirencester College.

The application has been submitted with a Transport Statement, and the highways officer has asked for a Travel plan as part of any S106 The amended plans showed a revised access arrangement which has been considered by the Councils Highway Officer to be acceptable. As have the footway elements associated with the frontage. As such the proposal is considered to comply with CP60, CP61 and CP64.

10.8 Public Rights of Way

There are several Public Rights of Way near to the site. BROK17 runs in a westerley direction away from the site. BROK16 and BROK5 also run nearby to the site.



The Council's Public Right of Way Officer has assessed the application and noted that a number of public footpaths in the vicinity of the development are likely to be much more heavily used and there is a need to replace some of the access furniture in the vicinity of the development on footpaths BROK16, 17 and BROK5. The agreement to replace some of this access furniture in principle means the proposal is considered to comply with CP52.

10.9 Drainage

CP67 of the WCS states that all new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (SUDs).

The site is located in Flood Zone 1 which is the least likely to flood. The Environment Agency classifies this site as at Very Low risk of surface water flooding. It also classifies the site to be at very low risk from groundwater flooding. The proposed finished floor levels are to be at least 150mm above the adjacent road level to ensure that they are not at risk from flooding from all sources.

The application has been submitted with a site specific Flood Risk Assessment which has been assessed by the Council's Drainage Officer who has supported the scheme subject to conditions which are considered to be acceptable. As such the proposal is considered to comply with CP67.

The council's drainage officer has asked for further details to be required by condition which are included at the end of this report as part of the recommendation.

10.10 Section 106

CP3 states that all new development will be required to provide necessary on-site and where appropriate off-site infrastructure requirements arising from the proposal.

The infrastructure items listed below are those that are relevant to the application site and are required in order to mitigate the impact of the proposed scheme, in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 57 of the National Planning Policy Framework 'The Framework'. These are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

The developer has agreed to the following Section 106 requirements:

Affordable Housing: CP43 states that on dwellings of 5 or more affordable housing provision of at least 40% will be provided. This results in a need for 22 affordable homes. From this, the Local Planning Authority would require a tenure split of 60% (13) affordable rented homes, 15% (3) shared ownership homes and 25% (6) First Homes. These dwellings will need to be transferred to a Registered Provider.

Open Space: The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 96 of the NPPF. The Leisure and Recreation DPD requires developers to provide public open space. The requirement for this development is 2305.25m² of public open space and 116.82m² of equipped play which has been calculated using the latest Sport England Guidance. The application includes sufficient on space requirement. The

proposal would also generate a requirement of 1557.60m² of Sports and Pitches & Courts which equates to an off-site financial contribution of £15,576.00 which would go towards the upgrading of existing facilities in Malmesbury.

Education: The NPPF (paragraph 94) encourages Local Authorities to ensure that sufficient choice of school places is available to meet the needs to existing and new communities. In order to fulfill this requirement the proposed development is required to fund the following:

Early Years Assessment: There are currently 2 preschools and 2 childminders within a two-mile safe walking route of this proposed development. The provision is operating at full capacity. The Local Planning Authority has a duty to provide sufficient childcare for working parents under Section 6 of the Childcare Act 2006. As a result the development would need to provide 6 places at a cost of £17,522 each with a total cost of £105,132.00 (indexed linked)

Primary School Assessment: There are primary schools in the designated area which because of the decline in birth rate in the Malmesbury area have capacity and therefore no contribution would be required.

Secondary School Assessment: There is spare capacity at Malmesbury secondary school and therefore no contribution is required.

Highways: CP 61 states that where appropriate contributions will be sought towards sustainable transport improvements and travel plans will be required to encourage the use of sustainable transport alternatives. CP 63 identified transport strategies for Wiltshire's Principle Settlements which seek to achieve a major shift to sustainable transport by helping to reduce reliance on the private car and by improving sustainable transport alternatives. Part of the funding for these strategies is to be derived from developer contributions. Such requests are also listed under Core Policy 3 as infrastructure priority theme 1.

A highways 106 requirement is for the inclusion of a travel plan

Public Rights of Way: CP52 states "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". This is also confirmed in Saved Policy CR1 of the Leisure and Recreation DPD and the Local Cycling and Walking Infrastructure Plan which is nearing adoption. The NPPF at paragraph 104 requires planning decisions to protect and enhance public rights of way and take opportunities to provide better facilities for users.

This development will lead to an increase in usage of the Public Rights of Way network particularly to the West of the site and as such a contribution of £5,400 (index linked) is required to go towards access furniture improvements on BROK17, BROK5 and BROK16.

Ecology: The S106 must identify who will be responsible for maintaining the biodiversity habitat and commit the body(ies) to be responsible for those matters detailed below:

- a) Within the application site
- b) Within the Public Open Space

Waste: Under Core Policy 3 and WCS6 the Waste Team will require contributions towards the provision of waste and recycling containers for each residential unit (£101 per dwelling) and therefore a total cost of £5,555.00 would be required. This is in conformity with the Wiltshire Council Waste Collection Guidance for New Development.

