

TOWN & COUNTRY PLANNING ACT 1990

**TOWN & COUNTRY PLANNING (PERMISSION IN PRINCIPLE) ORDER 2017
(AS AMENDED)**

**APPLICATION BY CLLP 2010 DISC TRUST FOR PERMISSION IN PRINCIPLE
FOR DEVELOPMENT OF UP TO 2 NO DWELLINGS ON LAND NORTH OF
WEST STREET, GREAT SOMERFORD, CHIPPENHAM, SN15 5EH.**

PLANNING STATEMENT



Prepared by

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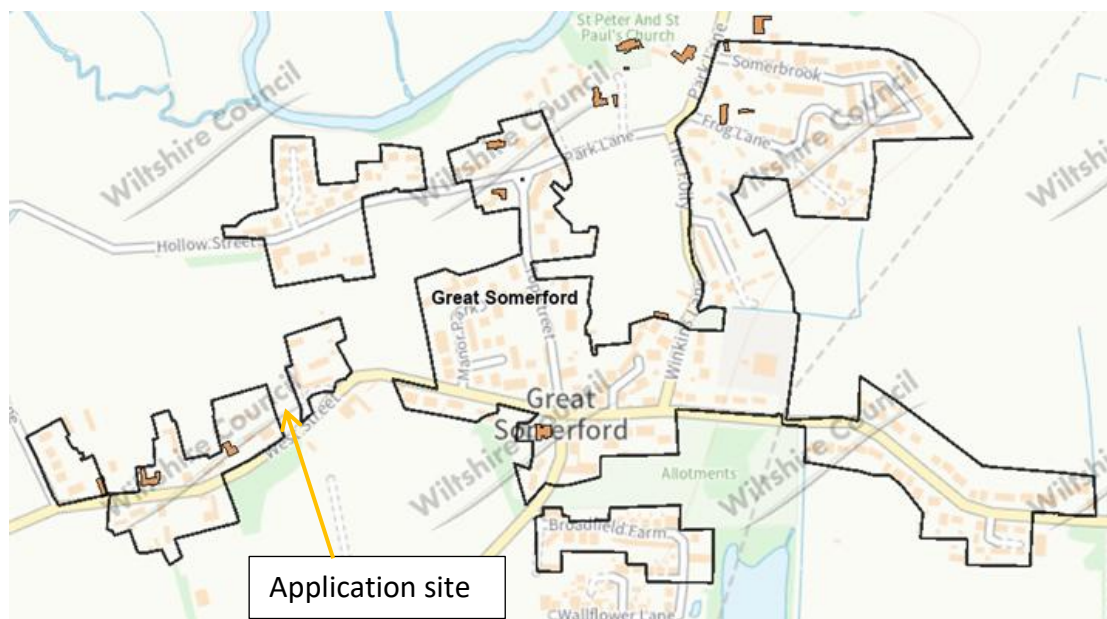
Our Reference: SWLC.LPC6321

