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Your Ref: PL/2025/00998
Our Ref: APP/Y3940/W/25/3367502

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

31 October 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by KLD Property Investments Ltd
Site Address: Kington Langley Garage, Malmesbury Road, Kington Langley,
CHIPPENHAM, SN15 5PY

Outcome

I enclose a copy of our Inspector's decision on the above appeal(s).

Thank you for your cooperation and patience while we reviewed your case and all relevant documentation.

What Next?

Please note that the Planning Inspectorate cannot change or revoke the outcome of the attached decision as only the High Court can quash this decision. The Planning Inspectorate is not the administrative body for High Court challenges. If you would like more information on the strictly enforced deadline for challenging a decision or a copy of the form for lodging a challenge, please get in touch with the administrative court on 02079476655.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Pana Kwabe

Pana Kwabe

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Appeal Decision

Site visit made on 26 August 2025

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

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by KLD Property Investments Ltd against the decision of Wiltshire Council.
 - The application Ref is PL/2025/00998.
 - The development proposed is the erection of up to 8no dwellings.
-

Decision

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

Preliminary Matters

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

Background and Main Issues

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

Reasons

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

development focused on principal settlements, then market towns, then local service centres, then large villages and small villages.

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

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

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

Other Considerations

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

Planning Balance

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

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

Conditions

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

Conclusion

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

SE Hughes

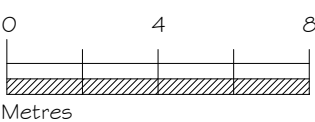
INSPECTOR

SITE LOCATION PLAN
AREA 5 HA
SCALE 1:1250 on A4
CENTRE COORDINATES: 391018, 176417





SITE PLAN



TOWN & COUNTRY PLANNING ACT 1990

ERECTION UP TO 8No DWELLINGS

AT

**KINGTON LANGLEY GARAGE, MALMESBURY ROAD,
KINGTON LANGLEY, CHIPPENHAM, WILTSHIRE, SN15 5PY**

PLANNING STATEMENT

Prepared by

**Simon Chambers, BSc (Hons) MA MRTPI
Director
LPC (Trull) Ltd**

Our Reference: SWLC.LPC6048

January 2024

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1.0 INTRODUCTION

- 1.1 LPC (Trull) Ltd have been instructed by Messrs Lamming and Markham to submit a Permission in Principle (PiP) application for the erection of upto 8No new dwellings on land at Kington Langley Garage, Malmesbury Road, Kington Langley, Chippenham SN15 5PY (location identified with the arrow below).



- 1.2 The application approach is defined in the National Planning Practice Guidance (PPG), as below;

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

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

first stage of permission in principle is limited to location, land use and the amount of development.

- 1.4 Accordingly, the purpose of this Planning Statement is focused on the principle of development at this location only. Any further details in respect of the intended new housing development and its acceptable assimilation will be submitted at the technical details stage. The statement will however provide an overview of the planning policy context and an assessment of the key material planning considerations, including the planning history and other comparable sites, demonstrating the proposal's acceptability.
- 1.5 This statement will set out why it is considered there is no insurmountable conflict with the Development Plan, however, notwithstanding this point, there has been a recent material change in planning policy that carries great weight. The National Planning Policy Framework (NPPF) has been updated, most recently on the 12 December 2024. It now places a greater focus on housing delivery and, as a result of the change to the standard method used to calculate the minimum number of homes needed, the Council's annual housing need figure has almost doubled. The tilted balance is engaged, and it is considered there would be no adverse impacts associated with the granting of this PiP that would significantly and demonstrably outweigh the benefits of the proposal.

2.0 SITE DESCRIPTION & PLANNING HISTORY

- 2.1 The application site lies off the old road alignment before the current A350 Malmesbury Road dualling was carried out. The site address is referred to as Malmesbury Road or Old Malmesbury Road or Old Plough Lane or Kington St Michael Road. The OS identify it as "Plough Lane" and this continues, beyond the dual carriageway (A350) to the east, to the rest of the village of Kington Langley. For the purposes of the application the established Malmesbury Road address is used.
- 2.2 The land in my client's control includes the garage workshop site as well as the adjacent bungalow, which has a separate access and is excluded from the redevelopment proposal enclosed. There are two commercial buildings on the garage site and a large expanse of hardstanding which projects to the

south west. The hardstanding and open fronted vehicular access from Malmesbury Road wraps around the southern detached neighbour.



