

STATEMENT OF CASE

Appeal under section 78 of the Town and Country Planning Act 1990

Appellant: Millen Homes Limited

Site: Land East of Yarnbrook Road, West Ashton, Wiltshire (HM Land Registry title WT205214)

Local Planning Authority: Wiltshire Council

Application reference: PL/2026/00531

Decision: Refusal of outline planning permission, 15 June 2026

Development: Outline planning permission (access and layout only; all other matters reserved) for 9 self-build / custom-build dwellings on approximately 0.47 hectares

Appeal reference: APP/Y3940/W/[]/[] (to be inserted)

This Statement of Case sets out the full case the Appellant intends to advance. It responds to each of the Council's six reasons for refusal with the supporting evidence, and relies in particular on the Council's own decisions and officer conclusions on neighbouring schemes on the same stretch of Yarnbrook Road — principally the Appropriate Assessment for Sunnyside (PL/2021/09453), concurred in by Natural England — and on the committed Yarnbrook & West Ashton Relief Road (15/04736/OUT). References to the National Planning Policy Framework are to the December 2024 edition ("the Framework"), and to the development plan are to the adopted Wiltshire Core Strategy (2015) ("the WCS"). Policy, statutory and case-law references have been checked. Reason-for-refusal numbering follows the issued decision notice of 15 June 2026.

1. Introduction and executive summary

- 1.1** This Statement is submitted on behalf of Millen Homes Limited (“the Appellant”) in support of an appeal against Wiltshire Council’s (“the Council”) refusal of outline planning permission for 9 self-build dwellings on land east of Yarnbrook Road, West Ashton (application ref PL/2026/00531; refused 15 June 2026). Access and layout are submitted for determination; appearance, scale and landscaping are reserved.
- 1.2** The Council refused the application for six reasons, in summary: (1) development in the open countryside beyond the limits of development, said to be unsustainable and car-dependent; (2) highway safety and conflict with Core Policy 62 in respect of a new access onto the A350; (3) landscape and character harm; (4) inability to conclude a favourable Appropriate Assessment in respect of the Bath & Bradford-on-Avon Bats Special Area of Conservation (“the SAC”); (5) the absence of pre-determination archaeological trial-trench evaluation; and (6) the absence of a completed legal agreement to secure self-build delivery and ecological mitigation.
- 1.3** The Appellant’s primary submission is that the proposal is sustainable development that benefits from the presumption in paragraph 11(d) of the Framework, and that none of the reasons for refusal — whether taken individually or cumulatively — provides a sound basis for withholding permission. In summary:
- **Reason 1:** The Council cannot demonstrate a five-year supply of deliverable housing land (it concedes 2.8 years). The most important policies for determining the application are therefore out-of-date; the restrictive spatial-strategy policies do not operate to prevent otherwise-sustainable development on the edge of a settlement; and the tilted balance is engaged.
 - **Reason 2:** The highway objection is overtaken by the Council’s own committed and under-construction Yarnbrook & West Ashton Relief Road (permitted under 15/04736/OUT), which severs and de-traffics the A350 at the appeal frontage, removing the conflict with Core Policy 62 and the highway-safety concern. The dismissed appeal on which the Council relies (APP/Y3940/W/24/3342139) is distinguishable and, properly read, supports the Appellant. Occupation is tied to delivery of the relief road by a Grampian condition (Section 7).
 - **Reason 4:** The SAC objection is one of outstanding survey and mitigation, not demonstrated harm. It is capable of being secured by pre-commencement condition and by the planning obligation, following the same TWBMS route the Council and Natural England endorsed — and secured by condition — on the immediately adjoining site, Sunnyside (PL/2021/09453). On that basis a favourable Appropriate Assessment can be reached and footnote 7 to paragraph 11 is addressed.
 - **Reasons 3, 5 and 6:** landscape harm attracts limited weight at outline; archaeology and the legal agreement are met by condition and by the planning obligation that accompanies this appeal.
- 1.4** The Appellant respectfully invites the Inspector to allow the appeal and to grant outline planning permission subject to the conditions and the planning obligation set out at Section 15.

2. Documents accompanying this Statement

This Statement should be read together with: the application drawings (site location plan, access and layout plans and highway visibility plan); the updated Preliminary Ecological Appraisal (Arborweald, ref DKS1723.1, revised 18 June 2026) together with the outstanding survey, Ecological Parameters Plan, Ecological Mitigation / Habitat Enhancement Plan and lighting scheme to be secured by condition; the transport evidence; the draft s106 Unilateral Undertaking; and the surrounding-site evidence relied upon — in particular the Sunnyside pack (PL/2021/09453), including the Council’s Appropriate Assessment of 14 March / 14 April 2022 concurred in by Natural England on 25 April 2022, and the Ashton Park bat evidence (15/04736/OUT).

3. The appeal site and its surroundings

- 3.1 The appeal site comprises approximately 0.47 hectares of former grazing land on the eastern side of Yarnbrook Road (the A350), on the southern edge of West Ashton. The land is rough grassland with boundary hedgerow and scrub. Vehicular access is available from an existing lawful access onto the A350 that serves Lively Farm.
- 3.2 The site is not isolated countryside. It is bounded by the built form of the settlement to the north and north-west; by the barn at Lively Farm to the north, which has both a prior approval and a subsequent consent for residential conversion (PL/2025/08586; PL/2026/02193); by the established traveller pitches to the south (the officer report itself records “a travellers site to the south”); and, to the east, by the consented and under-construction Ashton Park urban extension (15/04736/OUT). The site sits within a cluster of recent and committed development on this stretch of Yarnbrook Road, which also includes Sunnyside (PL/2021/09453) and Land at Homefield Farm, Yarnbrook (19/03240/OUT).
- 3.3 The site lies within Flood Zone 1 and is below 1 hectare. It is within the SAC consultation zone and within the grey and yellow zones of the Trowbridge & Westbury Bat Mitigation Strategy (“the TWBMS”), and within the recreational zone of influence of the Salisbury Plain Special Protection Area (“the SPA”).
- 3.4 Materially for the highway case, the A350 at the frontage is the subject of an approved and committed realignment. Under the Ashton Park permission, the existing A350 carriageway at this location is to be “broken up and landscaped” and a turning head formed (approved drawing P480/106, reproduced at Appendix A), with strategic through-traffic transferred onto a new relief-road carriageway (Section 7).