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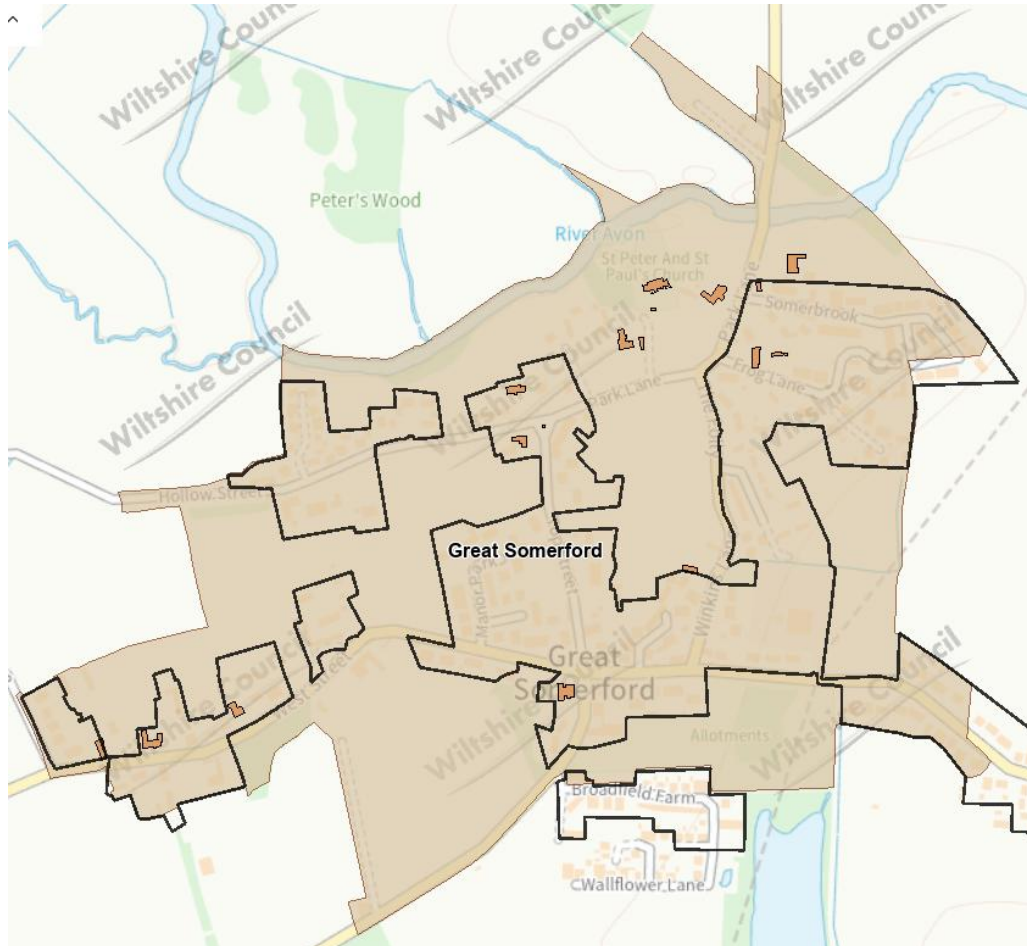
1.0 INTRODUCTION

- 1.1 LPC (Trull) Ltd have been instructed to prepare an application for Permission in Principle (PiP) for the development of up to 2 No. dwellings on land which lies to the west of Manor Stables on the north side of West Street, Great Somerford SN15 5EH.
- 1.2 As shown below, the subject site lies in between the defined housing development boundary of the village of Great Somerford with built development bounding the site to the east and west.



- 1.3 The site comprises an area of paddock extending to the north that is laid to grass. The boundary to West Street includes a low stone wall and with trimmed hedge behind. There is a shared vehicle access that includes access to the paddock from the south eastern corner . The site as a whole lies in the Great Somerford Conservation Area, which is shown on the map extract on the following page.
- 1.4 The village of Great Somerford is identified in the Core Strategy as a Large Village. It lies some 3.25 miles southeast from the town of Malmesbury and about 12 miles to the west of Swindon. It is identified as being within the Malmesbury Community Area under Core Policy 13 of the adopted Wiltshire Core Strategy. There is a settlement boundary for the village (as already indicated), which this site lies just outside, and a designated Conservation

Area, within which the site lies. The property known as 'Manor Farmhouse' which lies to the south west off West Street is the nearest listed building, and has also been shown on the plan extract inserted previously, and below. Having checked the Environment Agency Flood Map records, I can confirm that the site lies in Flood Zone 1.



Conservation Area

- 1.5 It is material to note that the application site shares many of the same characteristics as the land identified on the following page and which was the subject of the grant of Permission in Principle for the erection of two new dwelling by application PL/2023/06033. That permission was the subject of an appeal and the Inspector's decision is inserted below too as the findings wholly support the grant of permission in this case too. It would indeed be difficult to find a more compelling planning precedent.



Appeal Decision

Site visit made on 23 October 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2024

Appeal Ref: APP/Y3940/W/24/3345527

Land at West Street, Great Somerford, Chippenham, Wiltshire SN15 5EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
- The appeal is made by Mr & Mrs H Gravell against the decision of Wiltshire Council.
- The application Ref is PL/2023/06033.
- The development proposed is erection of up to 2 No. dwellings.

Decision

1. The appeal is allowed and permission in principle is granted for erection of up to 2 No. dwellings at Land at West Street, Great Somerford, Chippenham, Wiltshire SN15 5EH in accordance with the terms of the application, Ref PL/2023/06033.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages. The first stage (permission in principle) establishes whether a site is suitable in principle. The second stage (technical details consent) is when detailed proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, having regard to policies for the delivery of housing;
 - the effect of the proposal on the character and appearance of the area, including the Great Somerford Conservation Area and its setting; and
 - whether the proposed development is in an accessible location, having regard to proximity to services and facilities and highway safety.