- 2.3 The aerial photograph extract inserted above shows the main workshop building and the two neighbouring properties with the salient of the overall vehicle storage yard in the foreground. The boundaries of the application site are all well defined. The southern boundary is formed by Malmesbury Road, from which access to the site is provided, an existing detached house (Sunnydene), a close boarded fence (1.8m) and a hedge/mesh fence (2m) beyond which is the vehicular access serving Lodge Farm Nursery School. The western boundary is formed by a hedge and steel railing (2m) beyond

which are open fields. The northern boundary is formed by a chain link fence (1.2m) and hedge beyond which is the garden of an existing large detached bungalow (Longview), with 3 other large detached bungalows (Cartref, Poplars and Arcola) adjacent. The eastern boundary is formed by a chain link fence (1.0m) and hedge beyond which is a large detached bungalow (Haywards Lodge).

- 2.4 Historically the garage owners lived on site but as the business declined the site's sale included the adjacent bungalow, which has a separate access alongside the telephone exchange compound and sits along the northern boundary of the site. By application PL/2023/06925 the lawful use of the property was confirmed as a self contained unrestricted Class C3 dwellinghouse. The bungalow is not part of the commercial redevelopment proposal. The application site has had limited commercial use in recent years and has been largely used for vehicle storage on the hardsurfaced areas.
- 2.5 In 2018 when the business was considered by the previous owners to no longer be viable an outline application was made to redevelop the entire site including the bungalow (LPA Ref 18/09873/OUT). The application was resisted and of course those matters raised at the time are material considerations, although it is the purpose of the enclosed application to demonstrate that the need to significantly boost house building requires a more positive assessment as there have been material change in circumstances too.
- 2.6 The case officer's decision report made the following comments that explain the nature of the previous application's assessment.

It is considered that given the location of the site and the surrounding development, the proposal would consolidate and existing sporadic loose knit area of development. Because the majority of the village lies to the east side of the A350 dual carriageway. The site is currently run as a rescue and maintenance garage (garage 410sqm, Workshop 138sqm, outbuilding 21 sqm, Bungalow 161sqm) with some open storage of cars and other vehicles, many of which are not roadworthy. The site has residential properties to 3 sides, which are not associated with the current use. There is an existing telephone exchange building to the side of the main garage workshop. Access to the site is currently mainly from a wide access point to the south eastern side of the garage site.

Notwithstanding the dwellings on 3 sides is not considered to be an infill plot, being outside what is considered to be the built up area of the village. The

original framework boundary for Kington Langley discounted this area as being within the village and thus, for the purposes of planning, it has always been considered as open countryside.

2.7 The application was refused for the following 6 reasons:

1) The proposal is for residential development in open countryside outside the defined limits of any settlement, where no special justification has been put forward to justify a departure from well- established policies which restrict residential development in these areas. The proposal is thus contrary to policies CP1, CP2 CP10 CP45 CP57 & H4 of the North Wiltshire Local Plan 2011 together with Paragraph 79 of the NPPF 2019.

2) The proposal has failed to demonstrate that the site can be satisfactorily drained and is thus contrary to policy CP67 of the Wiltshire Core Strategy and advice in section 14 of the NPPF particularly paragraph 163.

3) The proposal fails to provide either tree or ecology surveys so that the Local Planning Authority is unable to assess the impact of the development, contrary to policies CP50, CP52 and CP57 of the Wiltshire Core Strategy and guidance in the NPPF particularly paragraphs 170 & 175.

4) The proposal, located remote from services and not being well served by public transport, is contrary to the key aims of Core Policies 60 and 61 of the Wiltshire Core Strategy 2015, and the NPPF 2019, which seek to locate development in accessible locations and promote the use of sustainable modes of transport.

5) Adequate provision has not been made on the site for the parking of vehicles in a satisfactory manner and in accordance with current standards, contrary to Core Policy 64 and the Wiltshire Local Transport Plan 2011-2026.

6) The proposed development is likely to generate an increase in pedestrian and cycle traffic on a highway network lacking adequate provision with consequent additional hazards to all users of the road, contrary to Core Policy 61.

2.8 The above refusal was pursued to appeal (ref; APP/Y3940/W/20/3244779) when it was dismissed. As noted above this is of course a material consideration but does not negate a fresh assessment in light of the key change in circumstances. For completeness though I have inserted parts of the Inspector's decision which provide the key scope of the previous assessment.

4. The Council have confirmed that they no longer wish to maintain an objection to the development with regard to satisfactory drainage, absence of tree and ecology surveys and parking provision, as set out respectively in reasons for refusal 2, 3 and 5 of the decision notice. From the information before me, I have no reason to take a different position and I have determined the appeal on this basis.

10. Kington Langley does not benefit from a settlement boundary under the provisions of the development plan. The village has a linear form predominantly

located to the eastern side of the junction of Plough Lane and the A350 dual carriageway. This road, to my mind, forms both a physical and visual separation between the site and the village. I acknowledge the site is located adjacent to existing residential development and the appellants contention that the village is poly-focal and their commentary of the history of the site. However, despite this I am not persuaded that the site falls within what can be reasonably considered as an integral part of the built area of the village as development to the western side of the road is physically and visually distinct from the built up area of the village of Kington Langley itself. To my mind therefore it does not form part of the built area of the village for the purposes of CP2.

