

FINAL COMMENTS OF THE APPELLANT

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

Planning Inspectorate reference 6013972

Appellant	Millen Homes Limited
Site	Land East of Yarnbrook Road, West Ashton, Trowbridge, BA14 6AP
Local planning authority	Wiltshire Council
Application reference	PL/2026/00531 — refused 15 June 2026
Development	Outline (access and layout for approval) for 9 self-build / custom-build dwellings on 0.47 hectares
Accompanying documents	Final Comments on Ecology (FC-01); illustrative Ecological Parameters Plan offered as a visual comment, drawing EPP-01 Rev A (FC-02); Unilateral Undertaking (FC-03); Appendix 1 to these Final Comments — letter and photographs [REDACTED] dated 17 September 2026
Date	23 September 2026

These Final Comments are submitted on behalf of the Appellant in response to the Council's Statement of Case and having regard to the National Planning Policy Framework published on 17 August 2026 ("the Framework"), which post-dates the Appellant's Statement of Case. Where the Framework has replaced the paragraphs cited in the decision notice, the corresponding policies are identified. No new ground is taken: the Final Comments on Ecology (FC-01) and the illustrative plan EPP-01 Rev A (FC-02) respond only to the specific points raised in the Council's Statement at §§7.6–7.10. From section 4 onwards the Council's case on each reason for refusal is set out first, in the Council's own words, in a shaded box, followed by the Appellant's response, so that each response may be read on its own. Two points of clarification to the Appellant's Statement of Case are set out at paragraph 5.10.

A letter from [REDACTED] addressed to the Inspectorate but sent to the Appellant because the period for interested parties' representations had closed, is reproduced unaltered (save for redaction of [REDACTED] email address) at Appendix 1 for the Inspector's discretion; the Appellant has no objection to the Council being given an opportunity to comment on it.

1. Summary

- 1.1 The Council accepts that it is able to demonstrate a housing land supply of 2.8 years. It is respectfully submitted that this engages Policy S5(1)(j) of the Framework, under which development addressing an evidenced unmet need should be approved unless the benefits of doing so would be substantially outweighed by adverse effects when assessed against the national decision-making policies. Policy S5(4), which the Council applies at §5.7 of its Statement, is by its terms confined to proposals "which do not fall within one of the categories set out in this policy", and it is respectfully contended that it is not the applicable test here.
- 1.2 On the route the Council itself identifies, Policy S5(2), the question is whether the proposal would fail to comply with a national policy which directs refusal in specific circumstances. Two such policies are engaged: highway safety and the habitats site. It is respectfully submitted that neither is made out. The Council's highway authority did not identify the access as a substantive concern once visibility to the full DMRB standard was shown to be achievable within the public highway; and the Appropriate Assessment is capable of being concluded favourably on survey evidence which the Council and Natural England have already accepted on the adjoining land, with the mitigation and conditions set out in the Final Comments on Ecology (FC-01).
- 1.3 On the matters that remain, the Appellant respectfully draws attention to the Council's own documents. Its Spatial Planning Service assessed the adjoining land in November 2021 as "near to existing settlements within reasonable distance of a range of local services and community facilities". Its Appropriate Assessment of the adjoining land in 2022 records that site as "located within the village of West Ashton". Its Appendix C offers conditions requiring the Ecological Parameters Plan and the archaeological evaluation whose absence form refusal reasons 4 and 5. Its phasing plan for Ashton Park sets a longstop for delivery of the relief road rather than a start date.

- 1.4 The executed Unilateral Undertaking accompanies these Final Comments and secures self-build delivery and all three strategic contributions, so that reason 6 is addressed. For the reasons set out below, the Appellant respectfully invites the Inspector to allow the appeal.

2. The Framework test

- 2.1 Policy S5(1) provides that the listed forms of development “should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework”. Limb (j) provides:

“Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test), and where the development would:
i. Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure...”

- 2.2 The trigger is not in dispute. The Council states at §5.7 that “the council cannot demonstrate a 5-year housing land supply and can demonstrate 2.8-year housing land supply”.
- 2.3 The Council’s response under limb (j) is that the site is “not physically well-related to the existing settlement”. That is addressed on the facts at section 3. The Council does not address the scale-and-infrastructure limb; it is respectfully submitted that nine dwellings on 0.47 ha adjoining existing housing is a scale which can readily be accommodated.
- 2.4 Policy S5(2) identifies the circumstances in which adverse effects are likely to substantially outweigh the benefits: “the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances.” The Council relies on this provision at §5.7 by reference to highway safety, design, ecology and archaeology. Each is addressed at sections 5 to 8. It is respectfully observed that the design and archaeology policies do not direct refusal in specific circumstances; the two policies which do, transport (TR6) and habitats sites (N6), are therefore the substance of this appeal.
- 2.5 It is respectfully contended that Policy S5(4) is not the applicable test. It applies to “development proposals which do not fall within one of the categories set out in this policy”. Whether a proposal falls within limb (j) is a matter of categorisation, turning on evidenced unmet need, relationship to a settlement and scale against infrastructure. Alleged harm does not take a proposal outside a category within which it otherwise falls. On the Council’s own position, limb (j) is engaged and S5(4) does not arise.
- 2.6 Footnote 28 to limb (j)(i) provides that where a proposal is “separated from the existing built-up area by virtue of being beyond the outside edge of an allocated site that has yet to be fully developed, consideration should be given to whether the proposal is in a suitable location should the allocated development not proceed.” The appeal site is not separated from West Ashton by the Ashton Park allocation; it adjoins the existing dwellings at 54 and 56 Yarnbrook Road and Orchard Close directly. The Appellant’s case on access (section 5) does not depend upon Ashton Park proceeding.
- 2.7 Self-build. Policy HO7 attaches “substantial weight” to the benefits of providing homes which meet evidenced needs and continues, in a sentence not reproduced at §5.8 of the Council’s Statement: “This includes, but is not limited to, homes needed for different groups assessed under policy HO1.” Policy HO1 includes “People wishing to commission or build their own homes.” It is respectfully submitted that substantial weight is accordingly to be attached to the self-build benefit. The Council accepts at §5.8 that substantial weight can be attached; its Statement does not otherwise engage with self-build or with the duty under section 2A of the Self-build and Custom Housebuilding Act 2015.

3. The site’s relationship to West Ashton

- 3.1 The Council’s Delegated Report, page 1, describes the site as follows: “Residential development is located beyond the northern and northwest boundaries of the site. There is a traveller’s site to the south and agricultural land further to the east.”
- 3.2 The site adjoins the dwellings at 54 and 56 Yarnbrook Road and the rear of Orchard Close on its north-eastern side, fronts Yarnbrook Road on its north-western side, and is bounded to the south-west by the

Sunnyside traveller site, which is permitted and in lawful residential use. It is, with respect, the parcel between the southern edge of the village and an established residential site.

- 3.3 The Council's own assessment of the adjoining land is, it is respectfully submitted, the best evidence of how this location is properly to be characterised. Its Appropriate Assessment for Sunnyside (PL/2021/09453, 14 March 2022, revised 14 April 2022) opens with the words "The site is located within the village of West Ashton". Sunnyside lies further from the village than the appeal site. The Council's Spatial Planning Service memorandum of 18 November 2021 on the same application noted that Sunnyside "is physically separated from West Ashton through two fields to the north-east of the site"; the appeal site is the nearer of those fields to the village, and its development would close that gap against the existing housing rather than extend into open land beyond it.
- 3.4 Council §5.7 states that the site "is located to the south and west of existing residential development at West Ashton and as such it is considered the site is not located 'within groups of houses'". It is respectfully observed that the position of a site relative to houses does not of itself determine whether it sits within a group of them, and that the Statement does not refer to the traveller site recorded in the Delegated Report. The Council also treats S5(1)(e), "limited infilling within groups of houses", as "limited in scope in terms of housing numbers"; it is respectfully submitted that limited infilling is concerned with the pattern of development rather than with numbers.
- 3.5 West Ashton is a Small Village under Core Policies 1 and 29. Small Villages have no defined limits of development, and the made West Ashton Neighbourhood Development Plan confirms that "There is no settlement boundary at West Ashton and appropriate infill development will be assessed on a case-by-case basis having regard to the criteria in Policy CP2." Reason 1 proceeds on the basis of a settlement boundary which does not exist at West Ashton. Under Core Policy 2 the question at a Small Village is whether the proposal constitutes infill within the existing built area. It is respectfully submitted that a parcel with dwellings on one side, the road frontage on another and a residential traveller site on a third, lying between the village edge and that site, is such a parcel.
- 3.6 It follows, in the Appellant's respectful submission, that the site is physically well-related to an existing settlement for the purposes of S5(1)(j)(i) and is capable of amounting to limited infilling under S5(1)(e). The same considerations bear upon Core Policy 62, which applies "outside built-up areas", and upon the characterisation in reason 3 of the proposal as "urbanisation of the open countryside".

4. Reason 1 — principle and sustainability

The Council's case — reason for refusal 1

Reason for refusal 1: "The site lies in the open countryside beyond the limits of development of any settlement identified for sustainable development in the settlement strategy of the Wiltshire Core Strategy. The proposal therefore conflicts with policies CP1 and CP2 ... Furthermore, the proposed development would be poorly served by local services, facilities and amenities such that the occupants of the dwellings would likely be heavily reliant on the use of private motor vehicles for the majority of routine journeys. The application is considered to be an inappropriate, unsustainable form of development which would significantly and demonstrably outweigh the benefit of providing nine additional dwellings in an open countryside location."

Statement of Case §5.7: "With regards criteria (e) the development is not considered to be located within groups of houses or limited in scope in terms of housing numbers proposed (9 dwellings) ... the site is located to the south and west of existing residential development at West Ashton and as such it is considered the site is not located 'within groups of houses'." "With regards criteria (j) ... the council cannot demonstrate a 5-year housing land supply and can demonstrate 2.8-year housing land supply. However, it is considered the site is not physically well-related to the existing settlement of West Ashton." "With regard to Policy S5(4) it is not considered the benefits of the proposal would substantially outweigh the adverse effects."

Statement of Case §5.2 and §5.6: Relies on the "West Ashton Neighbourhood Plan 2026-2038 (in particular Policy 2 – Sustainable Transport, Policy 3 – Bat Conservation, Policy 4 – Biodiversity and Policy 5 – Housing)"; "Although West Ashton has a neighbourhood plan it does not allocate housing therefore Policy S6 ... is not engaged."

Statement of Case §7.2: "The Ashton Park scheme would include a cycle route from West Ashton to Trowbridge marginally improving accessibility of the appeal site, however it is considered this would not result in the level of improved connectivity required to make the site sustainable in its own terms ... If allowed, it would have poor access to services and facilities, and the occupiers of this 9-house scheme would be heavily reliant on the private motor vehicle for all trips."