¹ Paragraph: 012 Reference ID: 58-012-20180615

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Reasons

Suitable location

5. The appeal site is an undeveloped field fronting West Street. It is located outside the defined settlement boundary of Great Somerford. This settlement is categorised as a 'large village' under the strategy set out under Core Policy 1 of the Wiltshire Core Strategy 2015 (the WCS). As the site is outside the settlement boundary it is in the countryside where Core Policy 2 of the WCS restricts housing development except in a few circumstances, none of which would apply to the appeal proposal.
6. The settlement boundary to Great Somerford is fragmented and irregular, particularly along West Street. The appeal site lies within a relatively long gap between residential pockets of development within the defined boundary. Nevertheless, development of the site which lies within the countryside would be contrary to policy.
7. The appeal site is not a suitable location for the proposed development, having regard to policies for the delivery of housing. It would therefore conflict with Core Policies 1 and 2 of the WCS and the Great Somerford Neighbourhood Plan 2017 which together and amongst other things seek to restrict development in locations outside defined settlement limits and within the countryside.

Character and appearance

8. West Street is characterised by linear housing development of varying designs, ages and sizes. Some are set behind domestic hedges, others behind fences and historic stone boundary walls and others have a more open frontage. The overall sense travelling along the road is of being within a loosely developed village interspersed with gaps provided by field frontages. The appeal site is one such gap, positioned between existing development.
9. The site is an area of open land, laid to grass with mature trees within the northern section and an informal hedgerow boundary adjacent to the highway. There is a rough dirt track access within the northeastern corner with a field gate set back from the highway. As an undeveloped area of land, it makes a positive contribution to the rural setting of the village. It is not, however, identified as an important or green gap within the Neighbourhood Plan, which does identify 'Local Green Spaces' elsewhere.
10. The northern section of the site lies within the Great Somerford Conservation Area (GSCA) with the remainder forming part of its setting. The GSCA encompasses much of the built-up area of the village and areas of open land beyond. Its significance is derived from the mix of historic buildings within a village and rural setting. The appeal site as it contributes to the rural setting of the village makes a positive contribution to the GSCA and its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
11. Inevitably, the introduction of two dwellings to the appeal site would diminish the rural character of this undeveloped open land. The linear pattern of development along West Street would be extended. However, a wooded area fronting the road between the appeal site and the property directly to the south-west would remain, helping to maintain a degree of separation between

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pockets of development along the road. Properties are generally spaciouly arranged, within relatively large plots which the appeal scheme, proposing up to two dwellings within a generously sized site, could achieve.

12. In terms of the overall character and appearance of the development, this would largely be addressed at the technical details consent stage which would, amongst other things, deal with landscaping, layout and design. However, I see no reason why, given the existing site characteristics and context, that a development sympathetic to the character of the locality, including the GSCA and its setting, could not be secured.
13. The Council has raised a specific concern about the changes to the site boundary through the formalisation of the access that would be required in association with two dwellings. I observed considerable variation in property frontages along West Street. This variation forms part of the overall character of the area and does not detract from the GSCA. There is no reason that a sympathetic approach on the appeal site could not be achieved without causing harm to the historic environment.
14. The proposal would not harm the character and appearance of the area. It would preserve the character and appearance of the GSCA and its setting. It would therefore accord with Core Policies 51 and 57 of the WCS which together require development to protect and conserve the locally distinctive character of settlements and their landscape setting and to be sympathetic to and conserve the historic environment.

Accessibility.

15. The site is located a short distance from the centre of Great Somerford where there is a shop/post office and public house. A primary school is located a little further away. These services and facilities would meet basic day-to-day needs for future occupants.
16. Pedestrian access from the site to these services and facilities would be along West Street which is served by a formal footpath running along the opposite side of the road with a short section of informal footpath and grass verge. This is unlit. It is also close to a bend in the road and visibility is restricted. Pedestrian access would not be suitable for all, especially people with limited mobility, the elderly and those with children.
17. However, this is a short section of road between existing built development and on the approach to the centre of the village. There is also development on one side of the road. Drivers, who would have either passed linear development along West Street or be heading out of the village, would be aware that they are in a village location. In this context, they would be likely to both anticipate pedestrians on the road and drive at a slower speed appropriate to the location. Thus, whilst I appreciate that pedestrian access may not be appropriate for all, it would provide an alternative to using the private car for some people. Indeed, at the time of my site visit, I observed people walking along this stretch of road.
18. In addition to some pedestrian access, the route between the appeal site and the services within the village would be accessible by bicycle.

