

APPLICATION FOR PERMISSION IN PRINCIPLE

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/00930
APPLICATION TYPE:	Permission in Principle
SITE ADDRESS:	Home Farm, Corston, Malmesbury, Wiltshire, SN16 0EW
DEVELOPMENT DESCRIPTION:	Permission in principle for the development of up to 4 no dwellings.
RECOMMENDATION:	That Permission in Principle is REFUSED

SITE DESCRIPTION/CONTEXT

The application site (The Site) comprises a yard forming part of Home Farm, located on the western side of the A429, to the south of the Market Town of Malmesbury. The site comprises a parcel of land, approximately 0.19 hectares, located within the open countryside. It contains a large agricultural building and two single-storey barns – one constructed from a combination of blockwork and stone, and the other primarily of natural stone construction.

The site has two access points, one directly into the site from the A429 and one located to the north of the neighbouring dwelling (Avalon) that skirts the rear of the neighbouring garden to provide access into the rear of the application site (as well as access to the farmhouse at Home Farm and Ivy House). A public bridleway

None of the buildings within the site are statutorily listed, and the site is situated outside any conservation area. To the north of the site, beyond the neighbouring dwelling at Avalon, lies the Grade II listed building, Pike House. A Grade II listed milestone is also located near the entrance to this listed building.

A public bridleway (MALW91) connects the agricultural gates outside the western corner of the site to the wider area. The council's records confirm the site is not situated within or close to any sensitive land-uses, in terms of landscape, or ecological designations.

The site has previously been the subject of planning applications and prior approval applications under Class Q (agricultural to residential conversion) and Class R (agricultural to flexible commercial use) of the General Permitted Development Order (GPDO). The majority of these applications were refused by the LPA with the most recent applications (for a Class R change of use and associated operational development) also dismissed at appeal. These applications are listed in the planning history section of the report below.

Despite being located close to a group of existing dwellings, that extend to the north mainly along the A429 road frontage, the site has a distinctively rural character and is very well screened from the domestic properties to the north.

PROPOSAL

The application seeks Permission in Principle under the provisions of the Town and Country Planning Act 1990 (as amended).

The development proposed is for a development of up to four dwellings. Indicative plans suggest one of the dwellings is proposed to be a conversion of the existing brick barns with three detached dwellings.

No detailed matters of layout, scale, appearance, access, landscaping or drainage are submitted at this stage, as these are not required as part of a Permission in Principle application.

PLANNING HISTORY

Proposal / Summary
17/12546/PNCOU - Notification Decision - Prior Notification Refused Date: 7/2/2018 – Notification for Prior Approval Under Class Q - Conversion of Agricultural Buildings to form 3 Dwellings and for Associated Operational Development.
18/06302/PNCOU - Notification Decision - Prior Notification Refused Date: 24/8/2018 – Notification for Prior Approval under Class Q - Change of Use of Agricultural Buildings to Form Three Dwellinghouses (Use Class C3) and for Associated Operational Development
20/06771/PNCOU - Notification Decision - Refused Date: 14/9/2020 – Notification for Prior Approval Under Class Q - Conversion of Agricultural Building to form 2 Dwellings and for Associated Operational Development.
PL/2021/10646 - Class R Application Decision - Notification under Class R for a Flexible Change of Use of Part of an Agricultural Building (113 square metres of building to be used as a farm shop/ café commencing on 1st January 2022)
PL/2022/02070 - Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use Decision - Prior Approval Refused Date: 5/5/2022 – Notification for Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use (Retail / Cafe with ancillary Storage)
PL/2023/05640 - Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use Decision - Prior Approval Refused Date: 4/10/2023 – Retail/Cafe with ancillary Storage (Re-submission of application PL/2022/02070)
PL/2023/05641 - Prior notification: Demolition Decision - Prior Approval Not Required Date: 8/8/2023 – Concrete framed open-sided hay barn
PL/2023/10426 - Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use Decision - Prior Approval Refused Date: 12/3/2024 – Retail/Cafe with ancillary Storage (Re-submission of application PL/2023/05640).
PL/2023/10427 - Full planning permission Decision - Refuse Date: 21/6/2024 – Alterations to buildings (to be determined in relation to the concurrent Class R prior approval application).
PL/2024/10192 - Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use Decision - Refuse Date: 7/1/2025 (Dismissed at Appeal) – Conversion of agricultural buildings to a flexible commercial use shop and café (Class E) (Revised Proposal).
PL/2024/10219 - Full planning permission Decision - Refuse Date: 7/1/2025 (Dismissed at Appeal) – External alterations to agricultural building, formation of car parking area,

surface water drainage works and landscaping in connection with the concurrent Class R application for prior approval (Revised Proposal).