The Appellant's response

- 4.1 The Council's case describes the services the site does not have; neither the Delegated Report nor the Statement sets out those it does. West Ashton has a Church of England primary school (29 Bratton Road; open, 88 pupils on roll), the parish church of St John the Evangelist, a village hall and a mobile library. At Yarnbrook, about 0.7 miles from the site, are the Longs Arms public house (Yarnbrook, BA14 6AB; a different establishment from the Longs Arms at Steeple Ashton to which the Parish Council refers), a filling station with a shop open 24 hours and a cash machine, and the Yarnbrook Roundabout bus stops served by First's D1 (Bath–Warminster) and Faresaver's 87A. Trowbridge railway station is about 2.5 miles away, within everyday cycling range, and the Ashton Park scheme delivers a cycle route from West Ashton to Trowbridge, as the Council acknowledges at §7.2.
- 4.2 The Council's own Spatial Planning Service has assessed this location. On 18 November 2021, on the adjoining Sunnyside application, it recorded: "West Ashton Primary School is approx. 400m away, and Lovemead Group Practice 2,800m (Trowbridge). Trowbridge, which has a supermarket, surgeries, 1 or more cultural or entertainment options, primary and secondary schools, churches, daily/general stores, leisure facilities is approximately 2,500 m away. This suggests that the site is near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services." It added that "West Ashton has a primary school, a church, a village hall and a mobile library."
- 4.3 That assessment was prepared for a traveller site against Core Policy 47, which has its own locational criteria. The Appellant relies upon it for what it records as fact: the distances and the range of services within reach of the adjoining land, which lies further from the village than the appeal site. Nothing material has changed on the ground since November 2021. It is respectfully submitted that the statement in reason 1 that the site "would be poorly served by local services, facilities and amenities" is difficult to reconcile with the Council's own record.
- 4.4 The Appellant does not suggest that this is a highly accessible location and does not rely upon Policy S5(1)(h). Rural settlements are not, with respect, to be judged against urban accessibility standards, and the Framework does not treat car ownership as a reason for refusal. Reliance on the car for some journeys is a factor in the S5(1) balance, against which stand the substantial weight attaching to the housing and self-build benefits under Policies HO7 and HO1, and a village whose school, church and bus services nine additional households would help to sustain.
- 4.5 The baseline is not static. The Council's own Appendix B places within Phase 1 of Ashton Park, rather than Phase 2, the Phase 1 bus strategy by 51 occupations, West Ashton Road footway enhancements and a Toucan crossing by 75% of Phase 1 occupations, and the Leap Gate footpath and cycleway. Council §7.2 suggests that improved connectivity arrives only with the relief road; it is respectfully observed that the Council's own appendix indicates otherwise.
- 4.6 The neighbourhood plan referred to by the Council. Council §5.2 relies upon a "West Ashton Neighbourhood Plan 2026-2038" with Policies 2 (Sustainable Transport), 3 (Bat Conservation), 4 (Biodiversity) and 5 (Housing). That document is a parish draft (version 0.6, 2025) on which the Parish Council invited comments until 31 December 2025. It has not been submitted under Regulation 15, examined, put to referendum or made. It does not form part of the development plan and, it is respectfully submitted, can attract little weight; the Council's Statement does not indicate its status. The made plan is the West Ashton Neighbourhood Development Plan 2018–2026, made in June 2021, Policy 6a of which provides that "Planning applications for small-scale infill within the built-up area of West Ashton will be supported for new dwellings, including self-build homes subject to acceptable impacts on neighbouring amenity and compliance with other development plan policies."
- 4.7 It is respectfully submitted that Policy S6 is not engaged. It applies where "a. The neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b. The neighbourhood plan contains allocations to meet its identified housing requirement (see policy HO2)." The limbs are cumulative. The made plan was made in June 2021, more than five years before any decision on this appeal, and the Council accepts at §5.6 that it "does not allocate housing". Neither limb is satisfied; and the draft plan, were it to be made, allocates no housing either.

5. Reason 2 — highway safety and access

The Council's case — reason for refusal 2

Reason for refusal 2: "The proposed development seeks to create a new access onto the A350, which forms part of the National Primary Route Network (NPRN), in a location outside of a built-up area. In the absence of any overriding justification, the proposal is contrary to Core Policy 62 ... The proposed access arrangements, together

with the expected intensification of use by motor vehicles and pedestrian movement interacting with the heavily trafficked PRN, would introduce material hazards and inconvenience to all users of the highway. The development would result in increased pedestrian activity along a section of highway lacking adequate footways, lighting and safe crossing facilities ... As a result, the proposal would give rise to unacceptable impacts on highway safety and the free flow of traffic, contrary to Core Policy 57 (criteria ix and xiv), Core Policy 61 and Core Policy 62 ... and paragraphs 115, 116 and 117 of the National Planning Policy Framework.”

Statement of Case §5.13: “the appealed development would have an unacceptable impact on highway safety and is contrary to Policy TR6.”

Statement of Case §5.14: “that development has only recently gained outline permission and is likely to be many years from meaningful delivery of the respective highway infrastructure ... there is no certainty what they are referencing will be fully delivered ... This appeal must therefore be assessed on the existing access onto the existing highway and what is proposed is unacceptable.”

Statement of Case §7.1: The phasing plan is read as placing the relief road in “phase 2 of the scheme with reference to the delivery of the respective highway infrastructure road works of five following first occupation or before 1000 dwellings. This points to the highway infrastructure being many years away from delivery.”

Statement of Case §7.2 (second) and §7.4: The Appellant’s suggested condition “fails the legal tests, particularly those relating to reasonableness and precision ... The housing could be constructed but remain unoccupied for an indefinite period. Whilst the use of a Grampian-style condition is possible, strict rules apply”; the phrase “the associated stopping-up and landscaping of the existing A350 carriageway at the site frontage has been implemented” is “insufficiently precise”.

Statement of Case §7.3: “The Council does not dispute the prospect that the cited off-site highway works coming forward in the future. It is more a matter of when and how much weight can be afforded to something that may be many years in the future.”

The Appellant’s response

- 5.1 It is respectfully submitted that reason 2 does not withstand scrutiny on either of two independent bases. The access is safe, and its visibility meets the full DMRB standard, on the highway as it exists today, which is the basis on which the Council says the appeal should be judged (§5.14). Further, on completion of the committed relief road the length of the A350 fronting the site will cease to carry through traffic. The Appellant’s case does not depend upon the relief road; it is reinforced by it.

The access is acceptable as existing

- 5.2 The Delegated Report records that, following submission of revised access details, “the updated visibility splays, showing DMRB standards of 2.4m x 120m have demonstrate that such splays are possible within the extent of public highway”, and that, subject to those splays being maintained, “the access was not identified as a substantive ground for concern by the Council’s highways authority”. The splays lie within the public highway and depend upon no third-party land; their maintenance is secured by the Council’s own suggested condition 14.
- 5.3 It is respectfully observed that reason 2 goes beyond the position of the Council’s highway authority. The refusal reason states that the access “would introduce material hazards and inconvenience to all users of the highway”. What the Delegated Report records as the highway authority’s continuing objection is of a different character: that the site is “located in an unsustainable location” and that there is “poor pedestrian connectivity to West Ashton”. Those are sustainability considerations, addressed at section 4. No accident data or road-safety evidence specific to this access has been produced.
- 5.4 The refusal threshold. Framework Policy TR6, like paragraph 116 of the 2024 Framework on which reason 2 was drafted, permits refusal on highways grounds only where the impact on highway safety would be unacceptable or the residual impact on the network severe. In *Greystoke CB Ltd v Secretary of State for Housing, Communities and Local Government* [2026] EWHC 1997 (Admin) (Coppel J, 31 July 2026) the High Court quashed a decision in which highway effects found not to meet that threshold were nonetheless treated as the weightiest consideration against the proposal: the national refusal threshold, once found not to be met, is not to be set aside when the balance is struck. It is respectfully submitted that the Delegated Report, having recorded that the access was not a substantive concern, falls into the same difficulty when it pleads a “significant identified highway safety concern” in the planning balance.
- 5.5 The access already serves permitted residential development. On 19 January 2026 the Council granted prior approval under Class Q (PL/2025/08586) for conversion of the barn at Lively Farm to two dwellings served by this access; transport and highways impacts are an express prior-approval matter

under Class Q. The Council's most recent decision at the access, PL/2026/02193 (refused 23 July 2026), turned on design and character under Core Policies 51 and 57 alone and not on the access.

- 5.6 The 2024 appeal decision. The Delegated Report relies upon APP/Y3940/W/24/3342139 (land adjacent to the A350, West Ashton Road, Yarnbrook; four dwellings; dismissed 8 August 2024), about 760 m from the appeal site. It is respectfully submitted that the decision does not carry the weight attributed to it here, for three reasons. First, the Inspector's highway conclusion rested on Core Policy 62 and on his own observation of "the vehicular flows, speeds and make-up on this section of the A350": a new access onto a live strategic through-route. The Ashton Park permission, granted on 2 September 2025, post-dates his decision; he did not have before him a committed scheme which removes through traffic from this length of the A350. Second, that site was a detached field to be served by a new access at "an old (now overgrown) field entrance"; the appeal site adjoins the village and uses an existing lawful access already serving permitted dwellings, with visibility to the full DMRB standard accepted by the highway authority. Third, that appeal was determined without ecological, drainage or archaeological evidence; this appeal is supported by the material described in these Final Comments.

The frontage ceases to be a through-route

- 5.7 Drawing P480/106 Rev G (PFA Consulting, Figure 6.4, part of the approved set for 15/04736/OUT) shows the existing A350 south-west of the site closed to through traffic at a new Turning Head near Ashton Down, and the length north of the new West Ashton junction "to be broken up and landscaped". The length of the A350 between the Turning Head and the village, on which the site fronts, is retained as a local road serving only the properties along it and accessed from the village end. On completion, the appeal access will be onto a cul-de-sac from which strategic through traffic, and its headlights, have been removed.
- 5.8 It is respectfully submitted that this disposes of what remains of reason 2. Core Policy 62 controls new accesses onto the National Primary Route Network; the retained length will no longer form part of it. The "heavily trafficked PRN", the high speeds and the interaction of pedestrians with through traffic, which are the substance of the refusal reason, will not exist on a cul-de-sac. It is further observed that Annex A, paragraph 2, of the Framework provides that development plan policies "materially inconsistent with national decision-making policies in this Framework should be given very limited weight" unless examined and adopted against it; to the extent that Core Policy 62, adopted in 2015, is applied so as to direct refusal of an access which meets the TR6 test, it is respectfully submitted that it falls within that provision.
- 5.9 Delivery. Council §7.1 reads the phasing plan as placing the relief road "five following first occupation or before 1000 dwellings ... many years away". Row H1 of the Council's own Appendix B reads: "The earlier of 5 years from 1st occupation or before 1000 dwellings." That is, with respect, a longstop rather than a start date; it runs from first occupation, which has not yet occurred; and the second limb may well be reached first on a 2,500-dwelling scheme whose first phases are consented. Council §5.14 refers to "no certainty" of delivery; §7.3 records that "The Council does not dispute the prospect" of the works coming forward. Progress to date: outline permission granted 2 September 2025; reserved matters for the first 161 dwellings approved (announced 21 April 2026); a further 35 dwellings approved in May 2026; condition 7 requires "the entire proposed Yarnbrook & West Ashton Relief Road" to be constructed to the PFA drawings; the road is developer-funded at about £36.5m.
- 5.10 Two points of clarification to the Appellant's Statement of Case. First, that Statement described Ashton Park and the relief road as "under construction". The position is that the scheme is consented, reserved matters for the first phases of housing have been approved, and the road is secured by condition and by the section 106 agreement; the Appellant does not maintain the description "under construction". Second, that Statement (paragraphs 3.4 and 7.3 and the caption to Appendix A) described the A350 "at the site frontage" as being broken up and landscaped. On a close reading of drawing P480/106 Rev G the length to be broken up lies south-west of the Turning Head; the frontage length is retained as the cul-de-sac described at paragraph 5.7. Neither point affects the substance of the case: the access is acceptable as existing, and the removal of through traffic follows from the closure at the Turning Head whether or not the frontage carriageway is itself broken up.