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19. There is a limited daytime bus service to Chippenham during the week and on Saturdays. Whilst this would not be sufficient to reduce overall reliance on private transport, it does offer an alternative that may reduce some trips.
20. The National Planning Policy Framework (the Framework) recognises that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Occupants of the appeal scheme would have access to services and facilities both within the village and elsewhere by bus. They would not be wholly reliant on the private car to do so and in this rural village location, this would be appropriate. Furthermore, development here may help to support existing services and facilities within the village to grow and thrive.
21. The proposal would be in an accessible location. It would therefore accord with Core Policies 60 and 61 of the WCS which together support development in locations which reduce the need to travel and support sustainable transport alternatives to the use of the private car.

Other Considerations

22. In accordance with paragraph 226 of the Framework, the Council only needs to demonstrate a four year supply of housing land because the emerging LP has reached Regulation 19 stage including proposed allocations towards meeting housing need. The Council's Housing Land Supply Statement, published June 2024, sets out that the supply is 4.2 years. This figure was since tested on appeal², where the Inspector concluded that the Council had a supply of 3.85 years. In the absence of evidence to the contrary, I am relying on this figure. I return to this in my planning balance below.
23. Concerns have been raised by local residents including overlooking, loss of outlook and sunlight. However, the position and design of the proposed dwellings has not been confirmed. The site is large enough to accommodate the dwellings and these factors could be addressed through the technical details consent stage. I appreciate that the view from the house opposite would change, however, the private view from a window or property is not of itself regarded as a planning matter.
24. There are a number of trees adjacent to and on the site. Many of these would be retained. I have no firm evidence of the site being of particular importance for wildlife or ecology. With residential development there would be a change to the character of the site, however, biodiversity matters including measures to mitigate any loss could be secured through the technical details consent process as deemed appropriate at that stage.
25. No substantive evidence has been provided that demonstrates that local infrastructure cannot accommodate this amount of development in the village. I have no firm evidence that traffic volumes will significantly increase as a consequence of the proposal.
26. The appeal site lies in Flood Zone 1. I am told that West Street has been subject to flooding, however, whilst a photograph of one such incident has been provided, I do not have substantive evidence relating to this. I also note the Council did not refuse the application on this basis. In any event, matters in respect of managing surface water to ensure the development would not

² APP/Y3940/W/24/3340811 – Land off Storridge Road, Westbury BA13 4HJ, dated 30 August 2024

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give rise to or exacerbate existing flooding issues, could be appropriately dealt with at technical details consent stage.

27. Allegations about development taking place and trees having been cut down without permission have been made. These are not matters before me.
28. The appellant has suggested that the proposed dwellings could be made available as self-build homes. However, there is currently no mechanism to secure this as a planning obligation cannot be secured at the permission in principle stage. This factor therefore carries limited weight.

Planning Balance

29. There would be conflict with Core Policies 1 and 2 of the WCS as the site lies outside the defined settlement boundary and therefore in the countryside for planning purposes. However, in view of the shortfall in housing supply, the policies for the delivery of housing are deemed to be out of date and paragraph 11 d) of the Framework is engaged.
30. The absence of harm to character and appearance and the preservation of the character and appearance of the GCSA and its setting are neutral factors in the balance. However, the development of rural homes in an accessible location which would help to support rural communities, services and facilities is a positive aspect of the scheme that weighs in its favour.
31. When assessed against the policies in the Framework as a whole, the adverse impact does not significantly and demonstrably outweigh the benefits of two additional homes on a windfall site. Consequently, the presumption in favour of sustainable development indicates that permission should be granted.

Conclusion

32. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed.

Rachael Pipkin

INSPECTOR

2.0 THE SITE & SURROUNDING AREA

- 2.1 The application site measures approximately 0.18 ha in area and lies on the northern side of West Street within the apparent physical limits of the village of Great Somerford and to the west of Manor stables. This part of the village is characterised by low density and irregular patterned development on both sides of West Street with large houses situated within generous plots interspersed with trees, and with evidence of backland or tandem development, including buildings and access lanes extending behind frontage development. Provided at the top of page 4 is an aerial photograph showing the application site and the form of the surrounding built up area.
- 2.2 The photographs on the next page are taken from google earth's street scene and show the site's planted roadside boundary and the western neighbour (Manor View) seen across the land through the existing access gate. The second image shows the shared access to the field gate that also serves Mannor Stables, and the separate property (known as Manor Stables Cottage) in between.