25. My attention has been drawn to appeal APP/Y3940/W/18/3202551, and the indication that the Council cannot demonstrate a 5-year housing land supply. For the reasons detailed above, I have found that the development would be at odds with the Council's development strategy and not represent a suitable location for residential development. Even if the supply of housing land falls below 5 years and the tilted balance by virtue of footnote 7 of paragraph 11 of the Framework was applicable to this proposal, for the reasons given above I consider that the proposal would be at odds with the sustainable development aims of quoted policies within CS. To my mind the thrust of such policies are consistent with the provisions of the Framework including those contained within Chapters 2, 5 and 8 including paragraphs 8 and 91 that require development to be accessible to services. As such I consider the determinative policies referred to with regard to these main issues to be generally consistent with the Framework and as such are not out of date. It follows that the policy conflict I have identified carries significant weight.

26. There would be four additional residential units that would make a minor contribution to local housing, with associated economic benefits including development of brownfield land, jobs during construction and support for local business and Council Tax payments when dwellings would be occupied. I also acknowledge suggested social benefits including provision of family sized dwellings.

27. However, to my mind, such limited benefit would be outweighed by the harm I have identified above. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

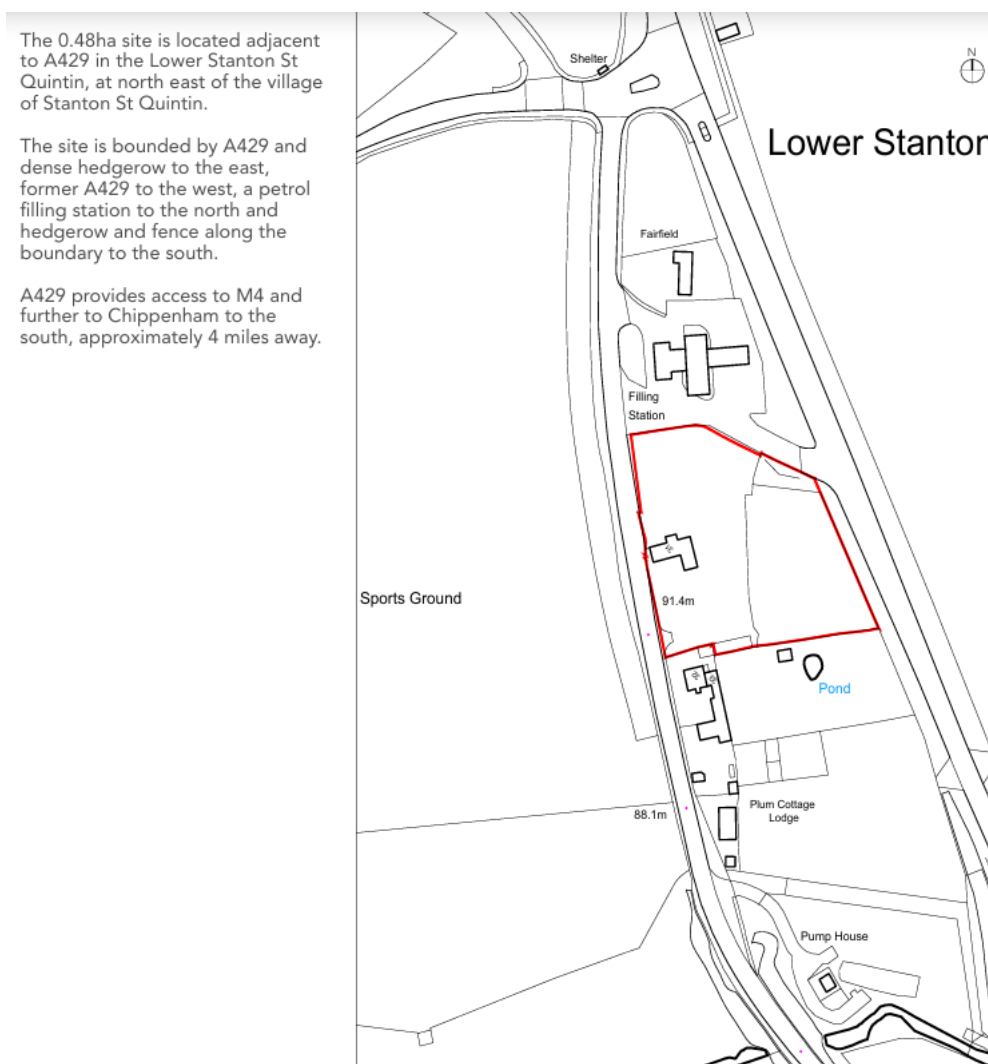
- 2.9 The material change in circumstances, and which will be reviewed in more detail, concern the rewriting of the NPPF's tilted balance at paragraph 11 d), particularly emphasising the importance of housing growth and the need to make the most efficient and effective use of previously developed land, which is of course not always located completely in conformity with the Council's spatial strategy. It will also be argued in any event those policies concerning the control of housing are out of date and the weight to be given to the new

tilted balance because of the magnitude of the housing supply deficit and the quantum of houses now proposed supports the positive balance in this case.