A condition tied to the relief road, should the Inspector consider one necessary

- 5.11 The Appellant's primary case is that the access is acceptable on the existing highway and that no condition tied to the relief road is necessary; a condition which is not necessary should not be imposed (Policy DM6). Should the Inspector nonetheless consider that occupation ought to await the removal of through traffic, the Appellant respectfully offers the following condition in place of that at Section 15 of its Statement of Case, which the Council considered insufficiently precise:

"No dwelling hereby permitted shall be occupied until the Yarnbrook & West Ashton Relief Road approved under planning permission 15/04736/OUT has been completed and opened to traffic and the existing A350 carriageway south-west of the site has been closed to through traffic by the formation of the turning head shown on drawing P480/106 Rev G (or such other drawings as may be approved under that permission)."

- 5.12 A negatively worded condition of this kind is the form the PPG prescribes (Use of planning conditions, paragraph 009, Ref ID 21a-009-20140306), whose own worked example is a condition prohibiting occupation "until a specified action has been taken (such as the provision of supporting infrastructure)". The only bar is that there be no prospect at all of the action within the life of the permission (*Grampian Regional Council v City of Aberdeen District Council* (1984) 47 P&CR 633; *British Railways Board v Secretary of State for the Environment* [1994] JPL 32). On the Council's own §7.3 that bar is not reached. The Council's concern that dwellings "could be constructed but remain unoccupied for an indefinite period" is, with respect, a commercial risk for the Appellant rather than a planning objection; and under such a condition the interim harm described at §7.2 would not arise, since no dwelling would be occupied until the through traffic had been removed.

6. Reason 3 — landscape

The Council's case — reason for refusal 3

Reason for refusal 3: "The proposed development would result in the urbanisation of the open countryside with the subsequent erosion and loss of rural character being harmful. The Council is not satisfied the 9-house proposal would result in a scheme that would protect, conserve or enhance landscape character. The proposal is therefore contrary to Core Policies CP51 and CP57 ... and Paragraphs 135 and 187 of the National Planning Policy Framework."

Statement of Case §5.16: The appeal "conflicts with Policy DP3(1) on the grounds that it fails to respond to its context in terms of character and setting of the site in an open countryside location. In addition, the scheme fails to consider the environmental qualities of land proposed for development, including landscape character and the natural beauty of the countryside and it fails to identify opportunities for those qualities to be conserved or enhanced (Policy N2(a))."

The Appellant's response

- 6.1 It is respectfully submitted that a 0.47 ha parcel with dwellings on one boundary, the road frontage on another and a residential traveller site on a third is not properly described as "open countryside", particularly where the Council has since permitted 2,500 dwellings on the land beyond the A350 to the west.
- 6.2 The Council cites the first limb of Core Policy 51. The policy requires that development "must not have a harmful impact upon landscape character" and continues "while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures". Scale, appearance and landscaping are reserved. The Council has, with respect, concluded that landscape harm cannot be mitigated on a scheme whose mitigation is not yet before it, while its own suggested conditions 15 and 16 secure a full landscaping scheme.
- 6.3 The illustrative plan EPP-01 Rev A (FC-02), offered as a visual comment, shows the two existing boundary hedgerows retained and reinforced and new native hedgerows planted on the south-eastern and south-western boundaries, with the pasture beyond the red line remaining open. It is respectfully submitted that the landscape effect of nine dwellings so contained is limited and is outweighed in the S5(1) balance.

7. Reason 4 — bats and the Appropriate Assessment

The Council's case — reason for refusal 4

Reason for refusal 4: "The site is located within the Bradford on Avon Bat Special Area of Conservation (SAC) and grey and yellow zones of the Trowbridge Westbury Bat Mitigation Strategy ... Its qualifying features are its protected priority habitats and species including important population of Bechstein Bats and Greater Horseshoe Bats. Insufficient information has been submitted to enable the Council to conclude a favourable Appropriate Assessment with respect of the Bath & Bradford-on-Avon Bat SAC. The Council is unable to conclude that there would be no adverse effects on the integrity of the Bath & Bradford-on-Avon Bat SAC."

Statement of Case §5.18: "the applicant has failed to satisfy the Council that the 9-house proposal would not

result in the loss of functionality of habitat potentially used by SAC bats.”

Statement of Case §7.6: Ashton Park “differs significantly from the current appeal proposal in terms of its scale, location and proposed ecological mitigation measures. Consequently, the comparison is not considered to be directly applicable”.

Statement of Case §7.8: The PEA “advises there is moderate likelihood of bats being present for foraging/commuting (para 4.7) and that further surveys for bats will be required (para 4.8 and 4.10)”; “Paragraph 4.71 advises on points necessary to be compliant with the TWBMS including additional surveys and provision of 15m ‘dark zone’ buffer and strategic contributions”; “Section 6 of the PEA advises additional survey work for foraging and commuting is required and an Ecological Parameters Plan (EPP) is necessary”.

Statement of Case §7.9: “no additional record or survey information has been submitted and the appeal is not accompanied by an EPP. The current proposal is for 9 dwellings and the layout of the of the site is not a reserved matter as such it is unclear how mitigation measures including a 15m buffer and 15m dark zone buffer ... would be provided on site.”

Statement of Case §7.10: “The lack of survey details and ecological information is fatal to this appeal ... Insufficient information has been submitted to enable the Council to conclude a favourable Appropriate Assessment ... and the Council cannot see how an appointed inspector can reach a lawfully competent position to produce one either.”

The Appellant's response

7.1 Reason 4, and Council §§7.6–7.10, state that without a site-specific bat activity survey and an Ecological Parameters Plan the competent authority cannot conclude that there would be no adverse effect on the integrity of the Bath and Bradford-on-Avon Bats SAC, and that it is unclear how the TWBMS buffers could be provided on the layout. The Appellant's Final Comments on Ecology (FC-01) and the illustrative plan EPP-01 Rev A (FC-02), offered as a visual comment, address those points and are not repeated here. In summary:

- The competent authority on this appeal is the Inspector (regulation 63(1) with regulation 7 of the Conservation of Habitats and Species Regulations 2017; Heleigh Cottage, Box, APP/Y3940/W/25/3365948, 8 January 2026, at [23]: “In the case of appeal decisions such as this the competent authority is the Inspector”). There is no prescribed form of appropriate assessment (*R (Champion) v North Norfolk District Council* [2015] UKSC 52). Regulation 63(6) requires the competent authority to have regard to the conditions and restrictions subject to which it proposes to grant permission, so that reaching a conclusion on the strength of proposed conditions is the statutory scheme itself. Regulation 63(1) applies generally and is not confined to the original grant (*C G Fry & Son Ltd v Secretary of State* [2025] UKSC 35).
- The field evidence exists. On the adjoining land, 150 m to the south-west, four transects and 80 static-detector nights across the 2021 season found that the site “is not used by Bechstein's or greater horseshoe bats”, the two species named in reason 4, and that lesser horseshoe use was low-level commuting (IES Consulting, IES/2021/015, November 2021). On that survey the Council concluded a favourable Appropriate Assessment, in combination with Ashton Park and Homefield Farm, and Natural England concurred on 25 April 2022. The Ashton Park radio-tracking evidence (Aspect Ecology Figure 6.4a) identifies the A350 corridor as the feature used by Bechstein's bats, and the approved relief-road drawings incorporate bat underpasses and hop-overs across the new road.
- Council §7.9 asks how the TWBMS buffers could be provided. The illustrative plan EPP-01 Rev A shows, from the architect's dimensions on the application layout, that the only existing hedgerows on the site boundary are the A350 frontage and the hedge along the Lively Farm track on the north-east; the dwellings stand 13.7–16.3 m from the latter. The south-eastern and south-western boundaries are new lines within an open field; the field's own hedgerows lie about 35–40 m and about 15 m beyond the red line, so that the dwellings stand 25–40 m from them across open pasture which is outside the site and remains in the landowner's ownership. New native hedgerows are to be planted on both new boundaries. The frontage hedgerow, which the IES survey records “cannot be considered to be a dark corridor” because of headlights, is protected by the same hedge, fence and lighting package which the Council accepted at Sunnyside, where pitches were placed immediately against the retained bat habitat separated by “a hedgerow and close board fence”.
- The mitigation proposed follows the Council's own. Conditions 9, 10 and 11 on PL/2021/09453 secured the Core Bat Habitat, the dividing hedgerow and a sensitive lighting regime reinstating boundary features “as dark corridors”. The Final Comments on Ecology, section 6, set out the

equivalent conditions for this site, including the Ecological Parameters Plan which the Council's own Appendix C condition 10 requires, lighting limited to 0.2 lux horizontal and 0.4 lux vertical at retained features, a Biodiversity Metric demonstrating no net loss, and the TWBMS contributions secured by the Undertaking.

- 7.2 The Appellant puts its position on survey plainly. Its ecologist's appraisal advises that further bat surveys are required (paragraphs 4.8 and 4.10–4.11) and, at paragraph 4.71, states the means by which compliance with the TWBMS may be demonstrated: site-specific transect and static-detector survey, "OR" analysis of the results of the long-term monitoring programme; paragraph 4.72 adds that the extensive capture, radio-tracking and detector surveys for Ashton Park might be utilised for that purpose. Council §7.8 summarises paragraph 4.71 as requiring additional surveys and does not record the alternative. A full-season site survey of the kind the TWBMS describes (paragraphs 116, 129 and 130) could not be completed within the life of this appeal. The Appellant has therefore taken the second route. It acknowledges that the analysis in the Final Comments on Ecology is the Appellant's own rather than a licensed ecologist's, and invites the Inspector to weigh it accordingly. It relies upon the data for what they show about the boundary features, not to demonstrate absence: the Ecological Parameters Plan assumes that Bechstein's bat uses the A350 frontage and that lesser horseshoe bat uses every boundary feature, as the Strategy itself directs (paragraph 136), and protects them on that footing; and a full-season survey before reserved matters is offered by condition to inform the detailed mitigation plan the Strategy requires at that stage. It is respectfully submitted that, on that precautionary basis and having regard under regulation 63(6) to the conditions at section 6 of the Final Comments on Ecology and to the Undertaking, the Inspector is able to ascertain that the development will not adversely affect the integrity of the SAC.
- 7.3 Council §7.10 describes the absence of survey as "fatal" and states that no Inspector "can reach a lawfully competent position". The Appellant respectfully refers to APP/Y3940/W/24/3345598 (Glenmore Farm, Westbury, allowed 21 January 2025, up to 145 dwellings), in which this Council's bat strategy and the same SAC were in issue; the ecology surveys were over two years old and were updated by a briefing note at the appeal; the Inspector concluded that there would be no adverse effect on integrity with the mitigation proposed, dealt with great crested newts by district level licence and the Salisbury Plain SPA by CIL-funded mitigation. The Council's Statement does not refer to it.
- 7.4 Council §7.7 invites the Appellant to withdraw and re-apply on the footing that material submitted with the appeal is inadmissible. The procedural position is addressed at section 10. The Appellant respectfully notes that the Council's own Appendix C offers a condition requiring the Ecological Parameters Plan whose absence §7.9 treats as determinative, and a condition requiring development in accordance with Section 6 of the appraisal dated 26 November 2025, as the Appendix C condition is framed; both are accepted.
- 7.5 Great crested newts are a regulation 55 matter and not a qualifying feature of either European site; the Wiltshire district level licence is available and a condition is offered. The Salisbury Plain SPA is addressed by the Council's strategic Appropriate Assessment, which Natural England confirmed in January 2026 continues to be supported; the Undertaking secures the SPA Contribution as a covenant payable before commencement to the extent the Council confirms it is not CIL-funded. The £375 administration fee for each zone contribution referred to at §7.11 does not appear in the Council's published documents so far as the Appellant has been able to establish; clause 5.1 of the Undertaking already provides for payment of "such other sum as the Council's published schedule prescribes".