RELEVANT LEGISLATION, POLICIES AND GUIDANCE

Statutory Legislation:

Town and Country Planning Act (TCPA) 1990 - as amended);

Planning (Listed Buildings and Conservation Areas) Act (LBC Act) 1990 - as amended).

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 13 Malmesbury Community Area;
- Core Policy 48 Supporting Rural Life
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 52 Green Infrastructure
- Core Policy 55 Air Quality;
- Core Policy 56 Contaminated Land;
- 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 64 Demand Management
- Core Policy 67 Flood Risk.

Draft Wiltshire Local Plan Policies

The examination of the emerging Wiltshire Local Plan has been paused and the weight to be afforded to any part of the emerging plan can be no more than very limited. A decision on how to proceed will be made by the Council in May 2026.

Neighbourhood Plan:

Malmesbury Neighbourhood Plan 2014 to 2026 (MNP) (made February 2015)

- Volume I – Main Body Policies:

4 – Housing Need,

5 – Housing Numbers; and

13 – Neighbourhood Design Guide.

- Volume II – Design Guide

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide (adopted April 2024);
- Wiltshire Local Transport Plan 3 2011-2026, adopted 2015 - including the Car Parking Strategy and Cycling Strategy, adopted 2015;
- Wiltshire Local Transport Plan 4;
- Wiltshire Council's Waste Storage and Collection: Guidance for Developers Supplementary Planning Document, January 2017
- Wiltshire Local Cycling and Walking Infrastructure Plan (LCWIP)
 - Active travel infrastructure design standards 2022
 - Active travel parking standards and design guide 2022
- Air Quality SPD (July 2023)
- Wiltshire Housing Site Allocations Plan, adopted 25 February 2020.

PERMISSION IN PRINCIPLE – PURPOSE AND SCOPE OF ASSESSMENT

Permission in Principle (PiP) is an alternative route to obtaining planning permission, introduced by the Housing and Planning Act 2016. It is intended to provide an early and proportionate decision on whether a site is suitable for development, before detailed design work is undertaken.

The PiP process operates as a two-stage planning permission route for housing-led development:

- *Stage 1 – Permission in Principle:*
Establishes whether the principle of development on a site is acceptable.
- *Stage 2 – Technical Details Consent:*
If PiP is granted, a subsequent application is required to consider the detailed proposals, including layout, scale, appearance, access, landscaping, drainage and infrastructure.

At the Permission in Principle stage, the assessment is deliberately high-level and intended to be limited in scope. The purpose of a PiP is not to approve detailed plans, but to provide certainty at an early stage about whether development of a particular type is acceptable in principle at a given location. This approach is intended to help streamline the planning process by allowing developers and communities to understand development potential before significant time and expense is committed to detailed designs.

Importantly, the grant of Permission in Principle does not authorise development to commence. Development can only proceed once Technical Details Consent has been granted.

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.

Matters that Can Be Considered at the PiP Stage

National Planning Practice Guidance (PPG) suggests matters considered should be limited to:

- The location of the development;
- The proposed land use(s);
- The amount of development proposed.

These are the primary issues that should be taken into account when determining whether PiP should be granted or refused.

KEY ISSUES FOR ASSESSMENT

In determining this application for Permission in Principle, the Local Planning Authority must consider the following key issues:

1. **Whether the location of the site is suitable** for the proposed form of development, having regard to the spatial strategy set out in the development plan and relevant national policy.
2. **Whether the proposed land use is acceptable in principle** at this location, taking into account the character and role of the settlement and surrounding area.
3. **Whether the amount of development proposed is appropriate**, assessed at a high-level and in broad terms only.
4. **Whether there are any overriding constraints** which would clearly and demonstrably prevent the site from being developed in principle, even allowing for detailed matters to be addressed at the Technical Details Consent stage.

A Permission in Principle application should therefore only be refused where it is clearly demonstrated that the principle of the proposed development is unacceptable, and that such concerns could not reasonably be addressed through a subsequent Technical Details Consent application.

