

Appeal Final Comments

Town and Country Planning Act 1990

Project:	Outline permission for the erection of up to 2 self-build dwellings and associated infrastructure, all matters are reserved except for access.
Client:	Mr Stuart Little
Site Address:	Land to the east of New Road, Melksham, SN12 7QZ
Issue and Revision Record:	Version 1 (13/05/2026)
Local Authority:	Wiltshire Council
Appeal Ref:	6007352
MDP Reference:	SL05

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MDP are instructed by Mr Stuart Little. It has worked on matters associated with the Appeal Site since 2024 and has most recently been instructed to assist in the preparation and submission of this appeal following the refusal of a planning application in respect of development at the Appeal Site.

MDP is familiar with the nature and character of the Appeal site and the background to the development and was instructed to submit these Final Comments for the current appeal, which is proceeding via the written representations procedure. The evidence given is true, given in good faith and represents professional opinions as to the merits of the development the subject of this appeal.



1. Introduction

- 1.1 This appeal is made on behalf of Mr Stuart Little in relation to development at Land to the east of New Road, Melksham, SN12 7QZ.
- 1.2 The planning application was submitted on 19 December 2025. It was given reference PL/2025/09917 and sought outline permission for the erection of up to 2 self-build dwellings and associated infrastructure, all matters are reserved except for access.
- 1.3 The development was refused on 13 March 2026 for the following reasons

1. The site lies outside the defined settlement boundary of Melksham in open countryside. The proposal does not meet any of the exception policies in Core Policies 1, 2, or 15 of the Wiltshire Core Strategy and is not allocated in the Joint Melksham Neighbourhood Plan 2, and therefore contrary to Policy 6. Residential development in this location would conflict with the plan-led spatial strategy for housing growth and is therefore unacceptable in principle.

2. The development would extend the built form along New Road into otherwise open countryside, eroding the rural character and visual quality of the Open Clay Vale. The proposal fails to respond to the local context or settlement edge, contrary to Core Policies 51 and 57, the Wiltshire Design Guide, and guidance in the NPPF

3. The proposed development is located outside the defined settlement boundary of Melksham, within the open countryside, where new residential development is strictly controlled. The site is not well related to existing services and facilities and is located along a rural section of New Road which has no footways, street lighting, or public transport provision. As a result, future occupiers of the development would be heavily reliant on private motor vehicles to access day-to-day services and facilities.

The proposal would therefore represent an unsustainable pattern of development that fails to promote sustainable transport choices and would be contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the sustainable transport objectives of the National Planning Policy Framework

4. The site lies in proximity to known protected species, including bats and potential Great Crested Newts. No confirmed Natural England district level licence or mitigation strategy has been provided, and there is significant doubt that the required mitigation could be successfully



secured. As a result, the proposal presents unresolved ecological risks, contrary to Core Policy 50 and the NPPF.

5. The proposal relies solely on infiltration to manage surface water, but soakage testing has not been undertaken and no alternative discharge route exists. There is significant doubt that the development could provide effective surface water management, and it cannot be assumed that this matter could be adequately addressed by condition. As a result, the scheme fails to demonstrate compliance with Core Policy 67 of the Wiltshire Core Strategy and national guidance, and is unacceptable in drainage and flood risk terms.

- 1.4 This Statement provides final comments in response to the Council's Statement of Case (SoC), together with any third party representations received.

2. Final Comments

Council Statement of Case

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- 2.1 The Council accepts that it has a chronic and persistent housing shortfall. The appellant is of course aware that, while certain policies may be 'out-of-date' given the Council's land supply position, the Supreme Court in *Hopkins Homes v Secretary of State [2017] UKSC 37* established that the weight to be given to policies, even if out-of-date, is a matter of planning judgment for the decision-maker, not a legal requirement. Furthermore, even if the "tilted balance" under paragraph 11 of the Framework is engaged due to out-of-date policies, that does not mean a policy is disregarded entirely. It still contributes to the overall planning balance, which must weigh the benefits against the adverse impacts, as shown in *Wavendon Properties v SSHCLG & Milton Keynes Council [2019] EWHC 1524 (Admin)*.
- 2.2 That said, the Government is seeking to *significantly* boost the supply of housing. In this case, this proposal would provide additional dwellings of a type for which there is a recognised need (self-build units). These would be in a broadly accessible location, on a small site (for which the Framework specifically supports development at paragraphs 73 and 89) that could be delivered now. Indeed the applicant will accept a foreshortened condition requiring the Reserved Matters details to be submitted within one year to emphasise how "ready to deliver" this site is. The proposed units would also provide economic benefits through construction and occupation and