8. Reason 5 — archaeology

The Council's case — reason for refusal 5

Reason for refusal 5: "The applicant has failed to provide an appropriate archaeological trial trench evaluation. In the absence of this information, the Local Planning Authority is unable to properly assess the significance of any heritage assets with archaeological interest that may be present within the site ... The development is therefore contrary to Core Policy 58 ... The proposal also conflicts with the principles of the Framework, paragraph 207".

Statement of Case §5.20: "Policy HE5(5) reiterates that a heritage asset with archaeological interest should be accompanied by an appropriate desk-based assessment and field evaluation where necessary ... these issues are dealt with in the section 'Archaeology issues' of the officer's report."

Appendix C, suggested condition 11: "No development shall commence on site until a written scheme of investigation (WSI) for a programme of archaeological work (comprising staged geophysical survey, trial-trench evaluation informed by the geophysics, and mitigation by record where required) has been submitted to and approved in writing..."

The Appellant's response

- 8.1 It is respectfully submitted that the Council's own Appendix C condition 11 addresses reason 5 in full: "No development shall commence on site until a written scheme of investigation (WSI) for a programme of archaeological work (comprising staged geophysical survey, trial-trench evaluation informed by the geophysics, and mitigation by record where required) has been submitted to and approved in writing..."
- 8.2 Reason 5 is founded on the absence of a trial-trench evaluation. The condition the Council suggests requires a staged geophysical survey and a trial-trench evaluation informed by it. The site is not within or adjacent to any designated heritage asset and the County Archaeologist identifies generic potential only. The PPG on appeals, paragraph 049 (Ref ID 16-049-20140306), notes that "refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead".
- 8.3 The Appellant accepts the condition the Council proposes and will bear the cost of the work.

9. Reason 6 — the legal agreement

The Council's case — reason for refusal 6

Reason for refusal 6: "In the absence of completed legal obligation at time of determination to secure the delivery and retention of the dwellings as self-build housing and to secure the necessary ecological mitigation measures, the proposed development fails to ensure appropriate mitigation of its impacts ... The proposal is therefore contrary to Core Policies 3 and 50 of the Wiltshire Core Strategy."

Statement of Case §5.21: "Policy DM6 'Use of planning conditions and obligations' references planning obligations and there use to address otherwise unacceptable impacts and is relevant to refusal reason six."

Statement of Case §7.11: "With regard to the appellants submitted Unilateral Undertaking the Council's ecology officer has advised – The council cannot confirm an SPA Contribution figure at present. To confirm the TWBMS contributions, the legal admin fee is usually £375 for the grey zone contribution, and £375 for the yellow zone contribution (both apply for between 6-10 properties)."

The Appellant's response

- 9.1 Reason 6 concerns the absence of a completed obligation "at time of determination"; the decision notice informative states that on appeal the obligation would be addressed by a section 106 or unilateral agreement. The executed Unilateral Undertaking (FC-03) accompanies these Final Comments.
- 9.2 The Undertaking secures the delivery and retention of each of the nine Plots for Self-build and Custom Housebuilding within section 1(A1) and 1(A2) of the Self-build and Custom Housebuilding Act 2015, by reference to Parts 1 and 2 of the Council's own register, with a marketing sequence, an evidence requirement before national marketing and an occupation restriction; and the TWBMS habitat contribution (£1,000 per dwelling, index-linked), the TWBMS recreational contribution (£925 per dwelling) and the Salisbury Plain SPA contribution, all payable before commencement. It is respectfully submitted that each obligation is necessary, directly related to the development and fairly and reasonably related in scale and kind (regulation 122 of the Community Infrastructure Levy Regulations 2010).
- 9.3 The Council's comments on the Undertaking (§7.11) are that an SPA figure cannot yet be confirmed and that an administration fee applies. Neither goes to the efficacy of the Undertaking. The Council raises no point on drafting, enforceability, land interests or regulation 122, and does not comment on the self-build mechanism, which is the primary limb of reason 6. The Delegated Report had already attributed "significant" weight to the housing delivery benefit, its only qualification on self-build being that "there is no mechanism to secure this through a legal agreement at the time of the application being determined". That mechanism is now in place.
- 9.4 For completeness, Core Policy 3 is an infrastructure policy and the Core Strategy, adopted in January 2015, does not refer to self-build; the Appellant offers the obligation in any event.

10. The procedural objection

The Council's case — procedure

Statement of Case §7.7: “By submitting a revised Preliminary Ecological Appraisal (PEA) as part of the appeal, the appellant is acting contrary to the procedural guidance for appeals that apply to applications determined on or after 1 April 2026 ... particularly paragraphs 3.1.1, 3.1.2 and 7.3.6 ... the Council considers that if the appellant wish to rely on the revised PEA to address the fourth reason for refusal, the appropriate course of action would be to submit a new planning application for consideration by the local planning authority and to withdraw this appeal.”

The Appellant's response

- 10.1 Council §7.7 relies upon “the procedural guidance for appeals that apply to applications determined on or after 1 April 2026”. The Planning Inspectorate's new guide is titled “Procedural Guide: Planning appeals — England. For appeals relating to applications dated on or after 1 April 2026”, and its paragraph 1.3 confines it to applications submitted on or after that date. The statutory trigger is to the same effect: regulation 3(2) of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009, as substituted by regulation 2(2)(a) of SI 2026/122, applies the expedited procedure to a section 78(1) appeal “in relation to an application which was made on or after 1st April 2026”; the “determined on or after” trigger in limb (d) applies only to advertisement appeals under section 220. This application was made on 26 January 2026. It is respectfully submitted that the guide for applications dated on or before 31 March 2026 governs this appeal, and that the paragraphs cited at §7.7 are drawn from a guide which does not.
- 10.2 In any event the guidance the Council cites does not render material inadmissible; it reserves to the Inspectorate a discretion whether to accept it. No amendment to the application is sought and access and layout are unchanged. The further material, namely the Undertaking, the Final Comments on Ecology and the illustrative plan EPP-01 Rev A, responds to specific points raised by the Council in its Statement, in particular those at §§7.6–7.10 on reason 4, draws upon data already before the Council and Natural England, and is submitted at the stage at which the Appellant is entitled to respond. The illustrative plan is offered as a visual comment: it is an annotated overlay of the application layout drawing YWA001 Rev 1 prepared from the architect's own dimensions, it introduces no survey data, it alters nothing in the scheme, and it is not submitted for approval; it answers the Council's question at §7.9 and shows that the Council's own suggested condition 10 is capable of being complied with. The Inspector is respectfully invited to receive it. The Appellant respectfully declines the invitation to withdraw; withdrawal without good reason is itself identified as unreasonable behaviour in the PPG on appeals (paragraph 052, Ref ID 16-052-20140306).

11. Conditions

- 11.1 The Appellant does not resist the Council's Appendix C conditions, subject to the following: the ecological conditions being framed as at section 6 of the Final Comments on Ecology (which adopt and extend Appendix C conditions 8, 9, 10, 12 and 13); the relief-road condition, if imposed at all, being framed as at paragraph 5.11; correction of suggested condition 4, which cites “Highways Viz Plan... drg no. YWA993 rev 1” where the drawing is YWA003 Rev 1; and tidying of the condition numbering.
- 11.2 Appendix C is offered as satisfying “the 6 tests”. Since 17 August 2026 the applicable tests are those in Framework Policy DM6: necessary, relevant to the development and to planning, sufficiently precise to be capable of compliance and enforcement, and reasonable in all other respects. It is respectfully suggested that the conditions be assessed against that yardstick.

12. Costs

The Council's case — costs

Statement of Case §7.10: “Progressing with this appeal is considered unreasonable behaviour on the part of the appellant and the Inspector is invited to consider an award of costs against the appellants on the grounds that their appeal submission is little chance of success and is not properly supported or evidenced.”

The Appellant's response

- 12.1 No application for costs has been made by the Council; §7.10 invites the Inspector to consider one. The Appellant responds briefly. Parties normally meet their own expenses (PPG on appeals, paragraph 028, Ref ID 16-028-20140306). An award requires both unreasonable behaviour and unnecessary or wasted expense directly caused by it (paragraph 030, Ref ID 16-030-20140306); for an appellant the threshold is that the appeal had “no reasonable prospect of succeeding” (paragraph 053, Ref ID 16-

053-20140306). The Council's formulation, "little chance of success", is not the test, and no wasted expense is identified.

- 12.2 It is respectfully submitted that an appeal in which the Council accepts a 2.8-year supply, in which S5(1)(j) is engaged on that basis, in which the Council concluded a favourable Appropriate Assessment with Natural England on the adjoining land, and in which the Council's own Appendix C offers conditions addressing reasons 4 and 5, is not one with no reasonable prospect of succeeding.
- 12.3 The Appellant makes no application for costs at this stage and reserves its position. Any application would be founded on the PPG on appeals, paragraph 049 (Ref ID 16-049-20140306): refusal on grounds capable of being dealt with by conditions (reasons 4 and 5, each addressed by the Council's own Appendix C), and assertions unsupported by objective analysis (the safety allegation in reason 2, which the highway authority did not make).

13. Conclusion

- 13.1 It is respectfully submitted that the proposal falls within Policy S5(1)(j), and that its benefits, namely nine dwellings against an accepted 2.8-year supply and nine self-build plots in furtherance of the Council's statutory duty, each attracting substantial weight under Policy HO7, are not substantially outweighed by adverse effects. The access is acceptable on the existing highway and the committed relief road removes the through traffic on which reason 2 depends; the Appropriate Assessment is capable of being concluded favourably on the evidence and conditions set out in the Final Comments on Ecology; archaeology and the legal agreement are addressed by the Council's own suggested condition and by the Undertaking; and the residual landscape effect of nine dwellings on a contained parcel at the village edge is limited. The Appellant respectfully requests that the appeal be allowed and that outline planning permission be granted subject to the conditions identified at section 11.

Signed: For and on behalf of Millen Homes Limited Date: 23 September 2026

Appendix 1 — Letter and photographs from [REDACTED]

Letter dated 17 September 2026, addressed to the Planning Inspectorate and sent to the Appellant after the period for interested parties' representations had closed, together with the photographs enclosed with it. Reproduced unaltered save for redaction of [REDACTED] email address. The Appellant has no objection to the Council being given an opportunity to comment. The letter quotes the reference "AP-37632"; its subject is this appeal, 6013972.



17 September 2026

The Planning Inspectorate
AP-37632

Dear Planning Inspectorate

AP-37632 Proposed Development of 9 Self Build Plots

I would like to comment on this Appeal but unfortunately, I've missed the deadline. I commented on the Planning Application PL/2026/00531 but I seem to have missed the notification of the Appeal.

I assume that as I have missed your deadline that you would have automatically rejected my letter so I sent my comments to Millen Homes, the agents for the owner.

[REDACTED]

In my comments to Wiltshire Planning on the proposed development I expressed concern about the state of the A350/Yarnbrook Rd- a main north-south route from the M4 to the A36 and its fitness to support existing and proposed residential development. I assume you have access to my original comments. The Wiltshire Highways comments on the proposal seemed to reinforce my concerns.

The road is unfit for road users, pedestrians and residents due to the speed and volume of traffic, particularly HGVs; the structure of the road (little changed since it was built in the 18th century as the Westbury-Melksham turnpike road); poor visibility in both directions; regular flooding; and a pavement/footway that is particularly hazardous for pedestrians accessing amenities in West Ashton and Yarnbrook.

The pavement between the proposed development site and the A350/Yarnbrook Road has been substantially narrowed by the non-management of the hedge over several years. Overgrowth encroaches the pavement. Residents and pedestrians cut back overhanging branches and brambles and for the last two years Wiltshire Council has annually lightly trimmed the road side elevation. A management plan would restore the hedge's previous height and girth and effectiveness as a boundary. As I no longer know who owns the land and have no contact details I wrote to Millen Homes as the applicant/agent named in the application to ask for their advice and support in managing the hedge. I am happy for Millen Homes to share my email to them about the management of the hedge.

The proposed development will be an improvement on the neglected grassland and hedges that are overgrown with brambles, ivy, ragwort and ash saplings and an access track which erodes on to the A350/Yarnbrook Road and blocks drains and causes flooding.

Letter, page 1

The construction and commissioning of the West Ashton/Yarnbrook Relief Road will resolve the pain and suffering of existing residents and enable further development of West Ashton to support and enhance the viability of the community. I hope any permission is conditional upon the opening of the Relief Road and associated works to Yarnbrook Road; a plan for the restoration and ongoing management of boundary hedges; and a plan for the reconstruction and upgrading of the access track/road.

I enclose photographs of the hedge. Photos 1-3 show the managed hedge in circa 2000, prior to the creation of the Lively Farm access track. The other four photos show the overgrown hedge as at September 2006.

Yours faithfully

A large black rectangular box redacting the signature of the sender.

[email address redacted by the Appellant]

Letter, page 2

Appendix 1 (continued) — photographs enclosed

describes photographs 1–3 as showing the managed hedge in about 2000, before the Lively Farm access track was formed, and the remainder as showing the hedge as it is now (her letter reads “September 2006”, which the Appellant understands to mean September 2026). Photographs are numbered in the order of that description; captions are the Appellant’s.



Photograph 1 — c. 2000 (supplied by



Photograph 2 — c. 2000 (supplied by



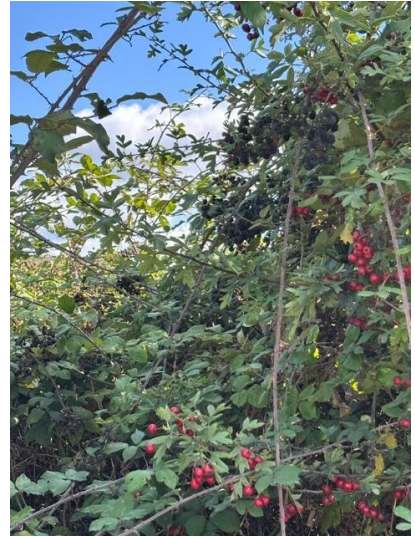
Photograph 3 — c. 2000 (supplied by [REDACTED])



Photograph 4 — 2026



Photograph 5 — 2026



Photograph 6 — 2026

DATED [22 / 09] 2026

- (1) ANNE STRICKLAND
- (2) MILLEN HOMES LIMITED

PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING
under Section 106 of the Town and Country Planning Act 1990
*relating to Land East of Yarnbrook Road, West Ashton, Wiltshire (HM Land Registry title
number WT205214)*
in favour of WILTSHIRE COUNCIL

Parties

- (1) ANNE STRICKLAND of 6 Easterton Sands, near Devizes, Wiltshire SN10 4PY (the "Owner"); and
- (2) MILLEN HOMES LIMITED (company number 07079288) whose registered office is at Congress House, 14 Lyon Road, Harrow, Middlesex HA1 2EN (the "Applicant").

Background

- (A) The Owner is the registered freehold proprietor of the Land, which is registered at HM Land Registry under title number WT205214.
- (B) By an option agreement dated 16 April 2025 the Applicant has the benefit of an option to purchase the Land. The Applicant applied to the Council for the Planning Permission, and following the Council's refusal of that application an appeal has been made to the Secretary of State under reference APP/Y3940/W/26/6013972.
- (C) The Council is the local planning authority for the area in which the Land is situated and is the authority by whom the obligations in this Deed are enforceable.
- (D) The Land lies within the grey and yellow zones of the Trowbridge & Westbury Bat Mitigation Strategy associated with the Bath & Bradford-on-Avon Bats Special Area of Conservation, and within the zone of influence of the Salisbury Plain Special Protection Area. The Development requires mitigation to be secured by planning obligation, and the Development is proposed as self-build / custom housebuilding.
- (E) The Owner (and the Applicant) enter into this Deed by way of unilateral undertaking under section 106 of the Act in order to secure the planning obligations set out below and so to make the Development acceptable in planning terms.

Operative provisions

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following expressions have the following meanings:

"Act" means the Town and Country Planning Act 1990.

"Commencement of Development" means the carrying out of a material operation within the meaning of section 56(4) of the Act forming part of the Development, save that for the purposes of this Deed it does not include operations consisting of site clearance, demolition, archaeological investigation, investigation for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, or ecological mitigation or enabling works; and "Commence Development" is construed accordingly.

"Contributions" means the TWBMS Habitat Contribution, the TWBMS Recreational Contribution and the SPA Contribution, as set out in Schedule 1.

"Council" means Wiltshire Council of County Hall, Bythesea Road, Trowbridge, Wiltshire BA14 8JN and its successors as local planning authority for the area.

"Development" means the development of the Land for 9 self-build / custom-build dwellings pursuant to the Planning Permission.

"Dwelling" means a dwelling to be constructed on the Land pursuant to the Planning Permission (and the Development comprises 9 Dwellings).

"Index" means the Royal Institution of Chartered Surveyors (RICS) Construction Building Cost Information Service (BCIS) All-in Tender Price Index (or, if it ceases to be published, such comparable index as the Council reasonably determines).

"Land" means the land east of Yarnbrook Road, West Ashton, Wiltshire registered at HM Land Registry under title number WT205214 and shown edged red on the Plan.

"Occupation" means occupation of a Dwelling for residential purposes, but not including occupation by personnel engaged in construction, fitting-out or marketing, or occupation for security purposes prior to residential occupation; and "Occupy" is construed accordingly.

"Plan" means the plan annexed at Schedule 3 to this Deed showing the Land edged red.

"Planning Permission" means the outline planning permission for the Development granted on appeal under reference APP/Y3940/W/26/6013972, with all matters reserved except access and layout.

"Register" means the register maintained by the Council under section 1 of the Self-Build and Custom Housebuilding Act 2015.

"Self-Build or Custom Housebuilding" means has the meaning given in section 1(A1) of the Self-Build and Custom Housebuilding Act 2015.

"SPA" means the Salisbury Plain Special Protection Area.

"SPA Contribution" means the financial contribution towards strategic recreational mitigation for the SPA, as set out in Schedule 1.

"TWBMS" means the Trowbridge & Westbury Bat Mitigation Strategy Supplementary Planning Document (adopted July 2025).

"TWBMS Habitat Contribution / TWBMS Recreational Contribution" means the financial contributions towards habitat and recreational mitigation respectively under the TWBMS, as set out in Schedule 1.

1.2 Words importing the singular include the plural and vice versa; a reference to a statute includes any amendment or re-enactment of it and any subordinate legislation made under it; obligations on more than one person are joint and several; clause and Schedule headings do not affect interpretation; and the Schedules form part of this Deed.

2. LEGAL BASIS AND EFFECT

2.1 This Deed is made pursuant to section 106 of the Act and the obligations contained in it are planning obligations for the purposes of that section and are enforceable by the Council.

2.2 The obligations bind the Land and (except as provided below) are enforceable against the Owner and its successors in title and against any person deriving title from them.

2.3 No person is liable for any breach of a planning obligation in this Deed occurring after that person has parted with all interest in the Land or the part in respect of which the breach occurs (but without prejudice to liability for any subsisting breach prior to parting with that interest).

2.4 The obligations in this Deed do not bind, and are not enforceable against: (a) any individual owner-occupier or tenant of a completed Dwelling, or their mortgagee; or (b) statutory undertakers or the Council.

3. CONDITIONALITY

3.1 This Deed is conditional upon, and the obligations take effect only on, the grant of the Planning Permission (whether by the Council or on appeal).

3.2 If the Planning Permission is not granted, or is granted but quashed, revoked or otherwise withdrawn before the Commencement of Development, this Deed (other than this clause and clauses 1 and 6) ceases to have effect and no obligation under it is enforceable.

4. THE OWNER'S OBLIGATIONS

The Owner (and the Applicant) covenant with the Council:

4.1 Not to Commence Development until the Contributions have been paid to the Council in accordance with Schedule 1.

4.2 To deliver and retain the Dwellings as Self-Build or Custom Housebuilding in accordance with Schedule 2.

4.3 To give the Council not less than ten (10) working days' written notice of the intended date of Commencement of Development, and to notify the Council in writing within ten (10) working days after the first Occupation of a Dwelling.

5. INDEXATION

5.1 Each Contribution which is expressed to be index-linked is to be increased (but not decreased) by reference to the Index from the base date stated in Schedule 1 to the date of payment.

6. APPLICATION AND REPAYMENT OF CONTRIBUTIONS

6.1 The Contributions are paid to be applied by the Council towards the mitigation purposes identified in Schedule 1. Any part of a Contribution not applied or committed towards those purposes within ten (10) years of receipt will be repaid to the person who paid it, on written request.

7. GENERAL

7.1 Notices under this Deed must be in writing and delivered by hand or sent by first-class post or recorded delivery to the relevant party at the address stated in this Deed (or such other address as notified), and to the Council at its address in clause 1.1.

7.2 Nothing in this Deed fetters or restricts the exercise by the Council of its statutory powers, duties or discretions.

7.3 This Deed is governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

7.4 This Deed may be executed in counterparts, each of which when executed and delivered is an original and which together constitute one deed.

7.5 This Deed is delivered on the date written above and takes effect as a deed.

Schedule 1 — Financial Contributions

The Contributions, payable to the Council prior to the Commencement of Development, are:

- TWBMS Habitat Contribution: £1,000 per Dwelling (£9,000 for 9 Dwellings), index-linked from 2018 to the date of payment, towards habitat mitigation under Section 9.1 of the TWBMS (yellow zone).
- TWBMS Recreational Contribution: £925 per Dwelling (£8,325 for 9 Dwellings) towards strategic recreational pressure mitigation under Section 9.2 of the TWBMS (grey zone), reviewed annually by the Council.
- Salisbury Plain SPA Contribution: an amount per Dwelling equal to the Council's latest published or adopted per-dwelling tariff for strategic recreational mitigation for the SPA in force at the date of payment, payable only to the extent that such mitigation is not otherwise secured or funded in respect of the Development through the Community Infrastructure Levy.

Indicative total (excluding the SPA Contribution, which is calculated by reference to the Council's tariff in force at the date of payment, and any indexation): £17,325.

Schedule 2 — Self-Build / Custom Housebuilding

2.1 The Owner shall ensure that each of the 9 Dwellings is delivered and retained as Self-Build or Custom Housebuilding within the meaning of section 1(A1) of the Self-Build and Custom Housebuilding Act 2015, and shall not Occupy or permit Occupation of any Dwelling otherwise than in accordance with this Schedule.

2.2 Each serviced building plot shall be marketed for sale at a fair market value in accordance with a marketing strategy first submitted to and approved in writing by the Council (such approval not to be unreasonably withheld or delayed), in the following stages: (a) for the first six (6) weeks, exclusively to persons registered on Part 1 of the Register; (b) if no contract for sale has been entered into by the expiry of that period, for the following six (6) weeks, to residents of Wiltshire; and (c) if no contract for sale has been entered into by the expiry of that period, thereafter nationally [period to be confirmed — see covering note], in each case on terms requiring completion of a dwelling meeting the definition of Self-Build or Custom Housebuilding.

2.3 Each plot is to be sold on terms requiring the purchaser to complete a dwelling that meets the definition of Self-Build or Custom Housebuilding, with the prospective occupier having primary input into its final design.

2.4 If, after the expiry of the marketing period for a plot, no contract for its sale as a self-build / custom-build plot has been entered into despite compliance with the approved marketing strategy, then that plot may be brought forward as custom housebuilding delivered by the Applicant on a "build-ready" basis / the restriction in paragraph 2.1 shall cease to apply to that plot.

2.5 The Owner shall keep and, on reasonable request, provide to the Council records demonstrating compliance with this Schedule, including evidence of marketing and of the self-build / custom-build status of each Dwelling.

Schedule 3 — Plan



Execution

EXECUTED as a DEED by the parties on the date written at the start of this Deed.

.....
[Redacted]

Signed as a deed by ANNE STRICKLAND
in the presence of:

Signature of witness:
[Redacted]

Name: ANTHONY JACKSON

Address: 17 CAMERON WAY, DEVIZES SN10 3DW

Occupation: MECHANIC

Executed as a deed by MILLEN HOMES LIMITED acting by two authorised signatories, in
accordance with section 44(2)(a) of the Companies Act 2006

Director
[Redacted]

Company Secretary:
[Redacted]

FINAL COMMENTS OF THE APPELLANT — ECOLOGY

Document FC-01 — Reason for refusal 4: ecological parameters and mitigation

Bath and Bradford-on-Avon Bats SAC — Trowbridge and Westbury Bat Mitigation Strategy
Land East of Yarnbrook Road, West Ashton, Trowbridge BA14 6AP

Appeal reference	6013972 (Wiltshire Council ref PL/2026/00531)
Appellant	Millen Homes Limited
Proposal	Outline, access and layout for approval, 9 self-build / custom-build dwellings (drawing YWA001 Rev 1)
Refusal reason addressed	Reason 4 (Core Policy 50; Habitats Regulations; TWBMS) and Council Statement of Case §§7.6–7.10
Status	Final comments on reason for refusal 4, submitted with the appellant's Final Comments (FC-00) in response to the Council's Statement of Case. They draw on survey data already before the Council and Natural England on the adjoining land and on the Ashton Park permission.
Accompanying drawing	Illustrative Ecological Parameters Plan, offered as a visual comment — drawing EPP-01 Rev A (Appendix A; document FC-02). An annotated overlay of application drawing YWA001 Rev 1; not an application drawing and not submitted for approval.
Date	September 2026

1. Purpose

1. Reason for refusal 4 and the Council's Statement of Case (§§7.6–7.10) say that, without a site-specific bat activity survey and an Ecological Parameters Plan, the competent authority cannot conclude that the development would have no adverse effect on the integrity of the Bath and Bradford-on-Avon Bats SAC, and that it is unclear how the buffers described in the Trowbridge and Westbury Bat Mitigation Strategy (TWBMS) could be provided on the fixed layout.
2. These comments answer those points. They (a) identifies each boundary feature of the site and states what the existing survey data say about its use by SAC bats; (b) offer, as a visual comment, an illustrative Ecological Parameters Plan (EPP-01 Rev A) drawn as an overlay on the application layout drawing YWA001 Rev 1 from the architect's own dimensions, without altering that layout and without introducing survey data; (c) explains, feature by feature, how loss of function of habitat used by SAC bats is avoided by design and by condition; and (d) sets out the conditions by which every measure would be secured.
3. The data relied on are: the Sunnyside bat transect and static detector survey (IES Consulting, IES/2021/015 v1.0, November 2021) on land about 150 m south-west of the site; the Council's own Appropriate Assessment for Sunnyside (14 March 2022, revised 14 April 2022) and Natural England's concurrence (25 April 2022); the Ashton Park radio-tracking evidence for Bechstein's bat summarised on Aspect Ecology drawing 1878/Figure 6.4a Rev C (February 2024) and the approved relief-road drawing P480/106 Rev G; the roost records cited in the Council's delegated report; and the appellant's Preliminary Ecological Appraisal (Arborweald, DKS1723.1, November 2025, updated 18 June 2026), the position on which is stated at section 3.5.

1A. The Council's case and where it is answered

The Council's case on reason 4 is set out below in its own words, each point followed by the answer and the section of these comments in which it is developed.

Reason for refusal 4: *"Insufficient information has been submitted to enable the Council to conclude a favourable Appropriate Assessment with respect of the Bath & Bradford-on-Avon Bat SAC. The*

Council is unable to conclude that there would be no adverse effects on the integrity of the Bath & Bradford-on-Avon Bat SAC.”

Response: The competent authority on this appeal is the Inspector, and there is no prescribed form of appropriate assessment. The information before the Inspector comprises a full-season transect and static survey of the adjoining land accepted by the Council and Natural England, the Ashton Park radio-tracking evidence, the roost records, and an Ecological Parameters Plan on the fixed layout with the conditions and Undertaking to which regulation 63(6) requires regard. Sections 3, 4, 5 and 7.

Statement of Case §5.18: *“the applicant has failed to satisfy the Council that the 9-house proposal would not result in the loss of functionality of habitat potentially used by SAC bats.”*

Response: The only existing features on the site are the A350 frontage hedgerow (F1) and the hedge along the Lively Farm track (F4). Both are retained in full, buffered and kept dark by condition; the functional faces of each remain open and unlit. The field hedgerows the Council may have in mind (F2, F3) lie outside the red line at 15–40 m with open pasture between. Sections 2, 4 and 5.

Statement of Case §7.6: *Ashton Park “differs significantly from the current appeal proposal in terms of its scale, location and proposed ecological mitigation measures. Consequently, the comparison is not considered to be directly applicable”.*

Response: Ashton Park is relied on for its radio-tracking data, which identify the A350 corridor as the feature used by Bechstein’s bats, and for the dark-corridor standard the Council accepted there; not as a comparable scheme. The comparable scheme is Sunnyside, 150 m away, where the Council and Natural England concluded a favourable assessment on a hedge, fence and lighting package. Sections 3.2, 3.3 and 5.

Statement of Case §7.8: *The appraisal “advises ... that further surveys for bats will be required (para 4.8 and 4.10)”; “Paragraph 4.71 advises on points necessary to be compliant with the TWBMS including additional surveys and provision of 15m ‘dark zone’ buffer and strategic contributions”.*

Response: The appellant does not qualify its ecologist’s advice. Paragraph 4.71 offers survey or analysis of the long-term monitoring data as alternatives, and 4.72 identifies the Ashton Park data for that purpose; the Council’s summary omits the alternative. A full-season survey could not be completed within this appeal; the appellant has taken the second route, acknowledges that the analysis is its own, and has designed the plan on the assumption that the SAC species are present, as TWBMS para 136 directs. A full-season survey is offered before reserved matters. Section 3.5 and condition (h).

Statement of Case §7.9: *“it is unclear how mitigation measures including a 15m buffer and 15m dark zone buffer ... would be provided on site.”*

Response: The illustrative plan EPP-01 Rev A, offered as a visual comment, shows it. The TWBMS buffers attach to core bat habitat (para 62), which on this site is F1 and, on a precautionary basis, F4. F1 is retained with a fence, dark garden zone and lux limits on the model the Council accepted at Sunnyside; the dwellings stand 13.7–16.3 m from F4; the field hedgerows beyond the red line are 25–40 m from any dwelling. Sections 2, 4, 5 and Appendix A.

Statement of Case §7.10: *“The lack of survey details and ecological information is fatal to this appeal ... the Council cannot see how an appointed inspector can reach a lawfully competent position to produce one either.”*

Response: Regulation 63(1) with regulation 7 makes the Inspector the competent authority (Heleigh Cottage, APP/Y3940/W/25/3365948, at [23]). The Inspector in Glenmore Farm (APP/Y3940/W/24/3345598) concluded a favourable assessment on this Council’s bat strategy with surveys updated by a briefing note. What the law requires is that the Inspector can ascertain no adverse effect on integrity having regard to the conditions proposed; section 7 sets out why he can.

2. The site and its boundary features

4. The site is a 0.47 ha pasture on the south-east side of the A350 Yarnbrook Road, immediately south-west of Orchard Close (PEA Figure 1.2). Its north-west boundary is the A350 frontage; its north-east boundary adjoins the gardens of 54 and 56 Yarnbrook Road and the rear of Orchard

Close; its south-east and south-west boundaries are new lines drawn within a larger pasture field (Appendix B, aerial photograph): there is no existing hedgerow on either of them. The field's own hedgerows lie beyond the red line, about 35–40 m to the south-east and about 15 m to the south-west, the latter adjoining the Sunnyside traveller site. The land between the red line and those hedgerows is outside the application site and remains in the landowner's ownership as pasture. The access is the existing gravel track at the western corner, which also serves Lively Farm.

5. The PEA records the habitats as modified grassland, bramble scrub, hedgerow and a small dilapidated field shelter, with no trees or structures of roosting potential (PEA 4.9). There is no external lighting on the site. The A350 at the frontage has no street lighting (see Appendix B, photographs 1 and 5; and IES 2021 para 5.3.4: the A350 "is not a lit road"). The nearest fixed lighting is the floodlit riding arena east of Sunnyside (IES 2021 para 5.3.4).
6. The boundary features are labelled F1–F4 on the illustrative plan EPP-01:

Ref	Feature	Description (PEA; Appendix B photographs; drawing YWA001 Rev 1)
F1	A350 frontage hedgerow (north-west boundary) — EXISTING	Continuous native hedgerow c.2.5–3 m high with scattered trees, on a low bank behind the verge; bramble scrub at the access corner. Plots 1, 2 and 3 back onto it at 5.57 m, 5.54 m and 4.62 m (architect's dimensions).
N1 / F2	South-east boundary — NEW line; existing field hedgerow (F2) beyond	The red line crosses open pasture. The field's south-eastern hedgerow with mature trees (F2) lies c.35–40 m beyond it (aerial imagery) and is retained. Plots 5 and 6 are drawn c.1.5–2 m from the new line, i.e. c.37–40 m from F2; Plots 8 and 9 c.11 m from the line.
N2 / F3	South-west boundary — NEW line; existing landscaping buffer and field hedgerow (F3) beyond	The red line is set in from the field's south-western hedgerow (F3), which adjoins Sunnyside and lies c.15 m beyond it; the strip between is the "existing landscaping buffer" on YWA001 and retained pasture. Plot 9 is 10.93 m and Plot 3 is 13.42 m from the new line, i.e. c.25–28 m from F3.
F4	North-east boundary — EXISTING	Hedge and scrub along the Lively Farm track, with the gardens of 54/56 Yarnbrook Road in the notch and Orchard Close beyond; dwellings and gardens on the far side. Plot 5 is 13.74 m, Plot 4 15.38 m and Plot 1 16.34 m from it (architect's dimensions).