CONSULTATION RESPONSES

WC Highways: Comment

The LHA recognises that the permission for 4 number dwellings would lead to a potential lower level of traffic generation than the granted permission of the commercial nature of the site so provided a suitable access were demonstrated there would be no concern for highway safety due to the level of vehicular movements through the access and the effect on the highway network.

Highways will be guided on the principle of housing development by planning.

St Paul's Parish Council: Objection

- The access should be provided with visibility to meet a 60mph speed limit due to the site being adjacent to the end of the national speed restriction;
- The string development of Burton Hill does not have a settlement boundary therefore this proposal for four dwellings would extend the development contrary to CP 2;
- Concerns over flood risk as the existing drainage system is already at full capacity, with the occasional overage occurring, there should be no additional surface water from this development permitted to drain into existing systems;
- There should be no access from the rear of the development for pedestrians and vehicles into the lane or Bridleway MALW 91.

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 near 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.

No responses to the public consultation were received.

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.

Location and Land Use

Policy Context

Policies CP1 and CP2 of the Wiltshire Core Strategy (2015) (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 finally small villages. The first four of these settlement categories have defined settlement boundaries.

The National Planning Policy Framework promotes sustainable development and supports the delivery of housing in principle, subject to it being located in suitable areas and not giving rise to conflicts that would fundamentally undermine the objectives of the development plan. In rural areas, paras. 82 and 83 state:

In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, including proposals for community-led development for housing. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

The site is not located within a defined settlement, the closest to the site being the small village of Corston (approx. 1.5km to the south) and the Market Town of Malmesbury (approx. 0.8km to the north). The site borders a cluster of existing dwellings, though is still considered to be remote from any settlement, defined or otherwise. The site is considered to be isolated in planning terms.

The LPA can only conclude that the new-build housing sought would be open-market and not proposed to meet any specific, identified local needs. Nor would the open-market element of housing proposed meet the rural exceptions as set out within para. 84 of the NPPF. The site location is therefore broadly unacceptable in principle (for the three new-build units) due to the open countryside location and type of housing proposed.

WCS Core Policy 48 provides the development plan policy for the conversion of rural buildings. It aims to support a commercial re-use first, providing the building is structurally capable of supporting the intended conversion, only supporting residential uses in line with national policy

(if in an 'isolated' location) or in line with CP48 if commercial re-use is not a practical proposition. The Applicant contains only limited information with regards to the proposed conversion of the existing brick-built barns. Commercial re-use (including holiday let) may be practical propositions. It is of note that several previous Class Q applications (change of use into residential accommodation) were refused prior to the submission of several Class R (CoU to commercial use) applications being submitted and refused. Given the planning history, lack of evidence to confirm the condition of the building and/or that a commercial re-use would be impractical, the LPA considers there is sufficient evidence to suggest that a residential conversion would not be supported by CP48.

Access to services and transport options

Given the council's lack of a 5yrHLS, the location and proposed land use must be considered in relation to future occupiers being able to reasonably access a range of essential/day-to-day services without overreliance on the use of private motor vehicles. The emerging Local Plan has been placed on hold due to concerns raised by the examining Inspector, as such it is highly unlikely that the HLS position can be addressed through Local Plan allocations.

Therefore, there is a reasonable expectation that some greenfield sites may be required to be developed in the near future to ensure the council can work towards restoring its 5yrHLS. This does not mean that the LPA must seek to support all new applications for greenfield development and the sustainability of a site location, and ability for future occupiers to access a range of services via a suite of transport options is a crucial consideration.

The closest large settlement with a range of services (including schools and employment) is the market town of Malmesbury. There is an unlit footway that runs along the northbound side of the A429 extending into Malmesbury with access to the town centre on foot approx. 1.3-1.5km to the north. The Waitrose supermarket is around 1.1-1.2km and the Malmesbury settlement boundary (close to the hospital) closer at around 800m. The leisure centre and schools are further at around 2-2.5km walk, depending on whether the route follows the highways or uses rural footpaths. Given the distances to nearby services and unlit nature of the footway the LPA considers it highly unlikely that future occupiers would choose to walk into Malmesbury.

Cycling along the footway would not be encouraged. The footway is narrow (approx. 1.2-1.4m width), unlit and adjacent to a main road with a high-speed limit. It could not be used as a cycling route.

The Applicant has confirmed there are bus stops close to the site on the A429 that accommodate two services. The 99 service runs between Swindon, Wootton Bassett, Malmesbury and Chippenham. The 99 service runs hourly between approximately 7:00am and 7:00pm, the first bus north runs to Swindon at 6:22am with the last bus north at 6:20pm to Malmesbury. The first bus south is at 7:15am to Chippenham with the last bus south at 6:11pm (also to Chippenham). The second bus service is the X79 runs between Hullavington and Bath (via Malmesbury). It appears to only run once a day picking up from Home Farm at 9:26am returning at 2:40pm and only once a week on Thursdays.

The bus stop on the northbound side of the road (application site side) has access via a footway but no footway exists to provide access to the southbound side. Both bus stops are

considered to be easily accessible from the application site. The fairly regular services running through the day would provide some alternative option to private car. However, the lack of evening bus services would be a limitation.

NPPF para. 110 states that:

...Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

The LPA is satisfied the proposal is not for 'significant' development. However, the location is also considered to be unable to be made sustainable and would have very few opportunities to maximise access for future occupiers to benefit from a range of transport solutions. The LPA also considers that para. 110 of the NPPF is not intended to encourage LPAs to support residential development in unsustainable rural locations, but (if aiming to do so) to encourage LPAs to ensure that development in rural locations maximises opportunities as is reasonable to a specific location and development.

On balance, even with the presence of nearby bus stops the LPA considers that an overreliance on the use of private motor vehicles would be created as future occupiers would not have access to a genuine choice of transport modes as a result of the proposed land-use and site location.

Landscape Impacts

The change of use of the land from an agricultural use into residential will fundamentally change the character of the site. The LPA considers this is a matter of principle in this case. As a result of the amount of development, the proposal would introduce significant levels of suburban built form into a site which presently has a distinctively rural character. Coupled with likely associated lighting, boundary treatments, parked vehicles, activity and domestic paraphernalia, it would dramatically and unacceptably change the character of the land, eroding its rural qualities.

The site is also prominently visible within long distance landscape views of Malmesbury that include the town with the grade I listed Abbey visible as a prominent feature at the highest point of the town. Although unlikely to be considered to be within the setting of the designated heritage asset the views north from the A429 that include the application site are locally significant and would be fundamentally and permanently altered by the change from a rural land use to a residential development.

The proposed land use would introduce a residential land use into an area that is distinctively rural in character, resulting in a fundamental incompatibility that goes beyond detailed design or mitigation that may be resolved at the later technical details stage.

The proposal therefore fails to comply with the aims of Core Policies 1, 2, 51 and 57 of the WCS, policies 3 and 4 of the MANP.

Conclusion

The location of the site and proposed land use would represent a fundamental conflict with the established character and function of the area. This harm relates to the principle of development and could not reasonably be addressed through the submission of detailed proposals at the Technical Details Consent stage.

Amount of Development

Policy Context

The development plan seeks to ensure that the scale of new development is appropriate to its location, having regard to the size, role and character of the settlement, and the capacity of the area to accommodate change in principle.

The National Planning Policy Framework supports a proportionate approach to the assessment of scale at an early stage in the planning process, recognising that detailed matters of layout, design and appearance are to be addressed through subsequent stages of decision-making where appropriate.

Assessment

At the PiP stage, the assessment of the amount of development is necessarily broad-brush. The key question is whether the quantum of development proposed is so excessive, or so limited, that it would be inappropriate in principle, having regard to the site's location and the settlement within which it sits.

The amount of development is relevant to considerations relating to traffic and highways safety. Whilst only limited considerations can be made at this stage (the numbers of bedrooms for each dwelling could vary) a broad assessment can be made. The Local Highway Authority (LHA) has reviewed the proposal and notes that, at this stage, it can be assumed that the existing access onto the A429 would be used for the residential development. The access is located within a 40mph speed limit but close to a national speed limit (it changes approximately 30 metres to the south of the site access). There are speed limit signs, painted road markings and rumble strips extending some 120 metres to the south of the access to warn road users of the change to the speed limit. As such, the LHA is satisfied that visibility splays appropriate to a 40mph speed limit should be secured. The LPA considers that technical design matters relating to the site access could be addressed at TDC.

However, the LHA has advised that a 4-dwelling development is likely to generate less traffic than the commercial use of the site previously sought (the LHA appear to consider that an approval was issued). Whilst there have been numerous attempts to secure alternative uses of the existing agricultural buildings all prior applications have been refused. Only the most recent Class R (change of use to commercial) and an associated full planning application for building operations were appealed with both appeals being dismissed. As such, the LPA is satisfied there is no commercial fall-back and, whilst the proposed residential use may generate less traffic than the proposed commercial use, the Inspector did not allow the appeal, so no commercial fall-back position has been established.

The LHA has confirmed that, subject to a safe access being secured at TDC stage, they would have no objection to the increase in traffic likely to arise from the proposal. The LPA agrees that subject to confirmation of a safe access, harm to highway safety could be mitigated and it is not unacceptable in principle.

In addition to the landscape impacts assessed above, it is considered the amount of development sought (in combination with the land-use) relative to the size of the site, would still result in a built development that would be more prominently visible from the A429 within the context of the agricultural fields to the south and west (as well as the landscape setting of Malmesbury to the north).

Conclusion

Having regard to the development plan and relevant national policies listed above, it is considered that the amount of development proposed is unacceptable in principle.

Constraints and Infrastructure Considerations (PiP Context)

Policy Context

The development plan and national planning policy recognise that sites may be subject to environmental, physical or policy constraints. At the Permission in Principle stage, the key consideration is whether any such constraints are of a nature or severity that they would clearly and demonstrably prevent development from coming forward in principle, even allowing for detailed matters to be addressed at the TDC stage.

The National Planning Policy Framework confirms that planning decisions should be proportionate, and that early-stage permissions should not seek to resolve detailed technical matters prematurely.

Assessment

Consideration has been given to the presence of any known constraints affecting the application site that are capable of undermining the principle of development. It is acknowledged that part of the site is highlighted by the EA

These include:

- Flood risk designations;
- Heritage assets or their settings;
- Ecological designations.

The existence of a constraint does not, in itself, justify refusal of a Permission in Principle application. The crucial question is whether the constraint is so severe that it could not reasonably be overcome or mitigated, even in principle, through the consideration of detailed proposals at the Technical Details Consent stage.

Flood Risk

In this case, the main constraint is that the site is within an area at higher risk of surface water flooding (Env. Agency data suggests between 1% and 3.3% chance of a flood each year). With regards to river flooding, the site is within Flood Zone 1.

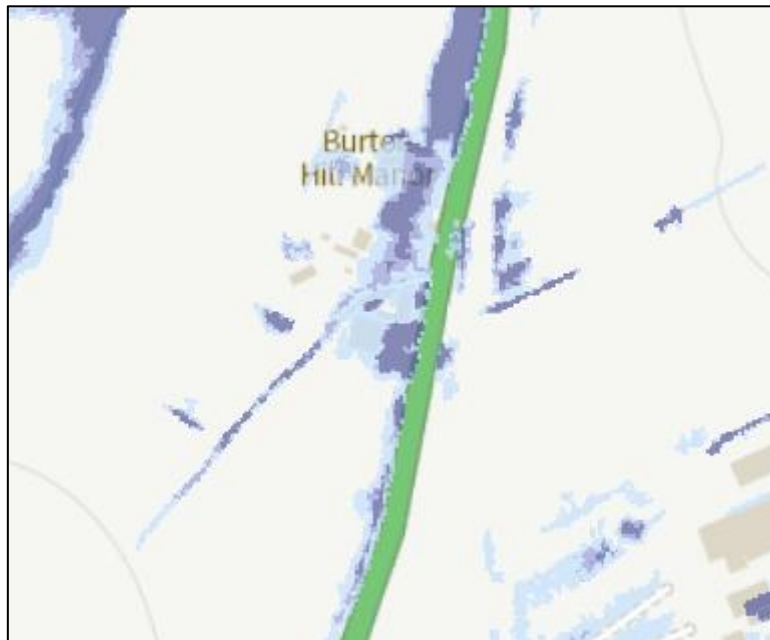


Figure 1 - Extract from Env. Agency Surface Water Flooding Map

Para. 170 of the NPPF states that:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Para. 173 goes on to explain that:

A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding...

The purpose of a sequential test is to steer new development to areas with the lowest risk of flooding from any source. The LPA acknowledges that the source of flooding in this case would be surface water. The EA's data appears to confirm that the farmland to the south and west of the site, and highway directly to the east are not within higher risk areas of surface water flooding. The LPA accepts that technical details of surface water management would be considered at TDC stage. However, the site and dwellings to the north are within an area at of flooding from surface water so the Sequential Test is relevant.

The application of the Sequential and Exception Tests are matters of principle and the exemptions provided by NPPF para. 176 are not considered to apply to this proposal. No details of a Sequential Test (ST) have been submitted by the Applicant and the LPA is unable to determine whether any alternative sites may be available. Should the LPA be minded to

approve the PiP, ST details could be sought from the Applicant. However, as the LPA considers there are other reasons to refuse the development on principle grounds no details have been sought and, in any case, there is no guarantee that a ST could be passed. Given the scale of development (up to 4 units) and the relevant search area being at least the Housing Market Area, it is highly likely that sites with lower risk will be available for the scale and type of development. The LPA has had some regard to the Exception Test in line with para. 178 that requires:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The development of up to four dwellings in this open countryside location is not considered to provide wider sustainability benefits to the local community that would outweigh the flood risk. As such, part a of the exception test fails. Part b would be a matter to be assessed at TDC stage and the LPA is unable to make an informed judgement at the PiP stage.

It is acknowledged that failure of the sequential test itself may not justify refusal in scenarios where there is limited real world harm. PPG guidance states that in applying para. 175 of the NPPF a proportionate approach should be taken. In this case however, given the extent of surface water flooding across the site, and the limited level of detail to be considered at PiP stage, the LPA cannot be satisfied that the proposed layout, design and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water risks without increasing flood risk elsewhere.

Heritage impacts

The site is close to several listed buildings, Pike House (a dwelling, former Turnpike Keeper's house. Early C19 with C20 rear addition) and a milestone 4 metres to the north of Pike House. The site is located in proximity to these designated heritage assets, but is not considered to contribute to a substantial degree to the significance of these heritage assets that derives from their settings.

As stated above, the distinctively rural character of the site would be lost by the proposed land use. However, the settings of the nearby heritage assets are fairly limited to the house and its gardens/curtilage (for Pike House) and the adjacent highway and Pike House (for the milestone). The application site is also separated and well screened from intervening views to and from the heritage assets. The LPA is therefore satisfied that the change to the character of the application site would be harmful to the settings of these designated heritage assets.

Ecology considerations

The site is not designated as a protected or priority habitat but, may have the potential to support protected species such as bats and nesting birds. However, surveys of the site and submission of mitigation/enhancement details could reasonably be undertaken prior to the submission of TDC.

Conclusion

The identified constraint is such that the site is not suitable for the proposed development in principle. This objection goes to the heart of site suitability and could not reasonably be overcome through the submission of detailed proposals at a later stage. The development fails to comply with the provisions of paragraphs 170 and 173 of the NPPF.

Other Issues – reference to recent appeals

The Applicant has referenced several appeals, the majority of which relate to developments of larger scale or in locations that are not comparable to the current permission in principle scheme. The most relevant to the current application is a permission in principle site within the nearby small village of Milton. That appeal (PINs ref: APP/Y3940/W/23/3318945, LPA ref: PL/2022/08492) was allowed for permission in principle for one dwelling.

Key similarities include the location, Milton being approximately 1.2km from the settlement boundary of Malmesbury. The site is also close to bus stops located on the same route as the Home Farm application site. However, Milton is identified as a ‘small village’ within Core Policy 14 of the WCS. It is a small village with no settlement boundary but, within the Delivery Strategy set out within Core Policy 2, some new housing within small villages is identified as acceptable in broad principle. This is limited to infill within the existing built area and, whilst the Milton appeal was not clearly an infill development (in line with the CP2 definition), the Inspector concluded that it was a development that would:

...be located such that it would respect the existing character and form of the settlement, would not elongate the village or impose development in sensitive landscape areas, and would not consolidate an existing sporadic loose knit area of development related to the settlement.

In this case, the above report has highlighted that the proposal would not comply with the provisions of CP2 and there would also be landscape harm to a degree that is considered to be of a magnitude that would be unacceptable in principle.