would support the retention and growth of local services and facilities. The social and economic benefits cumulatively attract significant weight.

- 2.3 Balanced against this, even if the proposal is found to fall outside of a settlement boundary, the Council's housing strategy is failing to provide requisite homes as it can only evidence a 2.4 year supply of deliverable housing land. Housing policies are restrictive and are out-of-date and the Framework itself asserts that sites to meet local community needs in rural areas may have to be found adjacent to or beyond existing settlements.
- 2.4 Moreover, there is no actual planning harm arising from the site's location, particularly noting the absence of any material harm from private vehicle travel. For all of these reasons, any technical conflict with the Council's spatial strategy, simply by virtue of the site being on the wrong side of a cartographic line, should carry only limited weight against this proposal.
- 2.5 Overall, there would be no harmful impacts that would significantly or demonstrably outweigh the benefits of the development. This scheme would therefore accord with the provisions of the Framework when read as a whole and the weighted presumption in favour of sustainable development remains applicable.

Paragraph 14 of the Framework

- 2.6 Paragraph 14 of the Framework states that:

"In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70)."

- 2.7 Firstly, the Neighbourhood Plan (NP) was made in July 2021. There is a considerable chance that the decision date will be beyond July 2026. This would be beyond the relevant 5 year period. Consequently, criterion a) of paragraph 14 would not be met. The paragraph is not engaged on this basis alone.



- 2.8 Moreover, criterion b) refers to paragraphs 69-70 of the Framework. Paragraph 69 states that:
- “Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period.”*
- 2.9 The Council’s emerging development plan has collapsed. It has no mechanism for providing the considerable amount of housing necessary. Such a mechanism will not be in place for the foreseeable future. As such one must be careful about cherishing the policies of a demonstrably failed Plan. Equally, as such, the NP cannot be taken as providing allocations to meet housing requirement for the whole area. Such requirement has vastly increased since the time the NP was made. Moreover, the NP does not provide for sufficient self-build dwellings such as those proposed.
- 2.10 Overall, both criteria a) and b) of paragraph 14 of the Framework are not met. This paragraph therefore cannot be used by the Council as a means of disengaging the weighted presumption. This is yet a further attempt to constrain housing delivery.

Site Location

- 2.11 The Council considers that this is an open countryside location. As identified by the appellant, this is an edge of settlement location, influenced by dwellings, existing domestic paraphernalia including parked cars, lighting and boundary treatments. In this context, the modest urbanisation would not be harmful.

Accessibility

- 2.12 It is acknowledged that future occupants would drive to services and facilities. However, paragraph 89 of the Framework states that decisions should recognise that sites to meet local community needs in rural areas may have to be found adjacent to or beyond existing settlements. Vehicular trips would be short distance, resulting in negligible environmental harm.
- 2.13 The importance of the interconnectivity of villages with other settlements to provide the suite of requisite services is recognised at paragraph 83 of the Framework. This indicates that the Government acknowledges that travel between areas by car is sometimes necessary. Moreover, the Framework, at paragraph 110, is clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.



2.14 The site is not immediately adjacent to services. However, planning policy recognises that this will be acceptable in certain instances (such as this). Indeed, the development cannot be taken to be isolated for the purposes of paragraph 84 of the Framework¹. Equally nearly large scale schemes, which may be approved, will include accesses to New Road allowing for new options to access local services. This of course is dependent upon said developments being approved but given the LPAs track record of defending its decisions continues, then special measures will rightly be engaged.

