From: Chris Beaver [redacted]
Sent: 01 October 2026 18:55
To: Isobella Wise <Isobella.Wise@wiltshire.gov.uk>
Cc: Steve Rogers [redacted]
Subject: 25061 | PL/2026/06103 First Lane Whitley - Applicant Comment

Dear Isobella

Thank you for drawing our attention to the dismissed appeal case at 214B Corsham Road, Whitley (The PiP Appeal) dated 11th June 2026 (LPA Ref: PL/2025/08613 / PINS Ref: 6003438).

We note that The PiP Appeal was dismissed on grounds of being in conflict with the Joint Melksham Neighbourhood Plan 2 (JMNP2) pursuant to Paragraph 14 of the 2024 iteration of the NPPF. However, since the publication of The PiP Appeal, there have been two material changes in circumstance that are directly relevant to the assessment of our client's PiP application: (i) the Secretary of State's decision on the Snartlon Lane, Melksham case dated 28th July 2026 (LPA Ref: PL/2024/07097 / PINS Ref: 3373278); and (ii) the publication of the August 2026 iteration of the NPPF.

In the interest of brevity, I draw your attention to Paragraph 5.4 of our Planning Statement. This in turn makes explicit reference to Paragraphs 26-30 of Secretary of States Decision Letter. In summary, the Secretary of State agreed with the Inspector. The Inspector noted that the JMNP2 housing figure was derived from the now discredited and withdrawn Emerging Local Plan, whose evidence base is 'significantly out of date', and further opined that *'…the JMNP2's allocations are not likely to be enough to meet the needs of the neighbourhood plan area moving forward (IR12.63)'*.

A Secretary of State level decision carries significantly greater policy weight and authority as a material consideration than a s.78 planning appeal decision issued by a planning inspector. We note that the Snarlton Lane case was specifically 'called-in' by the Secretary of State as a test case to consider the application of former NPPF Paragraph 14 in circumstances where there is substantial acknowledged housing land supply shortfall. Given that our client's site lies within the same JMNP2 neighbourhood plan area, we submit that the case for the principle of development of our client's

application proposal, as set out in our Planning Statement, is robust and fully defensible in planning terms.

For the reasons set out above, as confirmed the Snarlton Lane appeal decision letter, no weight can now be given to the housing policies of the JMNP2. On this basis, we submit that The PiP Appeal decision is of little relevance and should not be given any weight as a material consideration in the determination of our client's PiP application.

Please do not hesitate to contact me to discuss further.

I would be grateful if you could acknowledge receipt.

Regards

Chris

Chris Beaver

Director

PlanningSphere Limited

Spaces Northgate House, Upper Borough Walls, Bath BA1 1RG

[redacted]

Registered in England at the above address. Registration number 8817487

Ministry of Housing,
Communities &
Local Government

Our ref: APP/Y3940/W/25/3373278
Your ref: PL/2024/07097

Rhiannon Jones
Neame Sutton Limited
West Suite
Coles Yard Barn
North Lane
Clanfield
PO8 0RN

28 July 2026

Sent by email only
[redacted]

Dear Rhiannon Jones

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MR IAN HUMBLE (CATESBY ESTATES PROMOTIONS LIMITED)
LAND SOUTH OF SNARLTON FARM, SNARLTON LANE, MELKSHAM SN12 7QP
APPLICATION REF: PL/2024/07097

This decision was made by Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Beverley Wilders BA (Hons) PgDURP MRTPI, who held a public local inquiry opening on 20 January 2026 into your client's appeal against the decision of Wiltshire Council to refuse your client's outline application for planning permission, with all matters reserved except for two pedestrian and vehicle accesses (excluding internal estates roads) from Eastern Way, for the erection of up to 300 dwellings (Class C3); land for local community use or building (incorporating Classes E(b), E(g) and F2(b) and (c)); open space and dedicated play space and service infrastructure and associated works, in accordance with application Ref. PL/2024/07097, dated 30 June 2025.

2. On 29 January 2026, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed subject to the conditions.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. She has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is

Ministry of Housing Communities & Local Government Email: PCC@communities.gov.uk
Emma Hopkins, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. The Secretary of State notes that an Environmental Statement was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. However, a negative screening direction on behalf of the Secretary of State on 17 November 2025 stated that the proposed development is not EIA development (IR1.4). She has therefore not taken the Environmental Statement into account when making her decision.

Matters arising since the close of the inquiry

6. Following the close of the Inquiry the Inspector wrote to the main parties to afford them an opportunity to comment on an appeal decision for another proposed residential development in Melksham and on the withdrawal of the Wiltshire Local Plan Pre Submission Draft 2020-2038 (Regulation 19) (ELP) from examination on 22 May 2026. The Secretary of State notes that the Inspector has had regard to any comments received in her report (IR1.5-1.6). She is satisfied that there is no need to refer back to the parties for further representations prior to reaching her decision on this appeal, and is satisfied that no interests have thereby been prejudiced.

7. A list of representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect her decision, and no new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

8. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

9. In this case the development plan consists of the Saved Policies of the West Wiltshire District Plan First Alteration (June 2004) (WWDP), the Wiltshire and Swindon Waste Core Strategy 2006-2026 (adopted July 2009) (WSWCS), the West Wiltshire Local Development Framework Leisure & Recreation Development Plan Document (January 2009) (L&RDPD), the Wiltshire Core Strategy (adopted January 2015) (WCS), the Wiltshire Housing Site Allocations Plan (adopted February 2020) (SAP), and the Joint Melksham Neighbourhood Plan 2 2020-2038 (made August 2025) (JMNP2). The Secretary of State considers that relevant development plan policies include those set out at IR5.3-5.5.

10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance), as well as Wiltshire Local Transport Plan 2011-2026 (adopted 2015) and Wiltshire Local Transport Plan 2025-2038 (adopted 2025).

Emerging plan

11. The ELP was submitted for examination on 28 November 2024. On 27 February 2026 the Inspectors wrote to the Council suggesting withdrawal of the submitted plan due to significant soundness concerns. The ELP was withdrawn from examination by the Council on 22 May 2026 (IR1.6 and IR5.23-5.25).

12. Paragraph 49 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Given its withdrawal and taking into account the uncertainty about housing figures the Secretary of State considers that she cannot attribute any weight to the ELP.

Main issues

13. The Secretary of State agrees with the Inspector that the main issues to be addressed are those set out at IR12.1.

Whether the appeal site is an appropriate location for the proposed development having regard to the WCS policies CP1, CP2 and CP15 and JMNP2 Policy 6

14. For the reasons given at IR12.2-12.10 and IR12.49-12.51, the Secretary of State agrees that, noting the position of the appeal site beyond the settlement boundary for Melksham, the proposal is clearly contrary to WCS Policy CP2 (IR12.7). She notes that the appellant's planning witness accepts that the breach of WSC CP2 results in a breach of WCS CP15 and JMNP2 Policy 6 (IR12.8) and she agrees. Like the Inspector she does not find any direct conflict with WCS Policy CP1 (IR12.9). Overall, she agrees that the appeal site is not an appropriate location for the proposed development having regard to WSC policies CP2 and CP15 and JMNP2 Policy 6 (IR12.10). The Secretary of State agrees that WCS policies CP2 and CP15 and JMNP2 Policy 6 are out of date and further agrees that the harm arising from the conflict with these policies carries limited weight (IR12.51).

Other harm

15. For the reasons given at IR12.11-12.31 and IR12.51, the Secretary of State agrees that given the context and the scale of development proposed the proposal would result in some landscape harm, but that any harm would be limited and in the main fairly localised (IR12.17). In reaching this conclusion she has taken into account the findings of the LVIA addendum and the submitted development parameters plan which shows extensive areas of open space including areas along the northern, eastern and southern boundaries of the site which would allow for substantial landscaping to help to mitigate the visual effect of the development on the wider undeveloped area (IR12.17). She agrees that given the limited extent of the harm there would be no conflict with WCS CP52, CP51 and JMNP2 (IR12.18).

16. For the reasons given in IR12.21-12.23, the Secretary of State agrees with the Inspector that any part of the development that would take place on best and most versatile (BMV) agricultural land, including ancillary areas such as open space, would in effect result in its loss to agriculture, even if not being built on, given the residential and long-term nature of the proposal (IR12.21). She agrees that consequently, the amount of BMV loss would be higher than that stated by the appellant and in the absence of specific figures, is more

likely to be nearer to half of the appeal site area, so approximately 9 hectares (IR12.21). She agrees that the loss of BMV land attracts moderate weight (IR12.51).

17. The Secretary of State agrees that although the appeal site is outside of the settlement boundary of Melksham, it is adjacent to it, close to existing and proposed residential development and services and facilities (IR12.25). Like the Inspector, she is satisfied that it has good connectivity and notes that no concerns were raised in this regard by the Council who consider Melksham to be a sustainable location with the potential for significant development (IR12.25). She agrees there is therefore no conflict with WCS policies CP60 and CP61 and JMNP2 Policy 11 (IR12.25).

18. The Secretary of State agrees that there is no evidence that the proposal would result in an increase in flooding nearby or that suitable drainage cannot be provided to serve the development. She agrees that the Developable Parameters Plan would ensure that developable areas are within Flood Zone 1 and can be secured by condition (IR12.26) and further agrees that there is therefore no conflict with WCS Policy CP67 or Policy 3 of the JMNP2 (IR12.26).

19. The Secretary of State has carefully considered the Inspector's analysis at IR12.27-12.31 and overall agrees with the Inspector's conclusions regarding highways safety and traffic impact, effect on designated heritage assets, access to services, facilities and employment opportunities, restrictions on the future use of the sports clubs and connectivity across the site.

Housing and Housing Land Supply

20. For the reasons given at IR12.32-12.42 and IR12.49-12.52, the Secretary of State agrees with the Inspector, who accepts the appellant's figure, that the extent of the five year housing land supply[1] (5yrHLS) is 2.16 years which equates to 10,405 dwellings, and that there is a very significant shortfall (IR12.38).

21. The Secretary of State agrees that the proposal is capable, subject to being brought forward quickly, of making a meaningful contribution to the 5yrHLS position of the Council. She agrees, given the Council's recent Housing Delivery Test results and the current extent of the Council's 5yrHLS shortfall that the provision of market housing on the scale proposed carries significant weight (IR12.40). In reaching this conclusion she has taken into account the previous housing delivery in the Melksham area. She further agrees that given the unchallenged evidence of an acute need for affordable housing in the area, the contribution to affordable housing should carry significant weight (IR12.42).

Other considerations

22. The Secretary of State has taken into account that the development also includes land for a community use or building, the provision of on-site publicly accessible open space, the provision of an equipped play space and improvements to the public rights of way network and agrees that moderate weight should be given to these other social benefits of the proposal (IR12.43-12.48).

[1] The Secretary of State notes that the Inspector references a 2.16 year shortfall rather than a 2.16 year supply as correctly stated in IR12.32.

23. The Secretary of State agrees that the short-term economic benefits during the construction period and long-term economic benefits from additional spending in the local area carry moderate weight in favour of the proposal (IR12.44).

24. For the reasons given at IR12.45-12.46, the Secretary of State agrees that noting the extent of the biodiversity net gain (BNG) proposed, moderate weight should be attached to the environmental benefits of exceeding statutory requirements (IR12.45). She further agrees that moderate weight should be attached to the environmental benefits of improvements to on-site surface water drainage (IR12.46).

25. For the reasons given at IR12.47, the Secretary of State agrees that the accesses do not offer wider benefits and should carry no weight, and like the Inspector does not consider there would be landscape enhancement or that this would amount to an environmental benefit.

26. The Secretary of State has had careful regard to the Inspector's analysis at IR12.53-12.67, including the question of whether the provisions of paragraph 14 of the Framework apply and are determinative in this case.

27. There is no dispute that the neighbourhood plan is less than five years old (IR12.54), and the Secretary of State has found conflict with Policy 6 of the JMNP2. She has also taken into account that the JMNP2 allocations provide for a figure of up to 415 dwellings plus any dwellings provided at Whitley Farm (IR12.55). This is greater than the figure of 270 dwellings for the neighbourhood plan area for the plan period of 2020-2038, and the Secretary of State notes the position of the Council and interested parties that JMNP2 is overproviding against its housing requirement (IR12.55).

28. However, the Secretary of State has taken into account that the JMNP2 housing figure is derived from the ELP, and the ELP has been withdrawn due to concerns about soundness, some of which are strategic in nature and relate to housing (IR12.57). She agrees that the WCS figures, which would have been replaced by the ELP figures, are significantly out of date (IR12.58), and further notes that the housing requirement of any new plan to replace the WCS will be expected to be calculated in accordance with the standard method: based on the current standard method, this will result in a higher housing requirement for Melksham than that set out within either the WCS or the ELP (IR12.59). She has also taken into account that parties agree that the settlement boundary of Melksham is out of date and does not align with current housing needs for the town, and that Melksham is a sustainable location for new residential growth (IR12.60).

29. Like the Inspector the Secretary of State recognises the significant amount of time and effort producing the JMNP2 which is very recently made and reflects local wishes, and which was recognised as exemplar by the Independent examiner. However, she agrees that there is a high level of uncertainty regarding the housing requirement for Melksham (IR12.59), and that based on the evidence before the inquiry, the housing requirement is not a sound basis upon which to assess housing proposals in Melksham (IR12.61). Like the Inspector she is also not convinced that the higher housing figure provided for by the JMNP2 allocations is likely to be enough to meet the needs of the neighbourhood plan area moving forward (12.61).

30. Overall, for the reasons given at IR12.53-12.67, and in the particular circumstances of this case, the Secretary of State agrees that taking into account the substantial housing land supply shortfall in the area, including the affordable housing shortfall, and the

withdrawal of the ELP, the adverse impact of allowing development that conflicts with the neighbourhood plan does not significantly and demonstrably outweigh the benefits. She agrees that in this case, conflict with the neighbourhood plan is not determinative (IR12.63).

Planning conditions

31. The Secretary of State had regard to the Inspector's analysis at IR12.68-12.75, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 57 of the Framework and the relevant Guidance. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework and that the conditions set out at Annex B should form part of her decision.

Planning obligations

32. The Secretary of State has had regard to the Inspector's analysis at IR12.76-12.80, the planning obligation dated 5 February 2026, paragraph 58 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR12.79, she agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 58 of the Framework.

Planning balance and overall conclusion

33. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with WCS Policy CP2 and CP15 and JMNP2 Policy 6 of the development plan. Given that these policies form an important part of the spatial strategy for the area, she agrees with the inspector in finding conflict with the development plan as a whole (IR12.51). She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

34. As the Council cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

35. Weighing in favour of the proposal is the provision of open market housing and affordable housing which each carry significant weight; and the other social benefits, short- and long-term economic benefits, BNG and improvements to on-site surface water drainage which each carry moderate weight.

36. Weighing against the proposal is the loss of BMV agricultural land which carries moderate weight; and the landscape harm and the harm arising from conflict with out of date development plan policies which each carry limited weight.

37. The Secretary of State considers that there are no protective policies which provide a strong reason for refusing the development proposed. She further considers that the

adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole, including paragraph 14, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The presumption in favour of sustainable development therefore applies.

38. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.

39. The Secretary of State therefore concludes that that the appeal should be allowed and planning permission granted subject to conditions.

Formal decision

40. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission, subject to the conditions set out in Annex B of this decision letter, for your client's outline planning application with all matters reserved except for two pedestrian and vehicle accesses (excluding internal estates roads) from Eastern Way, for the erection of up to 300 dwellings (Class C3); land for local community use or building (incorporating Classes E(b), E(g) and F2(b) and (c)); open space and dedicated play space and service infrastructure and associated works, in accordance with application ref PL/2024/07097, dated 30 June 2025.

41. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

42. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

43. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

44. A copy of this letter has been sent to Wiltshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Emma Hopkins
Decision officer

This decision was made by Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
B Mathew MP	25 February 2026
B Mathew MP	15 June 2026
F Moreland	19 June 2026

Annex B List of conditions

1) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

2) Application(s) for the approval of all reserved matters specified in Condition 4 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

3) No application for reserved matters shall be submitted until there has been first submitted to and approved in writing by the Local Planning Authority a detailed Phasing Plan and order of delivery schedule for the entire application site indicating geographical phases for the entire development.

   Where relevant these phases shall form the basis for the reserved matters applications, and each phase shall include within it the defined areas and the quantities of open market and affordable housing as well as the community area, POS, on-site BNG provision, and on-site play provision uses and associated infrastructure relevant to any given phase.

   The 'order of delivery schedule' shall also specify the order in which each land parcel shall commence.

   In addition, detailed plans and an order of delivery schedule for 'non-phase specific' landscape and ecology mitigation measures shall be submitted to and approved in writing by the local planning authority.

   The development shall be carried out in strict accordance with the provisions of the approved phasing plan.

4) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

   a) The scale of the development.
   b) The layout of the development.
   c) The external appearance of the development.
   d) The landscaping of the site.

   The development shall be carried out in accordance with the approved details.

5) The development hereby permitted shall be carried out in a phased manner in accordance with the following approved plans and documents:

   Dwg 05d, Location Plan, received on 22 May 2025;
   Dwg AI14h, Development Parameters Plan, received on 22 May 2025;
   Dwg 18507-03-1 Rev C, Proposed Roundabout Site Access and Crossing Works (North Access), received on 22 July 2025;
   Dwg 18507-06, Proposed Roundabout Site Access (South Access), received on 22 May 2025;
   Dwg 18507-03-3 Rev A, Proposed Toucan Crossing, received on 4 September 2024;

Ecological Impact Assessment (Produced by Ethos, issue V1, dated July 2024);
Great Crested Newt Licensed Mitigation Strategy (Produced by Ethos, issue V1, dated March 2025);
Ecological Parameters Plan (Produced by Ethos, dated 15 May 2025);
Tree Retention and Removal Plans (produced by EDP, reference edp8111_d002b (Overview and Sheets 1- 4)

6) The subsequent reserved matters application(s) (phased or otherwise) to be submitted pursuant to Condition 4 shall accord with the principles, objective and parameters set out in the Design and Access Statement (produced by Catesby Estates, Parts 1-4, Rev D, dated 24 July 2024) and the Design and Access Statement Addendum (produced by Catesby Estates, Rev C, dated 6 March 2025) to ensure a high standard of design and placemaking is achieved at detailed design stage and shall include an acoustic design scheme for protecting the proposed dwellings from external (traffic) noise.

7) The subsequent reserved matters applications (phased or otherwise) shall make appropriate provision for the following:
   - Plan to deliver a contiguous carriageway network to reduce the need for large vehicle turning areas.
   - Provide refuse collection vehicle tracking and walking distances to collection points.
   - Provide full details of pedestrian realm infrastructure and the means to identify priority and continuity across side roads and where routes cross the spine road.
   - Provide full details of Public Rights of Way treatment, including construction and surfacing materials where appropriate and any diversions/stopping up.
   - Provide an access and movement plan illustrating dedicated walking and cycling routes, construction, geometry and connectivity with external networks.
   - Provide full details of Shared Surface streets and transitions, including geometry details and material treatment
   - Provide full details for the on-street landscaping.
   - Provide details on speed restraint measures to reduce on-site traffic speeds to 20mph or lower.

   With the aforesaid requirements for any given phase to be submitted to and approved in writing by the Local Planning Authority before any on site works commence. Following receipt of written approval, the work shall be delivered in full accordance with the phasing plan.

8) A detailed housing mix strategy, including the number and size of dwelling units shall be submitted as part of the reserved matters application(s) (phased or otherwise). The development shall be carried out in accordance with the approved housing mix.

9) A final Sustainable Energy Strategy shall be submitted as part of the reserved matters application(s) for the housing development to provide details of operational energy, embodied carbon, climate change adaptation measures, low-carbon and renewable energy technologies, water efficiency, electric vehicle charging points, cycle parking, and sustainable transport for the written approval of the Local Planning Authority. The development shall be

carried out in accordance with the approved details.

10) No site clearance, preparatory work or development shall take place until an Arboricultural Impact Assessment incorporating a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement prepared in accordance with BS5837:2012, has been submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters application and then submitted with each subsequent reserved matters application, to demonstrate the protection of all trees and hedgerows and the appropriate working methods and materials used for construction. The development shall then be carried out in accordance with the details approved by the Local Planning Authority.