- 2.10 Moving on from the appeal decision it is also important to note how subsequent applications have been dealt with and in that regard, I wanted to pay particular attention to the approval of application 20/11517/FUL at Elwood House, Stanton St Quintin, which shares many of the locational characteristics considered to previously weigh against the current application site. Permission was granted for;

‘Demolition of existing building and erection of 12 dwellings with associated access, drainage, landscaping and public open space.’

- 2.11 As the plan extract inserted below shows the site lies outside of the recognised limits of Lower Stanton St Quintin beyond a busy trunk road.



As part of the above application's assessment your Council' Spatial Planning team raised an objection to the application development which is summarised below;

They highlighted that the proposal would not constitute infill development and that it was unclear how the application meets the housing needs of the community for instance in terms of the scale, type and tenure of homes proposed. Development of this scale would appear to elongate Lower Stanton St Quintin and it is unclear how it would respect the existing character and form of the settlement.

The proposed development would not accord with the strategy and pattern of development anticipated by the Wiltshire Core Strategy. From a strategic policy perspective, the proposal would not constitute sustainable development and would thereby also conflict with the principal aims of the National Planning Policy Framework.

- 2.12 The case officer's assessment is though also summarised below and is strongly maintained to be directly applicable to the current application site, confirming how a positive approach has been recognised and actioned in respect of Wiltshire Council's ongoing under supply of housing.

The proposed development seeks to provide 12 residential units on land which is outside of any settlement boundary. As it is located in the open countryside and as it does not meet any of the exception policies the development is contrary to Core Policies 1, 2, & 10 of the Wiltshire Core Strategy. This is reflected by the consultation response of the Spatial Policy team who advised that from a strategic policy perspective, the proposal would not constitute sustainable development and thereby also conflict with the principal aims of the National Planning Policy Framework. This is a matter which weighs against granting consent in this case.

It is also important to consider the history of the site more broadly. The site currently contains a vacant dwelling which is in a poor state of repair and it historically contained a car showroom (N/05/02230/OUT). Although the showroom has now been demolished it could be argued that the site represents previously developed land. **The NPPF states that planning decisions should support development which makes efficient use of land (paragraph 124) and in this context the re use of this redundant site is a material consideration which weighs in favour of granting consent in this case. (my emphasis)**

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. It requires local planning authorities to identify and regularly update a supply of specific deliverable sites sufficient to

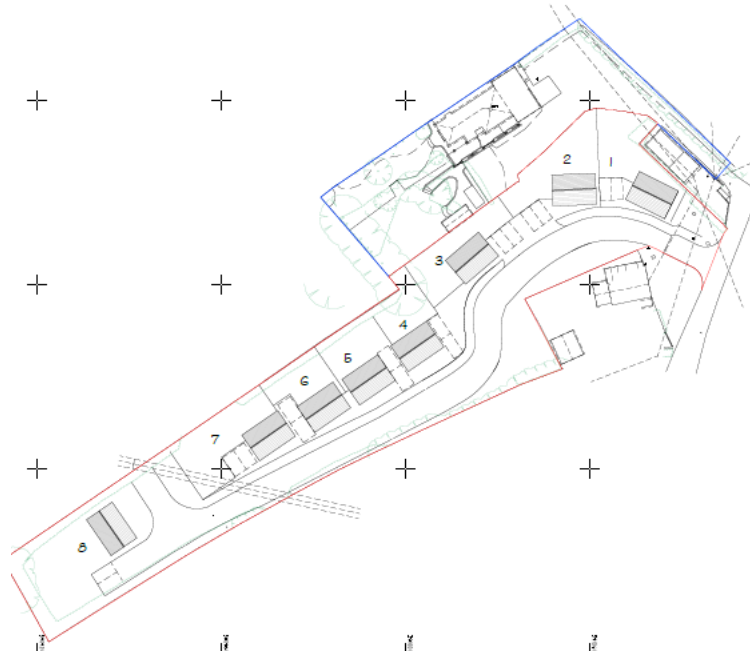
provide 5 years' worth of housing land supply. **The NPPF makes it clear that where this cannot be demonstrated, relevant policies for the supply of housing (which in this case would include CP1, CP2 and CP10 in relation to limits of development) cannot be considered up to date, (my emphasis)** and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This was the position of the Planning Inspector who considered an appeal at Purton Road.