3. What the existing data say

3.1 Sunnyside (IES Consulting, November 2021) — the land 150 m to the south-west

7. Four dusk transects (April, June, August, October 2021) and 80 nights of static detector data from three locations (north-western boundary beside the A350; south-eastern boundary; south-western boundary), analysed with EcoBat against the county reference range (IES 2021 paras 3.3, 3.4 and Table 1).
8. Findings material to this site (with IES paragraph numbers):
 - "No Bechstein's or greater horseshoe bats were recorded on site either during the transects or throughout the 80 days of static detector survey" (4.2.24). Every *Myotis* call was individually checked against Bechstein's call parameters (3.3.7 and footnote 1); the detector at the most suitable location, a group of large ash trees by a hedgerow, recorded none (5.1.3). "The survey work has demonstrated conclusively that the site is not used by Bechstein's or greater horseshoe bats" (5.2.5).
 - Lesser horseshoe: 71 passes of 27,838 (0.3%), on 22 of 80 nights, assessed as commuting rather than foraging (5.1.5), of district/local/parish value (Table 10, 5.2.6). The passes were concentrated at the south-eastern and south-western detectors (Table 4); the detector beside the A350 recorded the fewest.
 - Barbastelle: 5 passes on 3 nights; "negligible importance" (5.1.4).
 - The hedgerow along the A350 "cannot be considered to be a dark corridor, since it will be illuminated by headlights periodically throughout the night" (5.3.4).

- Overall: “The site is of county importance for bats, and is not used by Bechstein’s or greater horseshoe bats. It is not a significant commuting or foraging resource for lesser horseshoe or barbastelle bats” (Non-Technical Summary).
9. The survey is five seasons old. Nothing material has changed in the landscape between the site and the Sunnyside woodland since 2021: Ashton Park is not yet built, the A350 carries the same through traffic, and the field hedgerows are unchanged. The Council relied on the same data for its own Appropriate Assessment in 2022, and the Ecological Parameters Plan does not in any event depend on the data demonstrating absence (section 3.5).

3.2 The Council’s Appropriate Assessment for Sunnyside and Natural England’s concurrence

10. On that survey the Council, as competent authority, concluded no adverse effect on integrity alone or in combination (Part F), having considered Ashton Park (15/04736/OUT) and Homefield Farm (19/03240/OUT) among the in-combination projects (Part C). Natural England concurred on 25 April 2022 “providing that all mitigation measures are appropriately secured in any planning permission given”.
11. The mitigation the Council accepted is recorded at Part E: a replanted woodland buffer to the east; “a hedgerow and close board fence ... placed immediately between the built development and the replanted woodland to form a barrier”; commuting habitats to the south “buffered in terms of noise and car lighting by new close board fencing around additional travellers’ pitches”; and a sensitive lighting strategy secured by condition. No set-back distance between the built development and the retained or created bat habitat was required; the barrier was a hedge and a 1.8 m fence.
12. The Council’s assessment also records that the Sunnyside site “is located within the village of West Ashton” (Part A).

3.3 Ashton Park — Bechstein’s radio-tracking and the approved crossing structures

13. Aspect Ecology drawing 1878/Figure 6.4a Rev C (February 2024) plots routes “within or immediately adjacent to the Site recorded to be used by radio-tracked Bechstein’s bats”. It shows Bechstein’s flight lines along the A350 corridor between Yarnbrook and the relief-road junctions, with crossing points numbered 1–11, and a flight line approaching West Ashton from the south-west across the corridor. The same drawing sets the accepted dark-corridor standard: “light levels not exceeding 0.2 lux on the horizontal plane and 0.4 lux on the vertical plane”.
14. The approved relief-road drawing P480/106 Rev G incorporates bat underpasses 1, 2, 3, 4, 7 and 11 and hop-overs 6, 8, 9 and 10 across the new road. The A350 at the site frontage is retained as a local road closed to through traffic at the new turning head to the south-west. The precise position of the Bechstein’s crossing point nearest the site is shown on PFA drawing P480/34, which the appellant has not been able to obtain; the analysis below therefore treats the frontage corridor (F1) as a feature used by Bechstein’s bats.

3.4 Roost records

15. The delegated report records Bechstein’s roosts about 130 m and 200 m (maternity) to the south-west and 400 m to the north-east, and a greater horseshoe roost about 260 m to the north-east. The south-western roosts lie beyond Sunnyside, where a full-season survey found neither species; the north-eastern roosts lie beyond the village.

3.5 The appellant’s PEA and the position on survey

16. Roosting on site is discounted (PEA 4.9). The site is assessed as of moderate likelihood for foraging and commuting because of the boundary features (4.6–4.7), and the appraisal advises that further bat surveys are required (4.8, 4.10–4.11). The appellant does not seek to qualify that advice. It sets out its position plainly.
17. Paragraph 4.71 of the appraisal states the means by which compliance with the TWBMS may be demonstrated: “Surveys for bats must be undertaken to comprise transects, static monitoring, and potentially trapping; OR results from the long-term monitoring program must be analysed by a bat ecologist holding Level 3 / 4 licence”. Paragraph 4.72 adds that “a considerable amount of surveying was undertaken” for Ashton Park, “including capture, radiotracking and static / transect surveys”, and that “it may be possible for some of this data to be utilised to support the proposed

application". The Council's Statement (§7.8) summarises 4.71 as requiring additional surveys; it does not record the alternative.

18. A site-specific survey of the kind the TWBMS describes runs from April to October (TWBMS paras 116, 129 and 130) and could not be completed within the life of this appeal. The appellant has therefore taken the second route: the analysis at sections 3 and 4 of the Sunnyside and Ashton Park data. It acknowledges that this analysis is the appellant's own and not that of a licensed bat ecologist, and invites the Inspector to weigh it accordingly. The TWBMS itself provides that Bechstein's bat "should be assumed" to be present in the yellow zone "making use of all potential habitat features" and that, taking the strategic surveys into account, "it may not be necessary for specific surveys for Bechstein's bat to be undertaken in support of individual planning applications" (para 136).
19. The data are accordingly relied on for what they show about the boundary features and the level of use, not to demonstrate absence. The Ecological Parameters Plan assumes that Bechstein's bat uses the A350 frontage (F1) and that lesser horseshoe bat uses every boundary feature, and protects each on that footing. The conclusions of the appraisal were expressly reached in the absence of a layout (5.3, 5.9); the illustrative plan EPP-01 now supplies that. A full-season survey is in any event offered before reserved matters, at condition (h) below, to inform the detailed Ecological Mitigation Plan which the TWBMS requires at that stage (Table 8.1).

4. Evaluation of each feature

Ref	What the data indicate	Risk from the development as laid out, and how it is avoided
F1 A350 frontage	The only feature on the site that the Ashton Park evidence places on a Bechstein's corridor. Currently headlight-lit (IES 5.3.4). Lesser horseshoe activity at the comparable Sunnyside roadside detector was the lowest of the three.	Hedgerow retained in full and reinforced (Zone A). Plots 1–3 rear gardens (4.6–5.6 m) are Zone B dark zone with a 1.8 m close-board fence on the Zone A line. No lighting within Zone B; site lighting limited to ≤0.2 lux horizontal / ≤0.4 lux vertical at the hedge. On completion of the relief road the through traffic and its headlights leave the frontage, improving the corridor.
N1 / F2 South-east	No existing feature on the site boundary. The field hedgerow F2, c.35–40 m beyond, connects F1 to the wider pasture; no data place a Bechstein's or greater horseshoe route on it; the Sunnyside data show low-level lesser horseshoe commuting on features of this kind.	F2 is outside the site and untouched; the pasture between it and the red line is outside the site and remains open and unlit. A new native hedgerow 1.5 m wide (Zone C) is planted on the new boundary N1 with a 1.8 m fence on the plot side, creating a new dark feature c.35–40 m from F2; the strip stops at the footprints of Plots 5 and 6. Rear gardens are Zone B. The separation from F2 exceeds the 15 m + 15 m the TWBMS describes.
N2 / F3 South-west	No existing feature on the site boundary. The field hedgerow F3, c.15 m beyond, adjoins Sunnyside and links to its core bat habitat and East Flowers Wood, where the SAC species roost. Sunnyside lesser horseshoe passes were concentrated on its south-eastern and south-western boundaries, i.e. on the far side of Sunnyside from this site.	F3 is outside the site and untouched; the existing landscaping buffer and the pasture between the red line and F3 are outside the site and remain open and unlit. New native hedgerow (Zone C) and fence on N2. With Plot 9 at 10.93 m and Plot 3 at 13.42 m from N2, the dwellings stand c.25–28 m from F3: an unbuilt, unlit separation of the order the TWBMS describes.
F4 North-east hedge	Hedge and scrub along the track with occupied dwellings, gardens and their lighting on the far side; no dark side.	Retained (Zone A); the dwellings on Plots 5, 4 and 1 stand 13.74 m, 15.38 m and 16.34 m from it, i.e. at or about the 15 m the TWBMS describes for a core habitat buffer, with the gardens as Zone B.

20. The internal grassland is modified grassland of low value (PEA 5.4). Its loss to gardens and the access road is compensated in the Biodiversity Metric by the new hedgerows on N1 and N2 (c.150 m of new native hedgerow), the new hedgerow and buffer planting within Zone C and

Zone A, so that no net loss of habitat of value to SAC bats arises (TWBMS Table 7.1 and para 146; PEA 4.71).

5. Why the approved layout does not prevent a favourable Appropriate Assessment

21. **The test is functional.** Regulation 63 asks whether the project, with the conditions and restrictions subject to which it is proposed to be permitted (reg. 63(6)), would adversely affect the integrity of the SAC. For habitat outside the SAC that is functionally linked to it, the question is whether the feature continues to function as foraging or commuting habitat for the qualifying species. The TWBMS is a supplementary planning document that describes one way of demonstrating that; it does not alter the statutory test.
22. **The TWBMS buffers attach to core bat habitat, not to every boundary.** The TWBMS defines “core bat habitat” as “habitat shown through surveys, or assumed, to be used by one or more SAC bat species and required to be retained, protected and buffered in accordance with this strategy” (TWBMS July 2025, para 62). The 15 m core habitat width and 15 m dark buffer at TWBMS para 170, which the PEA restates at 4.71, apply to that habitat. The only existing features on the site boundary are F1 and F4. F1 is treated as a Bechstein’s corridor and protected accordingly. F4 is not a functioning dark feature, and the dwellings stand 13.7–16.3 m from it in any event. The field hedgerows F2 and F3 lie outside the red line at c.35–40 m and c.15 m respectively, with the dwellings c.25–40 m from them and only open, unlit pasture between: the separation the TWBMS describes is achieved on the ground for those features by the position of the red line itself.
23. **The Council has already accepted this approach on the adjoining land.** At Sunnyside the Council and Natural England concluded no adverse effect on integrity with new pitches placed immediately against the retained and created bat habitat, separated by a hedgerow and a close-board fence and controlled by a lighting condition (section 3.2). The measures illustrated on EPP-01 Rev A are the same measures, applied to a site with a lower recorded level of SAC-species activity next door.
24. **The functional faces stay open and dark.** Bats commuting along F1 use its road-side face, which remains open and unlit; the dwellings sit behind a fence and the hedge itself, which the lighting condition keeps at or below the Aspect Ecology dark-corridor standard. The field hedgerows F2 and F3 are outside the site, untouched, and separated from the nearest dwelling by 25–40 m of open, unlit pasture.
25. **The frontage plots.** The closest relationship between a dwelling and an existing feature is Plots 1–3 to F1 (4.6–5.6 m). F1 is the road hedge: the IES survey records that it “cannot be considered to be a dark corridor” today because of headlights (5.3.4), and the relief road will remove that traffic. The controls on those plots are the fence on the Zone A line, the Zone B garden with no lighting, the lux limits at the hedge, and, at reserved matters (appearance is reserved), rear elevations facing F1 designed so that the lux limits are met with internal lighting in use. The Council accepted the same hedge-and-fence relationship, without any set-back, at Sunnyside.
26. **Lighting.** There is no lighting on the site today and the frontage is unlit. The scheme therefore starts from a dark baseline and is controlled to stay within the standard the Council accepted for Ashton Park and Sunnyside: no lighting within Zone A, Zone B or Zone C; ≤ 0.2 lux horizontal and ≤ 0.4 lux vertical at F1, F4, N1, N2 and the retained field hedgerows; warm-white LED (≤ 2700 K), full cut-off, downward-directed luminaires only; no column or bollard lighting; a marked-up plan with every luminaire and an isolux plot to be approved before commencement.
27. **In combination.** The Council’s Sunnyside assessment took Ashton Park and Homefield Farm into account and still concluded no adverse effect. The relief road, with its approved underpasses and hop-overs and the removal of through traffic from the frontage, reduces the pressure on the corridor at F1. The TWBMS itself recognises that “loss of small quantities of poor-quality habitat will not result in an impact on the SAC when considered alone” and that it is the in-combination effect of such losses which the strategic contribution addresses (para 218; Table 7.1; paras 147 and 173). The TWBMS habitat and recreational contributions secured by the Unilateral Undertaking address those residual in-combination effects in the way the strategy provides.
28. **Great crested newts and the SPA** are dealt with in the Final Comments; neither is an SAC integrity issue.