Management Company: The S106 Legal agreement would need to ensure that the proposed dwellings are served by a management company to ensure that the area of public open space and other shared areas are managed and looked after in perpetuity. The Management Company

would also be responsible for maintaining the biodiversity habitat within the application site and within the public open space.

S106 Monitoring Fee: A S106 monitoring fee would be required to be included within the S106 Legal Agreement which would be 1% of the total financial contributions capped at £10,000.00.

Other

Wiltshire Council adopted CIL (Community Infrastructure Levy) on 18th May 2015 and therefore the proposed dwellings subject of this application will be liable to pay CIL and therefore an informative should be added to any approval informing the applicant. It will also be expected that the S106 would include the creation of a management company to look after the public areas and a S106 monitoring fee.

11. PLANNING BALANCE

Paragraph 11 (d) and footnote 8 of the NPPF state that where a Local Planning Authority cannot demonstrate a four-year housing land supply then, for applications including housing provision, the policies which are most important for determining the application should be considered out-of-date. As a result, the presumption in favour of sustainable development (often referred to as the 'tilted balance') should be applied and permission should be granted unless protection policies set out in footnote 7 of the NPPF apply, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Turning to the benefits, the following is noted:

The provision of market housing is a key part of national and local planning policy and has recently been re-enforced by the Written Ministerial Statement confirming the government's commitment to the delivery of new housing. Given the Council's shortfall in housing (2.03 yrs against a 5yr housing requirement), and the direction of travel from central government, the contribution this site will make to the provision of housing is a positive benefit of the scheme. This benefit should be attributed substantial weight. The proposal would also provide 40% affordable housing where there is a current, significant shortfall against the Council's target. The term significant is used as the Inspector at the Storridge Road Appeal noted that there was a shortfall of 936 affordable homes and used the term significant when referring to this shortfall. The benefit of providing 40% affordable housing (potentially 20 dwellings) is afforded substantial weight.

The site would also generate short term economic benefits during construction and long term economic benefits from the expenditure on local goods and services by the future residents. The NPPF at paragraph 85 states that "Significant weight should be placed on the need to support economic growth and productivity..." In line with the NPPF, significant weight is attached to this benefit.

The provision of those items required through the S106 legal agreement such as public open space, education and public rights of way improvements as well as BNG would be as a result of the proposed development but would provide some benefit to existing residents in the area and therefore moderate positive weight is given to these.

Turning to the adverse impacts, the proposal fails to comply with the development plan as whole given the policy conflict identified in this report. CP1, CP2 and CP13 of the Wiltshire Core Strategy are key in this judgement as they form the spatial strategy of the development plan and therefore indicate whether or not a proposal is in a suitable location for housing. Whilst noting the site is in a relatively accessible location with access to public transport links, by reason of the site being located outside the limits of development the conflict with these policies is attributed significant weight.

The development of a field into housing would impact the character and appearance of the area. Such an impact would occur with the development of any green field. Given the impacts are very localised and with the planned mitigation taken into account, this harm is given limited weight.

Set against these adverse impacts is the substantial and significant benefits identified above (notably, the provision of market and affordable housing and economic benefits).

Accordingly, it is judged that the adverse impacts of allowing this development in conflict with the local plan policies is not likely to significantly and demonstrably outweigh the benefits.

12. Conclusion

The proposal fails to comply with the spatial strategy contained in the Wiltshire Core Strategy and the Neighbourhood Plan and in accordance with Paragraph 14 those adverse impacts must be seen to significantly and demonstrably outweigh the benefits. Wiltshire Council is currently unable to demonstrate a five-year housing land supply and has a significant shortfall of affordable housing units. The application has received support from statutory consultees and this report demonstrates that there are no adverse impacts arising from the proposal on the wider landscape, ecology, highways or amenity. In light of the above, it is considered that the adverse policy impacts of allowing this development do not significantly and demonstrably outweigh the benefits identified above and as such the application is recommended for Approval.

Recommendation

Subject to a suitable S106 agreement being agreed as per the report, then approve, subject to the following conditions:

Conditions:

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

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to and approved in writing by the Local Planning Authority:
 - (a) The scale of development;
 - (b) The layout of the development;
 - (c) The external appearance of the development;
 - (d) The landscaping of the site

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

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

Informative: The council will expect the reserved matters above to be accompanied by a sustainable energy statement that has been taken into account in the design and orientation

of dwellings proposed on the site in order to comply with policy CP41 of the local plan.