11) No development shall commence on site until:

a) A Written Programme of archaeological investigations is submitted to, and approved in writing by, the Local Planning Authority. This programme will include archaeological Strip, Map and Record (SMR) excavations covering the locations of evaluation trenches 5, 6, 7, 8 and 9 in Field 1(field numbers as defined by the evaluation report of January 2025) and trenches 33, 35, 36, 43, 44, 45, 50, 51, 53, 55, 56 and 57 in Field 4, as well as an open area excavation site in Field 2, covering locations of evaluation trenches 19, 20, 22, 24, 26, 27, 28, 29 and 30. The written programme should include all on-site work and off-site work, including the analysis, publishing and archiving of the results; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details between the calendar months of April and September.

The excavations and required works are to be undertaken by qualified archaeologists following the standards and guidelines for Sites and Monuments Records and open area excavations, as set out by the Chartered Institute for Archaeologists (CIfA).

12) No development shall commence on site until a detailed drainage strategy for the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority and detailing the following matters.

- Evidencing how the surface water disposal hierarchy has been applied and how all other options have been exhausted.
- Providing drainage calculations which demonstrate that the required 30% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100-year return period storm events.
- Large attenuation features shall achieve a minimum of 300mm freeboard above the 1 in 100 year + 45% climate change water level.
- Confirmation that there is sufficient attenuation on site to fully attenuate the 1 in 100 years plus climate change storm event.
- Full labelled drawings for the proposed drainage layout, including layout plans to show the pipe network and attenuation ponds, which should correspond with the drainage calculations.
- Cross sections and design details for all attenuation ponds and their

components.

- Confirmation that all development and SuDs attenuation areas are located outside the current and future flood extents.
- Confirming the arrangements for ownership and ongoing maintenance of SuDS over the lifetime of the development.
- Construction phasing plan.

The development shall then be carried out in accordance with the approved details.

No housing shall be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

13) No development shall commence on site until a scheme to dispose of foul drainage, including connection to the public foul sewer network, has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

14) No development shall commence on site (including any works of demolition), until a Construction Management Plan (CMP), has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

i. The movement of construction vehicles;
ii. The parking of vehicles of site operatives and visitors;
iii. The cutting or other processing of building materials on site;
iv. Wheel washing and vehicle wash down facilities;
v. The transportation and storage of waste and building materials;
vi. The storage of plant and materials used in constructing the development;
vii. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
viii. Measures to control the emission of dust and dirt during construction;
ix. A scheme for recycling/disposing of waste resulting from demolition and construction works;
x. Measures for the protection of the natural environment;
xi. Pre-condition photo survey of local roads and highway infrastructure;
xii. Large Vehicle Routing plan;
xiii. Traffic Management Plan (including signage drawing(s));
xiv. Number (daily/weekly) and size of delivery vehicles;
xv. Number of staff vehicle movements;
xvi. Details of temporary/permanent Traffic Regulation Orders;
xvii. Construction phasing plan;
xviii. The recycling of waste materials (if any);
xix. The loading and unloading of equipment and materials;
xx. The location and use of generators and temporary site accommodation;
xxi. Where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts;
xxii. Hours of construction, including deliveries;
xxiii. Hours of Operation (8am to 6pm Mon – Fri, 8am – 1pm Sat, no working on Sundays or Bank Holidays)

The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

15) No development shall commence on each phase of the development hereby approved, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to the following, and the development shall be carried out in strict accordance with the approved CEMP:

a. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing;

b. Working method statements for protected/priority species, such as bats, nesting birds, riparian mammals and reptiles;

c. Mitigation strategies for great crested newts and badger – this should comprise the preconstruction/construction related elements of strategies only;

d. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site;

e. No external night-time works or use of artificial lighting during the construction phase;

f. Pollution prevention measures including the location of site and storage compounds, the use of plant and machinery, measures to control of dust and noise, the location and use of wheel washing and vehicle washdown plant/machinery, and the location and use of oils/chemicals;

g. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

16) No site clearance or development shall commence on each phase of the development hereby approved until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

i. An Ecological Enhancement Plan showing:

a. The location, number and type of features for wildlife in accordance with Paragraph 7.2.1 of the Ecological Impact Assessment.

b. Locations of fence gaps for hedgehogs.

c. The location, type and extent of exclusion measures (e.g. fencing) to protect sensitive ecological features i.e., great crested newt breeding pond.

d. Identification of the habitats to be created/enhanced and managed specifically for the benefit of target species i.e. great crested newt.

ii. Long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature shown on the Ecological Enhancement Plan.

iii. The mechanism for monitoring success of the management prescriptions and a procedure for review and necessary adaptive management in order to attain targets.

iv. Details of the mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

17) No site clearance or development shall commence on each phase of the development hereby approved until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the statutory Biodiversity Gain Plan, has been submitted to and agreed in writing with the Local Planning Authority. The HMMP shall include:

1. A non-technical summary;

2. The roles and responsibilities of the people or organisation(s) delivering the HMMP;

3. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the statutory Biodiversity Gain Plan and schedule for implementation;

4. The management measures to maintain habitat in accordance with the statutory Biodiversity Gain Plan for a period of 30 years from the completion of development; and

5. The monitoring methodology and specification of a Monitoring Pack (to include but not exclusively up to date Management Actions Logs, Habitat Condition Assessment Reports, metric calculation, and corresponding post intervention Habitat Map), which shall be submitted to the Local Planning Authority in years 2 (two) 5 (five) 10 (ten) 15 (fifteen) 20 (twenty) and 30 (thirty) of the Maintenance Period.

6. A timetable for the delivery of the habitation creation enhancement works

The created and/or enhanced habitat shall be managed and maintained in accordance with the agreed HMMP at all times thereafter.

18) Notwithstanding the submitted details, no works shall commence (except for site enabling or site clearance operations) on site until full construction details for the northern access have been submitted to and approved in writing by the Local Planning Authority.

The construction details shall take into consideration planned and delivered pedestrian infrastructure in the vicinity of the junction, including necessary carriageway surface treatments, and shall incorporate details of an uncontrolled LTN 1/20 compliant crossing of the development arm of the roundabout. The full construction details shall be subject of a Stage 2 Road Safety Audit.

Prior to first occupation of any dwelling served from the northern access, the northern access shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

19) Notwithstanding the submitted details, no works shall commence (except for site enabling or site clearance operations) on site until full construction details for the southern access facilities have been submitted to and approved by the Local Planning Authority. The construction details shall include details of an uncontrolled LTN 1/20 compliant crossing of the development arm of the roundabout. The full construction details shall be subject of a Stage 2 Road Safety Audit. Prior to first occupation of any dwelling served from the southern access, the southern access shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

20) No works shall commence (except for site enabling or site clearance operations) on site until full details of all internal estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for the provision of such works (or during which phase) shall be submitted to and approved in writing by the Local Planning Authority. Each phase of the development shall not be first occupied until the works have been undertaken in accordance with the approved details and timetable.

21) The internal estate roads, including footpaths and turning spaces where necessary, shall be constructed so as to ensure that before that phase is occupied, each dwelling shall be provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the existing highway.

22) No development shall commence above ground floor slab level until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme will demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

23) No development shall commence above ground floor slab level until full construction details of the proposed toucan crossing and bus stop and shelter

provision have been submitted to and approved in writing by the Local Planning Authority. The construction details shall include but not be limited to all necessary surface treatments to accommodate the crossing, shelter and real time information specification and orientation of bus stops to maximise pedestrian crossing visibility.

The full construction details shall be subject of a Stage 2 Road Safety Audit.

Prior to first occupation of any dwelling, the Toucan Crossing and Bus Stop/Shelter provision shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

24) No development shall commence above ground floor slab level until full design and construction details of an extension of the existing shared walking and cycling facility along the eastern side of Eastern Way linking the existing facility to the south with Bridleway MELW41 in the north have been submitted to and approved in writing by the Local Planning Authority.

Prior to first occupation of the 150th dwelling, the shared walking and cycling facility shall be provided in all respects in accordance with the approved details and maintained as such thereafter.

25) All lighting provided on site shall be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 'Bats and artificial lighting at night', issued by the Bat Conservation Trust and Institution of Lighting Professionals and shall demonstrate that bat habitat (trees with bat roost potential, Clacker's Brook river corridor and hedgerows) on the perimeter of the site shall remain below 0.5 lux (or no higher than existing.

26) The Reserved Matters application(s) (phased or otherwise) shall be accompanied by an updated mitigation strategy For Great Crested Newt and Badger. The mitigation strategies shall be informed by up-to-date surveys where required.

27) The site for the Community Use/Building, as shown on the Development Parameter Plan Reference AI14h, shall be delivered by the occupation of the 200th dwelling, in accordance with details and a specification to be submitted to and approved in writing by the Local Planning Authority.

Planning Inspectorate

Report to the Secretary of State

by Beverley Wilders BA (Hons) PgDURP MRTPI

Inspector appointed by the Secretary of State

Date 15 June 2026

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

Mr Ian Humble (Catesby Estates Promotions Limited)

Land South of Snarlton Farm, Snarlton Lane, Melksham SN12 7QP

Inquiry opened on 20 January 2026. Site visit on 23 January 2026.

Land South of Snarlton Farm, Snarlton Lane, Melksham SN12 7QP

File Ref:APP/Y3940/W/25/3373278

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	Whether the appeal site is an appropriate location for the proposed development	
	If not, whether the proposal would result in any other harm, with particular regard to landscape and BMV	
	Whether the Council can currently demonstrate a five-year housing land supply and if not, the extent of the shortfall	
	Any benefits of the proposal and the weight to be given to them	
	If the Council cannot demonstrate a five-year housing land supply, whether the adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, taking into account the recently made NP and the wording of paragraph 14	
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LIST OF ABBREVIATIONS

TERM	DEFINITION/DESCRIPTION
BNG	Biodiversity Net Gain
EIA	Environmental Impact Assessment
DP	Development Plan
EIA Regulations	The Town and Country Planning (Environmental Impact Assessment) (EIA) Regulations 2017 (as amended)
ELP	Emerging Local Plan for Wiltshire (Wiltshire Local Plan Pre-Submission Draft 2020-2038 (Regulation 19)
ES	Environmental Statement
5yrHLS	Five Year Housing Land Supply
FRA	Flood Risk Assessment
the Framework	National Planning Policy Framework
GBI	Green & Blue Infrastructure
Ha	Hectares
JMNP2	Joint Melksham Neighbourhood Plan 2 2020-2038 (made August 2025)
KM	Kilometres
LCA	Landscape Character Area
LHNA	Local Housing Needs Assessment
LVIA	Landscape and Visual Impact Assessment
LLFA	Lead Local Flood Authority
L&RDP	Leisure & Recreation Development Plan Document (January 2009)
NDP/NP	Neighbourhood Development Plan/Neighbourhood Plan
NPPG	National Planning Policy Guidance
POE	Proof of Evidence
PROW	Public Right of Way
QB	Qualifying Body
RfR	Reason for Refusal
SAP	Wiltshire Housing Site Allocations Plan (adopted February 2020)
SHMA	Strategic Housing Market Assessment
SoCG	Signed Statement of Common Ground dated 13 January 2026.
SoS	Secretary of State
S106	S106 of the Town & Country Planning Act 1990 (as amended)
TCPA	Town & Country Planning Act 1990 (as amended)
WCS	Wiltshire Core Strategy (adopted January 2015)
WLCA	Wiltshire Landscape Character Assessment

File Ref: APP/Y3940/W/25/3373278
Land South of Snarlton Farm, Snarlton Lane, Melksham SN12 7QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Ian Humble (Catesby Estates Promotions Limited) against the decision of Wiltshire Council.
- The application Ref PL/2024/07097 was dated 30 June 2025 and was refused by notice dated 5 August 2025.
- The development proposed is outline planning application with all matters reserved except for two pedestrian and vehicle accesses (excluding internal estates roads) from Eastern Way, for the erection of up to 300 dwellings (Class C3); land for local community use or building (incorporating Classes E(b), E(g) and F2(b) and (c)); open space and dedicated play space and service infrastructure and associated works.
- The reason given for making the direction is that the appeal involves proposals for residential development of over 150 units or on sites of over five hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Summary of Recommendation: The appeal be allowed subject to the conditions set out below.

1. PROCEDURAL MATTERS

1.1 The appeal was recovered for decision by the SoS by direction made under section 79 and paragraph 3 of Schedule 6 of the TCPA on 29 January 2026.

1.2 The description of development used in the heading above has been taken from the planning application form but with reference to the appeal site location removed as this is not a description of development.

1.3 A S106 planning obligation was submitted in draft form, discussed at the Inquiry, and subsequently completed on 5 February 2026[1]. The completion of the S106 planning obligation resulted in Reason for Refusal 2 on the Council's Decision Notice[2] relating to infrastructure requirements being regarded as resolved by the Council. I deal further with this matter below.

1.4 An ES[3] was submitted with the application. However, the Planning Inspectorate issued a negative screening direction on behalf of the SoS on 17 November 2025[4] stating that the proposed development is not EIA development.

1.5 Following the close of the Inquiry, an appeal decision for another proposed residential development in Melksham was issued[5]. The parties have been given the opportunity to comment on this decision and in making my recommendation, I have had regard to it and to the comments received where relevant.

[1] ID1, ID11, ID15
[2] CD9.3
[3] CD7.11
[4] CD10.5
[5] APP/Y3940/W/25/3374421 Land off Woodrow Road Allowed 9 April 2026

1.6 Additionally, the Council withdrew the Wiltshire Local Plan Pre Submission Draft 2020 – 2038 (Regulation 19) (ELP) from examination on 22 May 2026[6], after the Inquiry had closed. The parties have been given the opportunity to comment on any implications that may have on the determination of the appeal. I have had regard to any comments received where relevant.

2. THE SITE AND SURROUNDINGS

2.1 The appeal site comprises approximately 19.2 hectares of agricultural land currently in arable use together with two points of access onto Eastern Way to the west of the site. Clackers Brook runs east-west through the site and is bordered by a belt of trees and scrub planting. The site is served by two public footpaths: Footpath MELW 22, which roughly follows the course of Clackers Brook through the site from east to west; and Footpath MELW 23, which runs broadly east-west just south of an attenuation basin, which falls outside of the site. The basin was constructed in 2019-2020 providing a sustainable drainage function for residential development to the west of Eastern Way and discharging into Clackers Brook.

2.2 The site is located to the south of Snarlton Farm and to the north of Melksham Town Football Club and Melksham Rugby Football Club. It lies to the east of the market town of Melksham which is located within the administrative area of Wiltshire Council. Melksham is the sixth largest of Wiltshire's 16 main settlements.

3. RELEVANT PLANNING HISTORY

3.1 Outline planning permission was sought for an earlier version of the proposal in 2023, but the application was withdrawn prior to a decision being made by the Council (Ref: PL/2023/07107).

3.2 In 2016 outline planning permission was granted subject to a S106 agreement for a development including up to 450 dwellings at Land East of Spa Road to the west of the site (Ref:14/10461/OUT) with the associated approval of the attenuation basin to serve the development at Spa Road (Ref: 2018/02128).

3.3 Additionally, outline planning permission subject to a S106 agreement was granted in May 2025 for development including up to 500 dwellings at Blackmore Farm to the north of the site (Ref: PL/2023/11188)[7].

4. THE PROPOSAL

4.1 Outline planning permission with all matters reserved except for access is being sought for the erection of up to 300 dwellings (Class C3); land for local community use or building (incorporating Classes E(b), E(g) and F2(b) and (c)); open space and dedicated play space and service infrastructure and associated works.

4.2 Eastern Way is a distribution road to the east of Melksham. Access to the site is proposed via two roundabouts on Eastern Way. One roundabout already exists (Cranesbill Road and Eastern Way junctions), and a fourth arm is

[6] ID23
[7] CD9.4 – CD9.6

proposed to the existing roundabout as part of the proposal to serve development to the north of Clackers Brook. A second, new roundabout, is proposed to the south to serve development on the site to the south of Clackers Brook. No details have been provided regarding access arrangements within the site, this would be conditioned and dealt with at reserved matters stage.

4.3 The development includes the erection of up to 300 dwellings, 30% of which would be affordable housing. The submitted development parameters plan shows residential development in four blocks, two to the north of Clackers Brook and two the south, with a residential developable area of 8.68 hectares of the 19.2 hectares site. Land (approximately 0.32 hectares) is currently shown for community use, or building, on the indicative masterplan and a large area of open space (8.76 hectares) is proposed centrally within the site. This land is shown on the masterplan to include areas of Local Equipped Areas of Play, children's kick about area and ecological enhancement. A further 0.13 hectares is proposed as allotments.

5. POLICY AND GUIDANCE

The Development Plan

5.1 The Development Plan for Wiltshire Council comprises:

- Wiltshire Core Strategy (adopted January 2015) (WCS)[8]
- Joint Melksham Neighbourhood Plan 2 2020-2038 (made August 2025) (JMNP2)[9]
- Saved Policies of the West Wiltshire District Plan First Alteration (June 2004) (WWDP)[10]
- Wiltshire Local Transport Plan 2011-2026 (adopted 2015) – (not all of the policies in this plan were replaced by the 2025 Transport Plan)
- Wiltshire Local Transport Plan 2025-2038 (adopted 2025)
- Wiltshire and Swindon Waste Core Strategy 2006-2026 (adopted July 2009)
- Wiltshire Housing Site Allocations Plan (adopted February 2020) (SAP)[11]
- West Wiltshire Local Development Framework Leisure & Recreation Development Plan Document (January 2009) (L&RDPD)[12]

5.2 Relevant policies within these Development Plan documents are set out within the agreed SoCG[13] and are detailed below:

[8] CD3.1
[9] CD3.5
[10] CD3.2
[11] CD3.4
[12] CD3.3
[13]CD10.3

5.3 The WCS policies of relevance as agreed by the parties are[14]:

- Core Policy 1 – Settlement Strategy (CP1)

  Policy outlines the settlement strategy for the area and identifies the settlements where sustainable development will take place. It identifies the principal settlements, the market towns and local service centres and broadly sets out what level of development will be appropriate in each of these settlement types as well as in large and small villages identified elsewhere in the Plan.

- Core Policy 2 – Delivery Strategy (CP2)

  Policy sets out the delivery strategy to deliver development in Wiltshire in the most sustainable manner. It sets out the required level of housing and employment and where and how this will be delivered. The policy also broadly sets out what development will be permitted within and outside the defined limits of development, as defined on the policies map.

- Core Policy 3 – Infrastructure Requirements (CP3)

  This policy sets out infrastructure requirements and priorities for proposals as well as delivery responsibilities.

- Core Policy 15 – Spatial Strategy – Melksham Community Area (CP15)

  Policy states that development in the Melksham Community Area should be in accordance with Core Policy 1. It sets out how many homes will be provided in the community area and how many of these should occur in Melksham and how many within the rest of the community area.

- Core Policy 43 – Providing Affordable Housing (CP43)

  This policy sets out affordable housing requirements on sites of five or more dwellings, usually either 30% or 40% depending on location.

- Core Policy 45 – Meeting Wiltshire's Housing Needs (CP45)

  Policy sets out the requirements for the provision of market and affordable housing in terms of design, tenures and size.

- Core Policy 50 – Biodiversity and Geodiversity (CP50)

  This policy sets out the expectations in relation to biodiversity including enhancement, geodiversity and local sites.

- Core Policy 51 – Landscape (CP51)

  This policy seeks to protect, conserve and where possible enhance landscape character and sets out expectations for proposals including those affecting Areas of Outstanding Natural Beauty (now National Landscapes), the New Forest National Park and Stonehenge and Avebury World Heritage Site.

[14] CD10.3 page 4

- Core Policy 52 – Green Infrastructure (CP52)

  Policy requires proposals to make provision for the retention and enhancement of green infrastructure and for the provision of suitable links to it. It also sets out expectations for developments in relation to green infrastructure.

- Core Policy 57 – Ensuring High Quality Design and Place Shaping (CP57)

  This policy requires a high standard of design in all new developments and an expectation to create a strong sense of place. Proposals must demonstrate how development complies with the criteria listed in the policy.

- Core Policy 58 – Ensuring the Conservation of the Historic Environment (CP58)

  Policy states that development should protect, conserve and where possible enhance the historic environment.