4. The proposal

- 4.1 Outline permission is sought for 9 dwellings, with access and layout for determination and all other matters (appearance, scale and landscaping) reserved. The submitted layout demonstrates that 9 dwellings can be accommodated with appropriate access, parking and separation distances while retaining the boundary features required for the ecological mitigation (Section 10).
- 4.2 The dwellings would be delivered as self-build / custom housebuilding within the meaning of section 1(A1) of the Self-Build and Custom Housebuilding Act 2015, to be secured by planning obligation. The scheme therefore responds directly to the Council’s statutory duty to grant sufficient permissions to meet the demand for self-build and custom housebuilding evidenced on Part 1 of its register.

5. The statutory framework, the development plan and housing land supply

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require the application to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the WCS (2015). The emerging Wiltshire Local Plan was resolved to be withdrawn by Full Council and can be afforded no weight.
- 5.2 The policies most important for determining the application include Core Policies 1, 2 and 29 (settlement strategy and delivery strategy), which restrict housing outside defined limits of development, and Core Policies 57, 60, 61 and 62 (design, transport and access).
- 5.3 **Five-year housing land supply.** It is common ground that the Council is unable to demonstrate a five-year supply of deliverable housing land. The officer report records a supply of only 2.8 years — a shortfall in the order of 2.2 years, which is substantial. It follows, under paragraph 11(d) and footnote 8 of the Framework, that the policies which are most important for determining the application — including the spatial-strategy and limits-of-development policies — are out-of-date.
- 5.4 **The tilted balance.** Where the most important policies are out-of-date, paragraph 11(d)(ii) directs that permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance (footnote 7) provides a strong reason for refusing, or (ii) any adverse

impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

- 5.5 The weight of the out-of-date policies.** The Appellant does not contend that out-of-date policies are to be ignored. On the authority of *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37, the weight to be given to such policies remains a matter for the decision-maker, to be judged by reference to the extent of the shortfall and the prospect of it being addressed. On a shortfall of this scale, only limited weight can properly be given to the restrictive spatial-strategy policies, and significant weight attaches to the delivery of housing (and self-build housing in particular). In a situation of acknowledged shortfall the limits-of-development policies do not operate to prevent otherwise-sustainable development beyond a settlement boundary; the fact that a site lies outside the defined limits is not, of itself, a sound reason for refusal.
- 5.6 Footnote 7 and the SAC.** The only footnote-7 asset in play is the SAC (a habitats site). Footnote 7 is engaged only where, following an Appropriate Assessment under regulation 63 of the Conservation of Habitats and Species Regulations 2017, the competent authority is unable to conclude that there would be no adverse effect on the integrity of the site. As Section 10 demonstrates, a favourable Appropriate Assessment is achievable following the strategy Natural England has already endorsed on the adjoining site. Once that conclusion is reached, footnote 7 falls away and the tilted balance operates unencumbered in the Appellant's favour.

6. Reason for refusal 1 — principle of development and sustainability

- 6.1 The refusal reason.** Reason 1 states that the site lies in the open countryside beyond the limits of development, contrary to Core Policies 1 and 2 (and paragraph 4.25 WCS), and that occupants would be “heavily reliant on the use of private motor vehicles for the majority of routine journeys”, contrary to Core Policies 1, 2, 29, 60 and 61 and the Framework as a whole. The Appellant addresses each limb.
- 6.2 Conflict with the spatial-strategy policies carries reduced weight.** For the reasons at Section 5, the limits-of-development policies are out-of-date and attract limited weight. Their function is to channel growth in a plan-led manner; where the plan is failing to deliver a five-year supply, that function is not served by refusing sustainable housing on the edge of a settlement. The Appellant acknowledges a technical conflict with the settlement-boundary policies but submits that it is of limited weight and is not determinative under the tilted balance.
- 6.3 The site relates well to the settlement.** The site adjoins the built form of West Ashton and is bounded by development on its principal boundaries (Section 3). It is not a detached or sporadic incursion; it reads as a logical rounding-off of the settlement edge, immediately adjacent to existing dwellings, the Lively Farm barn conversion and the traveller pitches, with the Ashton Park urban extension consented to the east.
- 6.4 Sustainability must be judged in the site's committed future context.** The officer report assesses accessibility as if the surroundings were static. They are not. The Council has granted, and there is now under construction, a 2,500-home urban extension (Ashton Park) immediately adjacent, comprising two primary schools, a secondary school, two local centres, employment land and new active-travel and public-transport infrastructure. Paragraph 116 of the Framework expressly requires transport matters to be assessed “taking into account all reasonable future scenarios”; consistency requires the same realism when judging the sustainability of the location. In that context, future occupiers would have ready access to a full range of day-to-day services, facilities and public transport.
- 6.5 The pedestrian environment is transformed by the relief road.** The Council's concern that the A350 frontage footway is narrow, unlit and beside fast-moving traffic is overtaken by the committed relief road, which de-traffics the existing A350 at the frontage (Section 7). A de-trafficked, landscaped local road provides a safe and attractive walking and cycling environment to the village and to the adjacent Ashton Park network. Where any frontage footway or crossing works are required, they can be secured by Grampian condition or by agreement under section 278 of the Highways Act 1980.

- 6.6 Correction of the Design and Access Statement.** The Appellant acknowledges that the submitted Design and Access Statement contained inaccuracies as to local services, including a reference to a non-existent “Ashton Park railway station” and an overstatement of bus provision — matters the Parish Council rightly identified. These errors are corrected in the transport evidence accompanying this appeal, which sets out the actual services, distances and the post-relief-road walking environment. The corrected position does not disturb the conclusion that, in its committed future context, the site is a sustainable location. Reason 1 is not made out.

7. Reason for refusal 2 — highway safety and Core Policy 62

- 7.1 The refusal reason.** Reason 2 relies on Core Policy 62 (which resists new direct accesses onto the National Primary Route Network outside built-up areas unless an over-riding need is demonstrated), on the character of the A350 as a heavily-trafficked primary route, on the “expected intensification of use” and pedestrian interaction with the PRN, and on a “section of highway lacking adequate footways, lighting and safe crossing facilities”, contrary to Core Policies 57 (criteria ix and xiv), 61 and 62 and paragraphs 115–117 of the Framework. Each limb is answered by the committed relief road.
- 7.2 Visibility is not in dispute.** Following submission of revised access details, the Council’s highway authority accepted that compliant visibility splays of 2.4 m × 120 m are achievable. The debate as to whether Manual for Streets or the Design Manual for Roads and Bridges is the applicable standard is therefore academic; the access is acceptable on either basis. Visibility cannot support the refusal.
- 7.3 The relief road removes the Core Policy 62 objection.** Core Policy 62 controls access onto the National Primary Route Network. Under the Ashton Park permission the existing A350 at the frontage is to be broken up and landscaped and a turning head formed (approved drawing P480/106 Figure 6.4 Rev G, “Yarnbrook and West Ashton Relief Road Overview”, PFA Consulting — reproduced at Appendix A), with strategic traffic transferred to the new relief-road carriageway. On completion, the appeal access will no longer be onto the National Primary Route Network; it will be onto a de-trafficked, stopped-up local road serving only a handful of frontage properties. The premise of Core Policy 62 — controlling accesses onto a strategic through-route — simply does not arise.
- 7.4 The relief road is a committed, reasonable future scenario.** It is not speculative. The Ashton Park permission was resolved to grant on 29 July 2025, the s106 was completed on 1 September 2025 and the decision notice issued on 2 September 2025; the relief road is being delivered under that agreement and is under construction (2026). Paragraph 116 of the Framework requires highway safety and residual cumulative impacts to be assessed “following mitigation ... taking into account all reasonable future scenarios.” A funded scheme under construction is plainly such a scenario, and will be part of the baseline by the time any dwelling is occupied.
- 7.5 The evidential threshold for a highway-safety refusal is not met.** Paragraph 116 permits refusal on highways grounds only where there would be an “unacceptable impact on highway safety” or the residual cumulative impacts would be “severe.” That is a demanding, evidence-based test. The Local Highway Authority has produced no personal-injury accident data and no road-safety evidence specific to this access. Assessed against the relieved network, the access serves a low-traffic local road; the flows, speeds and heavy-vehicle make-up relied upon by the Council will not exist at the frontage. The intensification concern — nine dwellings joining a fast strategic route — evaporates once the through-traffic is removed.
- 7.6 Certainty of delivery — relief-road Grampian condition tying occupation.** To place delivery beyond argument, the Appellant offers a Grampian condition preventing the occupation of any dwelling until the Yarnbrook & West Ashton Relief Road has been completed and opened to traffic and the associated stopping-up and landscaping of the A350 carriageway at the site frontage has been implemented. This guarantees that the de-trafficked, low-speed conditions exist before any occupation, and renders the precise programme of the Ashton Park works immaterial to this appeal. The suggested wording is at Section 15 (Condition 4). Reason 2 is not made out.

8. The dismissed appeal at Yarnbrook (APP/Y3940/W/24/3342139) is distinguishable

- 8.1** The officer report places significant reliance on the appeal decision at land adjacent to the A350, West Ashton Road, Yarnbrook (LPA ref PL/2023/10654; Inspector D Cramond; 8 August 2024), in which an outline scheme for four dwellings was dismissed. That decision does not assist the Council here, and on proper analysis supports the Appellant.
- 8.2** **The highway-safety conclusion was anchored in Core Policy 62 and the live A350.** The Inspector's two main issues were the principle of development and "the effect of the scheme on highway safety and convenience." His highway conclusion was reasoned expressly through Core Policy 62 — recording that the purpose of the strict control over new accesses to the National Primary Route Network "is to assist with traffic flow and reduce risk" — and was founded on his own observation of "the vehicular flows, speeds and make-up on this section of the A350 ... lack of adequate footways, lighting or crossings" (decision paragraph 14). He concluded that the scheme would conflict with Core Policy 62 (paragraph 15).
- 8.3** **Both foundations of that conclusion are removed here.** The relief road transfers the National Primary Route Network function off the existing A350 at the frontage (so Core Policy 62 no longer applies), and removes the very flows, speeds and make-up the Inspector personally observed (so the evidential basis for the safety finding disappears). Far from being a precedent against the Appellant, the decision — properly understood — confirms that once the strategic-route character of the A350 is removed, the objection falls away.
- 8.4** **The site and the evidence base are also materially different.** The 2024 appeal site was a detached field which the Inspector found was "neither small nor a gap" and not within the built-up area (paragraphs 8–9); the appeal site adjoins the settlement and uses an existing access. That appeal was determined on an admittedly incomplete bundle, without ecological, drainage or archaeological evidence; this appeal is supported by the complete package described in this Statement.

9. Reason for refusal 3 — landscape, character and openness

- 9.1** **The refusal reason.** Reason 3 asserts urbanisation of the open countryside with erosion and loss of rural character, contrary to Core Policies 51 and 57 and paragraphs 135 and 187 of the Framework. The weight properly attributable to any such harm is limited, and there is no material harm to the openness of the countryside.
- 9.2** **Outline reservation.** The application is in outline with appearance, scale and landscaping reserved. A landscape-led scheme retaining and reinforcing the boundary features — which also serve the ecological buffer (Section 10) — can be secured at reserved matters. It is not open to the Council to assume a worst-case form of development on matters that are reserved.
- 9.3** **The site is not open countryside; it is bordered by settlement and pitches.** The site is bounded by the settlement to the north and north-west (including the Lively Farm barn conversion), by the established traveller pitches to the south, and to the east by the consented Ashton Park urban extension. So contained on its principal boundaries, the site makes no meaningful contribution to the openness of the wider countryside, and its development would not be experienced as an incursion into open landscape. This is not a prominent or valued landscape; it is a contained parcel on the settlement edge.
- 9.4** **The rural-buffer premise cannot survive the Council's own decisions.** The officer report's central landscape rationale — that the site performs the role of a "defensible rural buffer" between West Ashton and open countryside — cannot be reconciled with the Council's grant of a 2,500-home urban extension on the immediately adjoining land to the east. The character of this edge is, by the Council's own decision-making, changing from rural buffer to urban edge. In that context the residual landscape effect of nine dwellings on a contained edge parcel is limited, is capable of being further reduced at reserved matters, and is clearly outweighed in the planning balance.

10. Reason for refusal 4 — ecology and the Bath & Bradford-on-Avon Bats SAC

10.1 The refusal reason. Reason 4 is that insufficient information was submitted to enable the Council to conclude a favourable Appropriate Assessment for the SAC, such that it is “unable to conclude that there would be no adverse effects on the integrity” of the SAC, contrary to Core Policy 50 and paragraphs 187, 193, 194 and 195 of the Framework. The Appellant’s position is that the SAC effect is not a case of demonstrated harm but of outstanding survey and mitigation, which is capable of being secured by planning condition and obligation, following the very strategy that the Council and Natural England have already applied to the adjoining site.

10.2 The Habitats Regulations framework

10.2.1 Under regulation 63 of the Conservation of Habitats and Species Regulations 2017, the competent authority (the Council) must, before granting permission for a project likely to have a significant effect on a European site (alone or in-combination), make an appropriate assessment of the implications for the site in view of its conservation objectives, and may grant permission only if it has ascertained that the project will not adversely affect the integrity of the site. Following *Waddenzee* (C-127/02), that certainty must be such that no reasonable scientific doubt remains; and following *People Over Wind* (C-323/17) — which the Council itself expressly relied upon in the adjoining Sunnyside assessment — mitigation is not to be taken into account at the screening stage, so appropriate assessment is required. The Appellant’s case is that the information required for the competent authority to reach a favourable conclusion is capable of being provided and secured through the conditioned survey-and-mitigation package described below.

10.2.2 The SAC and its qualifying features. The Bath & Bradford-on-Avon Bats SAC is designated for its populations of Annex II bat species — greater horseshoe, lesser horseshoe and Bechstein’s bats — and the roosts, hibernation sites and functionally-linked habitat that support them. The conservation objectives (Natural England, version 3, 27 November 2018) require the extent, structure, function and supporting processes of the qualifying species’ habitats, and the populations and distribution of the qualifying species, to be maintained or restored. Functionally-linked habitat outside the SAC boundary — hedgerows, treelines, watercourses and farmland used for foraging and commuting — is relevant to those objectives, and it is such habitat that the TWBMS yellow zone protects.

10.3 The Council’s own conclusion and Natural England’s concurrence on the adjoining site — Sunnyside (PL/2021/09453)

10.3.1 The immediately adjoining site, Sunnyside, Yarnbrook Road, West Ashton, lies in the same SAC consultation zone and the same TWBMS yellow (medium-risk) zone as the appeal site. On that site the Council, as competent authority, undertook an Appropriate Assessment and reached the following conclusion, which is directly relevant here. The assessing officer (Mary Holmes, Ecologist, Landscape and Design Team, Wiltshire Council; 14 March 2022, revised 14 April 2022) concluded that the project would not affect site integrity, either alone or in combination, and recommended:

“The appropriate assessment concludes no adverse effects on site integrity so the application can be positively determined subject to suitable mitigation measures being secured by condition and implemented.”

10.3.2 Natural England, as statutory consultee, expressly concurred. Its officer (James Hughes, 25 April 2022) advised:

“Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.”

10.3.3 The mitigation the Council and Natural England accepted. The Sunnyside conclusion was reached through a proportionate and now well-established approach: (a) a suite of transect and static-detector bat surveys (during which lesser horseshoe bats were recorded across all static positions and commuting across the site); (b) design-led avoidance achieving “no temporary or permanent loss of potential foraging/commuting habitat” — the replanting and retention of a Core Bat Habitat buffer, a species-rich hedgerow and close-board fence dividing the built development from that habitat, and a sensitive lighting strategy reducing overall light levels so that boundary features are “reinstated as dark corridors”; and (c) mitigation secured by conditions (the Sunnyside ECO.1-ECO.3 / permission conditions 9–11).

10.3.4 The Council's in-combination assessment already embraced Ashton Park. Critically, the Council's Sunnyside in-combination assessment expressly took account of, among others, Application 15/04736/OUT Ashton Park, Trowbridge and Application 19/03240/OUT Land at Homefield Farm, Yarnbrook, and still concluded no adverse effect on integrity. The Council has therefore already accepted, on the adjoining land and against the same in-combination baseline, that a yellow-zone SAC effect on this stretch of Yarnbrook Road is capable of resolution to Natural England's satisfaction through proportionate survey and design-led mitigation.

10.3.5 Consistency. Consistency in decision-making — a cardinal principle of the planning system — requires that the identical approach be available to the appeal scheme. There is no material distinction between Sunnyside and the appeal site that could justify a different outcome on the SAC issue.

10.4 The recorded field evidence: Ashton Park

10.4.1 The abutting Ashton Park scheme provides recorded field survey data — not desk study — directly characterising bat use of the A350 corridor at the appeal frontage: the Aspect Ecology radio-tracking study of Bechstein's bats and the resulting flight-corridor and crossing-point drawings (including the “Existing Bat Crossing Points on the A350” drawing P480/34 and the “Bat Flight Lines and Lighting” drawing, reissued February 2024). These record the movements of individual radio-tracked Bechstein's bats along the A350 at and immediately adjacent to the frontage (crossing Point A), and were relied upon by Natural England and the Council in the Appropriate Assessment for the Ashton Park permission granted in September 2025. This evidence identifies the features that must be retained and protected — principally the northern hedgerow and the A350 frontage commuting route — and informs the mitigation design.

10.5 The updated ecological appraisal and the position on survey

10.5.1 The appeal is informed by the updated Preliminary Ecological Appraisal prepared by Arborweald Environmental Planning Consultancy (ref DKS1723.1, November 2025, revised 18 June 2026 to address the Council's comments). Its material findings are that roosting bats are discounted on the site itself (no suitable trees or structures); that only foraging and commuting use of the boundary features is identified, at a moderate level; and that, in respect of the Salisbury Plain SPA, the pathway is recreational and is addressed by financial contribution under the Council's existing strategic mitigation, the Council's own Appropriate Assessment having concluded that this gives rise to no adverse effect on the integrity of the SPA subject to that contribution.

10.5.2 The Appellant does not overstate the position. The updated appraisal is a desk study and daytime appraisal; site-specific bat activity surveys (transect and static-detector) across the April–October season have not yet been undertaken. The appraisal correctly identifies these surveys, together with a Biodiversity Metric Assessment demonstrating no net loss, an Ecological Parameters Plan (TWBMS paragraph 161) and an Ecological Mitigation Plan (TWBMS paragraph 162), as the outstanding requirements under the TWBMS. The issue on Reason 4 is therefore not one of demonstrated harm; it is the sequencing of survey and mitigation, which is properly and lawfully capable of being secured by condition and obligation.

10.5.3 The TWBMS provides a defined and conditionable route. Compliance may be achieved either by carrying out the TWBMS-specified surveys in the survey season, or — as the strategy itself contemplates — by the analysis of existing, Council-accepted monitoring data by a suitably licensed bat ecologist. The recorded Ashton Park radio-tracking dataset for this frontage (Section 10.4) is precisely such data. Either route delivers the information the competent authority requires, and both are deliverable within a pre-commencement condition.

10.6 Securing the outstanding matters by condition and obligation

10.6.1 The Appellant offers the following to be secured by pre-commencement condition (Section 15): (i) a TWBMS-compliant bat survey, or the analysis of the existing Ashton Park monitoring data by a suitably licensed bat ecologist; (ii) a Biodiversity Metric Assessment demonstrating no net loss of habitat of value to SAC bats; (iii) an Ecological Parameters Plan and an Ecological Mitigation / Habitat Enhancement Plan securing the retention and buffering of the northern hedgerow and the A350 frontage commuting route, with the TWBMS 15 m core-habitat buffer plus a 15 m dark buffer; and (iv) a sensitive lighting scheme (Section 10.7). The strategic contributions and self-build delivery are secured by the s106 Unilateral Undertaking (Section 12), and the great crested newt position is secured either by entry to the Wiltshire District Level Licence or by survey.

10.6.2 The mitigation is design-led avoidance. Because the layout is reserved and the retained features and buffers are fixed by the Ecological Parameters Plan, the scheme is designed to avoid loss of functionality of the commuting corridor irrespective of the level of activity ultimately recorded — the same avoidance-by-design that the Council and Natural England accepted on the adjoining Sunnyside site, where the mitigation was itself secured by condition. That is why the conditioned approach is capable of enabling a favourable Appropriate Assessment.

10.6.3 Narrowing the objection before determination. To reduce the Council’s “insufficient information” concern so far as possible before the appeal is determined, the Appellant will place before the competent authority the recorded Ashton Park bat data for this frontage and the outstanding biological records search, and invites the Council and Natural England to confirm — as they did at Sunnyside — that the conditioned survey-and-mitigation package enables a favourable Appropriate Assessment.

10.7 Lighting solutions (dark-corridor mitigation)

10.7.1 Artificial lighting is the principal operational risk to SAC bats using the frontage commuting route, and it is addressed by a detailed lighting strategy prepared in accordance with the Bat Conservation Trust / Institution of Lighting Professionals Guidance Note GN08/23, “Bats and artificial lighting at night” (2023), and consistent with the standard accepted for the Ashton Park and Sunnyside schemes. The following measures are proposed and can be secured by condition:

- The retained hedgerow, scrub, buffers and the A350 frontage commuting route to be maintained as dark corridors, with light levels not exceeding 0.2 lux (horizontal) and 0.4 lux (vertical) on those features.
- An overall reduction in site lighting; no lighting of the buffer; and no upward or horizontal spill onto retained features.
- Warm-white LED luminaires (correlated colour temperature no greater than 2700 K) to minimise the blue and ultraviolet content of the spectrum to which bats are most sensitive.
- Full cut-off, cowled and downward-directed luminaires mounted as low as practicable, with louvres, shields or accessories to control spill; no bollard, up-lighting or column lighting adjacent to features.
- Part-night and sensor/PIR-activated operation, avoiding illumination during peak bat activity (dusk to approximately 1.5 hours after, and approximately 1.5 hours before dawn) so far as consistent with residential safety.

- A marked-up lighting plan specifying every luminaire type and exact location, supported by an isolux / spill-contour plot demonstrating compliance, to be submitted for approval prior to commencement (in the form of Sunnyside condition ECO.3).

10.7.2 Because the commuting route and its dark character are retained and protected, no loss of functionality of the SAC bats' habitat arises, irrespective of the level of activity recorded. The lighting scheme therefore delivers the design-led avoidance on which the Appropriate Assessment relies, and mirrors the mitigation Natural England accepted at Sunnyside. (The lighting parameters proposed here — a lux limit at retained features and a colour-temperature ceiling — are more precise than those in the submitted appraisal, and can be fixed by condition.)

10.8 Biodiversity net gain and great crested newts

10.8.1 The scheme is exempt from mandatory Biodiversity Net Gain under the Biodiversity Gain Requirements (Exemptions) Regulations 2024 (self-build / custom build; no more than 9 dwellings; site no larger than 0.5 hectares). Notwithstanding that exemption, and having regard to Core Policy 50 and paragraph 193 of the Framework, the scheme will deliver on-site biodiversity enhancement through the Core Bat Habitat, hedgerow reinforcement and species-rich buffer planting, and no net loss of habitat of value to SAC bats will be demonstrated by the Biodiversity Metric Assessment secured by condition. The biodiversity-net-gain regime is, in any event, separate from and does not bear upon the Habitats Regulations assessment.

10.8.2 The updated appraisal assesses the likelihood of great crested newts as low but not excluded. That position is resolved either by entry to the Wiltshire District Level Licence administered by Natural England, or by pond survey, together with precautionary working methods — secured by condition.

10.9 Conclusion on ecology

10.9.1 Reason 4 is a matter of outstanding survey and mitigation, not demonstrated harm. On the design-led avoidance described, and following the same TWBMS route that the Council and Natural England accepted (and secured by condition) on the adjoining Sunnyside site, the outstanding matters are capable of being secured by pre-commencement condition and by the planning obligation. On that basis the competent authority is able to conclude no adverse effect on the integrity of the SAC, so that footnote 7 to paragraph 11 of the Framework is addressed and the tilted balance applies in the Appellant's favour.

11. Reason for refusal 5 — archaeology

11.1 The refusal reason. Reason 5 is that the applicant "has failed to provide an appropriate archaeological trial trench evaluation", such that the Council cannot assess the significance of any heritage assets with archaeological interest, contrary to Core Policy 58 and paragraph 207 of the Framework. The site is not within, or adjacent to, any designated heritage asset, and the County Archaeologist identifies only a generic potential for previously-unrecorded remains.

11.2 The proportionate response is a graduated condition. Paragraphs 205 to 208 of the Framework, and the Planning Practice Guidance on the historic environment, require field evaluation only where necessary and proportionate, and require conditions to be used where the impact of development can be addressed by them. The well-established response for a site of this character is a graduated programme of archaeological work secured by a single pre-commencement condition: a written scheme of investigation providing for staged geophysical survey; trial-trench evaluation informed by the geophysics; and mitigation by excavation, recording and post-excavation analysis where required. The Appellant accepts such a condition, in the standard Wiltshire form (Section 15, Condition 6). To require full geophysics and trial trenching prior to determination of a 9-unit self-build scheme, in the absence of any known asset, is disproportionate and contrary to the approach the Framework and the Guidance require. Reason 5 does not justify refusal.

12. Reason for refusal 6 — self-build delivery and the planning obligation

- 12.1 The refusal reason.** Reason 6 is the absence, at determination, of a completed legal agreement to secure the delivery and retention of the dwellings as self-build housing and the necessary ecological mitigation, contrary to Core Policies 3 and 50. The officer report's own informative confirms that, if appealed, this reason "would be required to satisfactorily address the necessary developer obligation through a s106 / Unilateral agreement" — that is, it is a drafting and timing matter, not a planning objection of substance.
- 12.2 The planning obligation.** A planning obligation by way of Unilateral Undertaking accompanies this appeal (or is offered for completion prior to the issue of any permission), given by the freehold owner and the Appellant so as to bind the land, securing: (a) the delivery and retention of all nine dwellings as self-build / custom housebuilding within the meaning of the 2015 Act; (b) the TWBMS habitat contribution (£1,000 per dwelling, index-linked); (c) the TWBMS recreational contribution (£925 per dwelling); and (d) the Salisbury Plain SPA contribution. Each obligation is necessary to make the development acceptable, directly related to it, and fairly and reasonably related in scale and kind, and so accords with regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 58 of the Framework. Reason 6 is thereby resolved.
- 12.3 The self-build benefit.** The delivery of self-build / custom housing is a benefit to which positive weight attaches, the more so given the Council's statutory duty under the 2015 Act to meet evidenced demand on Part 1 of its register. Evidence of that unmet demand will be provided to inform the weight afforded.

13. Other matters

- 13.1 Drainage.** The site lies within Flood Zone 1 and is below 1 hectare; no Flood Risk Assessment is required, and the Lead Local Flood Authority does not request one. The Lead Local Flood Authority's objection seeks detailed design information which, together with BRE 365 soakage testing, can properly be provided at the pre-commencement / reserved-matters stage and secured by the standard drainage condition, the form of which the Authority itself has set out. The Council's own planning officers accept that surface water can be controlled by condition. This is not a sustainable basis for refusal, and is in any event not one of the reasons for refusal.
- 13.2 Third-party representations.** The neighbour and Parish Council representations (concerning services, public transport, ecology and drainage) are addressed by the corrected transport evidence (Section 6), the committed relief road (Section 7), the ecological package (Section 10) and the drainage position (Section 13.1). The Appellant has taken care to correct the factual errors in the original submission that those representations rightly identified.

14. The planning balance

- 14.1** The starting point is the presumption in favour of sustainable development. The Council cannot demonstrate a five-year housing land supply; the most important policies are out-of-date; and, for the reasons at Section 10, the outstanding SAC survey and mitigation are capable of being secured by condition and obligation such that a favourable Appropriate Assessment can be reached and footnote 7 does not disapply the presumption. The tilted balance in paragraph 11(d)(ii) therefore applies.
- 14.2 Benefits.** The scheme would deliver: nine dwellings towards an acknowledged and substantial shortfall (significant weight); nine self-build / custom-build plots in discharge of the Council's statutory duty and against evidenced register demand (significant weight); on-site biodiversity enhancement (moderate weight); and economic benefits during construction and through occupation, including support for local services (modest weight).
- 14.3 Adverse impacts.** The impacts relied upon by the Council are, on analysis, either overcome or of limited weight. The highways and sustainability objections (Reasons 1 and 2) are overtaken by the committed relief road, which severs and de-traffics the frontage and removes both the Core Policy 62 conflict and the safety concern, with occupation tied to delivery by a Grampian condition; the 2024 appeal decision

is distinguishable and, properly read, supportive. The ecological objection (Reason 4) is resolved by the same survey-and-mitigation strategy that Natural England accepted on the adjoining site, secured by condition and obligation. Archaeology (Reason 5) and the legal-agreement matter (Reason 6) are met by condition and by the planning obligation. Only a limited residual landscape effect (Reason 3) remains, at a site contained by development on its principal boundaries and mitigable at reserved matters.

- 14.4 Weighing.** The limited residual harm does not begin to significantly and demonstrably outweigh the substantial benefits of the scheme. Even if, contrary to the Appellant's primary case, the tilted balance were not engaged, the proposal would accord with the development plan read as a whole once the out-of-date restrictive policies are afforded their proper (limited) weight and the committed relief road and the surrounding-site precedents are taken into account. Either way, the appeal should be allowed.

15. Conditions, planning obligation and conclusion

- 15.1** The Appellant invites the following conditions (among the standard suite), which demonstrate that the matters raised can be addressed on the grant of permission:

- **Reserved matters and time limits** (sections 91–92 TCPA 1990).
- **Approved plans** — development in accordance with the approved access and layout plans.
- **Visibility splays** of 2.4 m × 120 m (or as agreed appropriate to recorded speeds following severance), kept clear of obstruction.
- **Condition 4 — relief-road Grampian (occupation):** “No dwelling shall be occupied until the Yarnbrook & West Ashton Relief Road (as approved under permission 15/04736/OUT) has been completed and opened to traffic and the associated stopping-up and landscaping of the existing A350 carriageway at the site frontage has been implemented.” Reason: to ensure the development is served by a safe and suitable access onto a de-trafficked local road and does not give rise to unacceptable impacts on highway safety, in accordance with Core Policies 61 and 62 and paragraph 116 of the Framework.
- **Archaeology** — a graduated written scheme of investigation (staged geophysics, trial trenching informed by the geophysics, then mitigation by record), pre-commencement (Core Policy 58; paragraphs 205–208).
- **Surface-water drainage** — BRE 365 soakage testing and detailed SuDS design, in consultation with the Lead Local Flood Authority, pre-commencement (Core Policy 67).
- **Bat survey and assessment (pre-commencement)** — no development until a TWBMS-compliant bat survey (transect and static-detector across the April–October season), or the analysis of the existing Ashton Park monitoring data by a suitably licensed bat ecologist, together with a Biodiversity Metric Assessment demonstrating no net loss of habitat of value to SAC bats, has been submitted to and approved by the local planning authority (Core Policy 50; the TWBMS).
- **Ecological Parameters Plan and Ecological Mitigation / Habitat Enhancement Plan (pre-commencement)** — securing retention and buffering of the northern hedgerow and the A350 frontage commuting route (15 m core-habitat buffer plus 15 m dark buffer), implementation and long-term management (in the form of Sunnyside conditions ECO.1 and ECO.2).
- **Sensitive lighting (pre-commencement)** — a lighting scheme to BCT/ILP GN08/23 reinstating boundary features as dark corridors at no more than 0.2 / 0.4 lux with a warm-white (≤ 2700 K) colour-temperature ceiling (in the form of Sunnyside condition ECO.3).
- **Great crested newts** — entry to the Wiltshire District Level Licence or pond survey, with precautionary working methods.
- **Biodiversity enhancements and construction management** as appropriate.

- 15.2** Contributions and self-build delivery are secured by the Unilateral Undertaking (Section 12).