- 2.3 In planning terms, the village of Great Somerford has a Housing Development Boundary which as can be seen on page 2 earlier is quite extensive and, in parts, somewhat fragmented. As shown, it covers a wide area and includes separate pockets, or nodes, of housing development which have been ringfenced under the Local Plan process. This has resulted in gaps appearing between these defined areas giving quite a fragmented picture overall, unrelated to the settlement's more obvious physical limits.
- 2.4 The Great Somerford Conservation Area is more uniform in its coverage. This covers a larger area than the Housing Development Boundary and as already shown overlain on top of the housing boundary map below includes the application site lies within its boundaries.

- 2.5 The following extract from the definitive Public Rights of Way plan shows that GSOM27 runs along the access drive serving Manor Stables Cottage. This confirms that the gated route in the photograph at the top of page 8 is a permissive route only and the PRow is outside the application site.



3.0 THE PROPOSAL

- 3.1 The proposal seeks Permission in Principle (PiP) for a development of up to two dwellings on the application site. The application approach is defined in the National Planning Guidance, as below;

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second ('technical details consent') stage is when the detailed development proposals are assessed.

3.2 This establishes that the application is a two-stage process, with the first stage solely intended to establish whether the site is suitable in principle and the second stage then considering the detailed development proposals and potential impacts. The Government's guidance sets out that the scope of the first stage of permission in principle is limited to the assessment of:

- Location
- Land Use and
- The Amount of Development.

The application proposal has a narrow focus with only the principle of the proposed residential development being considered. The second stage which involves the 'technical details consent' follows once the 'permission in principle consent' be granted.

3.3 The Planning Practice Guidance (PPG) confirms that the scope of permission in principle is limited to location, land use and amount of development. However, issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage (Paragraph: 012 Reference ID: 58-012-20180615).

3.4 Accordingly, the purpose of this statement is focused on the principle of development at this location only. Any further details in respect of the intended new development and its acceptable assimilation will be submitted at the technical details stage.

3.5 This Planning Statement assesses the proposed development against the development plan policies of Wiltshire including the Core Strategy, any relevant saved North Wiltshire Local Plan policies and the 2017 made Great Somerford (incorporating Startley) Neighbourhood Plan, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

4.0 PLANNING LEGISLATION AND POLICY

4.1 The National Planning Policy Framework (NPPF) highlights that planning law (section 70 [2] of the Town and Country Planning Act 1990 and section 38 [6]

of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 4.2 The associated PPG confirms that the same applies to an application seeking permission in principle; “A decision on whether to grant permission in principle to a site following a valid application ... must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework and national guidance, which indicate otherwise” (Paragraph: 011 Reference ID: 58-011-20180615).
- 4.3 The development plan relevant to the appeal includes the Wiltshire Core Strategy (WCS) (adopted January 2015) and the Great Somerford (incorporating Startley) Neighbourhood Plan (GSPN) - Made November 2017. The key policies relevant to the ‘in principle’ matters of location, land use and amount of development are:-

Wiltshire Core Strategy

- Core Policy 1- Settlement Strategy
- Core Policy 2- Delivery Strategy
- Core Policy 13 - Malmesbury Community Area
- Core Policy 50 - Geodiversity and Biodiversity
- Core Policy 51 - Landscape
- Core Policy 57- Ensuring High Quality Design and Place Shaping
- Core Policy 58 - Ensuring the Conservation of the Historic Environment
- Core Policy 60 - Sustainable Transport
- Core Policy 61 - Transport and Development

Great Somerford (Incorporating Startley) Neighbourhood Plan

- Section 6: Settlement Boundary
- Section 7: Proposed New Development
- Section 9: Local Green Spaces

- Policy GSNP7
- Policy GSNP1
- Appendix D2

5.0 PLANNING ASSESSMENT

5.1 Returning to the nearby recent appeal decision at paragraph 1.5 above the inspector said the main issues were as below, and there is no reason to assess this proposal differently.

- whether the appeal site is a suitable location for the proposed development, having regard to policies for the delivery of housing;
- the effect of the proposal on the character and appearance of the area, including the Great Somerford Conservation Area and its setting; and
- whether the proposed development is in an accessible location, having regard to proximity to services and facilities and highway safety.