It can be seen therefore that Core Policies 1, 2 and 10 of the Wiltshire Core Strategy as well as saved Policy H4 of the North Wiltshire Local Plan are all important for determining the application and under the provisions of the NPPF are all to be considered out of date. Case law has examined the interpretation and operation of national policy with regards the ability to demonstrate a five-year housing land supply, and the presumption in favour of sustainable development. Court judgments have established that: i. Policies that are considered to be out-of-date as a result of a shortage in the 5-year housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (most recently in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2017] UKSC 37). ii. **The extent of any shortfall in the 5-year housing land supply is capable of being a material consideration (my emphasis)** (most recently in *Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808). The implications of the Council's 5-year housing land supply position, and the weight to be attributed to the development plan policies, must be taken into account in the determination of the application. The extent of the 5-year housing land supply shortfall, and the potential for the proposal to deliver housing in the current 5-year period of 1 April 2021 – 31 March 2026 to help remedy the current shortage in deliverable supply, need to be taken into account in the balancing exercise.

3.0 THE PROPOSAL

- 3.1 As indicated the enclosed application seeks to address the three issues of; location, land use and the amount of development. The application description refers to 'upto' 8 dwellings so the amount is flexible. Nevertheless, the application includes an illustrative layout plan that helps to demonstrate that the site is capable of accommodating 8No detached three bedroom type dwellings. There is adequate private amenity space and parking provision with manoeuvring space. Access maintains the existing alignment and safeguards the southern neighbour's access. Indeed, the illustrative layout demonstrates sufficient separation distances from the neighbours and show areas for potential new buffer planting to assist if necessary to diffuse any inter-visibility. An extract from the illustrative layout is inserted on the next page.

- 3.2 The site area shown is 0.45ha, so the development shown represents a development density of 17.7 dwellings per hectare. This makes good use of the previously developed site being entirely in scale and harmony with the prevailing grain of development in the immediate area. In that regard the dominant land use is residential so the new use is acceptable.



4.0 PLANNING POLICY CONTEXT

- 4.1 The NPPF, and associated PPG, sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions. The policies within the following chapters of the NPPF are relevant to the assessment of the proposed development:-

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 9 – Promoting Sustainable Transport
- Chapter 11 – Making Effective Use of Land
- Chapter 15 – Conserving and Enhancing the Natural Environment

- 4.2 The NPPF highlights that planning law (section 70 [2] of the Town and Country Planning Act 1990 and section 38 [6] of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.3 The associated PPG confirms that same applies to an application seeking permission in principle; “A decision on whether to grant permission in principle to a site following a valid application ... must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework and national guidance, which indicate otherwise” (Paragraph: 011 Reference ID: 58-011-20180615).
- 4.4 The development plan relevant to the proposed development is the Wiltshire Core Strategy (WCS) (adopted January 2015), which includes saved policies from the former North Wiltshire Local Plan 2011. The key policies relevant to the ‘in principle’ matters of location, land use and amount of development, are:-
- Core Policy 1: Settlement Strategy
 - Core Policy 2: Delivery Strategy
 - Core Policy10: Spatial Strategy: Chippenham Community Area
 - Core Policy 51 Landscape
 - Core Policy 60 Sustainable Transport
 - Core Policy 61 Transport & Development
 - Policy H4: Residential Development in the open countryside
- 4.5 The adopted Development Plan is accompanied by the Policies Maps, which provides a spatial representation of the Local Plan policies. The site is not subject to any national or local landscape designations.
- 4.6 The WCS was adopted in 2015 and is therefore being reviewed. The review is termed the ‘Local Plan Review’. The draft Wiltshire Local Plan (WLP) was submitted to the Secretary of State for Examination at the end of 2024. There are no fundamental changes proposed to the Spatial Strategy of the Local

Plan, as presented within Pre-Submission Draft (2020 – 2038) (Regulation 19) Wiltshire Local Plan (September 2023), however the draft plan pre-dates the recently published NPPF (12 December 2014). The progression of the plan-making process does benefit from certain transitional arrangements but due to the recent update to national planning policy there are significant areas that are not up-to-date as discussed further below.

4.7 In respect of the application proposals, Kington Langley is as a Small Village within the Chippenham Community Area (Core Policy 10). This was the case in respect of the Lower Stanton St Quintin application referred to earlier, where there is no identified development boundary. The following policies are relevant to the consideration of this application:

- Core Policy 1 states Small Villages have a low level of services and facilities, and few employment opportunities. Development at Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.