- Core Policy 60 – Sustainable Transport (CP60)

  This policy sets out how the Council will help to reduce the need to travel particularly by private car and support sustainable, safe and efficient movement of people and goods.

- Core Policy 61 – Transport and Development (CP61)

  Policy states that new development should be located and designed to reduce the need to travel, particularly by private car and to encourage sustainable transport alternatives. It also sets out the requirements for transport assessments, contributions and travel plans.

- Core Policy 62 – Development Impacts on the Transport Network (CP62)

  This policy deals with the impact of development on the transport network.

- Core Policy 64 – Demand Management (CP64)

  Policy seeks to promote demand management measures where appropriate and sets out what these measures include.

- Core Policy 67 – Flood Risk (CP67)

  This policy sets out requirements for proposals in flood zones 2 and 3 and states that all new development will include measures to reduce the rate of rainwater run-off and to improve rainwater infiltration to soil and ground.

5.4 The relevant JMNP2 policies as agreed by the parties are[15]:

- Policy 1 – Sustainable Design and Construction

[15] CD10.3 pages 5 & 6

This policy requires development proposals to demonstrate how they have mitigated and been designed to adapt to the impacts of climate change.

- Policy 3 – Flood Risk and Natural Flood Management

  Policy sets out expectations for development proposals in relation to flood risk.

- Policy 4 – Ultra Low Emission Vehicle Charging

  This policy provides general support for the installation of public on-street electric charging facilities.

- Policy 5 – Pre-application Community Engagement

  Policy sets out expectations for community engagement on development proposals.

- Policy 6 – Housing in defined settlements

  This policy sets out how development proposals within and outside of settlement boundaries will be considered and addresses housing types and tenures.

- Policies 7.1 – 7.5 – Allocations of Land for Housing

  These policies allocate five sites within the JMNP2 area for development, including housing. They set out the quantum and type of development, specify what information is required to be submitted to support development proposals and set out various development requirements.

- Policy 8 – Infrastructure Phasing and Priorities

  This policy requires proposals for housing development to consider, assess and address infrastructure requirements and to ensure that any required infrastructure is delivered in a timely manner.

- Policy 11 – Sustainable Transport and Active Travel

  Policy relates to sustainable transport matters including setting out expectations in relation to development proposals and providing support for proposals that improve accessibility and quality of links between the town and Melksham railway station.

- Policy 12 – Green and Blue Infrastructure

  This policy sets out the approach to Green and Blue Infrastructure including requirements for development proposals for major development.

- Policy 13 – Biodiversity

  Policy sets out the expectations and requirements in relation to biodiversity, including enhancement.

- Policy 15 – Community Facilities

  This policy relates to the loss of and provision of community facilities.

- Policy 17 – Trees and Hedgerows

  Policy sets out the approach to trees and hedgerows including ancient and veteran trees, other existing trees and hedgerows and increased tree canopy requiring development proposals to retain existing trees and hedges where possible.

- Policy 18 – Landscape Character

  This policy sets out expectations for development proposals in terms of landscape character.

- Policy 19 – Separation of Settlements

  Policy requires development proposals to respect the separation between the listed settlements and sets out expectations for proposals between settlements.

- Policy 20 – Locally Distinctive, High Quality Design

  This policy sets out design expectations for development proposals within the JMNP2 area.

5.5 The relevant WWDP policies as agreed by the parties are[16]:

- U1a – Foul Water Disposal

  This policy relates to foul drainage, sewerage and sewage treatment facilities and sets out expectations for development.

- I2 – Arts

  Policy states that where appropriate, a percentage of the overall cost of development will be sought to further an artistic objective in a practical manner.

- I3 – Access for Everyone

  This policy requires proposals to provide adequate access for disabled people in the layout of development including the provision of disabled parking.

National Policy

5.6 The following chapters and paragraphs of the National Planning Policy Framework (the Framework) are particularly relevant.

5.7 Chapter 2 – Achieving sustainable development and in particular paragraphs 11 to 14.

5.8 Paragraph 11(d) states "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date*, granting permission unless:

[16] CD10.3 page 5

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

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

*This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. See also paragraph 232".

5.9 Paragraph 12 states that "the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed".

5.10 Paragraph 13 states "the application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies".

5.11 Paragraph 14 states "In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

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

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

5.12 Chapter 4 – Decision Making and in particular paragraphs 48 and 49.

5.13 Paragraph 48 states "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing".

5.14 Paragraph 49 states "Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)*.

*During the transitional period for emerging plans, consistency should be tested against the version of the Framework as applicable, as set out in Annex 1".

5.15 Chapter 5 – Delivering a sufficient supply of homes and in particular paragraph 61 which states "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community".

5.16 Paragraph 69 refers to the need for strategic policies to "set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement".

5.17 Paragraph 70 states that "Where it is not possible to provide a requirement figure for a neighbourhood area*, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.

*Because a neighbourhood area is designated at a late stage in the strategic policy-making process, or after strategic policies have been adopted: or in instances where strategic policies for housing are out of date."

5.18 Paragraph 78 which states, amongst other things, that "Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old".

5.19 Chapter 9 – promoting sustainable transport.

5.20 Chapter 12 – Achieving well-designed places.

5.21 Chapter 15 – Conserving and enhancing the natural environment, in particular paragraphs 187 and 188 including footnote 65. Amongst other things, paragraph 187 states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and

beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.

5.22 Whilst paragraph 188 relates to plans, footnote 65 is of some relevance and states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

Emerging Policy

5.23 The emerging Local Plan for Wiltshire (ELP)[17] was submitted for examination on 28 November 2024 and was being progressed via the transitional arrangements set out at paragraph 234(b) of the Framework. Examination hearings took place in June and November 2025 with various correspondence between the examining Inspectors and the Council since then. On 27 February 2026 the Inspectors wrote to the Council[18] suggesting withdrawal of the submitted plan due to significant soundness concerns. A response to the letter was provided by the Council on 12 March 2026[19] and concluded that the decision on how to proceed with the ELP will need to be taken by elected members and that the intention is to take a report to scheduled Cabinet and Council meetings in May 2026.

5.24 The parties have been given the opportunity to comment on recent correspondence in relation to the ELP, with a response being received from the Appellant dated 19 March 2026[20] and a response from the Council dated 20 March 2026[21]. I have taken these responses into account in making my recommendation.

5.25 As stated above, the ELP was withdrawn from examination by the Council on 22 May 2026.

6. AGREED MATTERS[22]

Development Plan

6.1 That the strategic policies in WCS are more than five years old and that WCS policies CP1, CP2 and CP15 and JMNP2 Policy 6 are out of date for the purpose of the determination of the appeal.

National Planning Policy Framework Paragraph 14

6.2 That the JMNP2 was made on 4 August 2025 and is therefore less than five years old. Paragraph 14 of the Framework is engaged.

[17] CD4.1
[18] ID17
[19] ID18
[20] ID19
[21] ID20
[22] Statement of Common Ground CD10.3

Housing Needs

6.3 That based on the Five-Year Housing Land Supply (5yrHLS) Position Statement (base date April 2024)[23] the Council cannot demonstrate a 5-year housing land supply.

6.4 That the proposal is capable, subject to it being brought forward quickly, to make a meaningful contribution to the 5yrHLS position of the Council and that it would provide 30% affordable housing. The proposal would be consistent with WCS policies CP43 and CP45.

Site Location

6.5 That the site is outside of the settlement boundary of Melksham, and it is agreed that the settlement boundary of Melksham, as set out in the SAP, is out of date and does not align with the current housing needs for Melksham.

6.6 That the site is not allocated in the JMNP2, nor is it a draft allocation in the ELP.

6.7 That Melksham is a sustainable location for new residential growth.

Transport and Highways

6.8 That the proposed access is appropriate and safe and that the highway proposals are appropriate for the scale of development and are in keeping with the existing infrastructure on the Eastern Way highway corridor.

6.9 That the proposed development would be integrated with existing development to the west via a new toucan crossing and this would aid active travel connecting to the existing PROW network.

6.10 That Melksham Railway Station is 2.5km from the site and that this is a reasonable distance for cyclists. The local bus services past the site entrance are frequent Monday – Saturday.

6.11 That there are local facilities and services in close proximity to the site and the site is reasonably well located in terms of access to local schools.

6.12 That the proposal is consistent with WCS Policy CP57 and JMNP2 Policy 11.

6.13 That the proposal would not result in an unacceptable impact on highway safety.

Drainage

6.14 That foul water will drain into the new sewer network located in the road and that the LLFA raised no objection to the proposal in relation to foul and surface water. The proposal complies with saved Policy U1 of the WWDP.

6.15 That the submitted FRA[24] confirms that the site is impacted by Flood Zones 1, 2 and 3, with Flood Zones 2 and 3 being either side of Clackers Brook and the proposed development and developable areas being restricted to land that is

[23] CD5.1
[24] CD7.13

in Flood Zone 1 only. The Developable Parameters Plan[25] would ensure that developable areas are within Flood Zone 1 and can be secured by condition.

6.16 That the majority of the developable area of the site are at low risk from surface water flooding. Areas of surface water flood risk would effectively disappear post development by minor land reprofiling and through on-site drainage betterment and a formal drainage strategy. It is agreed that the drainage strategy offers a sustainable, safe and robust system which will provide flood risk protection to the future residents of the site.

6.17 That the proposal would not impact strategic water assets and infrastructure.

6.18 That the proposal complies with WCS Policy 67 and JMNP2 Policy 3.

Landscape & Arboriculture

6.19 That the site has no statutory or non-statutory designations regarding landscape.

6.20 That the proposal would result in a localised impact on the landscape due to the loss of green fields and their development for housing with consequential harm to the landscape.

6.21 That sufficient vegetated buffers are shown on the Development Parameters Plan[26] that would allow for appropriate landscape mitigation to be provided.

6.22 That the site is predominantly classified as Grade 3a and 3b agricultural land with a small area of Grade 2 in the area of the attenuation basin.

6.23 That the site is not located within an area which should be kept development free for the visual and physical separation of settlements as set out in JMNP2 Policy 19.

6.24 That the proposal is consistent with WCS Policy CP52.

6.25 That there is no statutory objection in relation to arboriculture.

Amenity

6.26 That the level of onsite open space provision is appropriate.

6.27 That there are no concerns in respect of land contamination.

6.28 That residents of the site would not be harmfully impacted by noise or disturbance at Melksham Town Football Club and that no noise mitigation is required.

6.29 That the proposal is consistent with WCS policies CP57 and CP58, policies LP4, LP5 and YP1 of the L&RDPD, paragraph 135 of the Framework and the Council's adopted Design Guide.

Heritage

6.30 That the proposal would not result in harm to heritage assets.

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[25] CD7.5
[26] CD7.5

6.31 That archaeology found on site is likely to have only local significance and should not prevent the grant of planning permission.

6.32 That the proposal is consistent with WCS policies CP57 and CP58 and paragraphs 207 and 216 of the Framework.

Ecology

6.33 That there are no statutory or non-statutory nature conservation designations present within or adjacent to the site. Habitats on site are not considered to be of ecological importance but support several protected species. Mitigation measures are proposed to reduce the risk of harm and are sufficient.

6.34 That no statutory objections have been raised in relation to ecology and the scheme is compliant with WCS policies CP50 and CP51, with L&RDPD Policy CR3 and policies 12, 13 and 17 of the JMNP2.

Sustainability

6.35 That the appeal proposal is capable, at reserved matters stage of mitigating carbon and energy consumption and reducing natural resources and using them efficiently. The proposal is capable of being consistent with WCS Policy CP41.

Planning Benefits

6.36 That there would be a number of material planning benefits resulting from the proposal.

7. THE CASE FOR CATESBY ESTATES PROMOTIONS LIMITED

Introduction

7.1 The Council's Strategic Planning Committee refused to grant planning permission for the Proposed Development, going against the advice of officers who had recommended it for approval subject to the completion of a section 106 agreement[27].

7.2 Whilst the Decision Notice[28] identified two Reasons for Refusal ('RFR'), the Council did not adduce any evidence in respect of the second of these – a failure to provide or secure adequate provision for on-site or off-site infrastructure – recognising that with a section 106 agreement almost agreed between the parties, the issue would fall away[29]. This is therefore no longer considered to be a matter of dispute between the parties.

7.3 Accordingly, there is only one outstanding RFR: a conflict with Policies CP1, CP2 and CP15 of the adopted Wiltshire Core Strategy ('WCS') and a conflict with the made Joint Melksham Neighbourhood Plan 2 ('JMNP2'). In regard to this RFR, it is important to emphasise at the outset that:

[27] CD9.1 & CD9.2
[28] CD9.3
[29] Mr Reynolds EIC

- in its evidence the Council did not allege a breach with Policy CP1 of the WCS, and the Council's witness accepted in cross-examination that the Council was no longer pursuing a breach of this policy[30]; and

- whilst the Council now alleges a breach of Policy 6 of the JMNP2[31], no reference was made to this specific policy in the Decision Notice itself[32].

7.4 There are therefore three policies that the Council alleges that the Proposed Development conflicts with: Policies CP2 and CP15 of the WCS and Policy 6 of the JMNP2, introduced by the Council after the Proposed Development had been refused[33].

7.5 In addition, whilst the Council alleges harms to landscape and the loss of Best and Most Versatile land ('BMV land'), it accepts that these would not be reasons that would warrant refusal on their own. Furthermore, the Council has adduced no evidence on either of these matters and no objections were received from statutory consultees.

7.6 In regard to the policies that the Council maintains reliance on, the Appellant accepts that there would be some conflict with the Proposed Development[34]. However, such conflict must be viewed in the following context:

- the Council rightly acknowledges that these policies are out-of-date and that the weight that can be attached to them is therefore affected[35];

- the Council acknowledges that the only reason for the conflict with these policies is the fact that the Proposed Development is outwith the settlement boundary; in all other respects it is compliant with the policy requirements[36]; and

- it is common ground that the settlement boundaries have not been revised in more than 20 years, dating back to the West Wiltshire Local Plan 2004.

7.7 As such, the only outstanding RFR, and the only reason identified as being capable of justifying refusal on its own, is a conflict with policies which are accepted to be out-of date, predicated on a settlement boundary that has not been revised in 22 years.

7.8 The Appellant accepts that the Proposed Development would conflict with Policy CP2. However, the Appellant's case is that the conflict with Policy CP15 of the WCS and Policy 6 of the JMNP2 is caused solely by the cross-reference

[30] Mr Reynolds EIC & XX
[31] CD10.1
[32] CD9.3
[33] CD10.1 paragraph 5.8
[34] CD10.3 paragraph 5.34, Mr Neame's POE pages 45-46 Planning Application: PL/2024/07097
[35] Mr Reynolds POE Planning Application: PL/2024/07097
[36] Mr Reynolds XX

in these policies back to Policy CP2[37]. This must be relevant when considering the conflict with these policies.

7.9 It is important to conclude whether a proposal is in conformity with the DP: *City of Edinburgh v Secretary of State for Scotland and Others [1997] UKHL 38; [1998] 1 All ER 174; [1997] 1 WLR 1447* (16th October, 1997).

7.10 Lord Reed in the Supreme Court in *Tesco Stores v Dundee City Council [2012] UKSC* observed that if there is conflict with the DP then it is necessary to understand the nature and extent of the departure from the plan which the grant of permission would involve, before considering other material considerations.

7.11 The position of the Appellant's planning witness is that the conflict is modest. All the policies are out of date because of the shortfall in the 5yrHLS and all relate to the settlement boundary, which is also out of date independent of the lack of a 5yrHLS. The proposal complies with nearly all parts of CP2 and Policy 6 of the JMNP2.

7.12 He therefore concludes that the proposal is in conformity with the Development Plan as a whole[38]: this approach is permitted. A proposal does not need to accord with each and every plan policy of the plan: see *R v Rochdale MBC, ex parte Milne [2000] EWHC 650 (Admin) Sullivan J* at paragraph 50. This was confirmed and cited with approval by the *Court of Appeal in R (on the application of Hampton Bishop Parish Council) v Herefordshire Council [2014] EWCA Civ 878*.

7.13 A proposal can comply with the Development Plan even if it conflicts with a key policy relevant to the proposal: see *Corbett v Cornwall Council [2020] EWCA Civ 508*: see paragraphs 41 and 42.

7.14 The planning witness sets out his evidence on why the proposal is in conformity with the DP as a whole in Chapter 6 of his proof of evidence set out in detail in his Table 6 (page 25 onwards).

7.15 If the proposal is considered to be in conformity with the DP, then one must then consider if there are other material considerations indicating that planning permission should be refused, pursuant to Section 38(6) PCPA 2004. There are very few harms here outside of the Development Plan. There is no breach of Policy 51 of the WCS (page 265) which is for unacceptable landscape harm. It is accepted that there is some landscape harm arising from development of greenfield site and the loss of some BMV, seen in the context of there being hundreds of thousands of hectares of agricultural land in the authority area: most of Wiltshire is agriculture land. But so long as that is acknowledged and addressed then in this case, the proposal could be granted permission for being in compliance with the Development Plan as a whole.

7.16 If there is said to be conflict with the Development Plan, one has to consider the benefits of the proposal. The Proposed Development would deliver

[37] Mr Neame's POE paragraph 6.2 & Table 6, pages 25 & 26 Planning Application: PL/2024/07097
[38] Mr Neame's POE paragraph 6.3, page 27 Planning Application: PL/2024/07097

significant benefits[39], including delivery of up to 300 homes against a shortfall in the 5yrHLS, delivery of up to 90 affordable homes against a shortfall as set out in the evidence of the Appellant's affordable housing witness, and the development of a site acknowledged to be situated in a sustainable location.

7.17 These benefits are all recognised by the Council; the only matter of dispute is the weight to be afforded to them. It is the Appellant's case that they should each attract very substantial weight, having regard to the Council's five-year housing land supply and chronic shortage of both market and affordable homes[40]. Officers believed that they should attract very significant weight; only the Council's planning witness deviates from this view[41].

7.18 On that basis, the Appellant's case is that on an assessment of the planning balance, permission should be granted on the so-called flat balance as set out in the statutory test under section 38(6) of the Planning and Compulsory Purchase Act 2004[42].

7.19 But of course with a shortfall in the 5yrHLS and no footnote 7 exemptions, the tilted balance under paragraph 11(d) of the Framework is engaged and the Council accept this[43].

7.20 Furthermore, the Appellant's case is that paragraph 14 of the Framework does not change this conclusion, because there are contextual circumstances that mean a conflict with the JMNP2 are not decisive[44]. The Appellant relies on the recent Appeal decisions at Wandleys Lane, Fontwell and Horsham Golf Club[45] in support of this approach.

The location for the Proposed Development

Spatial Context

7.21 The spatial context in Wiltshire County ('the County') is set out in the Proof of Evidence of the Appellant's planning witness[46]. He gave evidence that development across the County is heavily constrained by the fact that 44 per cent of the Council's administrative area is designated as an Area of Outstanding Natural Beauty, in addition to a small area of the New Forest National Park in the south and a small area of green belt[47]. It is a matter of fact that there is a significant part of the County – nearly half – which cannot easily accommodate new development due to environmental designations on the land.

7.22 In this context, Melksham is relatively unconstrained and has a wide range of amenities and infrastructure, including businesses, shops, a train station, several bus routes and a number of primary schools, secondary schools and

[39] Mr Neame's POE paragraph 13.1 onwards, page 47 Planning Application: PL/2024/07097
[40] EIC of Mr Harris & Ms Gingell
[41] CD10.3 Table 8
[42] Mr Neame's POE paragraph 13.8 onwards, page 49 Planning Application: PL/2024/07097
[43] Mr Neame's POE paragraph 13.15 onwards, page 50 Planning Application: PL/2024/07097
[44] Mr Neame's POE paragraph 13.18 onwards, page 51 Planning Application: PL/2024/07097
[45] Appendix 3 of Mr Neame's POE Planning Application: PL/2024/07097
[46] Mr Neame's POE Section 3, page 13 Planning Application: PL/2024/07097
[47] Mr Neame EIC

GP surgeries[48]. The Appellant's planning witness Proof of Evidence sets out the important role it plays in employment terms, forming part of the A350 employment growth area. In his evidence, he characterised Melksham as having 'an unusually good level of employment', which he rightly noted was an important consideration when looking at where to locate new housing[49].