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

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

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

Proposed site access arrangements Drawing no 2831-F01 rev E
Proposed Off site pedestrian improvements Drawing no 2831-F02 rev A
Landscape Parameters Plan Drawing no 3 rev C The urbanists
Proposed Landscape plan Drawing prepared by Collington Winterno 20-1652 rev 1
Proposed Location plan Rev A dated 29/7/2024
Affordable housing statement July 2024
Flood risk assessment and drainage strategy Dated July 2024
Preliminary ecological appraisal July 2024
Phase 1 desk study report Brownfield Solutions Ltd May 2024
Transport statement by Eddisons April 2024
Waste Audit Statement by EdgePlan July 2024
Arboricultural report by AWA tree consultants May 2024
Archaeological report by CFA archaeology dated June 2024
Planning statement July 2024 by Edgeplan
Topographical land survey drawing dated 30/11/18 drwg no S18-1094
Landscape and Visual appraisal by Tyler Grange, Report No. 16755_R01c_OK
Design and access statement dated July 2024, Revision

Biodiversity net gain assessment July 2024

REASON: For the avoidance of doubt and in the interests of proper planning.

5. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

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

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

Highways

7. No development shall commence until a Construction Traffic Management Plan (to include details of all development phases) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out

in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a) Construction vehicle numbers, type, routing;
- b) Access arrangements to the site;
- c) Traffic management requirements
- d) Construction and storage compounds (including areas designated for car parking, loading /unloading and turning areas);
- e) Siting and details of wheel washing facilities;
- f) Cleaning of site entrances, site tracks and the adjacent public highway;
- g) Timing of construction activities (including delivery times and removal of waste);
- h) Provision of sufficient on-site parking prior to commencement of construction activities;
- i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;

REASON: In the interest of highway safety

8. Prior to any approved access as shown on plan 2831-F01 Rev E – Site Access Arrangement being brought into operational use full details of the approved off-site works generally shown on the approved highway plan shall be submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with the approved details.

REASON: In the interest of highway safety

9. Prior to any occupation of the approved development full details of the approved off-site works generally shown on the approved highway plan 2831-F02 Rev A – Offsite pedestrian improvements plan shall be submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with the approved details.

REASON: In the interest of highway safety and to secure infrastructure that provides a genuine choice of travel mode opportunity.

10. No development shall be occupied or brought into use until such time as a Full Travel Plan including the appointment of a Travel Plan Co-ordinator and monitoring has been submitted to and approved in writing by the Local Planning Authority.

REASON: To promote and support sustainable travel and a genuine choice of travel modes.

Landscaping

11. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include
 - location and current canopy spread of all existing trees and hedgerows on the land;
 - full details of any to be retained, together with measures for their protection in the course of development;
 - a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - finished levels and contours;
 - means of enclosure;
 - car park layouts;
 - other vehicle and pedestrian access and circulation areas;
 - all hard and soft surfacing materials;
 - minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);

- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner;

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

Ecology

13. 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 CEMP will be prepared in accordance with recommendations set out in Section 4 of the Preliminary Ecological Appraisal (July 2024). 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 reptiles, nesting birds, badger, brown hare and hedgehog.
- c) Restrictions on artificial lighting and any measures to be implemented to reduce light spill on sensitive ecological features.
- d) Details of pollution prevention measures including 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.
- e) 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.
- f) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

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.

14. 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.

REASON: In the interests of conserving biodiversity.

INFORMATIVE:

The submitted details should demonstrate how the proposed lighting will impact on bat habitat, including trees with bat roost potential (identified in Table 3.1 of the Preliminary Ecological Appraisal (July 2024)) compared to the existing situation. The plans should 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.

15. Prior to the commencement of any works, including vegetation removal and demolition, details of the number, design and locations of features for wildlife (i.e., bat and bird boxes, hedgehog highways, hibernacula and enhancements for invertebrates) shall be submitted to the local authority for approval. These details should be clearly shown on an enforceable plan (e.g., site plan/technical elevations drawing). 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.

16. No development shall commence on site until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:
- a. a non-technical summary;
 - b. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - c. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - d. the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority, has been submitted to, and approved in writing by, the local planning authority.
- The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the delivery of biodiversity net gain.

17. No development shall take place until surface water drainage strategy, complying with Wiltshire Council requirements, NPPF, and the Non Statutory Technical Standards for SuDS has been submitted to and approved in writing by the Local Planning Authority.

REASON: To minimise the risk to people and property during high return period storm events

18. No development hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and

thereafter managed and maintained in accordance with the approved details.

REASON: In order to ensure adequate drainage of the site

Informatives: (3)

1. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated TBC
2. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.
3. Wiltshire Council is the land drainage authority under the Land Drainage Act 1991. Land drainage consent is required if a development proposes to discharge flow into an ordinary watercourse or carry out work within 8m of an ordinary watercourse. [An ordinary watercourse is a watercourse that does not form part of a main river. The term watercourse includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows].