

Appeal Statement of Case

Appeal Proposal: Permission in Principle (PiP) application for residential development consisting of a minimum of 4 no. dwellings and a maximum of 9 no. dwellings.

Address: Land at Brakenhill Mews, Upper Seagry, Chippenham, SN15 5EU.

LPA Reference No: PL/2025/09810

Appellant: Mr. & Mrs. Allun and Kate Sutherland

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Status	FOR SUBMISSION		

Revisions				
No.	Date	Summary of Changes	By	Approved
1	31.03.2026	Client comment.	DW	ED
2	13.04.2026	Client comment.	DW	ED

Table of Contents

1.	Introduction	1
2.	The Appeal Site and Surroundings	2
2.1	<i>The Appeal Site</i>	2
3.	The Appeal Proposal	4
3.1	<i>The Proposed Development</i>	4
4.	Relevant Planning History	7
5.	Relevant Planning Policy	8
6.	The Case for the Appellant	9
6.1	<i>Introduction</i>	9
6.2	<i>On the Definition of 'Infill' and the Proposed Development</i>	9
6.3	<i>On the Unsustainable Location for Development in the Open Countryside</i>	12
6.4	<i>On the Associated Harm to the Character and Setting of the Rural Location</i>	14
6.5	<i>Wiltshire Council's Housing Position</i>	15
7.	Planning Benefits	16
7.2	<i>Economic Benefits</i>	16
7.3	<i>Social Benefits</i>	16
7.4	<i>Environmental Benefits</i>	16
8.	Conclusion	17

Appendices:

- APPENDIX A** Copy of Decision Notice for PL/2025/09810
- APPENDIX B** Copy of the Officer's Report for PL/2025/09810
- APPENDIX C** Copy of Appeal Decision APP/Y3940/W/16/3154507
- APPENDIX D** Copy of Appeal Decision APP/Y3940/W/24/3352756
- APPENDIX E** Copy of Appeal Decision APP/Y3940/W/25/3367502
- APPENDIX F** Copy of Appeal Decision APP/Y3940/W/24/3348998

1. INTRODUCTION

- 1.1.1 Arena Global Management (AGM) Ltd is an independent and specialist town planning consultancy based in the City of Bath. AGM Ltd has prepared this Statement of Case on behalf of the Appellant, Mr. & Mrs. Allun and Kate Sutherland.
- 1.1.2 The appeal relates to the decision of Wiltshire Council to refuse Permission in Principle (PiP) for proposed residential development consisting of a minimum of 4 no. dwellings and a maximum of 9 no. dwellings on Land at Brakenhill Mews, in Upper Seagry.
- 1.1.3 The appeal site comprises of an existing commercial and equestrian yard. Given the nature and use of the site, a variety of existing buildings and paraphernalia are already present on the land, and this includes various stable buildings, an outdoor riding arena, a storage building (former Nissen Hut) and fenced off paddocks.
- 1.1.4 Permission in Principle was refused under delegated authority on the 05th of February 2026 for three reasons. These reasons are stated below:
- 1) *The proposed development, by reason of its location outside of any defined settlement boundary within the open countryside and not falling within the definition of 'infill' development, would be contrary to the settlement, delivery and community area strategies of the Wiltshire Core Strategy. The proposed development is deemed to be unsustainable as it would conflict with the Council's plan-led approach to sustainable development and is unacceptable in principle. The application therefore fails to accord with Core Policies 1, 2 and 10 of the Wiltshire Core Strategy; Saved Policy H4 of the North Wiltshire Local Plan; and Sections 2 and 4 of the NPPF.*
 - 2) *The proposal, located remote from a range of services, employment opportunities, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of private motorised journeys. New development should be located and designed to reduce the need to travel by private car and should encourage the use of sustainable transport alternatives. The site is in the open countryside and is not well served by public transport and as such, the vehicle movements associated with the site are likely to take place via private modes. The proposal is therefore contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy, and Paragraphs 115 and 117 of Section 9 of the NPPF.*
 - 3) *The proposed location of the development is on a clearly rural site which is visible from the public highway. The current character of the site complements its rural location and sits in context with its surrounding. Conversely, introducing a residential form of development on the site would irrevocably and demonstrably harm this character and setting. The impacts of the proposal would thus lead to conflicts with Core Policy 51(ii, iii, v, ix) (WCS) and Section 15 of the NPPF in terms of landscape and visual impact.*
- 1.1.5 Please refer to **Appendix A** and **Appendix B** of this Statement for a copy of the associated Decision Notice and Officer's Report.

2. THE APPEAL SITE AND SURROUNDINGS

2.1 The Appeal Site

- 2.1.1 The appeal site measures approximately 0.49 Hectares and comprises of an existing commercial and equestrian yard. Given the nature and use of the site, a variety of existing buildings and paraphernalia are already present on the land, and this includes various stable buildings, an outdoor riding arena, a storage building (former Nissen Hut), fenced off paddocks, and associated hardstanding.
- 2.1.2 Both access and egress to the site is served via an existing arrangement off of Seagry Road which is speed restricted to the National Speed limit of 60-mph.
- 2.1.3 **Figure 1** demonstrates the associated Site Location Plan.

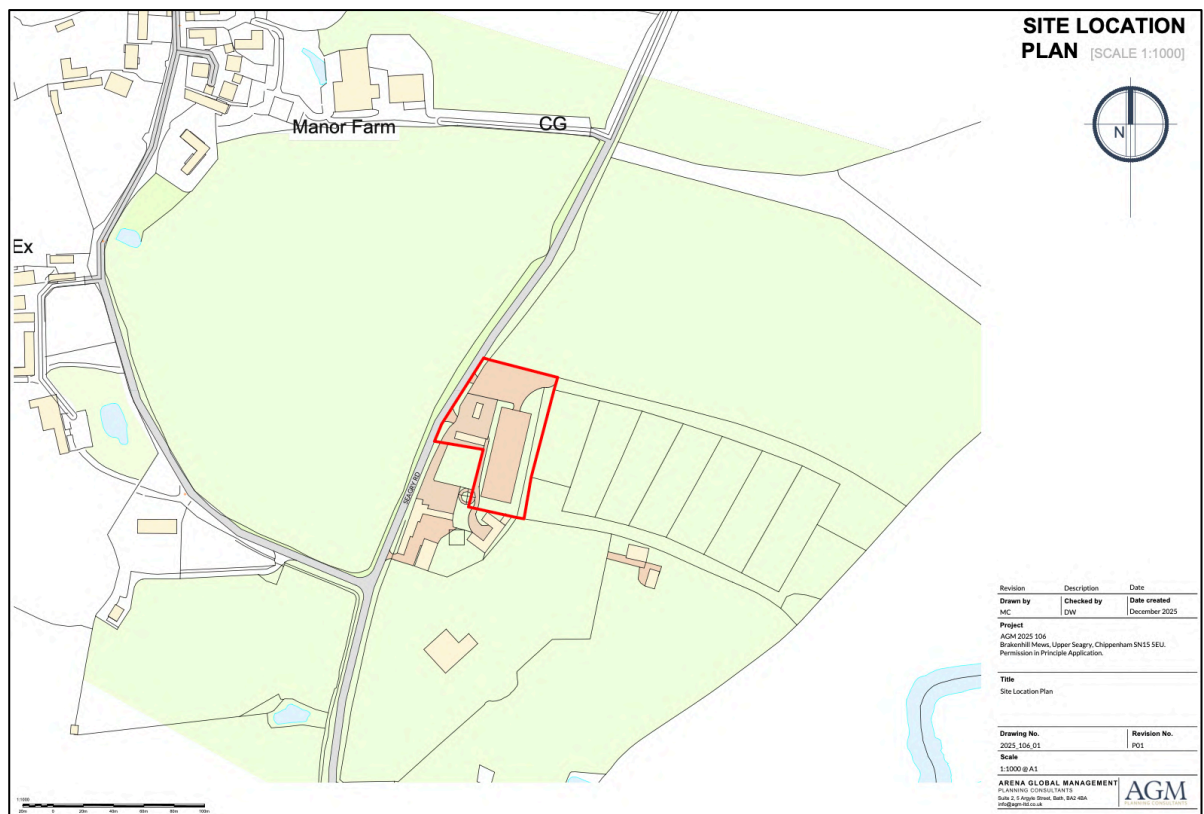


Figure 1: Site Location Plan (Ref: Drawing 2025 106-01-P01)

- 2.1.4 The appeal site is located within Upper Seagry which is a small village located to the north-east of Chippenham, Wiltshire. Given the nature of the location, the site is bound by agricultural fields to both the north, east and west; however, residential development in this area is not uncommon, with the closest residential dwelling being located approximately 85 metres south. Furthermore, additional dwellings are set out along the Unnamed Road, off of Seagry Road, in a traditional linear / ribbon form.
- 2.1.5 The village of Upper Seagry contains a number of local facilities and services which help serve its population. This includes a Church of England Primary School, a Village Hall, a Public House,

and a Recreation Ground. The large market town of Chippenham is located approximately 5.4 miles south of the application site. This contains a much wider range of facilities and amenities to sustain daily life practices, including national supermarkets, employment areas, a dedicated town centre, as well as a number of leisure opportunities and medical centres (including a community hospital).

2.1.6 The appeal site is considered to be within Flood Zone 1 which is afforded the lowest probability of flooding from rivers and the sea. The site is also considered to be located within a 'Low' risk of flooding from surface water. Core Policy 67 of the adopted Core Strategy document states that development in the plan area will follow a sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk in line with Government policy NPPF). In that respect, it is not considered that a Flood Risk Assessment is required for the purposes of this application, nor would one be required for any future Technical Details Consent (TDC) application.

2.1.7 The site is considered to be located within the following local and national planning-based designations:

- Outside of a Housing Development Boundary (HDB)

2.1.8 **Figure 2** provides some images of the appeal site for reference.



Figure 2: Images of the appeal site (taken 26/03/2026).

3. THE APPEAL PROPOSAL

3.1 The Proposed Development

3.1.1 The proposed development would look to provide the following:

- The proposed erection of residential dwellinghouses (Use Class C3).
 - For a minimum number of 4 no. dwellings; and
 - For a maximum number of 9 no. dwellings.
- Associated infrastructure and improvements incidental to the residential use.

3.1.2 The scope of the Permission in Principle (PiP) application is limited to location, land use and amount of development. Other matters outside the scope of the PiP will be considered at a subsequent 'Technical Details' consent stage. There is, therefore, no requirement for the submission of technical reports to accompany this appeal application.

3.1.3 An illustrative Proposed Site Plan has been provided to demonstrate that a minimum of 4 no. dwellings and a maximum of 9 no. dwellings can be satisfactorily accommodated on the site.

3.1.4 **Figure 3** demonstrates an indicative layout for the 4 no. dwelling scheme and **Figure 4** demonstrates an indicative layout for the 9 no. dwelling scheme.



Figure 3: Proposed Site Plan for 4 no. Dwellings (Ref: Drawing 2025 106-02-PO1).



Figure 4: Proposed Site Plan for 9 no. Dwellings (Ref: Drawing 2025 106-03-P01).

- 3.1.5 The re-use of brownfield land is heavily supported through the National Planning Policy Framework (NPPF). Paragraph 125(c) of the Framework gives "substantial weight to the value of using suitable brownfield land within settlements for homes" with the previous Paragraph 124 stating that "strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land".
- 3.1.6 The proposed development of between four to nine new build dwellinghouses will allow for the redevelopment of a brownfield site to provide essential houses in the village of Upper Seagry. It is proposed that any existing structure within the red-line boundary would be demolished to facilitate the development. However, the proposed development would be wholly contained and situated within the extent of existing structures on site which should be considered as previously developed land. Because of this, it is not considered that the development would elongate the village beyond that what is already there.
- 3.1.7 The proposed housing mix will be considered at a subsequent 'Technical Details' consent stage. However, it is considered that a suitable mix of dwellings could be achieved through the development proposal.
- 3.1.8 Both access and egress to the site is served via an existing arrangement off of Seagry Road which is speed restricted to the National Speed limit of 60-mph. As has been demonstrated on the Proposed Site Plan, the development could suitably serve and accommodate the level of vehicular parking that would be required for a development of this kind. In addition, each dwelling would benefit from sufficient space to incorporate a dedicated, secure cycle store and pedestrian footpaths would be provided throughout the site to improve legibility and accessibility.

- 3.1.9 Again, formal arrangements for these matters will be considered and addressed at a subsequent 'Technical Details' consent stage.
- 3.1.10 There is no requirement for the submission of technical reports to accompany this appeal application. However, in England, Biodiversity Net Gain (or BNG) is a mandatory requirement under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver an associated BNG of +10%.
- 3.1.11 This means a development will result in more or better-quality natural habitat than there was before development.
- 3.1.12 Whilst such matters will be considered and addressed at a subsequent 'Technical Details' consent stage, both Proposed Site Plans have incorporated specific areas within the development for the proposed planting and mitigation measures.
- 3.1.13 It is understood that a full Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment will be submitted in support of any subsequent 'Technical Details' planning application.

4. RELEVANT PLANNING HISTORY

- 4.1.1 The Wiltshire Council's online mapping service has been interrogated for previous planning applications on the land spanning a period of 'All Time' to the present day. The following applications have been returned and are replicated below for ease:

Application	Description
N/06/01774/COU	Change of Use of Land to Menage. Submitted: July 2006. Decision Date: September 2006. Decision: Approve with Conditions.
18/01585/PNCOU	Prior Approval for a Change of Use from Storage or Distribution Buildings (Class B8) and any land within its curtilage to Dwellinghouses (Class C3) - Town and Country Planning (General Permitted Development) (England) Order 2015 - Schedule 2, Part 3, Class P. Submitted: February 2018. Decision: Application Withdrawn.

5. RELEVANT PLANNING POLICY

- 5.1.1 A full breakdown of both the local and national planning policy background is set out within the 'Design & Access and Planning Statement' which accompanied the submission of the original planning application.
- 5.1.2 Whilst the Inspector's attention is drawn to this, it is not considered necessary to repeat the full contents here for the purposes of undue repetition. However, for ease, the following policies from the Local Development Plan are considered relevant to the determination of this appeal.

The Wiltshire Core Strategy 2015

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 10: Spatial Strategy for the Chippenham Community Area
- Core Policy 45: Meeting Wiltshire's Housing Needs
- Core Policy 60: Sustainable Transport
- Core Policy 61: Transport and Development
- Core Policy 62: Development Impacts on the Transport Network
- Core Policy 67: Flood Risk

- 5.1.3 The following policies from the National Framework are considered relevant to the determination of this appeal.

The National Planning Policy Framework (NPPF)

- Part 2: Achieving Sustainable Development
- Part 5: Delivering a Sufficient Supply of Homes
- Part 11: Making Efficient Use of Land

6. THE CASE FOR THE APPELLANT

6.1 Introduction

6.1.1 Given the reasons for refusal, it is considered that the principal planning matters relevant to the consideration of this appeal are as follows:

- Whether or not the proposed development would fall within the definition of “infill”.
- Whether or not the proposed development would represent an unsustainable location for development in the open countryside, thus sustaining the dependency on private car usage in the District.
- Whether or not the proposed development would harm the character and setting of the rural location which is visible from the public highway.

6.2 On the Definition of ‘Infill’ and the Proposed Development

6.2.1 Within the associated Delegated Report (see **Appendix B**) the officer concludes that:

“Being bound by open countryside on three of its sides, the site clearly falls outside the definition of ‘infill’ development.”

6.2.2 Whilst it is recognised that the above interpretation reflects a commonly referenced understanding of what may constitute infill development, it should be noted that this does not align with the specific definition set out within the adopted Local Development Plan (LDP). The LDP provides the relevant policy framework against which proposals should be assessed and therefore its definition should take priority in the consideration of whether the development can reasonably be regarded as infill.

6.2.3 Core Policy 2 of the Wiltshire Core Strategy 2015 (WCS) states that:

“At the Small Villages development will be limited to infill within the existing built area.”

6.2.4 The notion of ‘infill’ is specifically defined within the supporting policy text as “the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling.” In order for a proposal to constitute ‘infill’ development, it must also accord with and satisfy the following three criteria:

- i) Respects the existing character and form of the settlement
- ii) Does not elongate the village or impose development in sensitive landscape areas
- iii) Does not consolidate an existing sporadic loose knit areas of development related to the settlement

6.2.5 The application site is located within Upper Seagry, which is a “Small Village” located to the north-east of Chippenham but is outside the defined Housing Development Boundary (HDB). Accordingly, it is acknowledged that the proposed development would be in conflict with Core Policy 2 of the LDP which limits infill development to sites within the existing built area.

- 6.2.6 However, and with reference to Paragraph (i) of Core Policy 2, given the site's rural location, existing development is typically arranged in a traditional linear / ribbon form along the main road of Seagry Road as well as the Unnamed Road that branches off it and serves the majority of the village. Dwellings within the vicinity are typically set within moderately sized plots and are of varying semi-detached and detached dwellings, finished externally in local stone. Despite not being the norm, cul-de-sac development is not uncommon within the immediate locality with both the development of 'Manor Farm Close' and 'Broadleaze' being of such an arrangement. Given that this much is true, it is not believed that the proposed development, as part of this PiP application, would introduce an incongruous feature to the village.
- 6.2.7 Turning to Paragraph (ii) of Core Policy 2, the proposed development would be wholly contained and situated within the extent of existing structures on site which should be considered as previously developed land. Because of this, it is not considered that the development would elongate the village beyond that what is already there. Secondly, the application site is not understood to be located within any sensitive landscape area. Irrespective of this fact, the site is well screened from the road carriageway by a verdant hedgerow which runs along the property's western boundary.
- 6.2.8 Finally, when considering Paragraph (iii), to the north, the appeal site is bounded by agricultural fields. Whilst existing residential dwellings are present to the south, it is not considered that the proposed development would consolidate this arrangement and result in a detriment to either of the existing dwellings.
- 6.2.9 For these reasons, it is considered that the proposed development would accord with Paragraphs i - iii of Core Policy 2 of the LDP.
- 6.2.10 The LDP does not provide a specific quantum when considering how many units would represent "not more than a few dwellings". However, within a previous appeal decision (Ref: APP/Y3940/W/16/3154507) – which was an Outline application for the erection of up to 4 dwellings, similarly in Wiltshire – the Inspector noted that:
- "There is a tension between this phrase and "generally only one dwelling", but the "not more than a few" must on any common sense reading allow for more than one."*
- 6.2.11 Crucially, within this decision the Inspector concluded that four dwellings would still constitute only "a few" and allowed the appeal. Please refer to **Appendix C** for a copy of this appeal decision.
- 6.2.12 More recently, this assessment was similarly backed up by a different Inspector in January 2025 when considering a scheme for the erection of 4 residential dwellings against the refusal decision of Wiltshire Council (Ref: RAPP/Y3940/W/24/3352756). Within this appeal decision, the Inspector concludes that:
- "The proposed 4 dwellings would represent 'a few dwellings', and their scale and density would sit comfortably within the surrounding context, and not appear overly large or set apart. The appeal site and proposal would therefore meet the requirement of 'small gap'."*
- 6.2.13 Please refer to **Appendix D** for a copy of this appeal decision.
- 6.2.14 In addition to the above, the appellant wishes to draw the Inspector's attention to appeal Ref: APP/Y3940/W/25/3367502 which allowed permission in principle for the proposed erection of a minimum of 4 and a maximum of 8 dwellings at Kington Langley Garage in October 2025

following the refusal to grant permission by Wiltshire Council. As part of this decision, the Council's main objection concerned the principle of the development and its accessibility – which is not dissimilar to this appeal scheme.

- 6.2.15 The appeal site contained two large commercial buildings with associated yard areas and was positioned within a small development cluster which included residential properties, a place of worship and a pub. Whilst the small village of Kington Langley was nearby, it was physically separated from the appeal site by the A350 dual carriageway. When assessing the scheme, the Inspector concluded that:

"The proposed development would not be optimally located to reduce the need to travel and encourage the adoption of sustainable transport options. However, paragraph 110 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, therefore I attach moderate harm to the proposal's conflict with Policies CP1, CP2, CP10, CP60 and CP61 of the WCS.

In terms of benefits, paragraph 73 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and paragraph 89 of the Framework also gives substantial weight to the value of using previously developed land where suitable opportunities exist.

The proposal would provide up to 8 additional dwellings, thus making a modest but important contribution towards the area's housing requirement. Considering the magnitude of shortfall in the area's housing supply, the provision of 8 dwellings would make a valuable contribution, to which I assign substantial weight. I also afford modest favourable weight to the scheme's economic and environmental benefits along with a larger quantum of favourable weight to the utilisation of a brownfield site.

Consequently, the adverse impacts of the proposal associated with its location outside the development boundary and conflict with policies of the WCS, would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which is a material consideration that weighs heavily in favour of allowing the appeal."

- 6.2.16 Please refer to **Appendix E** for a copy of this appeal decision.
- 6.2.17 It is understood that Wiltshire Council can still only demonstrate a Five-Year Housing Land Supply of just **2.42 years** (published 18 June 2025) thus there continues to be a significant shortfall against the requirement to demonstrate a supply of deliverable housing land. For these reasons, Paragraph 11(d)(ii) of the NPPF should be engaged.
- 6.2.18 The submitted 'Design & Access and Planning Statement' acknowledges that the proposed development (as part of this appeal) would be in conflict with Core Policy 1 of the LDP which looks to focus strategic development to the identified Principal Settlements. However, the development is considered to accord with the definition of "infill" as set out within Core Policy 2 of the WCS. Furthermore, the appeal scheme would deliver a modest but important and valuable contribution towards the area's housing requirement which should be afforded significant weight within the overall planning balance.
- 6.2.19 In addition, the scheme would provide construction jobs and some local investment during its build out, as well as longer term expenditure of future occupiers in the local economy.

6.3 On the Unsustainable Location for Development in the Open Countryside

- 6.3.1 The second reason for refusal contends that the proposed development would represent an unsustainable location for development in the open countryside and sustain the dependency on private car usage in the District.
- 6.3.2 Again, it is not contested that the appeal site would be in conflict with Core Policy 1 of the LDP; however, it is important to consider the relevant caselaw. The Court of Appeal's judgment in *Bramshill v SSHCLG*¹ addresses the interpretation and application of policies in the National Planning Policy Framework ("NPPF") against the development of isolated homes in the countryside.
- 6.3.3 This judgement confirms that the correct interpretation of the concept of "isolated homes in the countryside" requires the decision maker to consider whether the development would be physically isolated, in the sense of being isolated from "a settlement" rather than being isolated from "other dwellings". It further states that the questions of: (i) what is a "settlement"; and (ii) whether the development would be "isolated" from a settlement, are both matters of planning judgment for the decision-maker on the facts of the particular case.
- 6.3.4 As noted previously, the village of Upper Seagry contains a number of local facilities and services which help serve its population. This includes a Church of England Primary School, a Village Hall, a Public House, and a Recreation Ground. However, the appeal site is separated from the main core of the village by a parcel of agricultural land. Although there are no formal pedestrian footpaths within the immediate proximity, PRow Footpath SEAG4 is located approximately 200 metres north of the site access and provides pedestrian routing into the village's centre.
- 6.3.5 Despite there being no formal pedestrian footpath or link from Seagry Road, it should be noted by the Inspector that there is in fact no formal footpath throughout the majority of the village – which includes access to the local primary school.
- 6.3.6 Within a recent appeal decision not too dissimilar to this PiP application (Ref: APP/F2605/W/25/3370598), the Inspector comments that:
- "... many dwellings along Fen Street, including those within the settlement boundary, also lack formal pedestrian infrastructure. As such, the absence of pavements would not be uncharacteristic of the local context nor would it be dissimilar to the position that many dwellings in the village are accustomed to."*
- 6.3.7 Within their assessment of the scheme, and as part of the planning balance, the Inspector concludes that:
- "Whilst the lack of footpaths leading into the village count against the scheme, noting that this is not unusual, particularly for occupiers of Fen Street, it need not be fatal."*
- 6.3.8 In addition, there are a number of bus stops located along Seagry Road which are served by the No. 91 and operated by Faresaver. This service provides weekday and Saturday routing from the village of Upper Seagry to other nearby conurbations including Dauntsey, Sutton Benger, Malmesbury, and Chippenham (including both the railway and bus station). Throughout the

¹ *City & Country Bramshill Ltd v Secretary of State for Housing, Communities And Local Government & Ors* [2021] EWCA Civ 320 (09 March 2021)

weekdays, there are a total of eight services which run throughout the day, and this includes peak commuting times both in the morning and in the evening. On Saturdays, there are a total of five services which similarly run throughout the day.

6.3.9 Recent appeal decisions within Wiltshire demonstrate that the likelihood of some reliance on the private car does not automatically render development unsustainable. Inspectors have consistently recognised that opportunities for sustainable transport vary between urban and rural areas, and that the key consideration is whether reasonable opportunities exist to access at least some day-to-day services without reliance on the private car.

6.3.10 Appeal Ref: APP/Y3940/W/24/3348998 considered the erection of 9 no. dwellings on land outside the defined settlement boundary in Chapmanslade. When discussing the matter of accessibility, the Inspector noted that whilst the village did not contain all of the services and facilities to meet the requirements of future residents, *“given the presence of some nearby services and facilities not all daily trips would require the use of the car.”*

6.3.11 Furthermore, the Inspector goes on to state that:

“The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Bus services are available from the High Street which provide access to higher order settlements. Whilst these services are relatively limited, they nevertheless offer an alternative to some trip which would otherwise be achieved by the use of private motor vehicles.”

6.3.12 For these reasons, the Inspector concluded that the appeal site is a suitable location for housing, having regard to the accessibility of services and facilities. Please refer to **Appendix F** for a copy of this appeal decision.

6.3.13 The appellant would also like to draw the Inspector’s attention to the consultation response received from the Council’s Highway Development Management (HDM) as part of the original PiP application. The HDM Officer states:

“As this would lead to separate dwellings outside of identified development boundaries, the proposal would usually attract an adverse highway recommendation on sustainability grounds as follows:

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2024, which aim to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. However, I shall be guided by you on this sustainability issue and wish to advise with regard to highways in the instance that you would be minded to permit a dwelling in this location.” [Emphasis Added].

6.3.14 The HDM response then goes on to assess:

“Other than the highlighted sustainability issue, the principle of residential dwellings would not be considered detrimental in terms of capacity within the public highway, provided parking and turning, as well as safe and convenient access can be satisfactorily accommodated and demonstrated.”

6.3.15 Within the Delegated Report, the officer appears to have taken this response and use it to frame an objection. However, it should be pointed out and made clear the HDM Officer does not explicitly object to the proposals but instead adopts a more neutral position, ultimately

concluding that the proposed development would not be considered detrimental in terms of capacity within the public highway. Whilst the HDM Officer does defer the matter of sustainability to the LPA (and this is acknowledged) it appears as though, on balance, the proposals could be considered acceptable from a Highways perspective given that a change to residential use “may be of benefit in reducing larger vehicle attraction associated with the existing use”.

- 6.3.16 Taking the above into account, it should therefore be reasonably considered that the application site forms part of the settlement of Upper Seagry from an ‘on the ground’ perspective. Furthermore, there clearly exists reasonable opportunities to utilise existing sustainable transport alternatives for journeys to other nearby conurbations thus reducing the alleged dependency on private car usage.