[Source; <https://www.bbc.co.uk/news/articles/c4grp83zgj6o>]

Self-build

2.15 The Council, somewhat oddly, appears to find that national self-build guidance and appeal decisions in other local authority areas are not relevant to a local decision. These are material planning considerations and carry significant weight. The Council has not even engaged the contents of these material considerations which, amongst other things, show substantial weight should be given to self-build units. A revised Unilateral Undertaking, based on the LPA's own template, is attached to these closing comments which secures the plots as Self-Build. Whilst we didn't receive any direct feedback from the LPA about the Unilateral Undertaking, the contents have been re-worked and re-signed to address the comments in the Council's Statement of Case. The LPA have indicated that the inclusion of the phrase "*...other than a member of the owners immediate family...*" to (in Schedule 1, section 1.3) is objectionable. However, the term means in everyday parlance; parents, grandparents, children and siblings. The purpose of the agreement, we must be mindful of, is to ensure that the house isn't constructed by a developer (for a profit). The purpose is not to dictate, in an ultra-vires fashion, the construction of the Self-builders own family arrangements. The phrase, it is submitted, is not offensive to the purpose of the legal agreement.

Protected Species

2.16 The appellant has provided an invoice to join the Natural England Great Crested Newt District Level License and Conservation scheme. This should address the Council's concerns in their entirety in this regard and payment will be made within a month of an appeal being approved.

Flood Risk

¹ With particular regard to case law *Braintree DC v SSCLG (2018) EWCA Civ 610; (2018)* and *City & Country Bramshill Limited and SOSHCLG (2019) EWHC 3437 (Admin)*.



- 2.17 The ground type (clay) is acknowledged. However, it first must be recognised that this type of soil condition already restricts infiltration. Consequently, the construction of built form would have no effect on water run-off rates compared to the existing situation. There can only be a betterment through design.
- 2.18 Such a betterment would arise from a drainage strategy that will seek to store water in enlarged blue infrastructure within the appellant's ownership, as per the standard Infiltration Hierarchy approach. This would then be released appropriately to a nearby watercourse at the rear of the site (to which the appellant has riparian rights). An updated technical drainage report has been submitted with this appeal to show that this strategy would be both effective and feasible. This matter will be the subject of LPA and LLFA scrutiny in due course at the Reserved Matters stage.

Conditions

- 2.19 The Council's SoC comprises a list of suggested conditions. Comments pursuant to these are set out below. The remainder of the conditions are agreed.
- Condition 7 would normally be imposed on the relevant Reserved Matters submission.
 - Condition 9 and 10 are not necessary. Reserved matters will cover these aspects of landscaping, drainage,

3. Conclusion

- 3.1 Overall, there is no evidence within the Council's SoC which alters the appellant's assertions. There would be no harmful impacts that would significantly or demonstrably outweigh the benefits of the development. This scheme would therefore accord with the provisions of the Framework when read as a whole and the weighted presumption in favour of sustainable development remains applicable. The weighting table, identified below, remains unchanged.

Material Consideration	Weight Ascribed
Provision of housing in an accessible location in circumstances of a critical local and national housing shortfall.	Significant weight in favour.



Provision of legally secured self-build plots in circumstances of a significant shortfall of such units.	Significant weight in favour.
Supporting community services.	Significant weight in favour.
Economic benefits at a time of economic uncertainty.	Significant weight in favour.
Academic conflict with the spatial strategy by virtue of potentially being outside of a settlement boundary.	Limited weight against. - Fundamental accordance with spatial strategy as site is in an accessible location. No material planning harm. - Housing policies are restrictive and out-of-date given the Council's housing land supply position. - Framework itself asserts that sites to meet local community needs in rural areas may have to be found adjacent to or beyond existing settlements
Harm to the undeveloped site in character and appearance terms.	Modest weight against. - Localised harm. - Tempered by planting, the developed context and the amount of open space at the site.

3.2 Consequently, the proposal should be approved without delay as it is in accordance with the development plan as a whole and there are no other considerations which outweigh this finding.



3.3 It is therefore respectfully requested that the Inspector allows this appeal.

End of Closing Comments



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