7.23 The Council also recognises the importance of Melksham in accommodating growth across the County. In the WCS, Melksham is classified as a market town which is a second-tier settlement, defined as having 'the potential for significant development' under Policy CP1[50]. In the regulation 19 version of the emerging Local Plan, Melksham retains its status as a market town in draft Policy 1[51], which in turn are defined as having 'the potential for significant development'. There is therefore no change in the status of Melksham between the WCS and the emerging Local Plan; both recognise its potential to accommodate 'significant' new development.

7.24 Importantly, the emerging Local Plan goes further than this, stating: 'The Plan identifies Chippenham, Melksham and Trowbridge, as settlements which should be strategically planned in the longer-term. These are referred to as 'broad locations for growth', where additional significant urban extensions should be identified…'. This is included as draft Policy 3[52]. Of the three areas identified, Chippenham and Trowbridge are both identified under draft Policy 1 as 'principal settlements'. Melksham is therefore the only market town identified by the Council as a broad location for growth. This was accepted by the Council's planning witness in evidence[53].

Site specific context

7.25 The site of the Proposed Development itself has also performed well in assessments the Council has undertaken as part of its evidence base in support of the emerging Local Plan. The Appellant's planning witness sets out the history of the site and its promotion through the emerging Local Plan in his Proof of Evidence[54].

7.26 The Council assessed the site as part of the regulation 18 consultation[55]. In that document, the site scored green on landscape, heritage and flood risk, and amber on accessibility and traffic. The commentary noted that there were 'no overriding significant impacts that would justify rejecting the site' and recommended that it be taken forward for further assessment.

7.27 The site also formed part of a wider site that the Council assessed as part of its evidence base for the regulation 19 version of the emerging Local Plan[56]. Whilst it is acknowledged that this assessment was of a larger piece of land that included the site, it is plainly relevant that site 1 was assessed as the joint

[48] Mr Neame's POE paragraph 3.10 onwards Planning Application: PL/2024/07097
[49] Mr Neame EIC
[50] CD3.1 page 40
[51] CD4.1 page 25
[52] CD4.1 page 36
[53] Mr Reynolds XX
[54] Mr Neame's POE paragraph 2.4 onwards, page 10 Planning Application: PL/2024/07097
[55] CD4.2 Council's Regulation 18 – Site Selection Report January 2021
[56] CD4.6 Site forms part of Site 1 in Chippenham HMA, Annex 2.9

best-performing site[57] as 'the most sustainable sites when assessed against objectives in the SA Framework[58]'.

7.28 It is therefore the case not only that Melksham is an area that is recognised by the Council as somewhere that is suitable to accommodate significant new development, but that the site itself is also a suitable and sustainable location for development. That the Council recognises this is evident from the Committee Report[59] that officers prepared for the Strategic Planning Committee, which noted that the Proposed Development was 'a sustainable location for future housing growth[60]'. This is also recorded in the Statement of Common Ground[61].

7.29 In this context, the Proposed Development accords with Policy CP1 of the WCS: the settlement strategy. As noted above, the Council no longer pursues a conflict with this.

Development Plan

7.30 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is common ground that the core Development Plan documents for this Appeal are the WCS and the JMNP2. As set out above, the core policies within those Development Plan documents are Policies CP2 and CP15 of the WCS and Policy 6 of the JMNP2[62].

7.31 Before looking at the policies individually, it is helpful to consider the matters that are of common ground between the parties on the policies as a whole:

- it is common ground that the WCS was adopted on 20 January 2015 and the strategic policies are now more than five years old[63]; and

- it is common ground that Policies CP1, CP2 and CP15 and JMNP2 Policy 6 are out-of-date for the determination of this Appeal[64].

7.32 The Framework is clear that Development Plans should be up-to-date[65]. This was made clear in the 2018 Framework and has remained the case since. As an overriding point, therefore, it should be borne in mind that out-of-date policies should not be relied upon and should be given little weight[66]. This is so particularly given the scale of housing shortfall in the County, which is set out further below. Any other conclusion would be perverse.

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[57] CD4.6 Table 5.18
[58] CD4.6 5.10.5
[59] CD9.1
[60] CD9.1 page 39
[61] CD10.3 paragraph 5.8
[62] CD10.3
[63] CD10.3 paragraph 5.1
[64] CD10.3 paragraph 5.2 page 9
[65] Paragraphs 11, 12 and 15
[66] Mr Reynolds POE paragraph 7.4 Planning Application: PL/2024/07097

Housing requirement for Melksham

7.33 In addition to the WCS itself being out-of-date, it is also important to highlight that the housing requirement for Melksham is equally out-of-date. Furthermore, the requirement for Melksham in the emerging Local Plan[67] is likely to significantly increase. It is now common ground that[68]:

- the emerging Local Plan requires 2,160 dwellings for 2020-2038 at Melksham[69];
- the emerging Local Plan requires the Neighbourhood Plan to deliver an additional 270 dwellings at Melksham[70];
- the Neighbourhood Plan figure of 270 dwellings is a result of completions and commitments in the last five years along with allocations proposed in the emerging Local Plan, but that figure is based on 2,160 dwellings, which is an emerging Local Plan figure;
- the emerging Local Plan figure for Wiltshire is 2,041 dpa (36,740 dwellings 2020-2038)[71], which is -26,000 dwellings below the current standard method for local housing need. As such, the emerging Local Plan is only delivering 58.5 per cent of the standard method figure over the plan period;
- the figure of 2,160 is entirely predicated on the assumption that the correct figure for Wiltshire in the emerging Local Plan is 36,740 dwellings; if the local housing need figure for Wiltshire is applied then on a pro-rata basis the appropriate figure for Melksham would be around 3,700 dwellings; and
- the local housing need is being examined under the transition arrangements and does not meet this full need.

7.34 In that context, therefore, the Appellant's case is that there is a potential shortfall of around -1,800 dwellings at Melksham. This is plainly relevant to this Appeal.

Policy CP2 of the WCS

7.35 Policy CP2[72] identifies the minimum housing requirement for each Housing Market Area in the County. It confirms that development that is outside of the defined limits of development will not be permitted other than where it is permitted by other policies in the WCS. It is common ground that the Proposed

[67] CD4.1
[68] ID9
[69] CD4.1 Table 4.2, page 51
[70] CD4.1 Policy 17, page 81 & paragraph 4.107, page 89
[71] CD4.1 Policy 2, page 30
[72] CD3.1 page 53

Development is outside of the settlement boundary of Melksham[73]. As such, the Appellant accepts that there would be a conflict with Policy CP2[74].

7.36 Such conflict, however, must be viewed in context:

- the Proposed Development complies with all other aspects of Policy CP2: the Council's witness accepted that there was no other conflict in his evidence[75], which is why the Appellant's planning witness categorises it as a 'limited level of conflict'[76]; and

- the settlement boundaries are chronically out-of-date, having not been revised since they were first defined in the West Wiltshire Local Plan 2004.

7.37 The only element of conflict with Policy CP2 is therefore predicated on a settlement boundary that has not been revised in more than 20 years, despite the Council having had the opportunity to do so in the WCS and the Wiltshire Housing Site Allocations Plan 2020[77]. The Appellant's planning witness was asked by the Inspector whether there was already development outside of the settlement boundary in 2020 when the boundary was reviewed as part of the Wiltshire Housing Site Allocations Plan 2020. Whilst he very fairly stated that he could not be certain of this, he did note that an outline planning consent had been granted outside of the settlement boundary in 2014[78]. It is a matter of fact that planning permission has been granted on greenfield sites outside of the settlement boundary, both by the Council at Blackmore Farm[79] and by Inspectors at Bowerhill and Berryfield, illustrating just how out-of-date the settlement boundary is.

7.38 In this context, therefore, it must be the case that only limited weight can be placed on the settlement boundary, and that this must necessarily affect the weight to be placed on the conflict with Policy CP2.

Policy CP15 of the WCS

7.39 Policy CP15[80] of the WCS sets out the spatial strategy for the Melksham Community Area and confirms that the majority of the proposed new housing for the area should be delivered at Melksham. The policy does not identify any specific locations for development at Melksham, but states that growth in the Melksham Community Area over the plan period 'may consist of a range of sites in accordance with Core Policies 1 and 2[81]'. It is for this reason that the

[73] CD10.3 paragraph 5.5, page 9
[74] Mr Neame's POE Table 6, page 25 Planning Application: PL/2024/07097
[75] Mr Reynolds XX
[76] Mr Neame's POE paragraph 6.3 Planning Application: PL/2024/07097
[77] ID8
[78] Mr Neame XX
[79] CD9.4
[80] CD3.1 page 132
[81] CD3.1 page 131

Appellant's planning witness concludes that the Proposed Development 'is in accordance with Policy CP15' but that 'the only limited area for conflict with this policy is the cross referral to Policy CP2[82]'.

7.40 The points set out above in respect of Policy CP2 therefore apply equally to Policy CP15: the conflict is predicated on an out-of-date settlement boundary. In the case of Policy CP15, the conflict is even more limited, as it is confined to a cross reference to Policy CP2. For those reasons, the weight to be placed on this conflict must be limited.

The JMNP2

7.41 Before looking specifically at Policy 6 of the JMNP2[83], it is helpful to consider the wider context in which the JMNP2 was made. There are several points that are relevant.

- first, whilst the Examination of the JMNP2 was undertaken against conformity with the WCS, it seeks to align itself with the housing numbers in the emerging Local Plan. This is plainly problematic: as set out above, these numbers are only likely to increase, whilst the Examination of the emerging Local Plan has stalled after Inspectors raised concerns requiring significant further work to be undertaken by the Council;

- second, whilst the Appellant accepts that paragraph 14 of the Framework is engaged for the purposes of this Appeal[84], the evidence at the Inquiry demonstrated that the JMNP2 does not make any significant allocations of land: two of its allocations are for brownfield sites where there would be a presumption supporting development in any event, and one is for a site which already benefits from outline planning permission. Not only is it nonsensical to allocate a site that already has outline planning permission, in circumstances where the reserved matters application would need to be considered against the policies in the JMNP2 in any event, the allocation of this site is also plainly inconsistent when a different approach was taken with Blackmore Farm;

- third, the site that already benefits from planning permission has effectively been 'double counted' in the housing numbers, so the claims made by members of the JMNP2 Steering Committee that the JMNP2 allocates twice the level of housing that it was required to are plainly not right[85]; and

- fourth, there was no consideration of the out-of-date nature of the settlement boundary as part of the JMNP2, which is problematic considering the settlement boundary is such a critical component to Policy 6.

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[82] Mr Neame's POE Table 6 page 25 Planning Application: PL/2024/07097
[83] CD3.5 page 43
[84] CD10.3 paragraph 5.5 page 14
[85] ID9

7.42 Furthermore, the process that the making of the JMNP2 followed is also relevant to the consideration of the conflict with the policies which are contained within it. The JMNP2 Steering Committee selected its own Examiner – which it is perfectly entitled to do – and chose one who had undertaken the Examination of a nearby neighbourhood plan that they thought he had done well, and there was no oral hearing of any kind for the Examination process, as is often the case: it was purely a paper-based exercise. The opportunity for detailed scrutiny of the JMNP2 was therefore extremely limited.

7.43 This is the context within which Policy 6 of the JMNP2 must be viewed.

Policy 6 of the JMNP2

7.44 Policy interpretation is ultimately a matter of law for the Courts. Legal submissions are required on matters of law. The interpretation of Policy 6 is problematic. It is difficult to see how the proposal does conflict with JMNP2 Policy 6 part 2, when on its wording it does not seek to prevent or prohibit development outside of settlement boundaries. Managing something is not the same as prohibiting it. And in all other respects the proposal complies with Policy 6. Certainly, the officers and members did not identify any breach of Policy 6 of the JMNP2, hence it does not feature in the reason for refusal[86].

7.45 Policy 6 of the JMNP2 deals with housing at defined settlements. As the Appellant's planning witness stated in evidence[87], it is a permissive policy where there is an expectation to manage development. This is clear from the wording of criterion two of the policy, which states: 'Housing outside settlement boundaries will be managed in accordance with the adopted Development Plan and should meet evidenced local housing need'[88].

7.46 The policy clearly anticipates that some development will come forward outside of the settlement boundaries: if it did not, it would not include a criterion setting out how proposals outside the settlement boundaries should be 'managed'. The policy is plainly designed to manage development outside of the settlement boundary, not to prohibit it.

7.47 As has already been set out, the adopted Development Plan is out-of-date, and there is only limited conflict with policies in any event. For the reasons set out below, particularly in respect of the evidence of the Appellant's housing land supply and affordable housing witnesses, the Proposed Development would very clearly meet an 'evidenced local housing need'.

7.48 On that basis, there is therefore a very strong argument to say that the Proposed Development would not conflict with Policy 6 of the JMNP2 at all. Whilst this was not the position adopted by the Appellant's planning witness in evidence, it is well established that the interpretation of development plan

[86] CD9.3
[87] Mr Neame's POE Table 6 & paragraphs 9.15 & 13.25 Planning Application: PL/2024/07097
[88] CD3.5 page 43

policies is a matter for the courts, so it is submitted that it is open to the Inspector to reach such a finding. If the Inspector was to reach this conclusion, the consequence of that would be that paragraph 14 of the Framework would not be engaged, as there would be no adverse impact of allowing development that conflicts with the neighbourhood plan. This is an option that is open to the Inspector.

7.49 In the event that the Inspector does find that there is some conflict with Policy 6 of the JMNP2, the same points as are set out above in relation to Policy CP15 apply: the Council's witness accepted that the Proposed Development would not breach any of the other criterion set out in Policy 6[89], so the only conflict is the cross-reference to Policy CP2 and the settlement boundaries, which are chronically out-of-date and were not revised as part of the JMNP2.

7.50 On that basis, as with Policy CP15 of the WCS, if the Inspector does conclude that there is a conflict with Policy 6 of the JMNP2, the weight to be afforded to such conflict must be limited. As with the WCS policies, the Council's witness accepts that Policy 6 is out-of-date and that this affects the weight to be attached to it[90].

Conclusion and compliance with the Development Plan as a whole

7.51 In concluding, it is important to emphasise that the Proposed Development conforms with all other Development Plan policies, including housing policies, highway policies and infrastructure requirements, and that whilst the Council states that there would be some harm to landscape and the loss of BMV, there is no alleged breach of policy[91].

7.52 Drawing all of that together, the Appellant's planning witness concluded that the weight to be given to conflict with the Development Plan was limited, on the basis that the Development Plan and its most important policies are out-of-date and the only conflict identified by the Council is the fact that the site is outwith a settlement boundary that is 22 years old[92].

7.53 For those reasons, the Appellant's case is that the Proposed Development accords with the majority of relevant policies in the Development Plan, and that it is therefore in compliance with the Development Plan when taken as a whole[93].

[89] Mr Reynolds XX
[90] Mr Reynolds POE paragraph 7.4 Planning Application: PL/2024/07097
[91] Mr Reynolds POE paragraph 6.36 onwards, page 19 Planning Application: PL/2024/07097 & CD10.3
[92] Mr Neame EIC
[93] Mr Neame's POE paragraph 6.3, page 27 Planning Application: PL/2024/07097

Housing land supply

7.54 Paragraph 78 of the Framework requires the Council to demonstrate a minimum of five years' worth of housing against its local housing need and an additional five per cent buffer. It is common ground that the Council is unable to do this[94]; there is, however, a dispute as to the extent of the shortfall. The Council believes it has a housing-land supply of 2.42 years[95]; the Appellant says it is 2.16 years[96].

7.55 Prior to setting out the Appellant's case, it is necessary to make two overarching points:

- first, whilst the Council has disputed the Appellant's figure, it has not produced any evidence of its own. The only evidence on housing land supply that is before the Inquiry is therefore the evidence of the Appellant's housing land supply witness[97]; and

- second, despite the Council's strong protestations that there was no need to hear evidence on housing land supply as it would not affect the weight to be afforded to it, the extent of the shortfall is plainly relevant, particularly when considering the contextual circumstances in regard to the application of paragraph 14 of the Framework. In this regard, the quantum of the shortfall is a relative consideration.

7.56 With those points in mind, the Inspector is invited to adopt the Appellant's housing land supply witness' figures, which showed a housing land supply of only 2.16 years, equating to a shortfall of some 10,404 dwellings[98]. Whilst the Council's own figures suggest a shortfall of 9,367 dwellings[99], there is a difference between the two of over 1,000 homes, which must be relevant.

7.57 The housing land supply witness gave evidence on the methodology he had adopted, explaining why he had discounted 12 sites from the list of deliverable sites that the Council relies on and why he had reduced the Council's figure for windfall allowance[100]. He confirmed that his approach to windfall sites was in line with the approach taken by an Inspector in a recent Appeal decision in Westbury[101], whilst his approach to deliverable sites drew from Lichfields' Start to Finish document and site-specific delivery data[102].

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[94] CD10.3 paragraph 5.3, page 9
[95] Mr Reynolds POE paragraph 7.3, page 36
[96] Mr Harris POE paragraphs 1.9 & Table 1.1 page 2 and 7.3 & Table 7.1 page 37 Planning Application: PL/2024/07097
[97] Mr Harris POE Planning Application: PL/2024/07097
[98] Mr Harris POE paragraphs 7.1 – 7.5 Planning Application: PL/2024/07097
[99] Mr Harris POE Tables 1.1 page 2 and 7.1 page 37 Planning Application: PL/2024/07097
[100] Mr Harris POE Section 6 Planning Application: PL/2024/07097
[101] Mr Harris POE Appendix EP2 Planning Application: PL/2024/07097
[102] CD5.5

7.58 Importantly, he confirmed that the Council had not provided the evidence he would expect to see to support its numbers – he described the evidence as 'significantly lacking' – despite them being aware of the sites he was seeking to dispute[103].

7.59 The Appellant's housing land supply witness has vast experience in this area, having done appeals in Wiltshire since 2009/10 and approximately 20 inquiries across the country last year, in addition to advising developers on housing land supply[104]. He described the shortfall as 'very substantial'[105] and said the Council was one of the worst when measured by quantum[106].

7.60 Furthermore, his evidence made clear that the Council will not address this shortfall through the emerging Local Plan as the housing target has been reduced from the regulation 18 version: he said that there was a 'latent need in the background' that the emerging Local Plan would not be meeting in the short or medium term[107].

7.61 In the absence of any evidence from the Council to challenge Mr Harris's evidence, the Appellant invites the Inspector to conclude that the deliverable supply is 2.16 years, which equates to a shortfall of 10,404 dwellings. It is the Appellant's case that the level of the shortfall means that the provision of up to 300 homes should attract very substantial weight in the planning balance[108], whilst the overall quantum and extent of the shortfall is also relevant in the application of paragraph 14 of the Framework. The Council's planning witness puts the weight at several steps below this[109].

Affordable housing need

7.62 In addition to the significant shortfall in housing across the County, there is a particularly acute shortage of affordable housing. This was set out graphically by the Appellant's affordable housing witness, whose evidence was entirely unchallenged by the Council[110]. In addition, as with housing land supply, the Council has not put any evidence before the Inquiry.

7.63 The affordable housing witness' evidence set out the scale of shortfall of affordable homes in the County:

- there are nearly 4,000 households on the Housing Register[111];

[103] Mr Harris EIC
[104] Mr Harris POE Section 1 Planning Application: PL/2024/07097
[105] Mr Harris POE paragraph 4.8, page 12 Planning Application: PL/2024/07097
[106] Mr Harris EIC
[107] Mr Harris EIC
[108] Mr Neame's POE Table 11, page 47 Planning Application: PL/2024/07097
[109] Mr Reynolds POE paragraph 7.5 page 37 Planning Application: PL/2024/07097
[110] Ms Gingell's POE Section 5, page 29 Planning Application: PL/2024/07097
[111] Ms Gingell's POE paragraph 5.25, page 33 Planning Application: PL/2024/07097

- there has been net housing delivery of around 577 dwellings per annum since 2009/10, against a target in the WCS of 650 dwellings per annum[112];

- there is a shortfall of over 1,000 affordable homes against the WCS target of 650 dwellings per annum, rising to a shortfall of 12,523 dwellings when measured against the needs identified in the 2011 SHMA[113]; and

- there are significantly more people bidding for affordable homes than are available: in Melksham Parish, there were an average of 90 bids for just 25 one bed properties, 50 bids for 20 two-bed homes and 155 bids for just five three-bed homes; in Melksham Without Parish, there were 125 bids for just four one-bed homes and 68 bids for four two-bed homes[114].

7.64 The need for affordable homes in Melksham was described as 'clear and pressing'[115].

7.65 In addition to the numbers, the affordable housing witness also gave evidence on the real-world consequences of the Council's failure to deliver adequate affordable housing. To give just one example, she said that as of 31 March 2025, there were 96 households housed in temporary accommodation by the Council, 59 per cent of which had at least one dependent child. In total there were 133 children in temporary accommodation on that date[116]. She said that this had real implications for these families: housing of this nature is typically not secure, such as B&Bs and hotels, which can affect the educational attainment of children who often have to move frequently.

7.66 Her Proof of Evidence demonstrates that the problem is compounded by the lack of anticipated supply: the existing shortfall of 4,302 affordable homes at the end of the 2023/24 monitoring period will increase by 147 per cent to 10,637 affordable homes by the end of 2028/29[117].

7.67 The Proposed Development would provide up to 90 new affordable homes – 30 per cent of the total number of dwellings. The affordable housing witness stated in evidence that in her opinion the weight to be given to this should be very substantial[118]. She further confirmed that no evidence had been adduced by the Council to support the lower weight it had given it. In those circumstances, it is the Appellant's case that the provision of up to 90

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[112] Ms Gingell's POE Table 6.1, paragraph 4.11, page 20, paragraph 6.10, page 42, paragraph 6.22, page 45 and paragraph 10.9, page 69 Planning Application: PL/2024/07097
[113] Ms Gingell's POE paragraph 6.11, page 42 Planning Application: PL/2024/07097
[114] Ms Gingell's POE paragraph 9.29, page 65 Planning Application: PL/2024/07097
[115] Ms Gingell's EIC & POE paragraph 8.19, page 61 Planning Application: PL/2024/07097
[116] Ms Gingell's POE paragraph 5.39, page 36 and paragraph 9.32, page 65 Planning Application: PL/2024/07097
[117] Ms Gingell's POE Table 8.1 and paragraph 8.8, page 59 Planning Application: PL/2024/07097
[118] Ms Gingell's POE paragraph 8.19, page 61 Planning Application: PL/2024/07097

affordable homes should attract very substantial weight in the planning balance.

Other material considerations

Landscape

7.68 At the outset, it is important to recognise that whilst landscape harm is identified in the Council's Statement of Case[119], it was not a RFR. Indeed, from the transcript of the Strategic Planning Committee meeting[120] that refused to grant planning permission, it is clear that landscape harm was not a concern that was raised by any councillor.

7.69 The Inquiry has the benefit of expert evidence from the Appellant's landscape consultant[121]. He also undertook the initial Landscape and Visual Impact Assessment ('LVIA') for the Proposed Development[122]. Conversely, the Council has produced no evidence against the Proposed Development on landscape or visual impact grounds, nor does it contest the content of the LVIA itself[123]. In addition, no objections were received from statutory consultees.

7.70 The landscape consultant sets out the context within which the Proposed Development would be situated: it would fall broadly within the limits set by Snarlton Farm complex to the north, with Melksham football grounds to the south, which includes a club house, parking and flood lighting, and the existing settlement edge to the west.

7.71 Importantly, he makes clear that the recently consented Blackmore Farm development would 'further extend the urban area of Melksham out into the countryside, and will establish an area of residential land use directly to the north of the Site. He concludes:

Overall, while there will continue to be some relatively localised adverse effects on landscape character and views as a result of the Proposed Development, the consented Blackmore Farm scheme will have an urbanising influence on the baseline environment and will provide a stronger settlement context for the Proposed Development. There will also be a reduction in effects on the Wooded Greensands Hills LCA / Sandridge as a result of the Blackmore Farm scheme.[124]

7.72 The granting of planning permission for the Blackmore Farm site is plainly relevant to the consideration of the effect that the Proposed Development would have on the landscape. As the Appellant's planning witness states in his Proof of Evidence, the Proposed Development is now more appropriate in

[119] CD10.1 paragraph 5.25, page 26
[120] CD9.7
[121] Mr Neame's POE Appendix 5 Planning Application: PL/2024/07097
[122] CD7.16
[123] CD10.3 paragraph 5.33, page 12
[124] Mr Neame's POE Appendix 5, page 76

landscape character and visual impact terms than it was at the time of the LVIA[125]. That is important, particularly when it is borne in mind that even before this, landscape harm was not a matter identified as a RFR by the Council, nor one that had attracted any objections from statutory consultees.

7.73 Accordingly, the Appellant's case is that whilst there would be some limited harm to the landscape, such harm would be consistent with that which would occur with the development of any greenfield site. It is certainly not something that would go anywhere near to amounting to a harm that would warrant refusal[126].

BMV land

7.74 The Council's Statement of Case identifies the loss of BMV land as an issue of concern[127], and the Appellant's planning witness was cross-examined on it during the Inquiry. Notwithstanding that, many of the points set out above in relation to landscape harm apply equally to the loss of BMV land: it did not form a RFR, there is no record of it having been a concern at the Strategic Planning Committee meeting[128], and the Council has not produced any expert evidence. In those circumstances, the only evidence that the Inquiry has available to it is the expert evidence of the Appellant's agricultural consultant[129].

7.75 His evidence demonstrates that:

- the majority of the site is classified as Grades 3a and 3b, with a smaller area of Grade 2[130];
- since the land was classified, the area of Grade 2 has been reduced due to the presence of a balancing pond which renders that location non-agricultural[131];
- the residual area of Grade 2 is approximately 1.2 hectares[132]; and
- the Proposed Development would utilise the lowest quality suitable land for development within the site boundary[133].

7.76 The Appellant's agricultural consultant concludes that the total area of built development on BMV land would be approximately 4.4 hectares, which represents the area of BMV land that would not be reversible. He concludes that this 'is not a significant loss' and that it is 'substantially below' the

[125] Mr Neame's POE paragraph 12.17, page 45 Planning Application: PL/2024/07097
[126] Mr Neame's POE paragraphs 12.16 - 12.18, page 45 Planning Application: PL/2024/07097
[127] CD10.1 paragraphs 5.26 – 5.28, page 26 onwards
[128] CD9.7
[129] Mr Neame's POE Appendix 4 Planning Application: PL/2024/07097
[130] Mr Neame's POE Appendix 4 paragraph 3.5, page 5 Planning Application: PL/2024/07097
[131] Mr Neame's POE Appendix 4 paragraph 3.6, page 5 Planning Application: PL/2024/07097
[132] Mr Neame's POE Appendix 4 paragraph 3.6, page 5 Planning Application: PL/2024/07097
[133] Mr Neame's POE Appendix 4 paragraph 3.8, page 5 Planning Application: PL/2024/07097

threshold of 20 hectares that would require Natural England to be consulted. He notes that as this is the threshold for the national statutory authority in local decision making, 'it is commonly taken as a measure of significance of the loss of BMV agricultural land'. Furthermore, he states that the economic benefit of the 4.4 hectares of BMV land is 'very limited'[134].

7.77 In those circumstances and in the absence of any evidence from the Council, the Appellant's case is that whilst the loss of BMV land would result in some limited harm, it does not warrant the refusal of planning permission[135].

Statutory consultees

7.78 As has been set out above, there were no objections to the Proposed Development from statutory consultees. The report to the Strategic Planning Committee confirmed the position in relation to the consultee comments[136] and in recommending approval officers confirmed that there were no outstanding objections that would warrant refusal[137].

Public comments

7.79 The Inquiry heard from a number of public speakers, although the vast majority of these were affiliated with the Parish and Town Council that developed the JMNP2. Their concerns predominantly focused on the conflict with Policy 6 of the JMNP2, which has been addressed above.

7.80 It is also important to highlight that only 19 letters of representation in total were received in response to the Proposed Development and only 17 letters of objection[138]. Given that the population of Melksham at the 2021 census was 8,113, the level of public objection to the Proposed Development is very limited.

Planning balance

7.81 As set out in the Proof of Evidence of the Appellant's planning witness, he has considered the overall planning balance following a staged approach, which demonstrates that permission should be granted via the flat balance and the titled balance, and that paragraph 14 of the NPPF would not change this conclusion[139].

Flat balance

7.82 His analysis demonstrates that planning permission should be granted based on the flat balance, the statutory test under section 38(6) of the Planning and Compulsory Purchase Act 2004. This is because:

- the Proposed Development accords with the Development Plan taken as a whole and material considerations support the grant of planning permission;

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[134] Mr Neame's POE Appendix 4 paragraphs 3.9 & 3.10, page 6 Planning Application: PL/2024/07097
[135] Mr Neame's POE paragraph 12.24, page 46 Planning Application: PL/2024/07097
[136] CD9.1 pages 13-21
[137] CD9.1
[138] Planning Application: PL/2024/07097
[139] Mr Neame's POE paragraph 13.8 onwards, page 49 Planning Application: PL/2024/07097

- there are no statutory consultee objections or technical reasons that would warrant refusal; and
- the Proposed Development would deliver a wide range of material planning benefits, which carry significant weight, even if the conflict is outweighed by material considerations.

Tilted balance

7.83 Framework paragraph 11 allows for the so-called tilted balance. The adverse impacts are largely defined by the alleged breaches of DP policy. The alleged conflict with Policy 6 of the JMNP2 and CP2 and CP15 of the WCS are matters to which limited weight should be given. This is the approach that the Appellant's planning witness adopts. And he does so for good reason. The weight that can be attributed to these conflicts is significantly reduced in this case for the following reasons – taking the approach adopted by Inspector Young[140]:

- First, the Council is unable to demonstrate a 5-year supply of housing or anything close to it. The shortfall against what should actually be provided is today over 10,000 homes. As a consequence, the most important policies for determining the application are automatically out-of-date, which plainly includes all the policies the Council seeks to rely upon to try and stop the development. The weight to be given to these policies is reduced because they are out of date. When there is no 5yrHLS a more flexible approach to policy needs to be applied: *Lord Gill in Suffolk Coastal v Hopkins Homes: Richborough Estates v Cheshire East [2017] UKSC 37*: paragraph 77, 79 and 83. That includes the housing requirement in the WCS. It also includes the JMNP2. That might seem surprising to local people given it has only just been made. But that is the consequence of Wiltshire Council not having a 5yrHLS: see Lord Carnwath in Richborough paragraph 66.
- Secondly, the enormous scale of the shortfall means the weight to be given to the conflict with these policies should be vastly reduced.
- Thirdly, the settlement boundary for Melksham, upon which the Council rely is self-evidently out of date, having not been changed for over 20 years, meaning the weight to be given to the conflict with these policies should be vastly reduced for this reason as well, regardless of the lack of 5yrHLS.
- Fourthly, the Council have already accepted that greenfield sites are required outside the Melksham settlement boundary evidenced by

  a. the grant of permission by the Council for the Blackmore Farm site in 2025

  b. the decision of the Council not to contest Terra Strategic appeal at Berryfields in 2024; and

  c. the decision of the Council not to contest Hallam Land's appeal on the Bowerhill site for 210 homes and 70 units of care accommodation in 2023.

  Consequently, a degree of landscape harm and loss of BMV has been tolerated, including on the Blackmore Farm site where the Council itself concluded in the

[140] CD8.1

work for the regulation 18 ELP that the landscape impact would be adverse, whereas no such harm was found to arise from development on the appeal site for housing.

- Fifthly, the degree of harm to a non-designated landscape in this case has been judged by the Appellant's landscape consultant, who is the only person to give evidence on this matter, the only expert landscape architect to give evidence and the only person to have produced a Landscape and Visual Impact Assessment is that the harm is limited; please see page 73-75 of the Appellant's planning witness' appendices. The landscape consultant note also assesses the effect in light of Blackmore Farm: see page 76. The Council have no evidence to support its witness' assertion that it is moderate.

- Sixthly, there is no realistic prospect of the current shortfall being addressed in the short term. The housing requirement in the WCS became out-of-date in 2020. Over the last 6 years the Council has failed to adopt a replacement plan. This is why the Standard Method figure applies. The only prospect the Council has of addressing the shortfall is if it is able to adopt a new local plan with a lower housing requirement than the Standard Method. That does not look remotely likely this year and indeed the actual timescale is completely uncertain. The Local Plan inspectors have raised a whole series of concerns about the Regulation 19 version of the Plan[141], from the start date and the stepped trajectory to the lack of allocations in the Growth Area and the vagueness of the new settlement proposals. It is a plain that the ELP seeks to put off making the necessary allocations even if to address the lower transition housing. At the very least substantial further work will need to be done if the ELP is to progress at all. That includes allocating a lot more land for development, which is precisely what the Council has sought to avoid. This is even before the inspectors examine the issue of whether the ELP significantly boosts the supply of housing (which it does not – it proposes the same level as the WCS) and the fact the ELP fails to address the huge level of unmet need for affordable housing (see affordable housing witness' evidence). The ELP inspectors have made very clear in their letter their initial concerns are without prejudice to other issues they have yet to hear evidence on. It is therefore simply not possible to say when the ELP will be adopted or indeed whether it ever will be adopted.

7.84 For all of the above reasons, the Inspector is invited to give only limited weight to the identified policy conflicts. In so doing, it is important to carefully acknowledge the implications of the alleged conflict with the JMNP2. Given it has only just been adopted and contains policies and allocations to address an identified need given to the Steering Group by Wiltshire Council, protection is afforded by Framework paragraph 14 which states that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided it is less than 5 years old and contains policies and allocations to meet its identified housing requirement. As the Council accepted, the inclusion of the word "likely" does not represent an embargo or prohibition of development in these circumstances[142]. Nor that it will be only on rare occasions when the development will be acceptable. The Council accepts that

[141] CD4.8
[142] Mr Reynolds XX

all that is required that is in the majority of cases permission will be refused. In short, permission will normally be refused – which as the Council highlighted, is in fact the wording used in the original Framework 2012.

7.85 This is not a normal case:

a. The shortfall in the 5yrHLS is over 10,000 homes

b. The adopted Core Strategy is over 10 years old

c. The settlement boundaries of Melksham are over 20 years old.

7.86 No authority should be in this position and it precisely for circumstances like this that paragraph has been written to still allow permission to be granted for sites when paragraph 14 applies.

7.87 As the Fontwell inspector correctly observed[143], and as the Council accepted, paragraph 14 has to be approached taking account of the context in which the decision is being taken. He expressly highlighted the need to consider the contextual circumstances. Those extend to everything relevant to the decision about whether to grant or withhold planning permission. The Council agreed that factors relevant to the context here are[144]:

a. The scale of the shortfall in the 5yrHLS

b. The most important policies being out-of-date

c. What the housing requirement in the NDP is based on

d. The need for affordable housing

e. The scale of unmet affordable housing need

f. The absence of any other grounds for refusal (aside from policy)

7.88 All of those factors point heavily to the grant of planning permission. Paragraph 14 of the Framework is not written so as to predetermine the weight of the benefits which need to overcome the presumption in favour of refusal.

7.89 Added to which, the context here is:

- NDP which is not based on a housing figure from an adopted Local Plan. The figure actually comes from the ELP which has already run into difficulties. So whilst the guidance in the PPG[145] permits the Steering Group to ask Wiltshire Council for a figure from an emerging local plan, the weight to be given to that figure cannot be same if it comes from a local plan which will not progress in its present form, compared to a figure from an up-to-date adopted Local Plan.
- Indeed the JMNP2 was only found to be in conformity with the WCS, and the housing requirement in that is very obviously out of date. That has to be relevant to a decision about whether Melksham should now not have any more

[143] Mr Neame's POE Appendix 3 Planning Application: PL/2024/07097
[144] Mr Reynolds XX
[145] CD1.2

new housing on greenfield sites for the next 5 years, which is what the council and Steering Group are saying.

- Indeed despite being a major settlement, a market town and a focus for growth in the ELP both in terms of new housing and new employment, the JMNP2 was only required to allocate 200 homes.
- So all it has done is to allocate two sites at Melksham both of which are brownfield, when it is plainly necessary that greenfield sites are required at Melksham. Add to that, the fact the JMNP2 examiner did not consider the very out of date nature of the Melksham settlement boundary.
- The examiner did what was required of him. He assessed the proposal against the Basic Conditions[146], which required neither the JMNP2 to be consistent with the Framework, nor in conformity with an up-to-date Local Plan or its strategic policies. This is plainly relevant context.
- The JMNP2 allocates a site which already has planning permission and which was relied upon by Wiltshire Council as a commitment to set a target for Melksham of 200 dwellings.
- The target in fact ignores the fact that the 500 homes Blackmore Farm had a resolution to grant at the time of the JMNP2 examination (and a planning permission at the time it was made).
- In truth, it all points to the fact that Policy 6(2) is not about preventing new housing come forward, which would be highly problematic for Wiltshire Council as it attempts to progress the ELP focussing on Melksham as a major focus for growth. alongside the two largest settlements of Chippenham and Trowbridge. That is why the policy seeks only to manage new housing development, not prevent it.
- In that context, the Appellant's planning witness has not sought to argue paragraph 14 is not engaged.

7.90 In truth, the JMNP2 has plainly been pushed through at a time when the ELP supported a low figure for Melksham, and it would be very dangerous to allow it to block new housing sites coming forward for the next 5 years. That would simply encourage other main towns and areas proposed for growth to seek to make NDPs which restrict new development to brownfield sites, in a authority area where such opportunities are very limited.

7.91 Putting that matter to one side, the housing requirement in the JMNP2 is out-of-date because all the most important policies for determining the application are (see above).

7.92 Even in the alternative, compliance with second limb of paragraph 14 is not determinative for the reasons explained above. The planning balance is heavily skewed in favour of the development such that any conflict with Framework paragraph 14 and the JMNP2 would be outweighed by "other considerations" in the case of a s38 balance or the "benefits" of the scheme in the tilted balance under Framework paragraph 11(d).

[146] CD3.8

7.93 The benefits of the scheme and the Appellant's planning witness' weighting are set out below[147]:

- The Proposed Development would deliver significant material planning benefits, set out in the Statement of Common Ground[148]. The benefits are not disputed by the Council; the only dispute is to the level of weight. It is important to note that the Council has reduced the weight of a number of benefits since the Proposed Development was reported to the Strategic Planning Committee[149], but was unable to point to any evidence or justification for this in its evidence to the Inquiry[150].

- The benefits that the Proposed Development would deliver, alongside the weight that the Appellant invites the Inspector to afford to each one, are:

  a. the provision of up to 300 dwellings. This should be given very substantial weight considering the chronic shortage of five-year housing land supply which amounts to a shortfall of over 10,000 homes;

  b. the provision of up to 90 affordable homes. This should be given very substantial weight considering the acute shortage of affordable homes and the forecasted position in future years which would see an increase of 147 per cent from an existing shortfall of 4,302 affordable homes at the end of 2023/24 to 10,637 affordable homes by the end of 2028/29;

  c. an appropriate, locally sensitive, mix of dwelling types and sizes. This should be given substantial weight;

  d. a sustainable location for development. This should be given substantial weight, particularly given Melksham's status in the WCS and the emerging Local Plan and the significant constraints on development in other parts of the County;

  e. land for community use. This should be given substantial weight;

  f. provision of two new accesses onto Eastern Way that will deliver improvements in terms of vehicle, pedestrian and cycle connectivity. This should be given substantial weight;

  g. improvements to the public right of way network. This should be given moderate weight;

  h. the provision of onsite, publicly accessible open space. This should be given substantial weight;

  i. the provision of equipped play space. This should be given moderate weight;

  j. the provision of landscape enhancement. This should be given moderate weight;

  k. the delivery of BNG over the statutory requirements. This should be given moderate weight;

[147] Mr Neame's POE Section 13, Table 11, page 47 Planning Application: PL/2024/07097
[148] CD10.3 page 16
[149] CD10.3 Table 8
[150] Mr Reynolds XX

l. the provision of a managed, positive, surface water drainage system to improve the surface water regime in the locality. This should be given moderate weight;

m. the delivery of short-term economic benefits during the construction of the development. This should be given moderate weight; and

n. the delivery of long-term economic benefits from additional spending in the local area. This should be given moderate weight.

7.94 These are significant and tangible benefits that would be delivered by the Proposed Development. Collectively they are very weighty.

7.95 Planning permission should be granted under the tilted balance taking account the alleged conflict with the DP and paragraph 14 of the Framework.

Conclusion

7.96 For all of the reasons set out above, the Appellant invites the Inspector to allow the Appeal.

8 THE CASE FOR WILTSHIRE COUNCIL

Introduction

8.1 This appeal concerns a principle of fundamental importance in the planning system: the weight and protection that national policy affords to neighbourhood planning. Neighbourhood plan protection has been a consistent feature of the Framework since 2012, and the Government's intention to retain this protection is clear from the consultation draft for the emerging version of the Framework.

8.2 Paragraph 15 of the current Framework sets out that the planning system "should be genuinely plan-led", including providing "a platform for local people to shape their surroundings". The Joint Melksham Neighbourhood Plan 2 ('JMNP2') has sought to do just that. As the Independent Examiner for the JMNP2 highlighted[151]:

"*The Plan is an excellent example of a neighbourhood plan review. It seeks to bring the Plan up-to-date. It includes a variety of policies and identifies positive and sustainable development. It addresses housing delivery in the Plan period.*

The Plan has been underpinned by community support and engagement. All sections of the community have been engaged in its preparation."

8.3 The level of participation from the local community in this appeal reflects that steadfast commitment to meeting those objectives.

8.4 Paragraph 14 of the Framework provides a critical safeguard. It directs that where a neighbourhood plan is in force that is less than five years old (which is the case here), and it makes allocations to meet its identified housing need (again, here), the adverse impact of allowing development that conflicts with the neighbourhood plan "is likely to significantly and demonstrably outweigh

[151] CD3.8 executive summary

the benefits". This is one of the rare circumstances where national policy gives explicit guidance as to the likely outcome of the planning balance.

8.5 This appeal is precisely the set of circumstances for which paragraph 14 of the Framework has been designed for. The administrative area of Wiltshire Council is one of the largest local authorities in England with an area covering approximately 1,257 square miles and a population of approximately 510,400 people[152]. As the Appellant's planning witness accepts, Melksham is already slated to take on the most amount of housing growth of all the 'Market Towns' in Wiltshire in its emerging Local Plan. The Appellant's position is that it must take more[153]. The policy in paragraph 14 of the Framework seeks to ensure that those communities who actively plan for the growth they need, by engaging constructively with the planning system and updating their neighbourhood plans, remain in charge of deciding where that growth takes place and are not undermined by more general housing land supply shortfalls elsewhere.

The appeal site is not an appropriate location for the proposed development having regard to policies which direct the provision of housing

8.6 The parties agree on the documents which comprise the Development Plan for Wiltshire[154]. This includes the Core Strategy (2015), the JMNP2 and the Housing Site Allocations Plan (adopted 25 February 2020).

8.7 CP1[155] identifies Melksham as a second-tier settlement with the potential for significant development. CP1, however, does not provide open licence for development anywhere within the settlement area. The locations for development are managed through other spatial policies, importantly CP2[156] and CP15[157].

8.8 CP2 provides the delivery strategy and is key to how growth in Wiltshire is managed. It establishes a presumption in favour of development within defined settlement limits and specifically provides that development outside settlement boundaries will only be permitted in a limited set of circumstances.

8.9 CP15 sets out the spatial strategy for the Melksham Community Area, and it tells us explicitly to look at CP2 to determine what growth in this area over the plan period may consist of. If a proposal cannot meet CP2, then it follows that it conflicts with the rationale behind CP15.

8.10 This appeal proposal seeks permission for up to 300 dwellings on a site which the parties agree is not an allocation for development and is located outside of the settlement boundary[158]. The parties agree that the appeal scheme does not fall within any of the permitted categories in CP2[159]. No matter how the Appellant may seek to characterise it, this is not some peripheral or trivial

[152] CD4.1 paragraph 1.13, page 9
[153] Mr Neame XX
[154] CD10.3
[155] CD3.1 page 40
[156] CD3.1 page 44
[157] CD3.1 page 132
[158] CD10.3 paragraphs 5.5 & 5.7
[159] Mr Neame's POE paragraph 9.9, page 34 Planning Application: PL/2024/07097

conflict; it goes to the heart of how these spatial policies operate. The proposal is therefore squarely in conflict with CP2 and CP15[160].

8.11 The same is true for Policy 6 of the JMNP2. This policy makes clear that housing outside boundaries "will be managed in accordance with the adopted Development Plan and should meet evidenced local housing need". Since the CS permits housing outside settlement boundaries in only a closed set of circumstances, and the proposal fails to fall within one of those exceptions, it is also in conflict with Policy 6. It simply cannot be "in accordance" with the Development Plan if it fails to comply with its core spatial policies[161].

8.12 The JMNP2 allocates a number of sites for residential development to meet (and exceed) the need for new housing in Melksham identified at the time[162]. While the Appellant has tried repeatedly to assert otherwise, those allocations were not chosen arbitrarily: they were informed by a Housing Needs Assessment[163] which provided updated independent evidence of the specific housing needs within the neighbourhood area. Following an extensive 'call for sites' and Strategic Housing and Economic Land Availability Assessment, 109 possible sites were assessed, including the appeal site which was not ultimately allocated[164].

8.13 As other inspectors have repeatedly made clear, "an appeal made under s78 of TCPA is not the forum to review a NP, rerun arguments tested at the Examination or set an indicative housing requirement[165]". Despite the Appellant's planning witness accepting that this was also his position, this has not prevented the Appellant from attempting repeatedly to undertake that sort of exercise. The Appellant's unwarranted attack on the impartiality of the Examiner is not supported by any evidence or found anywhere in the planning witness' proof, which he acknowledged[166]. The Appellant's big point appears to be that the JMNP2 allocations are not "true" allocations because the Bowerhill site is a "commitment"[167] by virtue of already having outline permission. This idea is not only misconceived, it also goes nowhere:

- First, this point was raised expressly by the Appellant in representations to the Independent Examiner[168], who made specific findings on the matter and was satisfied that there was no issue with the JMNP2's approach to its allocations[169],
- Second, the fact that Blackmore Farm was not included as an allocation is not evidence of inconsistency. As the Appellant's planning witness accepted, Blackmore Farm is an allocation in the emerging LP and had it been included in

[160] Mr Reynolds POE paragraphs 6.4 - 6.5, page 11 onwards Planning Application: PL/2024/07097
[161] Mr Reynolds POE paragraph 6.12 onwards, page 13 Planning Application: PL/2024/07097
[162] CD3.5 page 46 onwards
[163] CD3.6
[164] CD11.1
[165] Mr Neame's POE Appendix 3Planning Application: PL/2024/07097 & CD8.3
[166] Mr Neame XX
[167] CD3.5 Policy 7.3, page 58
[168] CD11.2
[169] CD3.8

the JMNP2 then that would have been a clear case of double counting[170]. Further, Blackmore Farm was only granted planning permission on 12 May 2025[171], which post-dated the JMNP2 examination. There is no evidence that representations were made regarding its alleged "omission", nor can the Examiner be faulted for not taking it into account.

- Third, in any event, and as the Appellant's planning witness confirmed, there is nothing in terms of law, policy or guidance to support the proposition that a site with outline permission cannot be included as an allocation in a neighbourhood plan[172].

8.14 Which means that there is no proper basis to challenge the validity of the JMNP2's allocations. The Examiner assessed the rationale of the identified housing figure and was satisfied that the JMNP2 met the necessary basic conditions and addressed housing delivery in the plan period[173]. This is not the forum to go behind that finding. As the Council's witness explains, it is evident that all of the JMNP2 allocations are beginning to come forward, save for Land at Whitley Farm, despite the plan having only been recently made[174]. The JMNP2 is delivering growth within the Melksham Community Area in a plan-led way.

8.15 The parties nonetheless agree that the policies of the CS and JMNP2 are out of date and that this affects the weight to be attached to them. It is critical, however, to understand that the fact that policies are out of date does not necessarily mean they have no weight – simply reduced weight. The JMNP2 was very recently made and continues to attract significant weight in the Council's assessment.

8.16 Similarly, the fact that the settlement boundaries are out of date is not determinative of this appeal. The settlement boundaries for Melksham were reviewed as recently as 2020 as part of the Wiltshire Housing Site Allocations Plan[175]. That review updated settlement boundaries across Wiltshire and made residential allocations where necessary. In relation to Melksham, no changes were proposed to the settlement boundary of the town. At that time, Melksham was forecast to exceed its indicative housing requirement by 14%[176]. As explained by the Council's witness, housing delivery has remained strong in Melksham through the CS plan period, completions have exceeded the CS indicative requirement and, factoring in additional deliverable commitments, 453 total dwellings above this requirement are now forecast (an additional 20%)[177].

8.17 The settlement boundaries were therefore considered and confirmed as recently as five years ago – notwithstanding that neighbourhood plans are considered to have reviewed their settlement boundaries where the issue

[170] Mr Neame XX and CD9.4 Policy 17, page 82
[171] CD9.4
[172] Mr Neame XX
[173] CD3.8
[174] Mr Reynolds POE paragraph 6.23, page 16
[175] CD3.4, page 82
[176] CD3.4 Table 4.10, page 22
[177] Mr Reynolds POE paragraphs 6.9 – 6.11, page 12

has been explicitly addressed through the neighbourhood plan process, even if the eventual outcome is to retain the existing settlement boundary[178]. The policy rationale underpinning them, i.e. directing development to the most sustainable locations and protecting the countryside, remains sound. The out-of-datedness of the boundaries relates to their age and the method by which housing need was calculated, not to any fundamental flaw in the spatial approach they implement.

8.18 The position is therefore as follows. The appeal proposals are in direct conflict with CS policies CP2 and CP15, and JMNP2 Policy 6. The proposals also conflict with the emerging Local Plan. All of these policy-making tools have rejected the appeal site in favour of more sustainable sites. We should take great care over any suggestion that this appeal site will *inevitably* come forward for development when the Council comes to reassess its housing numbers and allocations in future. That the regulation 19 consultation draft included this site within the most sustainable site options in Melksham is potentially misleading. The sustainability appraisal underpinning that draft never considered this site as a standalone site. This site was assessed as part of a significantly larger "Site 1" containing several other land parcels which also were discounted at Stage 4 of the site selection process[179]. As the Appellant's planning witness accepted, there is no evidence before this Inspector that if this appeal site were assessed against the sustainability appraisal criteria on its own, then it would be the most sustainable option in Melksham, let alone allocated[180].

8.19 The parties agree that deciding whether a proposal is or is not in accordance with the Development Plan as a whole is not a tallying exercise[181]. The approach to the application of section 38(6) was set out in *City of Edinburgh Council v Secretary of State for Scotland* [1997] 1 WLR 1447, which confirms at (26) that there may be policies applying to a proposal which point in different directions, and the decision maker will therefore have to assess the weight to be given to all of these considerations and decide whether the development plan should not be accorded the priority which the statute has given to it. For the reasons just explained, the core spatial policies of the CS and JMNP Policy 6 should not be dismissed simply because they are out of date, and they continue to attract weight (significant weight in the case of Policy 6 on the Council's case). As the Appellant's planning witness accepted, conflict with a single policy can, in principle, be enough for a negative determination; it depends on the importance of the policies which are infringed and the extent of the breach. This is entirely consistent with the established authorities: see *R (Corbett) v The Cornwall Council* [2020] EWCA Civ 508, [41]-[42]; *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, (22).

8.20 Applying that here, the spatial strategy directs housing development towards the defined settlements, but development located beyond the settlement boundary conflicts with the Development Plan unless it falls

[178] CD3.4 paragraph 6.5
[179] CD4.2 Figure 11, page 102
[180] Mr Neame XX
[181] Mr Neame XX

within specified exceptions. As noted by the inspector in the Papist Way appeal: *"Despite the proposal's compliance with many specific policies of the development plan, it cannot be said to accord with the development plan taken as a whole if it is fundamentally at odds with the plan's strategy"*[182]. The Appellant here accepts that it is in breach of CP2, CP15 and JMNP2 Policy 6. Accordingly, the appeal proposal is in direct conflict with the key housing policies and spatial strategy. It therefore fails to comply with the adopted Development Plan when taken as a whole.

8.21 The appeal site is not suitable in principle for the proposed development.

The parties agree that the proposals would cause other harms

8.22 The development of a housing estate consisting of 300 dwellings, potentially with further community buildings, and associated infrastructure located on what is currently an agricultural field will inevitably harm the character and appearance of the area. The site lies within the Avon Open Clay Vale LCA which is defined by a strong sense of openness[183].

8.23 It is common ground that the appeal scheme would cause landscape and visual harm. The Appellant's own landscape expert has identified that there will be some moderate effects to landscape character and views, along with further lower level effects. These include potentially moderate adverse effects to the Open Clay Vale LCA within the site's immediate context, moderate adverse effects to views from the site's immediate boundary (including where footpaths MEL22 and 23 cross) and potentially more moderate effects from the public right of way to the east / north of the site[184]. The Council's witness has carefully considered that evidence and concluded that this would result in **moderate** harm overall.

8.24 There would also be a loss of Best and Most Versatile ('BMV') agricultural land. Paragraph 187(b) of the Framework guides that planning decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of BMV land. The proposals, to the extent to which they utilise BMV land, fail to do this. As the Council's witness identified, the Appellant has downplayed some of the loss of BMV land by excluding the Grade 3a land which is not being used for housing[185]. Despite asserting in the Council's witness' cross-examination that this was a preposterous position, the Appellant notably refused to engage with the appeal decision at Papist Way where it appears large amounts of open space were included in the overall loss of BMV land[186]. The Inspector can consider that decision for herself, which in turn will reveal that the Council's witness is perfectly entitled to point out that the Grade 3a open space here should also count towards the overall BMV land loss. In the end, the Council's witness entirely fairly attributes **moderate** weight to this harm.

8.25 Whether or not these harms were listed as reasons for refusal does not diminish their relevance. Both the effect on landscape character and loss of

[182] CD8.5 paragraph 392
[183] CD3.7
[184] Mr Neame's POE Appendix 5 Planning Application: PL/2024/07097
[185] Mr Reynolds EIC
[186] CD8.5 paragraphs 15, 31, 378

BMV land were identified as harms in the Officer's Report to Committee[187]. The Council has always accepted that neither of these harms would be sufficient to warrant the refusal of permission on their own[188], but they nonetheless must be taken into account in the overall planning balance.

The benefits

8.26 The appeal proposals would deliver up to 300 dwellings, 30% of which would be affordable. The Council acknowledges that there is a significant shortfall in housing land supply, which is between 2.14 and 2.42 years based on the parties' respective positions. In line with several of the appeal decisions referred to in this Inquiry[189], it is perfectly acceptable for the Inspector to adopt an approximate figure or range for present purposes, particularly as the parties have confirmed that the respective weight that they would give to the delivery of housing would not change in either event[190]. Further, as the Appellant's housing land supply witness confirmed, in the two most recent appeals in this district, other inspectors have been safely able to adopt the Council's 2.42 figure for the purposes of determining those appeals[191].

8.27 In judging the weight to be afforded to the provision of housing in this case, the Inspector can take into account the past record of delivery in Melksham, and the presence of the JMNP2 which provides a framework to deliver levels of housing above its identified target. Housing delivery has been strong within the Melksham Community Area, exceeding CS targets. The Council has performed well on the Housing Delivery Test (135% in 2024; 106% in 2023; 141% in 2022)[192]. The JMNP2 allocations are all beginning to progress. Further, across the three draft allocations in the emerging Local Plan, planning permission has been granted for up to 500 dwellings (Blackmore Farm), and planning applications are currently being considered across the other two proposed allocations totalling up to a further 500 dwellings. It is evident that despite the emerging Local Plan not yet being adopted, it is steering and bringing forward growth in Melksham[193]. Consistent with the decisions in Fontwell[194] and Cholsey[195], the Council therefore considers that the benefits of providing up to 210 market homes and 90 affordable homes should each be afforded significant weight in the overall planning balance.

8.28 The provision of public open space, equipped play space and improvements to the public right of way network will be principally required to meet the needs of the development. This notwithstanding, the Council's witness awards this benefit moderate weight. The extent of BNG exceeds the statutory minimum, and the Council considers that moderate weight can

[187] CD9.1 pages 48 - 49
[188] Mr Reynolds POE paragraphs 6.42 & 6.46
[189] CD8.3, CD8.5, Mr Neame's POE Appendix 3 Planning Application: PL/2024/07097
[190] CD10.3 paragraph 4.26
[191] Mr Harris POE paragraph 4.7 Planning Application: PL/2024/07097 & XX
[192] Mr Reynolds POE paragraph 7.2 Planning Application: PL/2024/07097
[193] Mr Reynolds POE paragraph 6.26 Planning Application: PL/2024/07097
[194] Mr Neame's POE Appendix 3 paragraphs 59-60 Planning Application: PL/2024/07097
[195] CD8.5 paragraphs 25-26

be attached to this benefit, along with limited weight to the provision of a surface water drainage system. The parties agree on moderate weight to the economic benefits of employment during construction and long-term spending in the local area, which have not been quantified[196].

8.29 As a package, the benefits attract **significant** weight. The benefits which would result in this case are typical of those that would be expected to accrue at any large residential proposal at the edge of a settlement. While this does not diminish the weighty nature of these benefits, they do not justify the fundamental conflict with the neighbourhood plan, as explained below.

Framework Paragraph 14

8.30 The JMNP2 was made on 4 August 2025 and is therefore less than five years old, meeting paragraph 14(a). The paragraph 14(b) test is an objective one: whether the neighbourhood plan contains policies and allocations to meet its identified requirement. The JMNP2 contains policies and allocations which meet and exceed its identified housing requirement of 270 dwellings. It is agreed that paragraph 14 is engaged[197].

8.31 Over the course of this Inquiry, we have heard a series of criticisms directed at the neighbourhood plan process: criticisms of the manner in which the Examiner was appointed; arguments about the basic conditions against which neighbourhood plans are assessed; and suggestions that the logic of including certain site allocations was flawed.

8.32 The Appellant's planning witness accepted in cross-examination that none of these points are relevant to whether or not paragraph 14 of the Framework is engaged. He confirmed that there is nothing in his proof of evidence commenting on the independence or impartiality of the Examiner, or the process by which examiners are appointed. He accepted that he was not arguing that the weight to be given to paragraph 14 should be reduced because neighbourhood plans are assessed against the basic conditions rather than some other standard[198]. That is obviously correct.

8.33 Paragraph 14 provides an important exception to the tilted balance. Where both criteria are met, the conflict with the neighbourhood plan is given considerable weight because this policy provides a rebuttable presumption that the adverse impacts are *"likely to significantly and demonstrably outweigh the benefits"*. The Appellant's planning witness agreed with that approach[199]. The Appellant, however, argues that the tilted balance should not be outweighed in this case on the basis of the housing shortfall in this district; the core policies being out of date; and the concerns raised by the examining inspectors over the emerging Local Plan.

8.34 But we know that the latest position is that the examining inspectors are "*satisfied at this stage that there is sufficient prospect that the existing legal compliance and soundness deficiencies [...] identified could be*

[196] Mr Neame XX & CD10.3 paragraph 5.58
[197] Mr Neame XX
[198] Mr Neame XX
[199] Mr Neame XX

overcome"[200]. The inspectors have confirmed that the emerging Local Plan is capable of resuming to examination, and the Council's witness provided an update to this Inquiry that the Council intends to provide a timetable as requested to pave a way forward for addressing those concerns. As the Appellant's planning witness accepted[201], this is not a situation where the examining inspectors have said the emerging Local Plan simply cannot continue[202].

8.35 The Appellant's reliance on the housing shortfall and out of datedness of the spatial policies is not a trump card against the weight to be given to paragraph 14. The policy operates on the specific basis that the tilted balance is engaged because the most important policies for determining the application are out of date (including where there is no five-year housing land supply). To a large extent, the factors relied on by the Appellant are already baked into the exercise. What paragraph 14 tells us is that in that scenario, the starting point is the strong presumption against granting permission.

8.36 Appeal decisions from Burghclere[203], Farnham[204] and Cholsey[205] collectively demonstrate the considerable weight that inspectors and the Secretary of State attach to the operation of paragraph 14 where it is engaged. In each instance, notwithstanding (i) the application of the tilted balance, (ii) a lack of a five year housing land supply, (iii) a housing shortfall and (iv) proposals promising considerable public benefits, those decision makers consistently treated the fundamental conflict with the neighbourhood plan strategy as a matter which significantly and demonstrably outweighed the benefits of additional housing.

Striking the balance

8.37 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.38 In light of the agreed housing land supply position, national policy tells us that paragraph 11(d) of the Framework applies. The paragraph 14 protection, however, strikes an important balance between the imperative to boost housing supply and the objective of maintaining a genuinely plan-led system, in which communities that have taken responsibility for planning for growth are afforded an appropriate degree of certainty and protection. If neighbourhood plans ceased to have force whenever housing supply is inadequate, paragraph 14 would be deprived of any coherent

[200] CD4.8
[201] Mr Neame XX
[202] The closing submissions were made prior to the publication of the Council's response to the examining Inspectors (ID16) and to the Inspectors further letter dated 27 February (ID17) and the withdrawal of the plan from examination on 22 May 2026 (ID23) – the details of which are dealt with in Main Consideration 5
[203] CD8.3 paragraphs 65-66

[204] CD8.4 paragraphs 103-105
[205] CD8.5 paragraphs 44-50

purpose. The policy exists precisely because local housing delivery rarely aligns neatly with strategic ambitions.

8.39 The Qualifying Bodies have been through two plan-making processes over prolonged periods of time, delivering the original JMNP and JMNP2. A dedicated, hard-working local community has driven this process. Confidence in the plan- making process would be seriously undermined were this appeal to be allowed despite the recency of adoption of the JMNP2 and the fact that it provides for growth exceeding its identified housing requirement. This is precisely the set of circumstances for which paragraph 14 has been included within the Framework.

8.40 The appeal scheme conflicts fundamentally with the core spatial policies of the Development Plan. This includes conflict with the very recently made JMNP2, to which the Council attaches **substantial** weight. There are additional harms in respect of the character and appearance of the area and the loss of BMV agricultural land, which can be attributed **moderate** weight. On balance, and with the strong presumption that comes with paragraph 14 protection, these harms are more than sufficient to outweigh the acknowledged contribution this scheme could make to the housing needs of the district and the other benefits that it might deliver.

8.41 It follows that the appeal scheme does not accord with the Development Plan taken as a whole, and there are no material considerations that would justify a decision to grant planning permission.

8.42 For all these reasons, the Council invites the Inspector to dismiss the appeal

9 THE CASES FOR INTERESTED PARTIES APPEARING AT THE INQUIRY[206]

Jacob Lawrence speaking on behalf of Brian Mathew MP

9.1 Brian Mathew is the MP for the Melksham & Devizes Constituency. Mr Mathew's statement related to the national policy context, the intent of neighbourhood planning and Framework paragraph 14 and national precedent.

9.2 Neighbourhood planning is an essential consideration for any application, especially in instances where an abundance of agreeable sites have already been identified and allocated. This is a central tenant of the National Planning Policy Framework which explicitly states in Paragraph 14, 'the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits [where] the neighbourhood plan contains policies and allocations to meet its identified housing requirement'.

9.3 The Government has repeatedly endorsed a vision for planning in which communities are encouraged to plan positively for the future, in a way that aligns with resident aspirations for their hometowns. It is vital that planning authorities listen to and respect communities who have gone above and beyond to deliver adequate sites to meet local housing need. To be clear, the Melksham Joint Neighbourhood plan has allocated sites equivalent to double its

[206] ID4 & ID5

specified housing requirement and has been praised as "an excellent example of a neighbourhood plan review" by its independent examiner.

9.4 Ignoring communities, disrespecting their wishes, and overruling local knowledge will only increase dissatisfaction and resistance to the level of housing construction needed in this country. Framework paragraph 14 exists to protect these communities and give certainty that neighbourhood plans will be respected.

9.5 If a neighbourhood plan can be ignored, popular engagement in the planning process will be damaged and trust in plan-led decision making undermined. Less local input would be immeasurably detrimental to the quality of future developments and can only lead to greater resident dissatisfaction.

9.6 The circumstances of this appeal, in particular its proximity to the adoption of a neighbourhood plan, make this distinctive. Decision makers should ensure they consider the case carefully in light of the national precedent this could set. The integrity and importance of neighbourhood planning as a key tool of local democracy is under the spotlight and I repeat my call for paragraph 14 to be paramount in the consideration of this appeal.

9.7 Dismissing the appeal would reinforce the integrity and democracy of neighbourhood planning nationally and the intended effect of paragraph 14.

Cllr David Pafford

9.8 Cllr Pafford is Chair of the Joint Melksham Neighbourhood Plan 2 (JMNP2) Group & Vice Chair of Melksham Without Parish Council. He spoke on behalf of a co-ordinated group of interested parties who object to the appeal.

9.9 You will hear from parish and town councils, neighbourhood plan steering group members, professional bodies, residents and community groups. We are not here to duplicate the Council's evidence, nor are we opposing growth. We have a shared concern that the appeal seeks to override a recently made, up-to-date neighbourhood plan that has positively planned for housing, exceeded its requirements and benefits from full protection under Framework paragraph 14. If allowed, the harm would not be confined to this site; it would undermine neighbourhood planning, weaken the plan-led system, and damage public confidence in lawful plan-making – locally and nationally. Our evidence focuses on 1) wider harm to neighbourhood planning and paragraph 14; 2) local harm from conflict with JMNP2 policies; 3) longer-term harm to proper plan-led future planning of Melksham. Each speaker will address a specific issue once only; submissions should be taken together as a coherent body of interested party evidence and should be given full weight.

9.10 JMNP2 has been independently examined and found sound, it was approved at referendum and is a made neighbourhood plan. JMNP2 allocates housing sites and exceeds the housing requirement set for the area. It is up to date, meeting the criteria for NPPF paragraph 14 protection. Paragraph 14 is therefore triggered and is intended to provide full protection in decision-making. JNMP2 was made less than 24 hours before the Strategic Committee decision on the application. Paragraph 14 is clearly triggered, and full weight must be given to JMNP2 in the planning balance.

John Glover

9.11 John Glover is Chair of Melksham Without Parish Council and member of JMNP2 Steering Group.

9.12 Melksham is pro-growth and plan-led. This is our second neighbourhood plan. Both reflect the needs of our Joint Councils' area of responsibility.

9.13 Melksham has embraced growth through lawful plan-making and positive planning for housing. Engaging with developers to ensure that the neighbourhood plan policies are deployed. JMNP2 allocates housing and more than doubles the housing delivery requirement set for the area. There have been pre-app discussions with potential Plan Led site developers to ensure the best solution to neighbourhood plan requirements.

9.14 The Plan adopts a brownfield-first approach, including difficult and complex sites. JMNP2 has been independently examined and found sound. The Examiner said "The Plan is an excellent example of a neighbourhood plan review. It seeks to bring the Plan up-to-date. It includes a variety of policies and identifies positive and sustainable development. It addresses housing delivery in the Plan period." 88% 'Yes' vote at referendum demonstrates a strong democratic mandate for the plan-led approach and follows from considerable public consultation.

9.15 The objection is not to growth, but to growth outside the agreed plan-led strategy. This is not opposition to housing; it is a request that plan-led growth and the community's democratic mandate are respected. Otherwise what is the point of an adopted neighbourhood plan.

Saffi Rabey

9.16 Saffi Rabey is Mayor of Melksham Town Council.

9.17 The Town Council fully supports planned and sustainable growth delivered through adopted local plans and lawful decision-making.

9.18 Growth is most effective when it is shaped through a transparent planning framework, where proposals are assessed against policies that have been democratically agreed and publicly consulted upon. Working within these adopted plans ensures consistency, fairness and long-term certainty for residents, developers and partner authorities.

9.19 The community has already recognised the need for new housing and has supported a plan that makes difficult but necessary choices for the future.

9.20 Through previous consultations and plan-making processes, residents have constructively engaged with the realities facing the area – such as housing demand, demographic change, and the infrastructure required to support growth. This willingness to confront challenging decisions demonstrates strong civic responsibility and an understanding that well-managed development can benefit the wider community.

9.21 The Joint Melksham Neighbourhood Plan reflects genuine collaboration between the Town Council and Parish Council, resulting in a strategy built on compromise, joint evidence and positive planning.

9.22 The Joint Melksham Neighbourhood Plan is not a document of resistance but one shaped through partnership working. By aligning priorities, sharing data, and balancing local insight with district-wide strategic needs, both councils have produced a plan that is pragmatic, proportionate, and deliverable. It represents a shared commitment to orderly development that respects community character while meeting identified needs.

9.23 Speculative development that falls outside the agreed plan risks undermining that collaborative work and damaging public confidence in the planning system.

9.24 When unplanned or speculative proposals come forward in isolation from the adopted strategy, they can erode trust in the process, create uncertainty and undermine carefully balanced compromises reached during plan preparation. This not only threatens the coherence of the local growth strategy but also risks reducing community engagement in future planning activity, as residents may feel their input and previous commitments have been disregarded. Allowing this appeal would undermine public confidence in lawful plan-making and the plan-led system.

Chris Holden

9.25 Chris Holden is Chair of Melksham Community Partnership and a member of the JMNP2 steering group.

9.26 As Chair of the Melksham Community Partnership, have seen first-hand the effort required to bring together councils, organisations, landowners and residents to support and plan for growth. As an active member of the JMNP2 Steering Group, I know the Neighbourhood Plan has planned positively for housing and meets the paragraph 14 criteria. As such paragraph 14 is triggered, so it is surprising and somewhat disappointing that this is being pursued through appeal rather than respecting the made plan. The Appellant's website states that as a land promoter they believe in a collaborative approach to land promotion, with a strong commitment to community engagement. The work that has culminated in the Neighbourhood Plan began in early 2014 and has had widespread engagement, input, review and consultation across the community.

9.27 Delivery partners rely on certainty; ignoring paragraph 14 undermines confidence and makes coordinated delivery harder. Policy 7.1 (Cooper Tyres) and 7.2 (Melksham Library) ambitiously allocates brownfield land that necessitates partnership delivery; ignoring paragraph 14 and undermining plan led development risks delivery of this important brownfield regeneration. This is about delivering growth properly through considered plans, not resisting development. We're not saying that houses shouldn't be built; far from it. We're simply saying that we want houses built on brownfield sites and that the Neighbourhood Plan, (some 12 years in the making), representing our community's own vision for the future of the Melksham Area, should be respected. Proceeding as if paragraph 14 protection can simply be set aside damages certainty, delivery confidence and the credibility of plan-led growth.

Cllr Richard Wood

9.28 Cllr Richard Wood is Chair of the Planning Committee, Melksham Without Parish Council; former Chair, JMNP1 Seering Group. Cllr Wood spoke about the

principle of development; settlement boundary breach and spatial strategy harm.

9.29 The appeal site lies outside the defined settlement boundary and in open countryside. It is a large outward extension beyond the logical edge of Melksham. Eastern Way forms a strong physical boundary; development beyond it would erode the defensible settlement edge. Approving the development would undermine the spatial strategy and set a precedent for further proposals beyond the settlement edge. The proposal conflicts with Policy 6 in principle and would cause strategic harm to plan-led growth.

Liz Rowley

9.30 Liz Rowley is a local resident who spoke about flood risk and drainage.

9.31 She lives near the site and has direct experience of flooding and drainage issues in the area. Surface water management locally is already under strain. Wessex Water have had to do work to Lopes Close to address flooding issues in the Primrose Drive area further downstream. Central parts of the site are affected by flood risk, including along Clackers Brook, and there are areas of Flood Zones 2 and 3. Policy 3 requires a precautionary approach and avoidance of increased flood risk elsewhere; the risks are not theoretical. Development here would worsen flood risk in an already sensitive area and conflicts directly with JMNP2 Policy 3.

Graham Ellis

9.32 Graham Ellis is a member of the JMNP steering group and Chair of Melksham Transport User Group. He spoke about JMNP2 Policy 11 – Sustainable transport and active travel.

9.33 Eastern Way is a fast, heavily trafficked route and acts as a barrier rather than a connector; it's the defacto Eastern Bypass whilst plans for one are assessed by the Department for Transport. Pedestrian and cycling connectivity from the site to facilities is poor and indirect. The location would force reliance on the private car for most trips, contrary to Policy 11's objectives. There is a limited supply of local employment land in this part of Melksham, meaning additional housing here would reinforce out-commuting patterns and further increase reliance on private car travel. This location entrenches car dependency and conflicts directly with JMNP2 Policy 11.

Cllr Simon Wise

9.34 Cllr Wise is Vice Chair of Lacock Parish Council and spoke about traffic and rat-running impacts on Lacock.

9.35 Traffic associated with the proposal would add to existing pressures on rural lanes and routes towards Lacock. Approaching from Melksham involves constrained routes and bridge crossings at Reybridge, which are prone to flooding and closures between September and March. These routes include single-track stretches with limited passing places, increasing conflict and safety risks for residents and visitors. Additional traffic would increase risks for pedestrians, cyclists and horse riders on rural lanes in a tourist area. Further traffic interventions would impose costs on a small rural parish. Additional

traffic would intensify rat-running and cause lasting harm to Lacock's rural lanes, community safety and visitor environment.

James Bradshaw

9.36 James Bradshaw represented the National Trust (Lacock) and spoke about heritage and visitor impacts on Lacock and Lacock Abbey setting.

9.37 Lacock is an exceptionally intact historic village of national significance, with narrow streets and high pedestrian activity. The bridge crossings at Reybridge form a key part of the approach and setting to Lacock and Lacock Abbey, and are a constraint point for traffic. Increased traffic would harm visitor experience through noise, congestion, safety conflict and erosion of historic character. Traffic pressure is compounded by periodic flooding-related closures. Heritage policy requires great weight to be given to conserving designated heritage assets and their settings. Increased traffic would cause unavoidable heritage and visitor harm to Lacock that must weigh heavily against the appeal.

Fiona Dey

9.38 Fiona Dey is a East Melksham resident and spoke about JMNP2 Policy 18 – Landscape character.

9.39 The site is visually open and forms part of the eastern rural setting of Melksham. There are long views across the Avon Open Clay Vale and the site contributes to openness and rural character. Public rights of way and informal routes experience the site as open countryside; development would change that experience permanently. Once built, the loss of openness and rural character cannot be restored. This proposal would cause irreversible landscape harm that conflicts with JMNP2 Policy 18.

Anne Henshaw

9.40 Anne Henshaw is the Chair of CPRE Wiltshire and spoke about JMNP2 policies 18 & 12 – Strategic landscape and green/blue infrastructure harm.

9.41 CPRE supports plan-led development that balances growth with protection of countryside character. The site contributes to landscape openness and the rural setting of Melksham; development would represent an advance into open countryside. Policy 12 (Green and Blue Infrastructure) seeks to protect and enhance multifunctional green and blue infrastructure; development would erode these functions. Landscape and GBI harms would be permanent and irreversible. Protecting landscape character and green/blue infrastructure is integral to plan-led growth; this appeal conflicts with policies 18 and 12 and should be dismissed.

Nico Mengini

9.42 Nico Mengini is Director of Jarboom (festival organiser); speaking about Oakfields as a community venue.

9.43 Oakfields is a valued community sports venue supporting a range of activities, including mixed-ability/SEND sports. Oakfields is also used as a venue for community events and local music festivals operated by Jarboom, supporting community sport and youth provision. Housing directly adjacent would

increase the risk of complaints and operational constraints, threatening events and future improvements. Policy 15 seeks to protect community facilities and avoid placing incompatible development next to them. This proposal would threaten the long-term viability of valued community facilities and conflicts with JMNP2 Policy 15.

Cllr Nick Holder

9.44 Cllr Holder is a Wiltshire Councillor for the Bowerhill ward containing the appeal site. He spoke about the strategic prejudice to plan-led growth; the Local Plan at examination; regeneration and coordination.

9.45 The existing area of Bowerhill is a great example of plan led development. Whilst made up of over 1500 dwellings there is great linkage around the whole area via the road network, pavements and footpaths. There are also well laid out and maintained play areas. At the centre of Bowerhill are the pub, the local shops, the village hall and the primary school. We have a recognised sense of place. The two most recently added on housing areas Parkfinder Place (250 homes) and Marston Close (12 homes) are well connected to the historic core of Bowerhill. Bowerhill's future growth needs to be strategically planned so as to create connected communities. The Wiltshire Local Plan is currently at examination stage and the housing developments for Bowerhill have been allocated in order to manage its growth in a comprehensive way. Approving unplanned development by appeal risks prejudicing the plan led approach and reducing strategic flexibility.

9.46 Unplanned housing growth ahead of co-ordinated employment provision risks worsening the existing housing-jobs inbalance underpinning the comprehensive approach being tested through the local plan examination. The future growth and expansion of Bowerhill must be shaped through plans, not appeals. This proposal would prejudice comprehensive plan-led development and create unplanned communities with no sense of place.

Cllr Charlena Stokes

9.47 Cllr Stokes is a Wiltshire Councillor for Melksham East and spoke about Snarlton specific strategic impacts, regeneration and inefficient use of land.

9.48 This proposed site borders Melksham East. Our Neighbourhood Plan is built on a plan-led approach, ensuring development comes forward in the right sequence, supported by necessary infrastructure. This is fundamental to delivering sustainable growth and regeneration for our community. Take the Cooper Tires site, for example. It is a major allocated regeneration site in Melksham in our Neighbourhood Plan under Policy 7.1. It has the potential to deliver at least a hundred homes alongside employment space and community facilities. This site is central to revitalising a brownfield area and reducing pressure on greenfield land. If this appeal is allowed, it risks diverting investment and developer focus away from planned sites such as Cooper Tires, delaying its delivery and undermining the regeneration benefits it offers.

9.49 For Snarlton Farm specifically, the proposal represents an inefficient use of land. The application lacks integration with existing services, infrastructure and the local community, which is in direct contrast with our more comprehensive plan-led options. Clackers Brook runs through the site – no bridge planned. Approving this appeal would fragment that strategy, leaving us with piecemeal

growth and missed opportunities for joined-up planning. Allowing the appeal would undermine comprehensive planning for Melksham and should be afforded significant weight against the proposal.

Campbell Ritchie

9.50 Campbell Ritchie represents WALPA (Wiltshire Area Localism and Planning Alliance), a Wiltshire-wide neighbourhood planning alliance representing 30+ neighbourhood planning groups. He spoke about the wider precedent harm to neighbourhood planning and paragraph 14 protection.

9.51 WALPA is an informal liaison and mutual support organisation of over 30 town, parish and neighbourhood planning groups, so including communities like Salisbury, Chippenham, Melksham, Trowbridge, Malmesbury and many others, which together have developed and maintain neighbourhood plans that cover hundreds of thousands of Wiltshire residents. Mr Ritchie was Mayor of Malmesbury.

9.52 Any neighbourhood plan is the result of a huge amount of time, effort and resource committed by communities. They are the embodiment of bottom up place making, built on partnership working and are a successful part of effective plan led development. They are closely inspected and shaped by independent examiners. They pass a referendum. They have public commitment and confidence. Research is clear – the major Reading University study in 2020 for the Government, for example, shows Neighbourhood Planning delivers more housing than Local Plan allocations, more tailored housing mixes and better quality.

9.53 The Joint Melksham Neighbourhood Plan 2 is front and centre of this Appeal. It is examined, made, up to date – it could hardly be more up to date!, allocates housing, supported by the public and is exceeding requirements. It had to be reviewed when it was, without delay, to maintain NPPF currency versus the 2 year and 5 year limitations. It has examiner agreed mechanisms in place to allow for community led amendment if circumstances require. Absolutely a neighbourhood plan covered by paragraph 14 – and, if there is any doubt, paragraphs 69 and 70 in respect of numbers – of the current Framework. It is absolutely a neighbourhood plan that the government clearly wants protected. Without doubt, a neighbourhood plan to which the adverse impact of allowing development that conflicts with it is likely to significantly outweigh the benefits.