5.2 Wiltshire Core Strategy Policies CP1 and CP2 alongside community area-based policies; CP13 in this instance, define a hierarchy of settlements based on a range of services infrastructure and facilities in those locations and seeks to direct most new development to the most sustainable locations in this hierarchy. Core Strategy Policy CP13 sets out the spatial strategy for Malmesbury Community Area (MCA). It explains that development in the MCA should be in accordance with the Settlement Strategy set out in CP1. Within CP13 Great Somerford is identified as a Large Village where limited development is supported under the terms of CP1 and CP2 to meet the general needs of the area.

5.3 Although the site clearly falls within the apparent built-up limits of the village, it is acknowledged that it lies outside the defined settlement boundary, and thus in a countryside location. It is not tenable though to describe the site as falling within the open countryside.

5.4 Giving judgment in *Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610*, Lindblom J said paragraph 55 of the NPPF (applicable at that time) stated that local planning authorities “should avoid new isolated homes in the countryside

unless there are special circumstances". He continued to note: "Planning policies, whether in the development plan or in the NPPF, ought never to be over-interpreted. As this case shows, overinterpretation of a policy can distort its true meaning – which is misinterpretation."

- 5.5 He said paragraph 55 was "expressed in general and un-prescriptive terms", did not dictate a particular outcome for an application, contained no presumption and simply advised local authorities on how to promote sustainable development in rural areas. The paragraph's advice was to avoid "new isolated homes in the countryside", which Lindblom J said: "Simply differentiates between the development of housing within a settlement - or village - and new dwellings that would be 'isolated' in the sense of being separate or remote from a settlement".
- 5.6 He explained further: "Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand." The issue should be given its common application therefore, and as said, it is not tenable to consider the application site isolated and thus unsustainably located. The two neighbouring property's road cannot be more sustainable in practical terms than the application site, or the appeal site opposite.
- 5.7 New residential development in the 'open countryside' is strictly controlled to prevent new homes being in locations which are remote from services and facilities. Core Policy 2 of the Wiltshire Core Strategy states that other than in circumstances permitted by the exception policies, identified at paragraph 4.25, development will not be permitted outside the limits of development. The application development does not fall within the listed exceptions, but neither, by comparison with its immediate neighbours, is it isolated or remote from services and facilities.
- 5.8 Of course, policies CP1, CP2 and CP13 must also be placed in their appropriate context as it is understood that your Council still cannot demonstrate the required housing supply. The position is not as positive as the inspector described at paragraph 22, albeit she agrees at paragraph 29 that paragraph 11 (d) to the Framework is engaged. The presumption in

favour of sustainable development therefore tilts the assessment balance. Indeed, your Council's Briefing Notes No 22-09 and 20-20 have highlighted that in order to restore the five-year housing land supply, your Council will, inter alia,

'Positively consider speculative applications where there are **no major policy obstacles** material to the decision other than a site being outside settlement boundaries or unallocated'.(my emphasis)

- 5.9 Paragraph 11 of the NPPF notes that the relevant policies for the supply of housing should not be considered up to date if a local planning authority cannot demonstrate their required housing land supply and for decision taking this means that planning permission should be granted unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 5.10 Paragraph 61 of the NPPF states that, 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'.
- 5.11 Paragraph 73 states that small and medium sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly
- 5.12 Footnote 7 to paragraph 11 d) i. lists Local Green Spaces as a potential area of sensitivity whose protection may reduce the weight to be given to the tilted balance. Paragraph 106 to the NPPF clarifies that Local Green Space designation must be consistent with the local planning of sustainable development and 'complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.' The following paragraph indicates such designation should

not be used for extensive tracts of land and only where it is ‘demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife’.



- 5.13 The above extract from the GSNP shows that the application site is part of the much larger designated Local Green Space (LGS7). It is also clear that the designation made at the time of drafting the plan (over 10 years ago) included large tracts of land throughout the village. Furthermore, the plan’s text at section 9 does not provide a clear explanation for the designation of the site’s particular significance, other than perhaps the relationship to Manor Farm.
- 5.14 In *Lochailort Investments Ltd v Mendip District Council [2020] WWCA Civ 1259*, the High Court emphasised that Local Green Space (LGS) designation must be evidence based and policy compliant. If a designation fails those relevant tests (or is inadequately evidenced), it may attract reduced weight.
- 5.15 That weight is further nuanced as in *Hopkins Homes Ltd v Secretary of State for Communities and Local Government*, the Supreme Court confirmed that policies can become out of date where they restrict housing supply in the

context of a shortfall. Accordingly, as the LGS designation forms part of an effectively out-of-date plan, and was not examined against current housing need, then its weight may be reduced even if Footnote 7 is technically engaged. In that regard, and within the limited scope of the PiP application considerations even if LGS is a relevant Footnote 7 designation, the planning balance requires a high-level assessment whether the development on the small area in question actually amounts to the type of harm that LGS policy is designed to prevent. The mere presence of an LGS label does not eliminate planning judgment. The decision-maker must still assess the question of the scale of change, which clearly involves a small part of the site only, whether openness or special qualities are fundamentally harmed and ultimately whether the need for housing is sufficiently important.