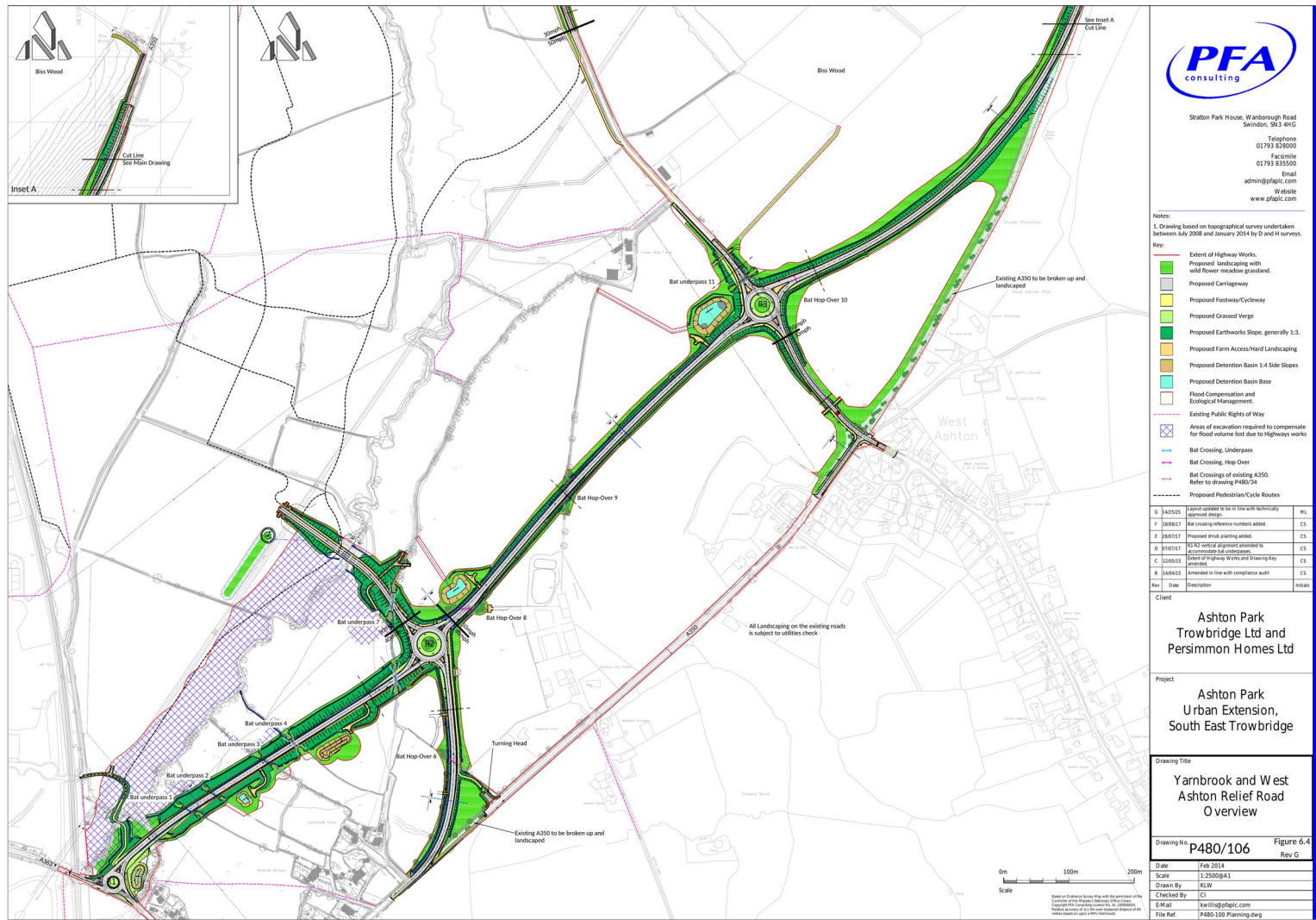
- 15.3 Conclusion.** For the reasons set out in this Statement, the proposal is sustainable development that should be approved. The Council's reasons for refusal are, variously, overtaken by its own committed

relief road, resolvable by the very strategy the Council and Natural England have endorsed on the immediately adjoining site, or met by condition and by planning obligation. The presumption in favour of sustainable development is engaged and is not displaced. The Appellant respectfully requests that the appeal be allowed and outline planning permission granted subject to the conditions and the planning obligation described above.

Prepared on behalf of Millen Homes Limited.

This Statement should be read with the accompanying application drawings, the ecological survey and mitigation package, the transport evidence, the planning obligation, and the surrounding-site evidence (Ashton Park 15/04736/OUT; Sunnyside PL/2021/09453 and its Appropriate Assessment concurred in by Natural England). Policy, statutory and case-law references were checked; the appeal reference and the reason-for-refusal cross-references should be confirmed against the issued decision notice before submission.

Appendix A — Approved relief road highway layout (drawing P480/106 Rev G)



PFA Consulting drawing P480/106 Figure 6.4 Rev G, “Yarnbrook and West Ashton Relief Road Overview” (scale 1:2500@A1; Rev G, 14.05.25, “layout updated to be in line with technically approved design”), approved under Condition 7 of outline planning permission 15/04736/OUT (decision notice issued 2 September 2025). The drawing annotates the existing A350 at the appeal site frontage “to be broken up and landscaped” and shows the turning head referred to at paragraph 7.3. Source: Wiltshire Council Planning and Building Control Public Register, application 15/04736/OUT, document “Relief Road Overview” published 16 June 2025. Reproduced at reduced size — not to scale; refer to the full-size PDF in the appeal bundle.