The Inspector confirmed that CP2 was broadly consistent with the NPPF, where it states that the planning system should actively manage patterns of growth and seek to protect the character and appearance of areas. CP2 was considered in that case to still carry a reasonably significant amount of weight, despite the council failing to be able to demonstrate a 5yrHLS at the time of the appeal. The council again finds itself in a position to be unable to demonstrate a 5yrHLS, but it is considered that CP2 still carries a significant amount of weight. As the current proposal fails to comply with CP2 the LPA is satisfied that the change of use of the land into a residential use is unacceptable in principle in this case.

PLANNING BALANCE AND CONCLUSION

The application seeks Permission in Principle for the change of use of land and erection of up-to four dwellings on the site.

In determining a Permission in Principle application, the Local Planning Authority is required to assess impacts relevant to the location of the development, the proposed land use, the amount of development, and whether there are any overriding constraints which would clearly and demonstrably prevent development from coming forward in principle.

Having considered the application against the development plan and the National Planning Policy Framework, it is concluded that the proposed development is not acceptable in principle. The concerns identified go to the fundamental suitability of the site for development, rather than to matters that could reasonably be resolved through the submission of detailed proposals at a later stage.

Five-Year Housing Land Supply and Tilted Balance

The Local Planning Authority is currently unable to demonstrate a deliverable five-year supply of housing land.

The National Planning Policy Framework confirms that in such circumstances, the delivery of new housing attracts significant weight as a material consideration in decision-making. Para. 11d states the following:

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance⁽⁷⁾ provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁽⁹⁾.

This matter has been given careful consideration in the determination of this application. However, while the contribution towards housing delivery attracts substantial weight, it does not override the requirement for development to be located in suitable and sustainable locations, nor does it justify granting Permission in Principle where the site is fundamentally unsustainable in principle.

The identified flood risk issue is considered to be a strong reason to refuse the application in line with the provisions of 11d(i). As such, the provisions of 11d(ii) are not considered to be engaged.

Notwithstanding the above position, and the LPA view that the flood risk issue presents a strong reason to refuse the application and disapplies the 'tilted balance', it is considered that

the combined range identified harms set out above would significantly and demonstrably outweigh the benefits of the scheme

The harms, including the conflict with the settlement strategies (moderate weight), lack of connectivity and dependence on private vehicles (significant weight) and harm to landscape character through urbanisation and a loss of countryside (significant weight) would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.

The acknowledged benefits include the provision of up to four houses, the economic benefits during construction and future occupation. Given the limited number of dwellings involved, these benefits garner moderate weight overall.

In the event the surface water flood risk were not considered to be a strong reason to refuse the application, the other adverse impacts would justify refusal under NPPF para. 11d(ii).

Conclusion

Overall, the proposal conflicts with the development plan when assessed against the statutory framework for Permission in Principle. There are no material considerations, including housing land supply, that indicate a decision other than refusal should be made.

The harm identified relates to the principle of development and could not reasonably be addressed or overcome through the submission of a subsequent application for Technical Details Consent. Permission in Principle is therefore refused.

RECOMMENDATION:

That Permission in Principle be REFUSED for the following reasons:

1

The application site is located outside the defined settlement boundary, in an unsustainable location, that would fail to provide a genuine choice of transport modes conflicting with the spatial strategy and relevant policies of the Wiltshire Core Strategy 2015, namely Core Policies 1, 2, 13, 60 and 61 the National Planning Policy Framework having particular regard to the key policies for directing development to sustainable locations, including paragraph 110.

2

The application site is subject to an overriding constraint relating to the flood risk and failure to demonstrate compliance with the Sequential Test conflicting with the planning policy advice of the National Planning Policy Framework having particular regard to the key policies for avoiding inappropriate development in areas at risk of flooding. The LPA cannot be satisfied that the proposed layout, design and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water risks without increasing flood risk elsewhere contrary to National Planning Policy Framework para 175, 178, 181.

The change of use of the land from an agricultural use into a residential development will fundamentally change the character of the site. As a result of the proposed use and amount of development, the proposal would introduce significant levels of suburban built form into a site which presently has a distinctively rural character and is located within open countryside. Coupled with associated lighting, boundary treatments, parked vehicles, domestic activities and paraphernalia, it would dramatically and unacceptably change the character of the land, eroding its rural qualities conflicting with the relevant policies of the Wiltshire Core Strategy 2015, namely Core Policies 51 and 57 and the planning policy advice of the National Planning Policy Framework having particular regard to the key policies for making effective use of land and securing well-designed places including paragraphs 124 & 187