- 5.16 The fact, as applicable to the appeal site opposite, that the application site lies in the Conservation Area where the statutory duty at paragraph 72 to the Planning (Listed Buildings and Conservation areas) Act 1990 requires the decision maker to seek to preserve or enhance the area's character and appearance reinforces that the tilted balance is permanently disapplied in every case where footnote 7 considerations arise. The preservation and enhance applicable in the Conservation Area, as agreed in the appeal decision for the nearby open space forces the conclusion that the small salient of land in question, and closely related to housing on both sides will similarly not harm the LGS designation.
- 5.17 LGS is a local designation, not a national protective designation like AONB or SSSI. It is of course also not intended as a nationally restrictive designation, such as Green Belt policy. It is common ground too that the Development Plan is out of date (e.g. housing land supply deficit), and the LGS designation predates the shortfall and was not examined against current housing needs, so that it follows that the LGS policy itself may be out of date under paragraph 11(d). An out-of-date policy cannot disapply the tilted balance. In *Wavendon Properties Ltd v Secretary of State for Levelling Up, Housing and Communities* [2019] EWHC 1524, the High Court confirmed that restrictive policies may be considered out of date where there is a housing land supply failure. Where the development plan is out of date, decision-

makers must apply the tilted balance unless a genuine Footnote 7 restriction applies. Consequently, as the LGS designation is part of an out-of-date Plan, its weight must be reduced and cannot reasonably be considered more restrictive the protection of the designated heritage asset, that washes over the Village. As said, even if LGS concerns exist, they do not automatically make residential development unacceptable in principle, particularly where, as in this case, it is a small site and housing land supply is deficient. The delivery of housing is a public benefit, reinforced by the Government's desire to significantly boost housing supply. The tilted balance is engaged with substantial weight in favour of sustainable housing. A local designation should therefore not frustrate national housing objectives unless clearly justified. The benefits of delivering housing significantly and demonstrably outweigh any limited policy conflict.

- 5.18 In terms of development in rural areas, paragraph 89 requires planning policies and decisions to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The corollary is that housing dependant on local services should be on land that is physically well related to existing settlements too, as noted by your Council's own Briefing Notes, and supported by the neighbouring appeal decision.
- 5.19 The NPPF at paragraph 110 also notes that sustainable transport solutions will vary between urban and rural areas, although it is of course strongly maintained that the application site is as equally accessible as the neighbouring properties located in the defined settlement limits. Public transport and cycling are realistically usable alternatives to private vehicle usage.
- 5.20 The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific

deliverable sites sufficient to provide 5 years' worth of housing land supply. The NPPF makes it clear that where this cannot be demonstrated, relevant policies for the supply of housing (which in this case would include CP1, CP2 and CP13 in relation to limits of development) cannot be considered up to date, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The above referenced Briefing Note action echoes the same approach.

- 5.21 The NPPF Paragraph 11d advises that policies which are most important for determining the application should therefore not be considered up to date. As a result, the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged so that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The Inspector's decision inserted earlier at paragraph 30 said;

30. The absence of harm to character and appearance and the preservation of the character and appearance of the GCSA and its setting are neutral factors in the balance. However, the development of rural homes in an accessible location which would help to support rural communities, services and facilities is a positive aspect of the scheme that weighs in its favour.

- 5.22 It can be seen therefore that whilst Core Policies 1, 2 and 13 of the Wiltshire Core Strategy are all important for determining the application, under the provisions of the NPPF these are all to be considered out of date. Indeed, the same applies to the Great Somerford Neighbourhood Plan. Officers will be aware that paragraph 14 of the NPPF is engaged, which means that as the Neighbourhood Plan is now over 10 years old (made November 2017), the decision-making process therefore defaults to paragraph 11d (the titled balance). The Local Plan Inspector's recent advice to withdraw the emerging new plan highlights the long-term hiatus anticipated to bring the plan led approach forward.