6. Securing the measures

29. The appellant accepts the Council's Appendix C conditions 8 (CEMP), 9 (LEMP), 10 (Ecological Parameters Plan / Habitat Enhancement Plan), 12 and 13 (lighting), and offers the following in substitution for or addition to them so that every measure in these comments is enforceable:
30. **(a) Ecological Parameters Plan.** No development shall commence until an Ecological Parameters Plan has been submitted to and approved in writing by the local planning authority. The plan shall identify: Zone A, comprising the existing boundary hedgerows on the north-western (A350) and north-eastern (Lifely Farm track) boundaries with a 2 m no-build, no-dig protection strip; Zone B, comprising the rear gardens of the dwellings adjoining Zone A and the new boundary hedgerows, within which no external lighting or outbuildings shall be installed, breaking at the dwelling footprints shown on drawing YWA001 Rev 1; Zone C, comprising new native hedgerows on the south-eastern and south-western boundaries; and the position of the 1.8 m close-board fence on the plot side of each hedgerow. The plan shall be implemented before first occupation and retained for the lifetime of the development. The arrangement illustrated on drawing EPP-01 Rev A, offered as a visual comment with these Final Comments, shows one way in which this condition may be discharged.
31. **(b) Retention and new planting.** The hedgerows and scrub at F1 and F4 shall be retained and gapped up with native species; a native species-rich hedgerow, managed to not less than 3 m in height with standard trees at regular intervals and as wide as the plot boundaries allow (not less than 1.5 m), shall be planted on the south-eastern and south-western boundaries (Zone C) in the first planting season after commencement; no excavation, storage or built form shall take place within Zone A or Zone C, which stop at the dwelling footprints shown on YWA001 Rev 1.
32. **(c) Fence.** Before first occupation of any dwelling, a 1.8 m close-board fence shall be erected on the plot side of the hedgerow along the north-western, south-eastern and south-western boundaries and retained thereafter.
33. **(d) Lighting.** No external lighting shall be installed on the site, including within the curtilage of any dwelling, other than in accordance with a lighting scheme approved in writing before commencement, which shall demonstrate by isolux plot that illuminance at F1, F4 and the new boundary hedgerows does not exceed 0.2 lux horizontal and 0.4 lux vertical, shall specify every luminaire and its location, and shall provide for no lighting within Zone A, Zone B or Zone C. This condition applies notwithstanding any permitted development rights.
34. **(e) Reserved matters.** The reserved matters for Plots 1, 2 and 3 shall include details of the rear elevations facing F1, which shall be designed so that the lighting limits in (d) are met with internal lighting in use.
35. **(f) Biodiversity Metric.** No development shall commence until a Biodiversity Metric assessment demonstrating no net loss of habitat of value to SAC bats, together with a Habitat Enhancement Plan, has been approved; the enhancements shall be implemented in the first planting season after commencement and managed under the LEMP.
36. **(g) Great crested newts.** Entry to the Natural England district level licence, or survey, before commencement.
37. **(h) Bat survey before reserved matters.** Before any application for approval of reserved matters is submitted, bat surveys in accordance with section 6 of the TWBMS shall be carried out over a full active season (April to October) and reported by a suitably licensed ecologist. The Ecological Mitigation Plan submitted with the reserved matters shall be informed by the results and shall provide not less than the protection shown on the approved Ecological Parameters Plan.
38. The TWBMS habitat contribution (£1,000 per dwelling, index-linked), the TWBMS recreational contribution (£925 per dwelling) and the Salisbury Plain SPA contribution are secured by the Unilateral Undertaking.

7. Conclusion

39. The competent authority has before it a full-season transect and static survey of the adjoining land, accepted by the Council and Natural England, which found the SAC's two named qualifying species absent and the third at a low level of commuting use; the Council's own Appropriate

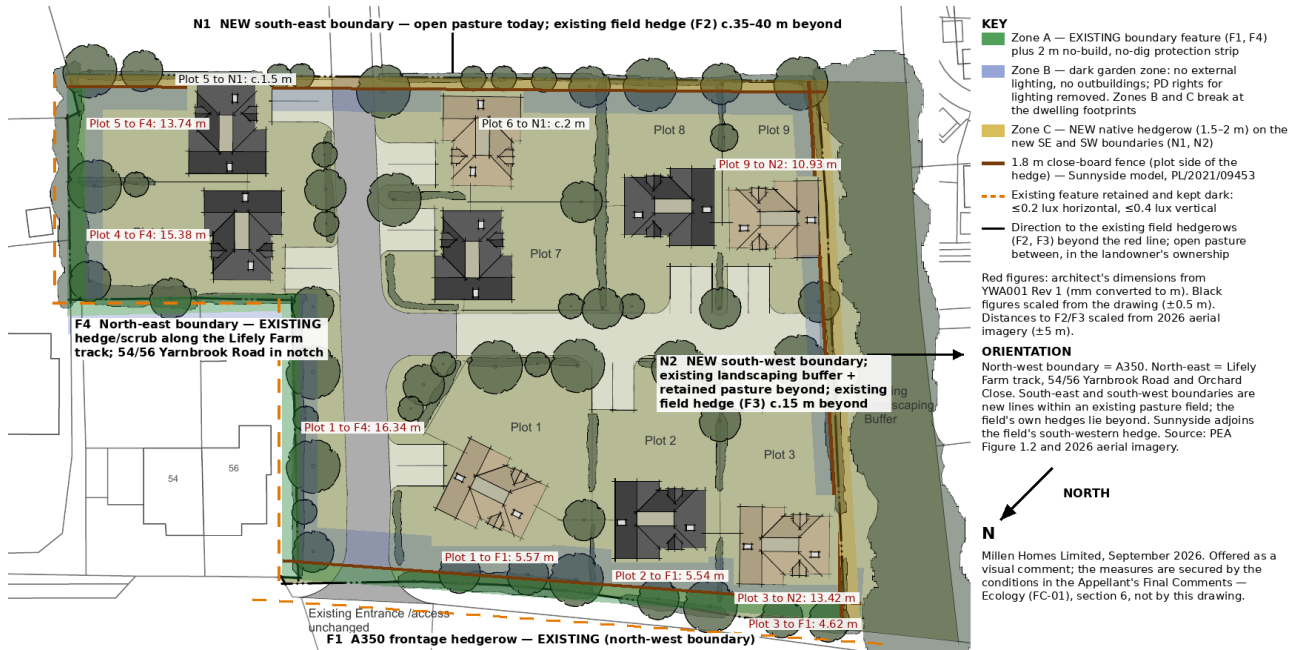
Assessment of that survey and the mitigation it accepted; the Ashton Park radio-tracking evidence, which identifies the frontage corridor as the feature to protect; and an Ecological Parameters Plan that retains both existing boundary features, stands 25–40 m from the field hedgerows beyond the red line across open pasture, plants new hedgerows on the two new boundaries, and secures the same fence-and-lighting controls the Council accepted next door. The plan does not depend on the surveys demonstrating absence: it assumes the presence of the SAC species on the boundary features, as the TWBMS directs, and protects them on that basis. Applying regulation 63(5) and (6), and having regard to the precautionary principle, it is respectfully submitted that the Inspector is able to ascertain that the development, subject to the conditions at section 6 and the Undertaking, will not adversely affect the integrity of the Bath and Bradford-on-Avon Bats SAC.

40. The appellant will accept any reasonable adjustment to the conditions at section 6 that the Council or the Inspector considers necessary to secure the measures described.

Appendix A — Illustrative Ecological Parameters Plan, offered as a visual comment (drawing EPP-01 Rev A)

Illustrative Ecological Parameters Plan, offered as a visual comment — Drawing EPP-01 Rev A (FC-02)

Land East of Yarnbrook Road, West Ashton — appeal 6013972. Annotated overlay of application drawing YWA001 Rev 1 (1:500) responding to Council SoC §7.9. Not an application drawing; not for approval.



EPP-01 Rev A: illustrative plan offered as a visual comment. Annotated overlay of application drawing YWA001 Rev 1 from the architect's dimensions; layout unchanged; no survey data introduced; not submitted for approval. North to the lower left as shown.

Appendix B — Site photographs

Aerial and street-level imagery, 2026. Orientation per PEA Figure 1.2.



Aerial photograph (north up; A350 to the left). The red dashed line marks the new south-western and south-eastern site boundaries within the field; the field's own hedgerows (F3, adjoining Sunnyside, and F2) lie beyond them.



Photograph 1 — the access from the A350, looking into the site: frontage hedgerow and scrub (F1) south-west of the access; Lifely Farm barn beyond.



Photograph 2 — the access from the A350: 54/56 Yarnbrook Road on the north-east side of the access (F4); site pasture beyond the gate.



Photograph 3 — the pasture from the access track: the field hedgerow with mature trees (F2) beyond the new south-eastern boundary; Sunnyside beyond.



Photograph 4 — north-east boundary (F4): garden hedge of 56 Yarnbrook Road and the site pasture.



Photograph 5 — the A350 frontage hedgerow (F1) from Yarnbrook Road: continuous, c.2.5–3 m; no street lighting.

Appendix C — Distances scaled from YWA001 Rev 1

Plot	Nearest boundary feature	Distance (m)	Zone B depth available (m)
1	F1 frontage (existing) / F4 (existing)	5.57 / 16.34	5.6
2	F1 frontage (existing)	5.54	5.5
3	F1 frontage (existing) / N2 new line (F3 c.15 m beyond)	4.62 / 13.42	4.6
4	F4 (existing)	15.38	15.4
5	F4 (existing) / N1 new line (F2 c.35–40 m beyond)	13.74 / c.1.5	13.7
6	N1 new line (F2 c.35–40 m beyond)	c.2.0	2.0 plus retained pasture
7	internal	—	—
8	N1 new line (F2 c.35–40 m beyond)	c.10.7	10.7
9	N2 new line (F3 c.15 m beyond)	10.93	10.9

Figures to two decimal places are the architect's dimensions from the CAD file (YWA001 Rev 1, mm converted to m); figures marked c. are scaled from the drawing (± 0.5 m). Distances to the field hedgerows F2 and F3 are scaled from 2026 aerial imagery (± 5 m) and are given to the nearest 5 m.