- Core Policy 2 sets a **minimum** (my emphasis as there is no ceiling) housing requirement of 42,000 homes for Wiltshire, with 24,740 of those to be provided within the north and west area where the site is located. It explains that at the Small Villages development will generally be limited to infill within the existing built area. Proposals for development at the Small Villages will be supported where they seek to meet housing needs of settlements or provide employment, services and facilities provided that the development:

- i. Respects the existing character and form of the settlement.

- ii. Does not elongate the village or impose development in sensitive landscape areas.

- iii. Does not consolidate existing sporadic loose knit areas of development related to the settlement.

4.8 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed,' (NPPF paragraph 61). The fact that housing growth is so important and is not capped is therefore the starting point for all such assessments.

- 4.9 In terms of development in rural areas, and mindful that this is not an isolated site within the meaning determined by the Braintree case, the NPPF requires at paragraph 98 that planning policies and decisions recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. Taking a logical approach where the Development Plan's housing policies are out of date these considerations can reasonably be applied to the application development as the local needs are irrefutable, as they were at Stanton St Quintin.
- 4.10 Windfall housing such as the application proposal make an important and budgeted contribution to the housing supply position. 'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly' (paragraph 73)
- 4.11 Paragraph 125, item c states that planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. The following item is spatially more broad ranging as it seeks to 'promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained'. The Council's current substantial housing supply deficit shows supply is clearly constrained and thus great weight should be given to the site's previously developed status and under-utilisation for many years.
- 4.12 The perilous housing position in Wiltshire triggers the application of paragraph 11 and for decision making this means; For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) 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 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.

4.13 The latest NPPF text above highlights that the decision maker is now encouraged to ‘particularly’ give great weight to, inter alia, support sustainable housing, and making the effective use of land. It is the case for the applicants therefore, that like the Stanton St Quintin site, this is not an isolated site, so remote from services that its impacts, especially by comparison with the site’s historic usage, should be unacceptable weighed against the benefits of providing much needed housing and reducing pressures on green field site.

5.0 PLANNING ASSESSMENT

5.1 The planning considerations associated with this permission in principle application are limited to location, land use and amount of development. In summary, the location, land use and amount of development is considered to be acceptable in principle. The amount of development is appropriate for the scale of the site and the prevailing grain of housing in this area. The location of the dwellings would not appear out of place with the established pattern of the built-environment, and the scheme can be designed to ensure no unacceptable harms to landscape character, visual amenity, the amenity of the occupiers of neighbouring properties or highway safety. The amount and use are compatible with the site’s context and in terms of location on the ground it

is strongly maintained this is not an unsustainable isolated countryside site and is of course already previously developed land.

- 5.2 The site's previous appeal is of course not being ignored but the weight given in the planning balance has changed as circumstances have evolved and comparable applications have been treated differently. The Inspector acknowledged the site is located close to services, albeit that they would 'not be adequate to cater for the full and varied daily needs of future occupiers'. He similarly acknowledged that there are traffic lights controlling the nearby crossing of the A350 and that there is a pedestrian footpath that runs adjacent to the A350 connecting the junction with Chippenham to the south. The concern was that footways connecting the site with the services contained within Kington Langley and Kington St Michael are unlit and this would be a deterrent to pedestrian movements to and from the site. It is though clearly not impossible during the day and there are many cyclists that use the local highways too. Furthermore, as a previously developed site comings and goings must be viewed on a cumulative basis as there is a benchmark against which the application must be assessed. Indeed, the Inspector acknowledged that the proposal may result in a reduction in vehicular movements including those from heavy vehicles. It was also agreed that there wasn't a substantive highway safety issue.
- 5.3 On balance, the site has reasonable access to the local bus service whose nearest stop has presumably been sited on the A350 as the best position to serve the widest part of the community. Care must be taken crossing the road with the traffic lights, but so must those coming from elsewhere, to the east for instance, using the village roads. There are opportunities for cycling and walking, although these would be less at night as the paths are unlit. The site is not therefore entirely car dependant and when the alternative transport options for a household are compared to the commercial comings and goings (which the Inspector agreed could be greater) which are more commonly car dependant, there is no demonstrable harm locationally that indicates an increased car usage as a metric of sustainability. It is not tenable to suggest this is not an accessible location.