6.4 On the Associated Harm to the Character and Setting of the Rural Location

- 6.4.1 The third, and final, reason for refusal considers that the proposed location of the development is on a clearly rural site which is visible from the public highway. The current character of the site complements its rural location and sits in context with its surrounding. Conversely, introducing a residential form of development on the site would irrevocably and demonstrably harm this character and setting.
- 6.4.2 The scope of a Permission in Principle (PiP) application is limited to location, land use and amount of development. Other matters outside the scope of the PiP will be considered at a subsequent ‘Technical Details’ consent stage. There is, therefore, no requirement for the submission of technical reports to accompany this appeal application and no requirement for detailed design to have been carried out. The LPA’s conclusion that residential development would “irrevocably and demonstrably” harm the character of the area is therefore somewhat premature as the form and appearance of development have not yet been established and could be designed to respond positively to the site’s rural context.
- 6.4.3 As noted previously, the appeal site comprises of an existing commercial and equestrian yard on which a variety of existing buildings and paraphernalia is already present on the land – and this includes various stable buildings, an outdoor riding arena, a storage building (former Nissen Hut), fenced off paddocks and associated hardstanding. As such, the appeal site already has a ‘developed’ character and should be regarded as previously developed land in accordance with the NPPF’s definition.
- 6.4.4 It should also be noted that an existing dense hedgerow borders the site along Seagry Road and is approximately 3 metres in height. This further restricts views onto the appeal site and would act as a natural screen, lessening the perceived visual impact of development locally. In addition, the site slopes down towards the east meaning that the existing outdoor riding arena is situated some 4-5ft below the ground-level of the proposed access.
- 6.4.5 In justifying this reason for refusal, the LPA make reference to the district-level ‘North Wiltshire Landscape Character Assessment’ (CA). Within the Management Guidelines for the Avon Valley Lowland Landscape Character Area it is acknowledged that this states the overall objectives for the area are to conserve the rural character and ensure development of the urban fringe and communication corridors does not compromise the nature of the area. However, when discussing Landscape Sensitivity, the CA does state that:

“Only small-scale, sensitively designed development, appropriately associated with existing built form, could be successfully accommodated without adverse landscape impacts.”

- 6.4.6 The proposed development would achieve a minimum of 4 no. dwellings and a maximum of 9 no. dwellings. Given that such a quantum would not fall under the definition of 'Major' development, it should instead reasonably be concluded that the proposals would represent 'small-scale' development. Furthermore, and as noted previously, the proposed development would be wholly contained and situated within the extent of existing structures on site which should be considered as previously developed land. Because of this, it is not considered that the development would elongate the village beyond that what is already there and thus would be appropriately associated within the existing built form.
- 6.4.7 Furthermore, at present, the site comprises a somewhat fragmented and visually cluttered collection of structures and hardstanding associated with its commercial and equestrian use. These collectively detract from the overall rural character and appearance of the area. The introduction of a small-scale, well-considered residential scheme would therefore provide a noted opportunity to rationalise and visibly enhance the site, replacing the existing ad hoc arrangement with a more coherent and visually attractive form of development.
- 6.4.8 There is a recognition that detailed design (including a proposed landscaping strategy and biodiversity net gain assessment) would need to be provided as part of any 'Technical Details' consent stage. Therefore, there is a noted opportunity to accommodate residential development in this location without it resulting in any adverse landscape impacts. A variety of soft landscaping measures could be incorporated to soften the visual impact of development, and this premature assessment shouldn't have been enough to warrant a reason for refusal against the PiP application.
- 6.4.9 Finally, the Delegated Report makes reference to the site being classified as 'Grade 2' agricultural land which is understood to be the 'best and most versatile (BMV) category'. Irrespective of this fact, it is important to recognise that the appeal site is equestrian in use which does not fall within the definition of 'agriculture' under the Town and Country Planning Act 1990. Instead, it represents an entirely separate and distinct land use.

6.5 Wiltshire Council's Housing Position

- 6.5.1 It is understood that Wiltshire Council can still only demonstrate a Five-Year Housing Land Supply of just **2.42 years** (published 18 June 2025) thus there continues to be a significant shortfall against the requirement to demonstrate a supply of deliverable housing land.
- 6.5.2 For these reasons, Paragraph 11(d)(ii) of the NPPF should be engaged and hold a significant weight within the overall planning balance.

7. PLANNING BENEFITS

- 7.1.1 The proposed development would result in the following public benefits which should be considered in favour of the development and afforded significant weight in the overall planning balance:

7.2 Economic Benefits

- 7.2.1 The NPPF states that to help build a strong, responsive, and competitive economy, sufficient land of the right types should be made available in the right places and at the right time to support growth. The proposed development looks to achieve a minimum of 4 no. dwellings and a maximum of 9 no. dwellings which would provide an economic opportunity to the locality of Upper Seagry. Not only would the proposed development result in the additional income of Council Tax to the District, but it is also considered that opportunities will exist throughout the construction phase. This will result in the potential business and custom for local tradespeople and specialists. Furthermore, the existing local services and facilities would benefit from a potential new customer base and extended reach.

7.3 Social Benefits

- 7.3.1 The NPPF states that to support strong, vibrant, and healthy communities, a sufficient number and range of homes should be provided to meet the needs of present and future generations. As noted previously, it is understood that Wiltshire Council can still only demonstrate a Five-Year Housing Land Supply of just **2.42 years** (published 18 June 2025) thus there continues to be a significant shortfall against the requirement to demonstrate a supply of deliverable housing land.
- 7.3.2 The appeal scheme would deliver a modest but important and valuable contribution towards the area's housing requirement which should be afforded significant weight within the overall planning balance. In addition, it is considered that the proposed development could be delivered within a shorter timescale when compared to a larger scheme.

7.4 Environmental Benefits

- 7.4.1 The NPPF sets out that in order to protect and enhance our natural, built, and historic environment, development should make the most effective use of land, improving biodiversity and mitigating and adapting to climate change, including moving to a low carbon economy.
- 7.4.2 In England, Biodiversity Net Gain (or BNG) is a mandatory requirement under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver an associated BNG of +10%. This means a development will result in more or better-quality natural habitat than there was before development.
- 7.4.3 Although there is no requirement for the submission of technical reports to accompany this appeal application (and such matters will be considered and addressed at a subsequent 'Technical Details' consent stage), both Proposed Site Plans have incorporated specific areas within the development for the proposed planting and mitigation measures. The application, therefore, demonstrates a significant commitment to achieving the environmental objectives of the NPPF through its associated improvements and investment in BNG.

8. CONCLUSION

- 8.1.1 This 'Statement of Case' relates to the decision of Wiltshire Council to refuse Permission in Principle (PiP) for proposed residential development consisting of a minimum of 4 no. dwellings and a maximum of 9 no. dwellings on Land at Brakenhill Mews, in Upper Seagry.
- 8.1.2 The scope of the Permission in Principle (PiP) application is limited to location, land use and amount of development. Other matters outside the scope of the PiP will be considered at a subsequent 'Technical Details' consent stage. There is, therefore, no requirement for the submission of technical reports to accompany this appeal application.
- 8.1.3 It is understood that Wiltshire Council can still only demonstrate a Five-Year Housing Land Supply of just **2.42 years** (published 18 June 2025) thus there continues to be a significant shortfall against the requirement to demonstrate a supply of deliverable housing land. For these reasons, Paragraph 11(d)(ii) of the NPPF should be engaged and hold a significant weight within the overall planning balance.
- 8.1.4 The appeal site comprises an existing commercial and equestrian yard. Given the nature and use of the site, a variety of buildings and paraphernalia are already present, including stable blocks, an outdoor riding arena, a storage building (former Nissen Hut), fenced paddocks and associated areas of hardstanding. The proposed development of between four and nine dwellinghouses would enable the redevelopment of this previously developed (brownfield) site to provide a modest but important contribution to housing within the village of Upper Seagry. It is proposed that existing structures within the red-line boundary would be cleared to facilitate a more coherent form of development; however, the scheme would remain wholly contained within the extent of existing built form on the site. As such, it would not represent an encroachment into the open countryside or result in any material elongation of the village beyond its current extent.
- 8.1.5 Whilst it is acknowledged that the site lies outside of the defined settlement boundary and therefore gives rise to some conflict with the development plan, this must be considered in the context of the Council's housing land supply position and the presumption in favour of sustainable development. The proposal would not give rise to unacceptable impacts in terms of highways or landscape character and would deliver clear social, environmental and economic benefits – including the provision of new housing and the enhancement of an existing developed site. In simple terms, the limited harms identified would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework taken as a whole and the presumption in favour of sustainable development should therefore apply.
- 8.1.6 As such, having careful regard to the relevant policies of the adopted Local Development Plan (LDP) and the National Planning Policy Framework (NPPF), the appeal proposal is considered to be acceptable in principle.
- 8.1.7 It is, therefore, respectfully requested that the appeal is allowed.

Appendix A

Copy of Decision Notice for PL/2025/09810



The Town and Country Planning Act 1990 The Town and Country Planning (Permission in Principle) (Amendment) Order 2017

Refusal of Permission in Principle

Application Reference Number: PL/2025/09810

Decision Date: 05/02/2026

Applicant:	Mr and Mrs Allun and Kate Sutherland Brakenhill Mews, Upper Seagry, Chippenham, SN15 5EU
Particulars of Development:	Permission in Principle (PiP) application for residential development consisting of a minimum of 4 no. dwellings and a maximum of 9 no. dwellings.
At:	Land at Brakenhill Mews, Upper Seagry, Chippenham, SN15 5EU

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

Refusal Reason

- The proposed development, by reason of its location outside of any defined settlement boundary within the open countryside and not falling within the definition of 'infill' development, would be contrary to the settlement, delivery and community area strategies of the Wiltshire Core Strategy. The proposed development is deemed to be unsustainable as it would conflict with the Council's plan-led approach to sustainable development and is unacceptable in principle. The application therefore fails to accord with Core Policies 1, 2 and 10 of the Wiltshire Core Strategy; Saved Policy H4 of the North Wiltshire Local Plan; and Sections 2 and 4 of the NPPF.

Refusal Reason

- The proposal, located remote from a range of services, employment opportunities, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of private motorised journeys. New development should be located and designed to reduce the need to travel by private car and should encourage the use of sustainable transport alternatives. The site is in the open countryside and is not well served by public transport and as such, the vehicle movements associated with the site are likely to take place via private modes. The proposal is therefore contrary to Core

Policies 60 and 61 of the Wiltshire Core Strategy, and Paragraphs 115 and 117 of Section 9 of the NPPF.

Refusal Reason

- 3** The proposed location of the development is on a clearly rural site which is visible from the public highway. The current character of the site complements its rural location and sits in context with its surrounding. Conversely, introducing a residential form of development on the site would irrevocably and demonstrably harm this character and setting. The impacts of the proposal would thus lead to conflicts with Core Policy 51(ii, iii, v, ix) (WCS) and Section 15 of the NPPF in terms of landscape and visual impact.

Nic Thomas - Director of Planning, Economy and Regeneration

1. Appeals

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, he/she may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act, 1990. Forms can be downloaded from the web site: www.planning-inspectorate.gov.uk or accessed via the Planning Portal: <http://www.planningportal.gov.uk/planning/appeals>.

Appeals must be made within 6 months of the date of the refusal. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted by the Local Planning Authority, having regard to the Statutory requirements, to the provisions of the Development Order, and to any Directions given under the Order. A copy of the appeal documents should be sent direct to the Council using the following email address: planningappeals@wiltshire.gov.uk.

Appendix B

Copy of the Officer's Report for PL/2025/09810

APPLICATION FOR FULL-PLANNING PERMISSION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09810
APPLICATION TYPE:	Permission in Principle
SITE ADDRESS:	Land at Brakenhill Mews, Upper Seagry, Chippenham, SN15 5EU
DEVELOPMENT DESCRIPTION:	Permission in Principle (PiP) application for residential development consisting of a minimum of 4 no. dwellings and a maximum of 9 no. dwellings.
RECOMMENDATION:	Refuse

SITE DESCRIPTION / PROPOSAL

This application seeks Permission in Principle (PiP) for the erection of between 4no. and 9no. dwellings on a site of some 0.49ha located on the eastern side of Seagry Road some 600m north of where that highway crosses over the M4 motorway. To the immediate south of the site is the residential dwelling Brackenhill Mews, which forms one of a collection of several rural dwellings, including The Coach House, Hungerdown Lodge and Stable Cottage. To the north, east and west of the site is generally open agricultural land, with some paddock land to the immediate east of the site.

Along with a Site Location Plan, two separate Site Plans have been submitted demonstrating how the proposed range of dwellings could be accommodated on the site. These are only indicative at this in-principle stage and no further details have been provided. The Site Plan for the 4no. units shows these as detached dwellings arranged loosely around a cul-de-sac access drive; the 9no. units are shown as a terrace form along a slightly extended access spur. Extracts of the indicative layouts are shown below, which demonstrates that in each case access will be taken from the existing access from the highway serving the agricultural land:



Submitted Site Plans for 4no. and 9no. dwellings

The site is not within any conservation area and the nearest listed building is Seales Court, some 275m to the west of the site. There are no Public Rights of Way crossing or adjacent to the site, the nearest being SEAG4 which runs broadly east-west some 200m to the north of

the site. The site falls within flood zone 1 and is not shown to be at any elevated level of flood risk from other sources. The site is recorded as being Grade 2 Agricultural Land, which falls within the Best and Most Versatile (BMV) classification.

In the first instance, a decision on whether to grant permission in principle to a site 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. The scope of a PiP application is limited to consideration of issues of: (i) location; (ii) land use; and (iii) amount of development. Issues relevant to these 'in principle' matters should be considered at this permission in principle stage; other matters are left to be considered at the technical details consent stage.

PLANNING HISTORY

Proposal / Summary
18/01585/PNCOU - Notification Decision - Withdrawn Date: 28/3/2018 – Prior Approval for a Change of Use from Storage or Distribution Buildings (Class B8) and any land within its curtilage to Dwellinghouses (Class C3) - Town and Country Planning (General Permitted Development) (England) Order 2015 - Schedule 2, Part 3, Class
N/06/01774/COU - Full planning permission Decision - Approve with Conditions Date: 11/9/2006 – Change of Use of Land to Menage

RELEVANT LEGISLATION, POLICIES AND GUIDANCE

Statutory Legislation:

- The Town & Country Planning Act 1990

National Planning Policy:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide

Development Plan:

The development plan for Wiltshire comprises the *Wiltshire Core Strategy (WCS)* (*adopted January 2015*) and any made neighbourhood plans, which remains the principal statutory planning document guiding development across the county. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

The adopted *Wiltshire Core Strategy (WCS)*, with particular regard to:

- Core Policy 1 Settlement Strategy;
- Core Policy 2 Delivery Strategy;
- Core Policy 3 Infrastructure Requirements;

- Core Policy 10 Spatial Strategy for the Chippenham Community Area
- Core Policy 45 Meeting Wiltshire's Housing Needs;
- Core Policy 50 Biodiversity and Geodiversity;
- 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 & Development;
- Core Policy 62 Development Impacts on the Transport Network;
- Core Policy 67 Flood Risk;

Draft Wiltshire Local Plan Policies [delete/insert above as appropriate]

- Policy 1: Settlement Strategy
- Policy 2: Delivery Strategy
- Policy 3: Reserve sites and broad locations for growth
- Policy 4: Addressing climate change
- Policy 5: Securing infrastructure provision from new development
- Policies 6-20: Chippenham Area Strategy
- Policies 76 – 84: Social, housing, community, public open space and wellbeing
- Policies 85 – 101: Sustainability, ecology, water and landscape, heritage, air quality

The draft Local Plan is currently going through Examination and at this stage is subject to unresolved objections. As such, the policies contained within that draft Local Plan are considered to hold only limited weight.