- 5.23 The absence of harm identified in the nearby appeal was primarily concluded from the inspector's assessment of the second main issue identified above 'Character and appearance'. The Inspector very clearly describes West Street at paragraph 8 as 'characterised by linear housing development of varying designs, ages and sizes. Some are set behind domestic hedges, others behind fences and historic stone boundary walls and others have a more open frontage. The overall sense travelling along the road is of being within a loosely developed village interspersed with gaps provided by field frontages. The appeal site is one such gap, positioned between existing development.' The application development will maintain the roadside boundary and merely continue the loose grain of housing, which varies spatially and by design.
- 5.24 The Inspector carries out the necessary statutory duty arising at section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which I have already referred to in considering the impact on the local LGS designation. The Inspector and notes that, 'Inevitably, the introduction of two dwellings to the appeal site would diminish the rural character of this undeveloped open land. The linear pattern of development along West Street would be extended. However, a wooded area fronting the road between the appeal site and the property directly to the south-west would remain, helping to maintain a degree of separation between pockets of development along the road. Properties are generally spaciouly arranged, within relatively large plots which the appeal scheme, proposing up to two dwellings within a generously sized site, could achieve.' The same is true for the application site as the boundary planting and walling will remain and the open vista along the definitive footpath route to the north helps to maintain the loose grain. Assuming the houses are configured in a tandem layout with access shared from the east there can be space around. It should be stressed that the site is raised from West Street and other than walking the footpath, there are limited views in depth. Again, as said by the Inspector, 'In terms of the overall character and appearance of the development, this would largely be addressed at the technical details consent stage which would, amongst other things, deal with landscaping, layout and design' (paragraph 12). She carried

on to say that however, she saw no reason why, 'given the existing site characteristics and context, that a development sympathetic to the character of the locality, including the GSCA and its setting, could not be secured'. This is true for the application now proposed.

5.25 With regard to this third issue identified, Great Somerford is identified in the adopted Core Strategy and emerging Local Plan Review as a Large Village. In the made Neighbourhood Plan, the available facilities in the village are described as follows:

4.5 Public amenities include the village shop, the primary school and pre-school, the pub, church, allotments, several public rights of way, the playground and some public green spaces. Apart from these businesses there are a number of others operating from local sites. Manor Stables and until very recently Broadfield Farm housed several business units. In total these were responsible for the employment of approximately 45 people and the Wiltshire Core Strategy seeks to maintain or enhance employment. There are also several businesses run from home.

5.26 The above is supported by the following statement taken directly from the Wiltshire Local Plan Rural housing requirements (2023) (Published September 2023) that says: -

Great Somerford benefits from a limited range of everyday essential services and facilities which support the resident population of the settlement. This includes a Londis convenience store and a public house (The Volunteer Inn). Additional housing development at Great Somerford has the potential to support the ongoing vitality and viability of the services and facilities at the settlement.

5.27 This is not a description of a village lacking in amenities and as agreed with the recent appeal inspector the location is a sustainable one. Paragraphs 16 to 21 of the appeal decision inserted earlier are directly applicable to the application site opposite.

6.0 CONCLUSIONS

6.1 By reference to the three main issues identified at paragraph 5.1 it is clear that, firstly, the relevant policies of the adopted Development Plan now carry limited weight due to their age. The guidance on rural housing in the NPPF (December 2023) is more up to date and the application development is consistent with this. The Council have a housing undersupply too. This planning application would provide much needed additional housing stock for

the village, supporting the viability of local services. The presumption in favour of such sustainable development weighs heavily in favour of the grant of permission. The principle and weighted balance is not diminished by the LGS as a local designation, of unfounded importance, and the nationally designated Conservation Area status.

- 6.2 The second issue relates to potential heritage impacts, and its landscape setting. In that regard the shape of the village is fragmented. It is dominated by ribbon development spread out along either side of the main streets with some pockets of houses in depth behind frontage development. The appeal proposals would be entirely consistent with this pattern and whilst the existing site is undeveloped it does not present as a unique gap site. Furthermore, there is a large variety of building sizes and architectural styles in the Conservation Area from both modern and earlier periods with no overall uniformity or vernacular. Consequently, as the recent appeal decision opposite confirms it is not possible to say that “in principle” a scheme of two additional plots would harm this context.
- 6.3 Thirdly, the village of Great Somerford has a good level of facilities including a primary school, church, pub, playing fields, bus service, village shop and post office. The application site lies within a sustainable and accessible location well within walking and cycling distance of key services including the local store and post office. For a rural location such as this, and mindful of the guidance within paragraph 110 of the Framework noting that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the proposal is considered acceptable.