- 5.4 The NPPF recognises that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas (paragraph 110). Occupants of the appeal scheme would have access to services and facilities both within the villages of Kington Langley and Kington St Michael and elsewhere by bus. They would not be wholly reliant on the private car to do so and in this rural location, involving previously developed land that is itself arguable more car dependant, this would be appropriate. Furthermore, development here may help to support existing services and facilities within the two villages to grow and thrive, being a recognised sustainable benefit of housing per se.
- 5.5 The NPPF states it is important that a sufficient amount and variety of land can come forward where it is needed to support the Government’s objective of significantly boosting the supply of homes” (paragraph 61). The level of need identified within the development plan should not be seen an upper limit, and new development that is otherwise sustainable should not automatically be refused, in particular in the context of the Council’s housing land supply position.
- 5.6 The Council’s most up to date Housing Land Supply Statement (HLSS) (Base date: April 2023-Published June 2024) details that it has 4.2 years of deliverable housing land supply. The Wiltshire Local Plan (WLP) will identify future levels of need for new homes and employment land over the period 2020-2038, and it has reached the Examination 19 stage. However, the evidence that underpins the draft WLP was prepared in accordance with the now superseded December 2023 version of the NPPF.
- 5.7 The Council has therefore published a Briefing Note (No.24-20) which set out the implications of the new NPPF and revisions to the standard methodology on its housing land supply position. It explains that due to the change to the standard methodology, which is used to calculate local housing need, the number of homes the Council must plan for on an annual basis has increased from 1,917 to 3,525 (the annual Local Housing Need figure), an increase of **84%**. This is clearly a material change in circumstances.

- 5.8 The Briefing Note explains that “the changes to the NPPF now require Wiltshire to demonstrate a five-year housing land supply, including a 5% buffer, and must apply the revised Local Housing Need for decision-taking immediately”. When the revised Local Housing Need figure is considered against the Council’s Housing Land Supply figures which can be delivered within five years, it results in a **2.03** years supply.
- 5.9 Your Council therefore confirms that the tilted balance should be applied to housing application and highlights that “the magnitude of the shortfall in supply is **now substantial and the weight to be given to improving housing supply greater compared to when the council had a more marginal supply**” (**my emphasis**). This changes the weight to be given to applications for positive additions to the housing supply generally. The Council also advises within the Briefing Note that the application of the presumption in favour of sustainable development should be considered within the national aim of radically boosting the supply of housing.
- 5.10 In terms of the implications for plan-making, the Council confirms that because the housing requirement in the emerging Local Plan will meet less than 80% of the revised Local Housing Need, the Council will be expected to begin work on a new Local Plan promptly (when the revised plan-making system comes into force in 2025). However, when the new Local Plan is adopted, the five-year Housing Land Supply position will be determined based on the previous Local Housing Need calculation, albeit the updated NPPF requires a 20% buffer to be added, which in essence will require a six-year Housing Land Supply position to be demonstrated.
- 5.11 The Director of Planning clearly advises within the above Briefing Note that “To meet this increased buffer, the council will need to continue to approve planning applications to ensure a sufficient housing land supply can continue to be met at, and beyond, this date”. This is obviously not an encouragement to support those that satisfy the Development Plan but to take a more positive approach to growth involving previously developed land and closely related to existing settlements for instance.

- 5.12 In these circumstances, NPPF paragraph 11d advises that policies which are most important for determining the application (which in this case would include Core Policies 1, 2 and 10) should not be considered up to date. As a result, the presumption in favour of sustainable development as set out at Paragraph 11d of the Framework is engaged, so permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole 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.
- 5.13 It is considered that there would be no adverse impacts associated with the approval of the PiP application that would significantly and demonstrably outweigh the benefits. In terms of the benefits, the proposed development would result in the provision of new dwellings that would contribute towards the substantial deficit in the Council's five-year housing land supply, which is a significant benefit. The development would also produce short term economic benefits to the construction industry and the development would also generate ongoing revenue for the Council from Council Tax etc.. There will also be further benefits that would result from the additional support to the vitality of the local community from the future occupiers of the development reflecting the support for rural housing at paragraph 83 to the NPPF. The development would also deliver ecological benefits associated with the requirement to deliver 10% Biodiversity Net Gain that will be considered during the technical details stage. As a brownfield site the development reduces pressures on greenfield land and will also increase planting generally.
- 5.14 The NPPF recognises that "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly." (paragraph 73). The proposal is deliverable within a short timeframe which will ensure it contributes to the substantial shortfall in the Council's housing land supply.

- 5.15 In terms of the harms, the development is considered to comply with the spirit of WCS as it is accessible and not isolated, and prioritises a previously developed site, and is therefore in accordance with the NPPF. However, should the Council disagree and identify conflict with the plan-led approach only very limited weight should be attributed to this factor within the overall planning balance because Core Policies 1, 2 and 10 are not only out of date but the scale of the housing deficit is very substantial. The site is well contained and it will be demonstrated during the technical details stage that the development would not result in any site specific harms, or to the wider environment that cannot be adequately mitigated.
- 5.16 The updated NPPF now advises when considering the presumption in favour of sustainable development particular regard should be had 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 (paragraph 11.d).ii).
- 5.17 This current application is not for a 'major' development and the site is not 'isolated'. In terms of the paragraphs that are relevant, in addition to those already noted, paragraph 110 outlines that the planning system should actively manage patterns of growth to ensure developments are acceptable. This paragraph is relevant but as noted above, it goes on to state that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The development would result in the effective and efficient use of land in accordance with the objectives of paragraph 129, and can be designed to ensure it will function well and add to the overall quality of the area in accordance with paragraph 135.
- 5.18 The proposed development would contribute towards the Government's aim of significantly boosting the supply of homes in an accessible previously developed location and it is believed that when considering the overall tilted balance, which includes having regard to the key policies for directing development to sustainable locations, making effective use of land, and securing well-designed places, there would be no adverse impacts that stem from the development that would 'significantly and demonstrably' outweigh the benefits, when assessed against the policies in the NPPF.