Seagry Parish Neighbourhood Plan 2019 – 2036 ('SNP', Made May 2021)

- Objectives O1, O5, O6
- Planning Policy SNP6: Small Infill Development

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide (adopted April 2024)
- Wiltshire Local Transport Plan 2011-2026, adopted 2015 - including the Car Parking Strategy and Cycling Strategy, adopted 2015
- A Green & Blue Infrastructure Strategy for Wiltshire: Wiltshire's Natural Environment Plan 2022-2030
- Wiltshire Local Cycling and Walking Infrastructure Plan (LCWIP)
 - Active travel infrastructure design standards 2022
 - Active travel parking standards and design guide 2022
- LTN1/20 – Cycle Infrastructure Design (July 2020)
- Wiltshire Housing Site Allocations Plan, adopted 25 February 2020

ISSUES

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

- Location
- Land Use
- Amount of Development

CONSULTATION RESPONSES

Seagry Parish Council: Object on basis of being contrary to policy (Seagry Neighbourhood Plan/ Wiltshire Core Strategy/ NPPF), unsustainable and not well related to any settlement

WC Highways: Objection to the principle of development and sustainability of the site / No objection to highway impact or parking

REPRESENTATIONS

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the application was publicised by way of:

- A site notice displayed at the site;

These methods were used to inform interested parties and provide a period of 21 days for comments to be submitted.

Below is a summary of the representations received during the consultation period. Only material planning considerations have been taken into account in the assessment of this application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

2no. representations were received with regard to the application, both in objection raising the following points:

- Inappropriate and unsustainable location
- Policy conflict (Seagry Neighbourhood plan / Wiltshire Development Plan) / development should only be for infill within the existing settlement
- Danger of precedent being set

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In accordance with this statutory requirement, this application has been assessed against the relevant policies of the Development Plan, including the Wiltshire Core Strategy (2015) and, where applicable, any made Neighbourhood Plans. Consideration has also been given to the policies of the National Planning Policy Framework (NPPF) as a material consideration in the assessment.

The scope of assessment for the first stage of a PiP application is limited to 'in principle' considerations of **location**, **land-use** and the **amount of proposed development** only. In the event of approval in principle, the second stage, known as the 'technical details consent' stage, involves the submission of the detailed development proposals. The technical details stage involves assessment of all of the usual range of considerations that relate to full planning applications, for example design, appearance, layout, access, parking, landscaping, ecology and heritage impacts. The granting of a PiP application does not guarantee the acceptability of the proposals at the technical details consent stage.

Planning conditions cannot be imposed on the grant of PiP however conditions can be applied in the usual way at the technical details consent stage. Any PiP approved for residential development must be expressed indicating the minimum and maximum net number of dwellings which are, in principle, permitted. For a valid PiP application only a plan to identify the land to which the application relates is required.

Principle of Development

Location – Settlement Strategy

The main in principle issue is whether the proposed development would constitute a suitable location for new residential development. This is to be considered having regard to the settlement strategy set out in the Wiltshire Core Strategy (WCS), and the accessibility of the site in terms of services and facilities.

The Settlement Strategy and Delivery Strategy for the district are set out in Core Policy 1 and Core Policy 2 of the WCS respectively. Taken together these policies seek to direct new residential development to the existing urban areas and defined settlements to meet the general aims of promoting sustainable development and the protection of the countryside. The settlement hierarchy set out in the WCS is Principal Settlements, followed by Market Towns, Local Service Centres and then Large Villages – each of these sizes of settlement have designated settlement boundaries. At the lowest end of the hierarchy, 'Small Villages' do not benefit from designated settlement boundaries.

This application site is not situated within or adjacent to any designated settlement. The nearest designated settlement is Upper Seagry, which is some 300m to the north-west of the site.

Being bound by open countryside on three of its sides, the site clearly falls outside the definition of 'infill' development. The principle of the development of dwellings outside any recognised settlement boundary, and not constituting 'infill' development, would thus be contrary to the development plan, specifically Core Policies 1, 2 and 10 (WCS), as well as Saved Policy H4 (NWLP) which is relevant given the location of the site outside any settlement boundary, and Planning Policy SNP6 (SNP). For clarification, Saved Policy H4 does not fully align with the provisions of the NPPF, nor Core Policies 1 and 2 (WCS) and SNP6 (SNP), which are more up to date and are therefore afforded greater weight. The location of the site also gives rise to conflict with the sustainable transport objectives of the Core Strategy and NPPF, in particular Core Policies 60 and 61, as indicated by the Highway Officer response.

5 Year Housing Land Supply

The Wiltshire Housing Land Supply Statement (June 2025) provides the latest position on the Council's ability to demonstrate a five-year supply of deliverable housing land, which is a material consideration in the determination of planning applications.

The National Planning Policy Framework was revised in December 2024. This has reintroduced the requirement to meet five years' worth of deliverable sites and a buffer to be applied to the five-year housing requirement in all circumstances, and has revised the Local Housing Need calculation to establish the five-year housing requirement. These factors have resulted in a substantial increase in the five-year housing requirement to be met from the previous calculation. When this is assessed against the housing land supply which can be delivered within five years, the recalculation shows a significant reduction in the number of years supply. The resulting position shows that the Council can currently demonstrate a 2.42 years housing land supply of housing at a unitary authority level. This is considered to be a substantial shortfall.

The absence of a five-year housing land supply is a material consideration in the determination of this application. In accordance with Paragraphs 78 and 11(d) of the National Planning Policy Framework (NPPF), for applications involving the provision of housing, where there is a shortfall in the supply of deliverable housing sites, the most important policies for determining the application should be considered out of date. The current housing land supply shortfall is a factor that must be considered in the planning balance and in this case, as a five-year housing land supply cannot be demonstrated, the weight that can be applied to the most important policies for determining this application should be assessed and altered in the light of the shortage in housing land supply. The proposal must be assessed against the national policy context of the need to boost housing supply and the benefits of delivering new homes whilst having particular regard to the key policies set out in paragraph 11(d)(ii) and Footnote 9 of the NPPF.

Previously developed land

The Applicant has referenced that the site is 'previously developed land.' Paragraph 125(c) of the NPPF requires LPAs to *'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused...'* Previously developed land is defined within the NPPF as: *"Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; ..."*

Whilst the submitted Design Access & Planning Statement asserts that the use of the site is as 'commercial and equestrian yard'. However, it has not been demonstrated that the lawful use of the former Nissen Hut is 'commercial', and that notwithstanding, the majority of the site comprises generally open land of hardstanding / gravel / grass with some established trees,

along with a stable building to the southern boundary. Given the location of the site away from any defined settlement, coupled with the established generally rural character of the site (albeit in part equestrian rather than definitively 'agricultural'), the weight attributed to this site being 'previously developed land' as part of the planning balance is significantly reduced.

Location – Access to services and facilities

As a 'Small Village' in the settlement hierarchy, Upper Seagry has a corresponding range of facilities, including: primary school, public house and recreation ground. However, the site itself is not at all well connected to the settlement, being located on a 'C' classified highway with a speed limit of 60 and with no inter-connecting designated pedestrian routes or pavement, or available bus stops.

As such, whilst not 'isolated' in the technical sense, the site is not well related to the closest settlements and it would be unrealistic to anticipate that residents would travel to these by means of transport other than private car.

This is confirmed in the Highways Officer response, which states that:

As this would lead to separate dwellings outside of identified development boundaries, the proposal would usually attract an adverse highway recommendation on sustainability grounds as follows:

The site is located outside of any settlement policy boundary, raising concerns with regards to the sustainability of the site for residential development due to the likely reliance upon the private car for any occupants and their visitors. This proposal is therefore, in my opinion, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and Section 9 of the National Planning Policy Framework 2024, which aim to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives."

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

Reference to various appeal decisions in the submitted Planning Statement has been noted, but it is maintained that a number of recent appeal decisions in the County for similar forms of development at locations which were considered to be unsustainable have confirmed the importance of the connectivity and sustainability of the site in terms of acceptability – these are referenced in this report below.

Location – Landscape Character and BMV

The scope of this Permission in Principle application is restricted to the extent that detailed design and layout of the proposal cannot be considered at this stage. In principle, site specific locational factors to consider are the fact that the site is currently a parcel of agricultural / paddock land which is located within a rural and generally agricultural setting and very visible from the public highway.

The NPPF generally directs new development towards more sustainable locations and / or previously developed and brownfield sites. Section 15 of the NPPF relates to the natural environment, and Core Policy 51 (WCS) requires development not to have a harmful impact on landscape character, including:

“ii. The locally distinctive character of settlements and their landscape settings.

iii. The separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe’.

The district-level North Wiltshire Landscape Character Assessment identifies the site as being within the Open Clay Vale / Avon Valley Lowland Landscape Character Area. The Assessment notes that this large landscape area, which stretches from Chippenham to Malmesbury is predominantly flat and with ‘arable dominating the freer draining higher-grade agricultural land’ (4.200). The Management Guidelines include an overall objective to ‘conserve the rural character, and ensure development of the urban fringe does not compromise the nature of the area’ (4.211).

Thus, the extension of built form into the countryside at this rural location would be detrimental to the general landscape character of the area and the spread of residential development outside of any settlement boundary as proposed would lead to landscape harm and as such contrary to Core Policies 51 and 57 (WCS).

The site is classified as being Grade 2 agricultural land, which falls within the ‘best and most versatile (BMV) category. The NPPF is clear that the ‘best and most versatile’¹ agricultural land should be reflected in planning policy and decisions. However, given the scale of land which would be lost from productive agricultural use in this instance (0.49ha), it is not considered that this scale is ‘significant’ (in the context of footnote 65 of the NPPF and the 20ha threshold used to trigger an assessment by Natural England) and as such would not represent a justifiable reason for refusal in this instance.

Location – Access

Aside from the locational and sustainability arguments put forward by the Highway Officer’s response (as above), the Highway Officer has not raised any specific concerns regarding access to the site, or the capacity of the local highway network to accommodate the increase in movements arising from additional dwellings. The existing access is sufficient such that no works are required to the access which would give rise to any character or townscape / landscape impacts. On this basis, access and highway capacity / safety issues would not warrant refusal of the application.

¹ ‘Best and most versatile agricultural land’ is defined in the NPPF Glossary as: ‘Land in grades 1, 2 and 3a of the Agricultural Land Classification.’

Location – Ecology

The site is not shown to be subject to any specific ecology designations. No ecology surveys have been provided as part of this application but should there be any potential for bats or any other protected species at the application site, this would need to form part of the technical details approval. Details how Biodiversity Net Gain is achieved would also be required at that technical details stage.

Land Use

The NPPF outlines the Government's objective to significantly boost the supply of homes. WCS Core Policies 1 and 2 are the Local Plan's overarching policies in respect of establishing suitable locations for sustainable new development. The parameters of these policies are quite clear in setting out in spatial terms where new housing is considered to be sustainably located and thus acceptable. The arguments regarding the acceptability of the principle of new housing on this site are set out above.

Amount of Development

The amount of development, namely the range of 4no. to 9no. dwellings, is not considered to give rise to any specific impacts on the amenities of occupants of neighbouring properties. Based on the submitted indicative Site Plans, the 'amount' of development in this instance would not represent any specific reason for refusal, other than the scale of development and trips generated from a site which is considered to be unsustainable.

Other matters

Scope of application type

The application is a Permission in Principle and therefore detailed consideration of such matters as neighbour amenity, impact on the character and appearance of the area, drainage, access / highway safety and ecology would be considered as part of the technical details stage. These matters have been considered within this report from an in-principle viewpoint only to be able to consider location, land use and amount of development.

Other application / appeal cases

The submitted Supporting Statement references other appeal decisions which are considered relevant to this application proposal. However, conversely there are a number of recent appeal decisions which have been dismissed for sites which are considered unsustainable, as referenced below². By way of example however, the Inspector concluded with regard to the main issue as to: 'whether or not the site is suitable for residential land use, having regard to its location and its accordance with the spatial strategy of the development plan' for 3361696 that:

² For example (and not exhaustive but most recent only):

3371671 Land at The School, The Green, Biddestone, Wiltshire, SN14 7DG (19 December 2025)
3367300 Land at 20 Malmesbury Road, Leigh, Cricklade, Wiltshire SN6 6RH (27 November 2025)
3364563 Land to the north of Newtown Road, Ramsbury, Wiltshire SN8 2PP (11 September 2025)
3361696 Land at Tiddleywink, Yatton Keynell, Wiltshire SN14 7BY (03 September 2025)

“15. Taking the above into account, ... I conclude that the appeal site would not be a suitable location for residential land use and would conflict with the spatial strategy of the development plan, specifically WCS policies CP1, CP2 and CP10. I have no firm reason to find that there would be unacceptable impacts on highway safety or the road network, but the proposal would be contrary to the National Planning Policy Framework (the Framework) insofar as it seeks to minimise the number and length of journeys required by households and to offer a genuine choice of transport modes.”

And similarly for 3364563 that:

“20. In view of the above and recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I find that the proposal would allow future occupiers access to a reasonable range of village services within walking or cycling distance, along with bus services to other settlements. However, future occupants would still be likely to be generally dependent on the use of a private motor car to access services, facilities and employment in larger settlements.

21. As such, the location of the proposed development would conflict with the spatial strategy of the development plan, in particular its accessibility to services and facilities, namely WCS policies CP1, CP2 and CP14 and policy CP61.”

And similarly for 3367300 that:

“11. Therefore, even taking into account that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, for the above reasons, residential development in the proposed location would cause a moderate level of harm to the settlement strategy in the development plan. It would conflict with WCS Core Policies 1, 2, 13, 60 and 61 which seek to control development outside the defined limits of development; ensure that development takes place in sustainable locations and is located to reduce the need to travel particularly by private car.”

Clearly, each case must be treated on its own merits, but the above extracts do demonstrate the importance of the sustainability of the site in terms of transport connections and options for travel by more sustainable modes.

PLANNING BALANCE AND CONCLUSION

At the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

Having regard to paragraph 11(d) of the National Planning Policy Framework and the provisions of footnote 7, the Local Planning Authority considers that the presumption in favour of sustainable development (‘tilted balance’) is engaged. This is because relevant policies of the development plan are considered out-of-date.

In terms of considering how much weight to apply to the housing policies of the WCS, the extent of the lack of five-year housing supply has been considered. The higher the shortfall, the greater the need for additional unplanned housing sites to meet this need. As such, whilst there is a need to identify additional sites for housing, and allow windfall and unplanned development in suitable locations, these should be in sustainable locations with an identified need, and proposals remain to be assessed against the particular constraints of any specific site.

A consideration of the potential benefits and adverse effects associated with the principle of this development is set out below:

Benefits of the Proposal

The proposal would provide a modest contribution of open-market housing towards addressing the county-wide shortfall. There would be some employment and economic benefits associated with the construction phase although given the scale of development the weight to be attached to this benefit would be limited and temporary.

There would also be some benefits for the local area regarding increased economic expenditure from new residents; however, again this would be relatively limited given the scale of the proposal and would generally be outside of the settlement given the paucity of facilities available within proximity of the site and within the Parish. There would also be some biodiversity net gain benefit, as well as contributions towards community infrastructure.

Adverse Effects

Whilst Wiltshire Council cannot currently demonstrate a five-year supply of deliverable housing land, this does not render development plan policies relating to the principle of development irrelevant; such policies remain capable of attracting significant weight where they align with the National Planning Policy Framework in directing growth to the most sustainable locations. This is the case here.

The proposed dwelling would be in a location which has generally poor access to local services and facilities and is contrary to the development plan's housing delivery policies. In a plan-led system there is significant harm in granting consent for new housing in a location contrary to the development plan's housing delivery policies, which directs housing to suitable and sustainable locations. As such the proposal does not represent sustainable development in the context of the WCS and the NPPF and would be contrary to Core Policies 1, 2, 10, 60 and 61, as well as Saved Policy H4. Substantial weight is attached to these conflicts.

The site is neither within nor adjacent to any designated settlement and is located within the open countryside for the purposes of planning policy. Residential development of this site, which has a clearly rural character, would introduce a contrasting and incongruous form of development within this rural area which would alter the visual appearance and prevailing rural character of the site and area and would result in landscape harm, leading to conflict with Core Policies 51, 57 and 58 (WCS) and Sections 12, 15 and 16 of the NPPF.

It is acknowledged that the NPPF makes note of the contribution that can be made by small and medium sized sites and windfall developments. However, these are clearly directed

towards previously developed land and existing settlements as more sustainable solutions to meeting the current housing shortfall.

Planning Balance

Overall, the provision of between 4no. and 9no. dwellings would make a relatively limited contribution towards the supply of open market housing in an area with an under supply. There would also be a relatively modest amount of social and economic benefits arising from the construction phase and future spending of occupants. However, given the scale of proposed development these benefits are afforded limited weight.

When assessed against the policies in the NPPF taken as a whole, and its overarching objectives of sustainable development, there is conflict arising with the spatial policies of the Wiltshire Core Strategy – specifically Core Policies 1, 2 and 10 (WCS) and SNP6 (SNP). The Council's settlement strategy set out in the Core Strategy clearly directs applicants to the locations that it has assessed as being sustainable and suitable for new development in order to conserve countryside, protect undeveloped green spaces and reduce reliance on the private car for the majority of journeys.

Coupled with the adverse landscape impacts arising, these locational and sustainability concerns would significantly and demonstrably outweigh the benefits arising.

RECOMMENDATION:

That Planning Permission be REFUSED for the following reasons:

1. The proposed development, by reason of its location outside of any defined settlement boundary within the open countryside and not falling within the definition of 'infill' development, would be contrary to the settlement, delivery and community area strategies of the Wiltshire Core Strategy. The proposed development is deemed to be unsustainable as it would conflict with the Council's plan-led approach to sustainable development and is unacceptable in principle. The application therefore fails to accord with Core Policies 1, 2 and 10 of the Wiltshire Core Strategy; Saved Policy H4 of the North Wiltshire Local Plan; and Sections 2 and 4 of the NPPF.
2. The proposal, located remote from a range of services, employment opportunities, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of private motorised journeys. New development should be located and designed to reduce the need to travel by private car and should encourage the use of sustainable transport alternatives. The site is in the open countryside and is not well served by public transport and as such, the vehicle movements associated with the site are likely to take place via private modes. The proposal is therefore contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy, and Paragraphs 115 and 117 of Section 9 of the NPPF.
3. The proposed location of the development is on a clearly rural site which is visible from the public highway. The current character of the site complements its rural location and sits in context with its surrounding. Conversely, introducing a residential form of development on the site would irrevocably and demonstrably harm this character and

setting. The impacts of the proposal would thus lead to conflicts with Core Policy 51(ii, iii, v, ix) (WCS) and Section 15 of the NPPF in terms of landscape and visual impact.

Appendix C

Copy of Appeal Decision APP/Y3940/W/16/3154507

Appeal Decision

Site visit made on 17 November 2016

by Jane Miles BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 February 2017

Appeal Ref: APP/Y3940/W/16/3154507

Land off The Mews, Lydiard Millicent, Swindon SN5 3NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Custom Land Limited against the decision of Wiltshire Council.
 - The application ref: 16/03969/OUT, dated 18 April 2016, was refused by notice dated 13 June 2016.
 - The development proposed is erection of up to 4 dwellings.
-

Decision

1. *The appeal is allowed and outline planning permission is granted for the erection of up to 4 dwellings on Land off The Mews, Lydiard Millicent, Swindon SN5 3NR, in accordance with the terms of the application, ref: 16/03969/OUT, dated 18 April 2016, subject to the conditions listed at the end of this decision.*

Preliminary Matters

2. The appeal application is made in outline, but includes means of access from The Mews. Scale, layout, appearance and landscaping are reserved matters for future consideration, such that no specific numbers or types of dwelling are proposed at this stage. Moreover, although the application includes three alternative layout plans¹, these are clearly labelled as 'options' and I have had regard to them as being for illustrative purposes only.
3. After the final comments stage of this appeal the Council made a further written submission in the light of the publication, in November 2016, of its 'Housing Land Supply Statement, Base Date: April 2016' (HLSS 2016) and also a recently issued appeal decision². Given the representations made in this appeal I have taken into account both that submission and the appellant's written responses to it.

Reasons

4. The **main issue** in this appeal is whether the site is an appropriate location for the proposed development, having regard to development plan policy, the *National Planning Policy Framework* and other planning considerations.

¹ Option A is a layout for three dwellings, whilst Options B and C are alternative layouts for four dwellings

² Appeal ref: APP/Y3940/W/16/3141391, decision dated 26 September 2016

Policy context and site location

5. The starting point in this respect is the development plan. In particular Core Policies 1 (Settlement Strategy) and 2 (Delivery Strategy) of the Wiltshire Core Strategy (CS) (2015) comprise the over-arching strategy for the location of new development in the county. In addition, CS Core Policy 19 relates to the Royal Wootton Bassett and Cricklade Community Area and it is in this policy that Lydiard Millicent is identified as a 'small' village.
6. Core Policy 1 sets out that development at 'small' villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. The combined effects of Core Policies 1 and 2 are that development in small villages will be limited to 'infill within the existing built area' but, for such villages, there are no defined settlement boundaries. However 'infill' is specifically defined in the supporting text to Core Policy 2 as "the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling". A proposal constituting infill development should also satisfy the three further criteria set out in the policy itself.
7. The Council's case that the appeal proposal would not constitute an infill development appears to be based solely on the site's potential to accommodate four dwellings, presumably on the basis that is considered to be "more than a few". There is a tension between this phrase and "generally only one dwelling", but the "not more than a few" must on any common sense reading allow for more than one. Moreover I consider 'four' to be only a few. In the absence of any other guidance in the CS, and bearing in mind that the appeal application is in outline only and includes an illustrative layout for just three dwellings, I find no grounds to conclude on this basis that the appeal proposal would not be infill development.
8. Responses from the Parish Council and local residents also refer to the nature of infill development including, in one instance, reference to a High Court judgment³. However I am not aware of any unique or nationally applicable definition for this purpose and that is understandable, given that development plans are an opportunity to focus on the particular requirements of the areas to which they relate. Thus it is the CS definition which applies in this case, and none of the alternative definitions alter my findings on this aspect of defining infill development.
9. I find the more significant matter, which would normally be the first stage in any assessment, to be whether the appeal site can reasonably be considered to constitute "a small gap within the village". The small appeal site approximates to a square shape beyond a short driveway off the end of a cul-de-sac. Apart from the width of the driveway it is fully enclosed on three sides by existing residential properties. The fourth, south-east, side adjoins open land but more or less lines through with the south-east boundaries of adjoining properties to the north-east and south-west: it does not project out into the countryside. I therefore find it reasonable in this particular site context to conclude that the appeal site is a small gap in accordance with the CS definition of infill development. Doing so is consistent with the Council's reference to the site as being 'located within Lydiard Millicent'⁴.

³ Described in that letter as "a judgement in the High Court before Mr Justice Lindblom dated 31st July 2015": neither a court reference number nor the full text has been provided

⁴ At paragraph 7.1 of the Council's appeal statement

10. Turning to whether the proposal would meet housing needs of settlements, the wording of CS Core Policy 2 does not require a proposal to meet the needs of the particular settlement in which it would be located. Nonetheless the Parish Council refers to a 2013 Housing Survey which identified a need for bungalows and older peoples' accommodation and starter homes rather than large detached homes. Firstly however the Council would in this case be able to influence the number, size and type of dwellings at the reserved matters stage (albeit no specific requirements are included in its suggested conditions). Secondly two of the illustrative layouts include a pair of semi-detached dwellings and, in comparison with the footprint sizes of nearby houses and bungalows, none of the dwellings in the illustrative layouts appear especially large. I therefore find no conflict with Core Policy 2 in this respect.
11. A small but relatively spacious development infilling this gap amongst existing dwellings would respect the village's existing character and form without elongating it or extending into sensitive landscape areas. It would not project any further into the countryside separating the village from the built-up edge of Swindon than existing adjacent dwellings. Nor would it consolidate any loose-knit areas of development. The appeal proposal would therefore satisfy all three of Core Policy 2's criteria for infill development in small villages.
12. It follows from the preceding paragraphs that I conclude the appeal proposal would not conflict with or undermine the CS strategy which seeks to achieve a sustainable pattern of development. The appeal site would, in principle, be an appropriate location for the proposed development.

Other considerations, conclusions and conditions

13. The appellant's case relies in part on the housing land supply position because the Council was unable to demonstrate a five-year supply of deliverable housing sites in its North and West Housing Market Area (HMA) when the appeal was lodged. The updated HLSS 2016 indicates that position is unchanged but, as the Council notes, the shortfall (with 5% buffer) has reduced from 0.27 years previously to 0.12 years in 2016. That acknowledged shortfall is very small, but nonetheless it means paragraph 49 of the *Framework* is engaged, relevant policies for the supply of housing should not be considered up-to-date and there is a presumption in favour of sustainable development. Further to *Framework* paragraph 14, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole, unless material considerations indicate otherwise.
14. I note the various points made in the representations regarding whether CS Core Policies 1, 2 and 19 are relevant policies for the supply of housing and, if so, what weight they might be given. A conflict with those policies is the Council's only reason for rejecting the appeal proposal, but I have already concluded there would be no such conflict and thus no adverse impacts in this respect. Thus in these particular circumstances I see no need to assess matters relating to the relevance and weight of the CS policies.
15. In relation to the various other matters raised by the Parish Council and by local residents I note firstly that, due to its small size, the development's impacts on the form, character and infrastructure of the village would not be significant. On highway matters, even in this position at the head of a cul-de-sac, additional activity and vehicle movements associated with just three or four dwellings is unlikely to be significant. Having to place refuse/recycling

- bins for collection on the highway at the end of the cul-de-sac is negative feature, but that would occur for relatively short time periods and it would not be reasonable to reject the proposal on this basis.
16. There would be scope at the reserved matters stage to secure a layout with adequate parking and turning space within the site. A scheme for surface water drainage could also be required by condition, which would be an appropriate means of addressing any potential surface water flooding issue. Planning conditions could also ensure appropriate measures in relation to existing trees and biodiversity.
 17. I have found nothing to support a resident's view that the appeal site is in the Green Belt. As I understand it, a start has been made on a neighbourhood plan for the village but this is still at an early stage and there is no draft plan in the information before me. I have already noted that the development proposed in this appeal would not extend any further out into the countryside than adjoining properties. Allowing housing on this small site amongst existing dwellings would not set any precedent for developing land in the countryside beyond, which separates the village from Swindon. None of these matters, nor any other matter raised, constitutes a harmful or adverse impact that weighs against the proposal to any significant degree.
 18. Moreover the appeal proposal would be beneficial in adding a few dwellings to housing land supply in the North and West HMA, with some consequent social and economic benefits. Overall therefore I find firstly that the appeal proposal would accord with the development plan. Secondly, bearing in mind that the Council cannot currently demonstrate a five-year housing land supply, I have found no adverse impacts which would significantly and demonstrably outweigh the benefits of granting permission, when assessed against policies in the *Framework* taken as a whole. It follows therefore that I conclude the appeal should succeed and outline permission should be granted subject to conditions.
 19. A condition specifying the plans to which the permission relates is appropriate for the avoidance of doubt and in the interests of proper planning. A condition relating to protection of existing trees is justified in the interests of visual amenity (albeit in the absence of any reference elsewhere to a Tree Protection Order I have taken the Council's suggested condition referring to such an Order to be an error). Compliance with the recommendations of the submitted ecological appraisal is important to minimise impacts on habitats and any protected species and to promote biodiversity. As the site is close to existing dwellings, a construction method statement is reasonable and necessary in the interests of residential amenity at nearby dwellings.
 20. Further details of measures to deal with surface water drainage are necessary to ensure adequate provision for such drainage. However there is no need for a condition relating to foul drainage, given the intention to connect to a foul sewer that passes through the site. The conditions which follow reflect those suggested by the Council, with some variation in the light of the preceding comments and in the interests of precision and clarity.
 21. *Outline planning permission is granted subject to the following conditions:*
 - 1) This permission relates to the following plans: drawing nos. 177-P-003 (site location plan) and 100-21225 (site access layout).
 - 2) No development shall take place until details of appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") have been

submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.