- 5.19 The contribution made by the approval of minor developments throughout the Wiltshire Council area towards addressing housing need should not be underestimated and now has greater importance considering the Council's substantial housing land supply deficit and the Government's objective to radically boost the supply of housing, as identified by the Council within the aforementioned Briefing Note
- 5.20 Whilst it is agreed that all cases should be considered on their own merits the evidence of changing priorities is very clear after the 2018 approval at Stanton St Quintin as noted above. I would also wish to draw your attention to an appeal against the decision of your Council to refuse permission in principle (application reference 20/04651/PIP) for the erection of one dwelling on previously developed land at Foxhill House, Clench Common, Marlborough, Wiltshire, SN8 4DR which was allowed on the 21st May 2021. The site is described as being part of a small cluster of properties with development beyond being more sporadic and loose knit. The site does however fall within the countryside and within the North Wessex Downs National Landscape. The Inspector concluded that the proposed development would result in residential development outside of any defined settlement and "would not be in a suitable location for housing with regard to local housing strategy and accessibility to services and facilities" (paragraph 16). However, only moderate weight was given to the conflict and it was recognised that "The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly" (paragraph 32).
- 5.21 The Inspector went on to consider the titled balance and concluded that the adverse impacts of granting permission in principle would not significantly and demonstrably outweigh the benefits:-

32. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. The Framework also seeks to make use of previously developed land. Even with the shortfall identified, given the scale of the proposal this attracts limited weight.

33. The economic and social benefits from the build and occupation of the dwelling as well as support for local services, facilities and the community, including those in other villages would be minimal given the size of the development, and their weight in favour of the scheme is small.

34. The proposal would conflict with the Framework where it seeks to promote sustainable transport, actively managed patterns of growth and that appropriate opportunities to promote sustainable transport modes can be taken up. Given the scale of the scheme and associated movements, I give this moderate weight.

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.

36. The proposal benefits from the presumption of sustainable development as outlined in Paragraph 11d)ii of the Framework. In this instance, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

37. On the basis of the individual merits of the scheme, the material considerations indicate that planning permission should be granted notwithstanding the conflict with the development plan. The appeal site is not a suitable location for the proposed development, having regard to policies for the delivery of housing. It would therefore conflict with Core Policies 1 and 2 of the WCS which together and amongst other things seek to restrict development in locations outside defined settlement limits and within the countryside.

5.22 There are a number of very recent decisions on applications where the Council's on-going housing land supply shortfall has been considered and the tilted balance applied. Permission in Principle, reference PL/2024/08878, for a single dwelling on land at No 1, Lamberts Marsh, Southwick, was granted following an earlier refusal at appeal due to the location of the site outside the defined Limits of Development for the Large Village. The Case Officer noted that "in the absence of adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole, officers in acting reasonably and mindful of the difficulties a refusal of this PIP would present, the application is recommended for approval". The need to bring the planning assessment up to date regarding the enclosed application is therefore self-evident and directly comparable to this case, setting aside then a very recent appeal decision.

5.23 These examples (which are not an exhaustive selection) demonstrate that any conflict with the Spatial Strategy of the Local Plan should be given limited

weight within the overall planning/tilted balance, which certainly does not demonstrably outweigh the benefits of housing delivery, especially when considering the current national planning policy position which seeks to boost the supply of housing and the reuse of previously developed land and the substantial local shortfall in housing delivery to meet the minimum need. These examples and the precedent set weigh heavily though in favour of granting PiP for the current application.

6.0 CONCLUSION

- 6.1 Paragraph 11 of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, 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. Footnote 8 of paragraph 11 confirms that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 9 sets out the key policies of the Framework which should be given particular regard.
- 6.2 In this case the conflict with the Development Plan, must be given limited weight as the substantial need for houses and the previously developed nature of the accessible application site carries great weight in the planning balance and means the Planning in Principle sought should be approved. The amount and land use are contextually acceptable and locationally the priority to make the effective use of the current previously developed site means the location is not one where the redevelopment should be viewed as sufficiently harmful to resist redevelopment.