- 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 5) No site clearance, preparatory work or development shall take place until a plan indicating the positions of trees to be retained together with measures for their protection during the course of development has been submitted to and approved in writing by the local planning authority. The tree protection measures shall be implemented in accordance with the approved details. No tree identified for retention shall be cut down, uprooted or destroyed. Nor shall any retained tree be topped or lopped other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time as specified in details that have first been submitted to and approved in writing by the local planning authority.

- 6) No development shall commence on site until a scheme for surface water drainage (including drainage from the access/driveway), incorporating sustainable drainage measures, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 7) Development shall be carried out at all times in accordance with the recommendations at Section 5 of the Preliminary Ecological Appraisal by Clear Environmental Consultants, dated 2 July 2016.
- 8) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include details of hours of construction (including deliveries) together with provisions for: the parking of vehicles of site operatives and visitors; loading, unloading and storage of plant and materials; wheel washing facilities; measures to control emission of dust and dirt during construction; recycling/disposal of waste from construction works. Development shall be carried out at all times in accordance with the approved Statement.

Jane Miles

INSPECTOR

Appendix D

Copy of Appeal Decision APP/Y3940/W/24/3352756



Appeal Decision

Site visit made on 23 January 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/Y3940/W/24/3352756

Land opposite Nos 6 and 7 Silver Street, Gastard, Corsham, Wiltshire SN13 9PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Peter Collier against the decision of Wiltshire Council.
 - The application Ref is PL/2024/01979.
 - The development proposed is the erection of 4 residential dwellings, access, footpath extension, landscaping and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 residential dwellings, access, footpath extension, landscaping and associated works at Land opposite Nos 6 and 7 Silver Street, Gastard, Corsham, Wiltshire SN13 9PY in accordance with the terms of the application, Ref PL/2024/01979, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government published in December 2024 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.
3. It is evident that the comments received from the Council's Conservation Officer dated 10 May 2024 were superseded by comments received on 27 June 2024. As such, I have not taken the first comments into account.

Main Issues

4. The main issues in this case are:
 - whether the appeal site is a suitable location for the proposal having regard to the development plan and national strategy, including accessibility to services and facilities; and
 - the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Location

5. The appeal site consists of a field adjacent to Silver Street, currently free and open from development save for a small timber outbuilding (stables). The field is located

between residential dwellings facing Silver Street and a commercial buildings and bungalow. To the rear are open, undeveloped fields and on the opposite side of Silver Street are residential properties, a commercial workshop and open fields.

6. Policies 1 and 2 of the Wiltshire Core Strategy (2015) (CS) seek to direct new residential development to the existing urban areas and defined settlements to meet the general aims of promoting sustainable development and the protection of the countryside. CS Policy 11 sets out that development in the Corsham community area should be in accordance with the settlement strategy set out in CS Policy 1.
7. The CS identifies Gastard as a “Small Village” with no settlement boundary. CS Policy 2 sets out that development within Small Villages will be limited to infill within the existing built area. It states that *‘Proposals for development at the Small Villages will be supported where they seek to meet housing needs of settlements or provide employment, services and facilities provided that the development:*
 - i) *Respects the existing character and form of the settlement*
 - ii) *Does not elongate the village or impose development in sensitive landscape areas, and*
 - iii) *Does not consolidate an existing sporadic loose knit area of development related to the settlement.*
8. The supporting text of CS Policy 2 defines infill as the filling of a small gap within the village that is only large enough for *‘not more than a few dwellings, generally only one dwelling’*.
9. The proposed 4 dwellings would represent ‘a few dwellings’, and their scale and density would sit comfortably within the surrounding context, and not appear overly large or set apart. The appeal site and proposal would therefore meet the requirement of ‘small gap’.
10. The built form of Gastard is centred around the junction of Silver Street/Velley Hill, Coppershell and Lanes End, with mainly linear development along these roads. The appeal site sits on Silver Street as it extends away from this centre. The proposal would sit in between development and would not elongate the village. The site represents a clear gap between the highway fronting residential development extending out of the settlement core and the commercial buildings. There is built form and dwellings opposite the site. As such, the proposed dwellings would appear as part of the built area of Gastard rather than the open countryside. The four dwellings would front the highway and sit in parallel with Silver Street, like the majority of dwellings in the vicinity.
11. The proposal would not therefore consolidate sporadic loose knit areas of development and would respect the existing form of the settlement. The dismissed appeal¹ referenced by the Council was 3km away from the nearest ‘small village’ and nearby a ‘hamlet’. As such this example is not directly comparable to the proposal before me.
12. No definition of the ‘housing needs of settlements’ is provided in relation to Gastard. However, Policy H1 of the Corsham Neighbourhood Plan 2016-2026

¹ Appeal reference APP/Y3940/W/24/3342226

(2019) (NP) supports proposals for small infill sites within Gastard. Section 6.4 and 6.5 of the Housing section of the NP identifies key objectives, including *'to support the delivery of housing to meet the demand of an existing and growing population there is a need to provide a wider range of housing, particularly family homes....'* The proposal would provide small scale family sized dwellings that meet the aspirations of the NP. As such, in the absence of evidence to the contrary, there is no conflict with CS Policy 2 in this respect

13. Gastard, a defined small village, is described in the CS as having a low level of services and facilities, and few employment opportunities. Facilities within Gastard are limited to a public house, church, playing fields and the studio space opposite the site. The Framework does however acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
14. I observed that the facilities and services of Corsham are within safe and convenient walking and cycling distance. These include schools, pubs, shops and hotels. Moreover, there are also bus stops near the appeal site offering services between Corsham and Trowbridge. Even if the service is limited, it is regular and offers a genuine convenient alternative choice of means of travel to future occupiers. The appeal site is therefore reasonably well connected.
15. Accordingly, the intended future occupiers of the new dwellings would not necessarily be likely to have a high reliance on a private motor vehicle to access day to day services. Consequently, I find no conflict with CS Policies 60 and 61 which seek to help reduce the need to travel by private car.
16. As such, I conclude that local and national policies dictate that the appeal site is suitably located for new dwellings, in accordance with CS Policies 1, 2, 11, 60 and 61.

Character and appearance

17. The existing site is a mostly undeveloped field located on Silver Street as it extends out of the settlement. Open views across the site are possible from Silver Street although it is partly screened from the road by some hedgerow. A mixture of hedgerow and short stone walls are characteristic of the built area.
18. There is built form directly opposite and close to the highway, and structures on either side. As such, as set out above, whilst currently mostly development free, the site has the characteristic of a gap in the built form rather than being part of the surrounding countryside. A wider feeling of spaciousness is retained along the throughout the nearby built area through views of the surrounding countryside possible through gaps between dwellings. The roadside hedgerow and number of surrounding trees provide a verdant character.
19. The surrounding built form is characterized by two storey dwellings that mostly front the highway, with some examples of the sides of dwellings facing Silver Street. These dwellings are mixed in detailing, but have some consistency derived from their general two storey scale, pitched roofs and use of stone.
20. The Wiltshire Landscape Character Assessment (LCA) indicates that the management objectives for the Malmesbury - Corsham Limestone Lowland area, which includes the appeal site, includes the requirement to retain the distinctive character of the villages, ensuring any change respects the traditional stone built

character and vernacular form, and encouraging the rebuilding of dry stone wall boundaries.

21. The proposed two storey dwellings would use traditional materials such as stone and timber, and their simple traditional appearance with pitched roofs would be in keeping with the surrounding context. They would mostly front the highway with one unit having its side facing the road. As such, the proposal would sit comfortably within the existing context. The hardstanding would not extend as far to the rear as the neighbouring commercial building and parking areas and would be similar in depth to the existing residential dwellings along this side and part of Silver Street. The majority of the open field would remain, and views of it would be possible in between the new dwellings, retaining the sense of spaciousness.
22. This arrangement would also avoid excessive urbanising hardstanding to the frontage, where the use of a natural stone boundary wall and hedge planting would also be appropriate for the location. Additional planting, secured through condition, would also retain the verdant surrounding character and soften the built form.
23. The proposal would relate positively to the existing pattern of development and its immediate setting and would integrate effectively into the surroundings and would not harm the character of this route into the centre of Gastard. It would not conflict with the management objectives of the LCA.
24. I conclude that the development would not harm the character and appearance of the area. There is therefore no conflict with CS Policy 57, which requires development to enhance local distinctiveness, respond positively and relate effectively to the existing townscape, landscape features and wider character and be sympathetic to historic landscapes.

Other Matters

25. The appeal site is within a consultation zone for the Bath and Bradford-upon-Avon Bats Special Area of Conservation (SAC), specifically the Box Mine component of the SAC. The SAC is designated for supporting internationally important populations of hibernating greater horseshoe, lesser horseshoe and Bechstein's bat. The conservation objectives for the SPA are, in summary, to maintain or restore the habitat for qualifying species and the populations and the distribution of qualifying species within the SAC.
26. The SAC itself comprises extensive networks of caves, mines and man-made tunnels which are used by bats for hibernation, mating and as a staging post prior to dispersal. It also includes areas of calcareous grassland, scrub and woodland which are used as feeding and commuting habitat by the bats. All three species are highly mobile throughout the year and the grassland, watercourses, scrub and woodland surrounding the SAC are also used by bats for feeding and commuting.
27. The Supplementary Planning Document Trowbridge Bat Mitigation Strategy (2020) (SPD) identifies significant potential effects to the SAC as including impacts to the foraging areas and commuting routes in the surrounding landscape used by the bats as well as roosts. The proposal would lead to a permanent loss of vegetation and potential for loss of habitat and has the potential to impact a feeding and commuting area used by qualifying features of the SAC. A likely significant effect therefore cannot be ruled out. An appropriate assessment is therefore required under the Habitat Regulations 2017 (as amended).

28. CS Policy 50 requires development proposals to demonstrate how they protect features of nature conservation and geological value as part of the design rationale and necessary appropriate mitigation would need to be secured.
29. The submitted Ecology Report² sets out that the stable building within the site provides negligible roosting potential for bats. No bats were noted to be present inside the stable building to be demolished and no droppings were noted to be present internally or externally. Trees present within the site were not suitable for roosting bats and did not have features such as cracks, crevices or splits that could support bat species. It concludes that overall, the site is assessed as providing low suitability to support protected species and no evidence of protected species were detected during the survey.
30. Nevertheless, the ecology report sets out that the trees and hedgerows provide suitable habitat for commuting and foraging bats. There is potential for disturbance, albeit limited, as a result of lighting during demolition/construction and operation and possible permanent loss of habitat. The mitigation proposed, set out on the site masterplan, includes bat boxes and details of planting, including new hedgerow, in addition to a condition controlling external lighting
31. This is in accordance with the mitigation strategies outlined in the SPD, section 5 the Bat Special Areas of Conservation Planning Guidance for Wiltshire document (2015) and part 3.2 of the Corsham Batscape Strategy (2019). Natural England have confirmed that, subject to this mitigation being secured, they have no objection. I am therefore satisfied that the mitigation measures would be effective.
32. The proposed mitigation would meet the requirements of the mitigation strategies outlined in the above-mentioned documents. As the competent authority, I am therefore satisfied that with the proposed mitigation, the development would not have an adverse effect on the integrity of the SAC. The development would therefore comply with CS Policy 50, NP Policy ED1 and the Conservation of Habitats and Species Regulations 2017 (as amended).
33. The site also falls within the 'amber' risk zone for great crested newts (GCN). The submitted ecology report concludes that the main area of the site is dominated by semi-improved neutral grassland with a low sward height, which is limited in its potential to provide suitable habitat for protected species, and no evidence of any, including GCN, were detected during the survey.
34. A reptile/amphibian receptor is shown on the submitted site masterplan and further planting of native shrubs, again shown on the submitted plans, would bolster the existing habitat. Based on what I observed on site and from the information before me, I am satisfied with the Council's conclusion that the site is not likely to be used by GCN. There is no conflict therefore with the protection of protected species requirements of CS Policy 50, in addition to the Habitats Regulations and Framework.
35. The closest listed buildings are 3 -5 Silver Street and 6-7 Silver Street, adjacent and opposite the appeal site respectively, all of which are Grade II listed. From my observations and the listing descriptions of these properties, their significance in part relates to their rubble stone walls, arrangement of the historic fenestration and architectural details.

² Preliminary Ecological Assessment, by Ellendale Environmental, Dated 13/02/2024

36. The 1880 map provided in the submitted Heritage Impact Assessment³ shows no development to the side of the properties. This space has now been partly filled by newer dwellings and 'The stores' a garage/studio building immediately next to Nos 6 and 7. The setting of these late 17th Century listed properties is therefore partly open fields and partly newer residential/mixed use development. As such, the setting has a limited role in the significance of the heritage asset.
37. The proposal would be seen in the context of, and would sit comfortably within, the existing surrounding built form. The development therefore would not harm the setting and significance of these listed buildings.
38. The proposal would provide 3 parking spaces per dwelling, in accordance with development plan requirements, in addition to there being space within the development for visitor parking. The proposed single access point would have appropriate sight lines for the speed of the road, and it is not demonstrated that one additional access point off Silver Street would lead to an increase in potential for conflict with other road users. It is noteworthy that the Council's Highways Officer does not object to the proposal on this basis.
39. The policies referenced above do not require affordable units in this instance. Given the nearby residential properties the occupation of 4 dwellings would not lead to unacceptable noise pollution. The site is within Flood Zone 1, and conditions would ensure that the Council can secure appropriate details in regard to drainage in order to ensure that the development does not lead to flooding issues.
40. The possible moving of a telegraph pole would be a separate issue for the developer to address and would not prevent planning permission being granted.
41. I have found that the appeal site does not conflict with the location and character policies set out above. Therefore, this scheme does not in my view set a harmful precedent for development elsewhere.

Conditions

42. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG) and the test set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the Council's suggested wording.
43. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
44. Given that the uncertain nature of previous land use on and adjacent to the appeal site, a condition securing site investigation is carried out is necessary.
45. A condition requiring appropriate surface water drainage details and a site specific Flood Risk Assessment is necessary in order to ensure that the proposal does not result in flooding issues on or off site.
46. A construction management plan is required to prevent harm to living conditions, highway safety and the character and appearance of the area.

³ by Ian Lund, February 2024

47. The submitted archaeological desk-based assessment⁴ does not rule out the potential for archaeology on the site. As such, a condition securing a written programme of archaeological investigation is appropriate.
48. These pre-commencement conditions are so as they relate to and/or affect the early part of the development.
49. A condition requiring details of finishing materials is necessary in order to ensure that the development is in keeping with the surroundings.
50. Conditions securing the landscaping details as submitted, in addition to the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan is necessary in order to safeguard the character and appearance of the area and in the interest of ecology.
51. Conditions securing the visibility splay and parking areas, and consolidating the access are necessary in the interest of highway safety. As set out above, a condition requiring details of external lighting is necessary in the interest of ecology.
52. Whilst the dwellings would sit in close proximity to Silver Street, there is little substantive evidence put forward to justify a condition requiring a scheme for protecting the proposed dwellings from external traffic noise. Therefore, such a condition would not meet the tests of necessity.
53. Paragraph 55 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances.
54. The Council have not provided this clear justification in this instance and as such the suggested condition removing permitted development rights for development such as buildings, structures, gates or walls is not appropriate.

Conclusion

55. For the reasons above, the appeal is allowed.

B Phillips

INSPECTOR

⁴ By HPS, August 2023

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos: 2315-100-01, 2315-150-03, 2315-300-01, 2315-301-01, 2315-201-01, 2315-202-01, 2315-200 -01, 2315-160-01, 8230241/6201 D, 8230241/6202 D, 8230241/6203 C.
3. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with::

Step (i) A written report has been submitted to and approved by the local planning authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the local planning authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the local planning authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the local planning authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the local planning authority that the works have been completed in accordance with the agreed remediation strategy.

4. No development shall commence on site until a scheme for the discharge of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be informed by a site specific Flood Risk Assessment (FRA) and incorporate sustainable drainage details including any off-site works and any permissions for connections to private drainage systems/land drainage consent.

5. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
6. No development shall commence site until:
 - a) a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the local planning authority; and
 - b) the approved programme of archaeological work has been carried out in accordance with the approved details.
7. No development shall commence on site above slab level until the exact details and samples of the materials to be used for the external walls, roofs and fenestration have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
8. All planting, seeding or turfing shown on Proposed Site Masterplan Plan, Ref: 2315-150, Rev: 03 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. All works shall be carried out in accordance with the approved Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan prepared by NB Tree Management.
10. Prior to the occupation of the development hereby permitted, the associated allocated parking area shown on the approved plans shall be consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.
11. Prior to the occupation of the development hereby permitted, the visibility splays shown on the approved plans shall be provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.
12. Prior to the occupation of the development hereby permitted, the first 5m of the access, measured from the edge of the carriageway and/or whole of the parking area, shall be consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.
13. No external light fixture or fitting will be installed within the application site unless in accordance with details of existing and proposed new lighting that has been submitted to and approved by the local planning authority. The submitted details

will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

End of Schedule

Appendix E

Copy of Appeal Decision APP/Y3940/W/25/3367502

Appeal Decision

Site visit made on 26 August 2025

by **SE Hughes BA (Hons) PGDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

Appeal Ref: APP/Y3940/W/25/3367502

Kington Langley Garage, Malmesbury Road, Kington Langley, Chippenham SN15 5PY

- 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 KLD Property Investments Ltd against the decision of Wiltshire Council.
 - The application Ref is PL/2025/00998.
 - The development proposed is the erection of up to 8no dwellings.
-

Decision

1. The appeal is allowed and permission in principle is granted for the proposed erection of a minimum of 4 and a maximum of 8 dwellings at Kington Langley Garage, Malmesbury Road, Kington Langley, Chippenham SN15 5PY in accordance with the terms of the application, Ref PL/2025/00998.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle (PIP) consent route has two stages: the first establishes whether a site is suitable in-principle and the second (technical details consent - TDC) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for PIP is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if permission in principle is granted.
4. A site layout plan has been submitted as part of the proposal. This is an indicative plan only and shows just one way that the scheme could be developed. I have therefore attributed limited weight to this plan in my consideration of the appeal.

Background and Main Issues

5. The Council's objections to the proposal concern the principle of the development and its accessibility. My decision is therefore focused on these matters. However, the main issue in this case is whether the site is suitable for the proposed development, having regard to its location, the proposed land use and the amount of development.

Reasons

6. Policies CP1 and CP10 of the Wiltshire Core Strategy (WCS) outline the hierarchical spatial strategy for accommodating new housing in Wiltshire, with

- development focused on principal settlements, then market towns, then local service centres, then large villages and small villages.
7. Policy CP2 of the WCS sets out the Council's housing delivery strategy and states that, unless permitted by other policies within the WCS as set out at paragraph 4.25, development will not be permitted outside the limits of development. In addition, Policy CP2 states that at small villages, such as Kington Langley, development will be limited to infill within the existing built area. The site is classified as a location outside the defined limits of development under Policy CP2 and there is little to indicate that any of the paragraph 4.25 exceptions apply in this case.
 8. The appeal site is developed, accommodating two large commercial buildings with associated yard areas. It is positioned within a small development cluster which includes residential properties, a place of worship and a pub. Whilst the small village of Kington Langley is nearby, it is physically separated from the appeal site by the A350 dual carriageway.
 9. With regards to the appeal site's relationship with Kington Langley, the Council have drawn my attention to an earlier appeal decision¹ which found that the separation distance from the village, lack of consistent pavement and physical severance by the A350 resulted in the site being found unsustainable and contrary to Policies CP1, CP2 and CP10. Given the geography of the site has not changed and based on the evidence before me, I have no reason to disagree and I find accordingly that the proposal would be outside the existing built area of Kington Langley. As a consequence, it would not constitute infill as defined in Policy CP2, nor would it accord with policies CP1 and CP10.
 10. Policies CP60 and CP61 of the WCS identify that new development should be located and designed to reduce the need to travel by private car and encourage the use of sustainable transport alternatives.
 11. For the reasons I have given above, dwellings in this location would not necessarily support services and facilities in Kington Langley.
 12. With regards to access to services and facilities outside of Kington Langley, the evidence before me indicates that there are two bus stops which are approximately 100m away from the appeal site on Old Malmesbury Road and approximately 160m away on the opposite side of the A350. These stops provide hourly bus services between Chippenham and Kington St Michael on weekdays from mid-morning until early evening and services on Saturdays and hourly weekday services between Chippenham, Malmesbury, Wootton Bassett and Swindon from early morning to early evening, and services on Saturdays.
 13. I observed on my site visit that the A350 is a busy road but that there is a blister pavement crossing point at the traffic lights, therefore it would be possible to cross with care, albeit the nature of the crossing might be a deterrent to some of the future occupiers of the proposed dwellings. Therefore, whilst there would be access via public transport to nearby towns and larger settlements some residents would need to travel by private car to meet their day-to-day needs.

¹ Appeal Reference APP/Y3940/W/20/3244779

14. Accordingly, I find that the appeal site is not optimally located in terms of minimising the use of private car to reach Kington Langley and other nearby towns and larger settlements. The proposal would therefore conflict with the housing strategy of the development plan, specifically WCS policies CP60 and CP61 and would not be suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Other Considerations

15. Set against the harm identified, the proposal would deliver an additional 8 housing units toward the area's housing supply.
16. In economic terms, the appeal scheme would provide construction jobs and some local investment during its build out, as well as longer term expenditure of future occupiers in the local economy.
17. From my observations of the commercial uses at my site visit, the loss of the commercial site, would likely provide some further environmental benefits to the living conditions of the occupants of nearby residential properties through reduced noise and commercial activity. Although a matter for the TDC stage, landscaping would also provide biodiversity enhancements.

Planning Balance

18. The Council sets out it has a housing land supply position of 2.42 years. Therefore, there is a significant shortfall against the requirement to demonstrate a five-year supply of deliverable housing land, as set out at paragraph 78 of the Framework.
19. In this circumstance, paragraph 11(d) (ii) of the Framework is engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. Despite the presence of nearby bus routes, the proposed development would not be optimally located to reduce the need to travel and encourage the adoption of sustainable transport options. However, paragraph 110 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, therefore I attach moderate harm to the proposal's conflict with Policies CP1, CP2, CP10, CP60 and CP61 of the WCS.
21. In terms of benefits, paragraph 73 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and paragraph 89 of the Framework also gives substantial weight to the value of using previously developed land where suitable opportunities exist.
22. The proposal would provide up to 8 additional dwellings, thus making a modest but important contribution towards the area's housing requirement. Considering the magnitude of shortfall in the area's housing supply, the provision of 8 dwellings would make a valuable contribution, to which I assign substantial weight. I also afford modest favourable weight to the scheme's economic and environmental benefits along with a larger quantum of favourable weight to the utilisation of a brownfield site.

23. Consequently, the adverse impacts of the proposal associated with its location outside the development boundary and conflict with policies of the WCS, would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which is a material consideration that weighs heavily in favour of allowing the appeal.

Conditions

24. The PPG advises that there is a default time limit duration of 3 years for a permission in principle and that, it is not possible for conditions to be attached to a grant of permission in principle.
25. The PPG also advises that the amount of residential development must be expressed as a range, indicating the minimum and maximum net number of dwellings, which are, in principle, permitted. Whilst Kington St Michael Parish Council has suggested that the site could accommodate a higher quantum of dwellings, as the description of development identifies 8 dwellings and the application form indicates a minimum of 4 dwellings, I include a range of 4-8 dwellings in granting permission in principle.

Conclusion

26. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above, the appeal is allowed.

SE Hughes

INSPECTOR

Appendix F

Copy of Appeal Decision APP/Y3940/W/24/3348998



Appeal Decision

Site visit made on 8 January 2025

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/Y3940/W/24/3348998

**Former Commercial Nursery, Barters Farm, High Street, Chapmanslade
BA13 4AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Kurton of Newland Homes Ltd and Charles Legh Walker and Diana Walker against the decision of Wiltshire Council.
 - The application Ref is PL/2023/05349.
 - The development proposed is 9 dwellings, demolition, and associated works on land north of Cleyhill Gardens, Chapmanslade.
-

Decision

1. The appeal is allowed, and planning permission is granted for 9 dwellings, demolition, and associated works on land north of Cleyhill Gardens, Chapmanslade at Former Commercial Nursery, Barters Farm, Chapmanslade BA13 4AL in accordance with the terms of the application, Ref PL/2023/05349, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of the application the Government published a revised National Planning Policy Framework (the Framework). The parties have had the opportunity to comment on the relevance of the revised Framework to the appeal and I have taken the submissions received into account in my decision.
3. The appeal site lies within the 6.4km buffer zone for recreational pressure on the Salisbury Plain Special Protection Area (SPA) and is within the consultation zone for bats associated with the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). Although not included as a reason for refusal by the Council, I have included the effect of the proposal on the integrity of these European sites as a main issue. I am required to consider whether the proposed development would be likely to have a significant effect on the sites, and if so, as the competent authority, assess the implications of the effect of the proposal on the site's conservation objectives under an appropriate assessment.
4. I am aware of some typographical errors in the reason for refusal. The proposal is referred to as 'outline', whereas the appeal relates to an application for full Planning Permission. The reason for refusal also refers to the Westbury Community Area. The Council has confirmed that the appeal site is within the Warminster Community Area. I have considered the appeal on this basis.

Main Issue

5. The main issues are:

- whether the appeal site is a suitable location for housing with particular regard to the development plan policies for the area;
- whether the appeal site is a suitable location for housing, having regard to the accessibility of services and facilities; and
- the effect of the proposed development on the integrity of protected habitats sites.

Reasons

Suitable location

6. Core Policies 1 and 2 of the Wiltshire Core Strategy (Adopted January 2015) (WCS) set out the overarching spatial strategy for Wiltshire. According to Core Policy 1, Large Villages such as Chapmanslade, are defined as settlements with a limited range of employment, services and facilities. It goes on to state that development at Large and Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.
7. Core Policy 2 of the WCS states that within the limits of development, there is a presumption in favour of sustainable development at certain types of settlements including large villages. It goes on to state that outside the defined limits of development, other than in certain circumstances, development will not be permitted.
8. Core Policy 31 of the WCS sets out the spatial strategy for the Warminster Community Area. In respect of housing development this establishes that the focus of development should be at Warminster and that growth in the rest of the community area may consist of a range of sites in accordance with Core Policies 1 and 2.
9. The appeal site comprises an area of land which is currently occupied by structures associated with the adjacent commercial nursery. The appeal site abuts, but is outside of, the defined settlement boundary. As such it lies within open countryside for the purposes of the settlement strategy.
10. The parties agree that the proposed development would not fall within any of the categories of development which might be allowed, by other 'exception policies', outside of the limits of development. In respect of housing, these include rural exception sites (Core Policy 44), specialist accommodation provision (Core Policies 46 and 47) and supporting rural life (Core Policy 48).
11. Because of its location, outside of the defined limits of the settlement and in the absence of any justification under the 'exception policies', the proposal would conflict with the spatial strategy for both Wiltshire as a whole and the Warminster Community Area.
12. Accordingly, I conclude that the appeal site is not a suitable location for housing with particular regard to the development plan policies for the area. The proposal would therefore conflict with Core Policies 1, 2 and 31 of the WCS which together

seek to restrict development in locations outside of defined settlement limits and within the open countryside.

Accessibility

13. Chapmanslade benefits from a number of facilities including a primary school, village hall, public house and church. The majority of these are within comfortable walking distance of the appeal site and would be accessible by foot via the existing pavements which lead from the appeal site and through the centre of the village.
14. The services and facilities which exist nearby would not be sufficient to meet all of the requirements of future residents. They would need to travel further afield to access a more comprehensive range of facilities and are likely to rely on a private car to do so. However, given the presence of some nearby services and facilities not all daily trips would require the use of the car.
15. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Bus services are available from the High Street which provide access to higher order settlements. Whilst these services are relatively limited, they nevertheless offer an alternative to some trips which would otherwise be achieved by the use of private motor vehicles.
16. My attention has been drawn to an appeal decision in respect of land to the northeast of 150 High Street, Chapmanslade¹. In dismissing this appeal, the Inspector considered that the location of the proposal was not acceptable having regard to local planning policy and the accessibility to services. I have been provided with limited information in respect of this appeal, however I note that the Inspector described the bus stops in the village as being in excess of 1 kilometre from the site. Consequently, the circumstances differ from the scheme before me in that there are bus stops in much closer proximity to the appeal site. This appeal decision is therefore of limited relevance to the appeal which is before me.
17. I conclude that the appeal site is a suitable location for housing, having regard to the accessibility of services and facilities. It would therefore accord with Core Policies 60 and 61 of the WCS which seek to ensure that developments are located in accessible locations, promote alternatives to the use of the private car and encourage the use of sustainable transport options.

Habitats sites

Salisbury Plain SPA

18. The Salisbury Plain SPA is designated as it provides habitat for wild birds including the Hen Harrier, Eurasian Hobby, Common Quail and Stone-curlew. The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Birds Directive².
19. The appeal site lies within the buffer zone for the SPA. In this area, it has been established that additional residential development has the potential to increase visitor numbers and recreational pressures on the protected sites, with associated

¹ APP/Y3940/W/22/3298668

² Directive 2009/147/EC

harmful impacts on the birds. Together with other developments in the area, there would therefore be a likely significant effect on the SPA.

20. The Council's HRA and Mitigation Strategy for Salisbury Plain SPA (in relation to recreational pressure from residential development) (Reviewed in June 2024) document sets out a strategy to identify, avoid and mitigate any potential effects of increasing recreational pressure on the SPA. The mitigation strategy includes Stone-curlew monitoring and management, advice to landowners and tenants, and visitor monitoring.
21. Wiltshire Council is a Community Infrastructure Levy (CIL) charging authority. Its adopted Regulation 123 list includes funding for "*Stone-curlew and Salisbury Plain Special Protection Area*". In order to meet the requirements of the Habitats Directive³, funds are ring-fenced annually prior to spending on any other infrastructure item.
22. It is proposed to secure the necessary mitigation through a CIL payment. Natural England has confirmed it is satisfied that this would be effective in avoiding harmful impacts arising from recreational pressure on the SPA.
23. I am satisfied that with the planned mitigation measures in place, funded through the CIL, the development would not have an adverse impact on the Salisbury Plain SPA.

Bath and Bradford on Avon Bats SAC

24. The SAC is designated as it provides habitat for bat species including the Lesser horseshoe bat, Greater horseshoe bat and Bechstein's bat. The conservation objectives for the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features.
25. The Preliminary Ecological Appraisal (PEA) assesses the site as providing poor foraging habitat for bats. However, it concludes that the site is located near to woodland and pasture, and it is therefore likely that bats will forage in the surrounding area and occasionally pass over the site.
26. The proposal would involve the loss of the existing vegetation on the site and would introduce increased human activity and lighting associated with the provision of nine new dwellings into the area. Therefore, without mitigation, and applying a precautionary approach, I consider that, in combination with other development, the risk of a "likely significant effect" cannot be ruled out.
27. To mitigate the likely significant effect on the SAC a number of mitigation measures are proposed. The submitted Wildlife Mitigation and Enhancement Plan⁴ includes proposed features to mitigate the loss of existing habitat and to enhance the site including landscaping proposals. The proposed landscaping would include a combination of hedging, planting beds, trees and grass areas. The proposed hedge on the northern boundary of the site would not be subject to lighting or regular pruning. It is also proposed to install bat boxes on five of the proposed dwellings. The PEA advises measures which should be taken if bats are found on the site and suggests a lighting strategy to minimise light spill.

³ Directive 92/43/EEC

⁴ All Ecology, September 2023

28. Natural England has confirmed that the proposed measures to mitigate for the effects upon the SAC are appropriate and that these measures can be secured by way of suitably worded conditions. I have no reason to take a different view.
29. As a result, following an appropriate assessment, the proposals would not adversely affect the integrity of the SPA and the SAC. Therefore, the scheme may proceed under the Conservation of Habitats and Species Regulations 2017.

Other Matters

30. The Council acknowledges that it is unable to demonstrate a five-year supply of housing land. As a result of the recent changes to the Framework, the Council can now demonstrate only 2.03 years of housing supply. This represents a significant shortfall in housing provision in the area. Set against this, the proposal would deliver nine dwellings in a location with reasonable access to services and facilities. I note that several houses have recently been built in the village and that the housing requirement for the Warminster Community Area has been achieved. Nevertheless, the proposal would make a contribution towards housing supply in the Wiltshire local authority area. Given the extent of the shortfall I give significant weight to the contribution the appeal scheme would make to housing supply.
31. The appeal site comprises previously-developed or 'brownfield' land. The Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. Whilst the appeal site is not within the defined settlement boundary of Chapmanslade, it is nevertheless directly adjacent to it. The proposal would make efficient use of this brownfield land, and I give this factor significant weight.
32. The proposal would give rise to economic benefits as a result of jobs during the construction phase and local expenditure by future residents. It would also provide a capital receipt which it is intended to re-invest into the nurseries business. Furthermore, the proposal would result in additional households into the area who would likely support the existing services and facilities in the village and contribute to the community. Overall, I give these factors moderate weight.
33. The proposed dwellings would be accessed via Barbers Drive which is part of the recently constructed Honeyglade development which has access onto the High Street (A3098). In this context the vehicular movements associated with nine additional dwellings would not exacerbate road capacity or safety conditions in the area. The proposal would result in the loss of existing visitor parking spaces, however as part of the proposal these would be replaced within the appeal site. The Council also found the proposal to be acceptable in respect of highway safety and parking.
34. Bearing in mind the intervening distances that would be achieved and the positioning of windows within the proposed dwellings, the proposal would not result in a significant loss of privacy, light or outlook for the occupants of nearby houses subject to conditions in respects of plots 1, 3, 6 and 7 which relate to obscure glazing and limiting new openings. The noise and disturbance associated with the increased activity generated by nine households would not have a materially harmful effect on the living conditions of neighbouring occupiers. Any noise and disturbance associated with construction would be temporary and a condition could be imposed limiting working hours to suitable times of day.

35. There is no firm evidence that the proposal would have a negative impact upon ecology. The proposals include a landscaping scheme and enhancements to biodiversity. A condition could be imposed requiring a scheme for the prevention of surface water run-off.
36. The proposed dwellings would be similar in design and scale to those nearby and would not appear incongruous in this context. The proposal would reuse previously developed land which currently does not make a positive contribution to the character of the area. Consequently, the proposal would not have a harmful effect on the character and appearance of the area, including its landscape character.
37. Issues in respect of oil tanks, potential damage to fencing and the loss of views are private matters. There is no reason to assume that the proposal would result in an increase in dog fouling locally.
38. My attention has been drawn to an appeal at Sutton Benger. I have not been provided with any documents in respect of this appeal, however I note that it was considered in the context of paragraph 77 of the previous version of the Framework. Consequently, this is of little relevance to this appeal.

Planning Balance

39. The proposal would conflict with Core Policies 1, 2 and 31 of the WCS because the site is outside of the defined settlement boundary, within the open countryside. However, because the Council cannot demonstrate a five-year supply of deliverable housing sites, these policies which relate to the delivery of housing, are deemed to be out of date. Consequently, paragraph 11 d) of the Framework is engaged.
40. The provision of nine dwellings in an accessible location which would result in the effective re-use of a brownfield site whilst providing social and economic benefits are positive aspects of the scheme to which I collectively attach significant weight.
41. The adverse impact arising from a conflict with the above-mentioned policies would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

42. I have had regard to the suggested conditions proposed by the Council. Where necessary, I have undertaken some minor editing and rationalisation of the conditions where they meet the tests set out at paragraph 57 of the Framework in the interests of precision and clarity. In addition to those conditions which I have already referred to in my decision and the standard time limit condition, I have imposed a condition specifying the approved plans in the interests of certainty.
43. A condition in respect of an archaeological field evaluation is necessary to ensure that any archaeological remains present at the site are protected and recorded as appropriate. The information required by this condition is needed prior to the commencement of development as early construction work and site clearance could affect any archaeological remains which may exist at the site.

44. In the interests of protecting and enhancing the landscape and ecology of the site, a condition requiring the submission of a Landscape and Ecology Management Plan (LEMP) is necessary. To avoid duplication this refers to the Wildlife Mitigation and Enhancement Plan to ensure that the measures contained therein are implemented. A condition requiring a Construction Environmental Management Plan (CEMP) is necessary to ensure that harmful effects on ecological features forming part of the SAC are avoided or mitigated. These conditions are required prior to the commencement of development to ensure such features are protected during the early phases of development. I have also imposed a pre-commencement condition in respect of a lighting strategy in order to ensure that any lighting installed during both the construction and operational phases of the development does not have a harmful effect on protected species.
45. I have imposed conditions requiring details of the proposed Sustainable Drainage System and a scheme to prevent surface water run-off during the operational phase in the interests of providing adequate drainage and avoiding flooding. There is no evidence before me which demonstrates a requirement for this to relate to the construction phase as suggested.
46. A condition in respect of the implementation of hard and soft landscaping are necessary to ensure the scheme has an acceptable appearance and provides foraging opportunities for bats. Conditions in respect of visibility splays and the implementation of parking and turning are necessary in the interests of highway safety. The provision of boundary treatment and waste storage is necessary to ensure an acceptable appearance and to ensure that future occupiers have suitable access to waste storage facilities.
47. The removal of permitted development rights in respect of the use of the garages is not necessary as the properties would have sufficient parking in the absence of these garages. A condition preventing the burning of waste is not necessary as this can be addressed through the CEMP. I have omitted the Council's suggested condition 4 because I have merged relevant matters into other conditions and omitted unnecessary elements.

Conclusion

48. The proposed development would conflict with the development plan but material considerations including the Framework indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given, the appeal should succeed.

E Pickernell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 853-01, 853A-05 Rev B, 835A-06 Rev A, 853A-07, 853A-08, 853A-30 Rev A, 853A-31 Rev A, 853A-32 Rev A, 853A-33 Rev A, 853A-34 Rev A, 853a-102 Rev C, 853a-106 rev C, 853a-107 Rev C, 853a-108 Rev C, 853a-131-1 Rev C, 853a-131-2 Rev C, 853a-141 Rev C, 853a-PAP Rev C, 853a-RSP Rev C and 23/528/01.
- 3) No development (including demolition) shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 4) Prior to the commencement of the development hereby permitted a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include the following:
 - (i) Long term landscape and ecology objectives and targets in accordance with the Biodiversity Net Gain Preliminary Design Stage Report (July 2023, All Ecology).
 - (ii) Management responsibilities and maintenance schedules for each ecological feature proposed as part of the development as identified in the Landscape Proposals and the Wildlife Mitigation and Enhancement Plan (September 2023, All Ecology)
 - (iii) The mechanism for monitoring the success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheets contained in the Biodiversity Net Gain Preliminary Design Stage Report (July 2023, All Ecology).
 - (iv) A procedure for review and necessary adaptive management in order to attain the targets referred to above.
 - (v) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured.

The measures outlined in the LEMP shall be implemented in full prior to the first occupation of any of the dwellings hereby permitted and the measures

implemented shall be retained for the lifetime of the development, in accordance with the approved details.

- 5) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include measures to avoid and mitigate the effects of the development on ecological features and a programme for their implementation and maintenance. The agreed measures shall be implemented and maintained in accordance with the agreed programme.
- 6) Prior to the commencement of the development hereby permitted a lighting strategy for the construction and operational phases of the development shall be submitted to and approved in writing by the local planning authority. No external lighting shall be installed within the application site, unless in accordance with the approved details
- 7) No development above ground level shall take place until details of the adoption, maintenance and management of the sustainable drainage system have been submitted to and approved in writing by the local planning authority.

Those details shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be managed and maintained in accordance with the approved management and maintenance plan.

- 8) No development above ground level shall take place until a scheme to prevent surface water from the site entering the public highway during the operational phase of the development has been submitted to and approved in writing by the local planning authority including a timetable for its implementation. The measures shall be implemented in full in accordance with the approved timetable and maintained thereafter.
- 9) Prior to the first occupation of the development hereby approved details of soft landscaping shall be submitted to and approved in writing by the local planning authority. Such details shall include planting which would enhance foraging opportunities for the local bat population. The soft landscaping shall be carried out in the first planting or seeding season following the first occupation of any dwelling or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years of being planted, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby approved.
- 10) Demolition or construction works shall take place only between 07:30 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays and not at any time on Sundays or on bank or public holidays.

- 11) No part of the development hereby approved shall be occupied until the visibility splays shown on the approved plans have been laid out in accordance with the plan. Thereafter no structure exceeding 600mm in height shall be placed, or vegetation allowed to grow above 600mm in height within the visibility splays referred to in this condition.
- 12) No dwelling shall be occupied until space has been laid out within the site, in accordance with the approved drawings for the parking of cars and for the turning of vehicles so that they can enter and leave the site in a forward gear. The space shall thereafter be kept available at all times for the parking and turning of vehicles.
- 13) No dwelling shall be occupied until boundary treatment and waste and recycling store has been provided for that dwelling in accordance with the approved plans. The boundary treatment and waste storage shall be maintained in situ thereafter.
- 14) The first floor windows on the west elevations of plots 1 and 3 shall be fitted with obscured glazing prior to the first occupation of the dwelling which they serve. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows or roof light windows, other than those shown on the approved plans shall be inserted in the rear (south facing) roof slopes of plot numbers 6 and 7 hereby permitted.

End of Schedule