9.54 Which is the case here. It is inconceivable that this Appeal is allowed. Any thought of, for example, treating wider strategic shortfalls as overriding this neighbourhood plan would nullify the National Planning Policy Framework in practice. It would not be compliant with the National Planning Policy Framework.

9.55 I can also say that this Appeal is not just about this application at this site. Allowing it would undermine public confidence in the planning system not just in and around Melksham. It would discourage communities from engaging in neighbourhood planning across Wiltshire. This appeal should be dismissed to uphold the JMNP2's Paragraph 14 protection and avoid wider harm to neighbourhood planning across Wiltshire.

Lance Allan

9.56 Lance Allan is President of the Society of Local Council Clerks (SLCC) and spoke about Council's investment and plan-led certainty.

9.57 Mr Allan has a BSc (Hons) in Transport Operations & Planning and was the Trowbridge town clerk from September 2005 to August 2025. He participated at the Core Strategy and Housing Sites Allocation Plan Examinations and has been involved in development of the Local Plan, as well as participating as a Rule 6 Party in appeals in Wiltshire.

9.58 The SLCC works with partners, including the National Association of Local Councils (NALC), to support neighbourhood planning. These organisations provide advice and support to members and offer national policy positions both proactively and in response to government. My attendance here today is a reflection of the importance of the issue to the whole local council sector.

9.59 The Framework at paragraph 14 is very clear. The adverse impact of allowing this appeal, will significantly and demonstrably outweigh the benefits. Certainty that 'made' plans will be respected is essential for good governance and partnership working. If paragraph 14 protection can be overridden immediately, confidence in lawful plan-making is damaged and future plan-making is discouraged. Town & Parish councils have been at the forefront of neighbourhood planning, 90% of 'made' plans being in parish areas.

9.60 Allowing this appeal, will have a detrimental effect on national neighbourhood planning, impacting communities across the country, eroding the confidence that communities have to make proposals to support growth; and the expectations of the public in the value of involvement in positive plan making.

9.61 The appeal decision must; recognise the significant time and resources invested to develop this updated neighbourhood plan, jointly by the growing community of Melksham, with Melksham Town Council and Melksham Without Parish Council; an exemplary neighbourhood plan which reinforces the community's role in delivering growth for Wiltshire.

9.62 The appeal decision must; support the efforts of communities across the country, willing to proactively deliver neighbourhood plans in line with the Framework and local plans. Dismissing the appeal significantly & demonstrably reinforces confidence in lawful plan-making and the plan-led system.

Vaughan Thompson

9.63 Vaughan Thompson is a chartered town planner who has supported both Councils and the steering group of local people in making JMNP1 and JMNP2. He spoke to provide the closing statement on behalf of Interested Parties.

9.64 JMNP2 was judged by the Examiner to be an excellent example of a reviewed plan and represents precisely how the Framework intends Neighbourhood Plans should support sustainable development. It was examined in May 2025 under the transitional arrangements of the 2024 version of the Framework. Its approach to housing allocations was found to be sound and up to date and there is commitment for plan review if circumstances demand. It became part of the development plan only six months ago, immediately before the planning

decision and contains policies and allocations that meet and exceed its identified housing requirement. Framework paragraph 14 is clearly triggered.

9.65 You have heard why the proposed development conflicts with a raft of policies in JMNP2 and its adverse impacts would significantly and demonstrably outweigh any of the claimed benefits. It is contrary to the development strategy and causes irreversible harm, including to landscape, sustainable transport and flood risk impacts. There is also wider harm to the proper planning of Melksham, including potentially undermining the viable regeneration of important allocated brownfield sites and future growth of Melksham to its east. For those reasons, the Interested parties respectfully ask that the appeal be dismissed and that full weight be given to JMNP2 and paragraph 14 of the Framework.

Teresa Strange

9.66 Teresa Strange is the Clerk to Melksham Without Parish Council and she spoke about the S106 and conditions.

9.67 The submission is made without prejudice and only applies if the appeal were to be allowed. The Parish Council would wish to participate in round-table discussions on conditions and section 106 obligations to ensure minimum safeguards are secured. The Parish Council is interested in first refusal for equipped play areas, allotments and community orchards. The Parish Council has secured land for a community centre east of Melksham on the Blackmore Farm site and requires additional funding to deliver this long-standing community objective. The Parish Council would therefore wish to engage in discussions about whether development contributions could support the delivery of this long-standing community objective.

Francis Morden

9.68 Francis Morden is a local resident. He spoke to say that he agreed with Lance Allen and that the appeal will turn on paragraph 14. He supports the Council's decision. The National Planning Policy Framework is a statement of government policy and paragraph 14 is quite separate from paragraph 11(d). Paragraph 14 (a) and (b) are both met. Paragraph 14 states that neighbourhood plans are paramount and there are no wholly exceptional circumstances in this case.

10. WRITTEN REPRESENTATIONS

10.1 **Local Residents:** A number of representations were received from local residents objecting to the proposal (17 at application stage). These include concerns regarding Melksham already being overpopulated and developed; the closure of Cooper Tyres meaning that the only significant employer has been lost; proposed development will destroy only access to open countryside of any significance for walkers; if there has to be any new building in Melksham, it should be on the Brown Avon Tyres site; damage to/loss of habitat and wildlife; loss of greenspace/agricultural land; detrimental to the rural character; encroachment into the countryside; housing needs to go on brownfield/industrial sites; not enough capacity at secondary and primary schools; difficulty booking appointments with doctors and dentists, lack of infrastructure to support new households, lack of retail and leisure provision in the town; existing roads unable to manage traffic; additional traffic

congestion; traffic calming measures would be needed along Eastern Way; increase in traffic; increase in speeding car racing and anti-social behaviour; bypass should be approved first; more sewage in rivers; potential flood risk; houses would not be affordable; pollution generated from the construction phase of the development; should be rejecting unplanned development; unsustainable location and isolated from facilities.

10.2 A number of other representations were received from internal and external consultees, with the exception of **Active Travel England** who were unable to support the application due to concerns regarding the supporting information and the lack of commitment to modal shift, no objections were raised to the proposal in addition to those set out in the previous section from the **National Trust** and **Town and Parish Councils**. In some cases this was subject to the imposition of suggested conditions and obligations within a S106 legal agreement.

11. CONDITIONS AND PLANNING OBLIGATION

11.1 The Appellant and the Council submitted a schedule of agreed conditions which were discussed at the inquiry. A S106 obligation was also agreed between the Council and Appellant and discussed at the inquiry. These conditions and the S106 planning obligation are discussed below.

12. INSPECTOR CONSIDERATIONS

References to earlier paragraphs in this report are in square brackets [].

Main Issues

12.1 The main considerations are:

- Whether the appeal site is an appropriate location for the proposed development having regard to policies CP1, CP2 and CP15 of the Wiltshire Core Strategy and Policy 6 of the Joint Melksham Neighbourhood Plan 2;
- If not, whether the proposal would result in any other harm, with particular regard to landscape and BMV[207];
- Whether the Council can currently demonstrate a five year housing land supply and if not, the extent of the shortfall;
- Any benefits of the proposal and the weight to be given to them;
- If the Council cannot demonstrate a five year housing land supply, whether the adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework (the Framework) taken as a whole, taking into account the recently made NP and the wording of paragraph 14.

[207] Best & Most Versatile Agricultural Land

Main Consideration 1 – whether the appeal site is an appropriate location for the proposed development having regard to the WCS policies CP1, CP2 and CP15 and JMNP2 Policy 6

[5.3, 5.4, 6.1, 6.2, 6.5, 6.6, 7.3, 7.4, 7.6 – 7.8, 7.11, 7.21 – 7.32, 7.35 – 7.53, 8.2, 8.6, - 8.21, 9.18, 9.23, 9.24, 9.29, 9.45, 9.46, 9.48, 9.49, 9.65, 10.1]

12.2 The appeal site comprises undeveloped agricultural land. The parties agree that it is in the open countryside beyond the settlement boundary of Melksham as defined in the development plan [6.5].

12.3 WCS CP1 sets out the settlement strategy for Wiltshire and directs development to the identified principal settlements, market towns (including Melksham), local service centres and large and small villages with differing scales of development deemed acceptable in different locations. Whilst no reference is made within the policy to development beyond the identified settlements, supporting paragraph 4.16 states, amongst other things, that there is a general presumption against development outside the defined limits of development of the identified settlements.

12.4 WCS CP2, amongst other things, states that other than in circumstances as permitted by other policies in the Plan, development will not be permitted outside the limits of development as defined on the policies map. It further states that the limits of development may only be altered through the identification of sites for development through subsequent Site Allocations Development Plan Documents and neighbourhood plans. None of the circumstances apply here and the settlement boundary of Melksham was not altered by either the SAP or the JMNP1 or JMNP2.

12.5 WCS CP15 states that development in the Melksham Community Area should be in accordance with the settlement strategy set out in CP1 and that growth in the Melksham Community Area may consist of a range of sites in accordance with CP1 and CP2. The Melksham Community Area comprises the area beyond the settlement boundary of Melksham.

12.6 JMNP2 Policy 6 part 2 states that housing outside settlement boundaries will be managed in accordance with the adopted Development Plan and should meet evidenced housing need. Supporting paragraph 4.7.1 of the JMNP2 states, amongst other things, that development within settlement boundaries is generally supported and development outside boundaries is more controlled in the interests of balancing social, economic and environmental needs.

12.7 Noting the position of the appeal site beyond the settlement boundary for Melksham, the proposal is clearly contrary to WCS Policy CP2. Although the wording of JMNP2 Policy 6 is such that it does not explicitly preclude development outside settlement boundaries, it states that such development should be managed and anticipates accordance with the adopted Development Plan and the meeting of an evidenced local housing need.

12.8 The Appellant accepts that the proposal conflicts with WCS CP2 [7.8] and there is no suggestion that it meets an evidenced local housing need. The Appellant's planning witness also accepts that the breach of WCS CP2 results in a breach of WCS CP15 and JMNP2 Policy 6 [7.8].

12.9 Notwithstanding that WCS Policy CP1 is referred to in the RfR relating to the site location (RfR1), CP1 is silent regarding development outside of the identified settlements. Consequently, I do not find any direct conflict with this policy and this is consistent with the agreed position of the parties at the time of the Inquiry.

12.10 Having regard to all the above, I conclude that the appeal site is not an appropriate location for the proposed development having regard to WCS policies CP2 and CP15 and JMNP2 Policy 6. I will consider the weight to be given to this conflict later in my decision.

Main Consideration 2 – Other Harm

[5.3, 5.4, 5.21, 5.22, 6.19 – 6.25, 7.5, 7.68 – 7.77, 8.22 – 8.25, 9.29, 9.31, 9.33, 9.35, 9.37, 9.39, 9.41, 9.43, 9.45, 9.46, 9.48, 9.49, 9.65, 10.1]

12.11 Though not forming part of the Council's reasons for refusal, the Council's evidence identifies other harm to landscape and BMV.

Landscape

12.12 It is common ground that the proposal would result in some landscape harm because it involves the development of un-developed agricultural land and the loss of green fields [6.20][208]. However, at the time of determining the application, the Council did not consider that the degree of harm would be significant enough to warrant refusal of the application on landscape grounds. This remains the case but nevertheless, the parties agree that the degree of landscape harm is something to be weighed in the planning balance.

12.13 The application was accompanied by a LVIA addendum dated July 2024[209] and a note on landscape and visual impact prepared by the Appellant's landscape consultant dated December 2025 was submitted with the appeal (Appendix 5 of Mr Neame's POE). The note summarises the position as set out in the LVIA and considers the landscape and visual impact implications of the recently consented Blackmore Farm development including up to 500 dwellings to the north of the site (Ref PL/2023/11188)[210].

12.14 The appeal site is located within the Avon Open Clay Vale Landscape Character Area as identified in the Wiltshire Landscape Character Assessment (WLCA)[211] but is not subject to any specific landscape designations. The WLCA sets out

[208] CD10.3
[209] CD7.16
[210] CD9.4 – CD9.6
[211] CD3.7

the key characteristics of the character area which includes a level land form with wide open skies and views to ridges and downs.

12.15 The LVIA addendum concludes that no significant environmental effects were identified in landscape and visual terms and that whilst some adverse effects were identified on the landscape character of the site and views, these effects are limited in geographical extent and typical of greenfield development. The note states that whilst these relatively localised effects will remain, the consented Blackmore Farm development will have an urbanising effect on the baseline environment, providing a stronger settlement context for the proposal.

12.16 As stated, the appeal site comprises undeveloped agricultural land located to the east of the settlement of Melksham and residential development to the west of Eastern Way, a distributor road. The Snarlton Farm complex lies to the north of the site with Melksham Football and Rugby Clubs to the south. Beyond these developments, land to the north, east and south of the site is largely undeveloped, though as stated, there is a resolution to grant planning permission for development including residential development at Blackmore Farm to the north of the site.

12.17 Given this context and the scale of development proposed, I agree with the parties that the proposal would result in some landscape harm. However, I consider that any landscape harm would be limited and in the main fairly localised. This is noting the findings of the LVIA addendum, the methodology of which is accepted by the Council and the submitted development parameters plan which shows extensive areas of open space including areas along the northern, eastern and southern boundaries of the site. This would allow for substantial landscaping to help to mitigate the visual effect of the development on the wider undeveloped area.

12.18 Notwithstanding the agreed landscape harm, the parties agree that there would be no conflict with WCS CP52 and the Council considers the proposal to comply with WCS CP51. I agree with that position given the limited extent of the harm. For the same reason there would be no conflict with JMNP2 Policy 18.

BMV

12.19 It is common ground that the proposal would result in some loss of BMV agricultural land. The appeal site comprises a mixture of land classified as Grade 2, Grade 3a and Grade 3b with only Grade 2 and 3a classed as being BMV[212]. However, as with landscape harm, at the time of determining the application, the Council did not consider that the degree of harm would be significant enough to warrant refusal, but the parties agree that the loss of BMV is something to be weighed in the planning balance.

12.20 A note regarding BMV prepared by the Appellant's agricultural consultant dated December 2025 was submitted with the appeal (Appendix 4 of Mr Neame's POE) and discussed during the Inquiry. It estimates the loss of BMV land on the site to be approximately 4.4 ha of the total site area of 19.2 ha. The

[212] Framework Annex 2: Glossary definition

Council considers that the loss of BMV land would be more significant as even if it is not built on, other land within the site boundary would no longer be available for agriculture and should therefore be considered as lost. My attention was drawn by the Council to the Papist Way appeal decision[213] and the findings of the Inspector on BMV loss.

12.21 It appears from the evidence before me that not all the land within the appeal site is BMV, with a large section of land on the southern portion of the site being Grade 3b, not of a high enough quality to be classified as BMV. Nevertheless, I consider that any part of the development that would take place on BMV land, including ancillary areas such as open space, would in effect result in its loss to agriculture even if not being built on given the residential and long-term nature of the proposal. Consequently, the amount of BMV loss would be higher than that stated by the appellant and in the absence of specific figures, is more likely to be nearer to half of the appeal site area, so approximately 9 ha.

12.22 The BMV loss in the Papist Way case was 26.25 ha, so greater than here, and most was Grade 3a with a small area of Grade 2, so similar to the appeal site. The Inspector dealing with the Papist Way case accepted that ancillary parts of the development would also be unavailable to agriculture. I have taken a similar approach.

12.23 The Council presented no expert evidence on this issue and in the absence of this, and based on the evidence before me, I am satisfied that even if I consider that approximately half the site would be lost in terms of BMV, the proposal would not involve the significant development of higher quality agricultural land, of the type that section 15 of the Framework (paragraphs 187 & 188 and footnote 65) seeks to avoid. I therefore conclude that the harm arising from the loss of BMV would be moderate.

Other Alleged Harms

12.24 As set out above, at the Inquiry I heard from a number of interested parties raising concerns regarding the proposal. I have also had regard to the written representations received.

12.25 Although the appeal site is outside of the settlement boundary of Melksham, it is adjacent to it, close to existing and proposed residential development and services and facilities. I am satisfied that it has good connectivity and note that no concerns were raised in this regard by the Council who consider Melksham to be a sustainable location with the potential for significant development[214]. There is therefore no conflict with WCS policies CP60 and CP61 and JMNP2 Policy 11. I do not consider that approval of the proposal would set a precedent for development beyond the settlement boundary as my recommendation is based on the particular circumstances of this case with any other future developments needing to be assessed on their own merits and in light of the 5yrHLS position at that time.

[213] CD8.5
[214] CD3.1 WCS Policy CP1

12.26 Although I note evidence regarding other flooding in the area and the presence of Flood Zones 2 and 3 within the appeal site, as agreed by the parties[215] [6.15], there is no evidence that the proposal would result in an increase in flooding nearby or that suitable drainage cannot be provided to serve the development. The submitted FRA[216] confirms that the proposed development and developable areas are restricted to land that is in Flood Zone 1 only. Moreover, the Developable Parameters Plan[217] would ensure that developable areas are within Flood Zone 1 and can be secured by condition. There is therefore no conflict with WCS Policy CP67 or Policy 3 of the JMNP2.

12.27 Concerns were raised regarding the effect of traffic associated with the proposal, including on the heritage assets of and visitors to Lacock village and Abbey and on the bridge crossing at Reybridge. Whilst these concerns are noted, I note that no objections have been raised by the Council in this regard with no highway safety objections being raised by the Highway Authority. It is common ground between the parties that the proposal will not result in any harm to designated heritage assets. I have seen no evidence that suggests that any increase in traffic resulting from the proposal would have a materially harmful effect on the heritage assets at Lacock or on those visiting them. There is therefore no conflict with WCS policies CP58 and CP61.

12.28 I have found the landscape harm resulting from the proposal to be limited and have had regard to this in the planning balance. The Council has raised no concerns in respect of the loss of blue and green infrastructure, and I can see no reason to disagree with its findings on this matter noting that no objections were raised to the proposal by the Council's ecologist or arboriculture officer. There is therefore no conflict with WCS policies CP50, CP51 and CP52 and JMNP2 policies 12 and 18.

12.29 Reference has been made to a lack of employment facilities in the area and to a lack of integration with existing services, facilities and infrastructure. However, as stated, the appeal site is located at the edge of Melksham with good access to a range of services, facilities and transport options. Consequently, I consider it to be well-integrated and that future occupiers of the proposal would have sufficient access to services, facilities and employment opportunities. There is therefore no conflict with WCS policies CP3 and CP60 and JMNP2 Policy 11.

12.30 I understand from the evidence that the nearby sports clubs are used for events including a music festival. Concerns have been raised that the future presence of residential occupiers on the appeal site may lead to noise complaints when such events are taking place with consequent undue restrictions being placed on them. Notwithstanding that the illustrative masterplan shows residential development to the south of the site, near to the sports clubs and their facilities, there is no substantive evidence before me to suggest that the proposal would place any such restrictions on the future use of the sports clubs, including for events. There is therefore no conflict with WCS Policy CP57.

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[215] CD10.3 paragraphs 5.20 & 5.21
[216] CD7.13
[217] CD7.5

12.31 Finally, given the particular site constraints, I am content that the proposal makes efficient use of land and note that the illustrative masterplan shows a footpath route across Clackers Brook[218], thereby providing connectivity across the site. There is therefore no conflict with WCS policies CP57 and CP60.

Main Consideration 3 – Housing Land Supply

[5.8, 5.15, 5.18, 6.3, 7.54 – 7.61, 8.26]

12.32 There is agreement between the parties that the Council cannot currently demonstrate a 5yrHLS [6.3]. However, there is disagreement regarding the extent of the shortfall with the Council stating that it currently has a 2.42 year supply and the Appellant stating a 2.16 year supply.

12.33 The Council relies on its Housing Land Supply Statement dated June 2025 (HLSS 2025)[219] which states that as of 1 April 2024, the Council had a deliverable supply of 2.42 years. This is based on an agreed requirement of 18,312 dwellings for the period 1 April 2024 to 31 March 2029 and on the Council's figures, this equates to a shortfall of 9,367 dwellings over the five year period. The Council provided no expert housing land supply evidence to the Inquiry, though the matter was addressed briefly in section 7 of Mr Reynolds' POE[220].

12.34 By contrast, I heard specific evidence on housing land supply from Mr Harris on behalf of the Appellant[221]. Although Mr Harris agrees with the Council's requirement figure, he concludes that the deliverable supply is reduced by 1,038 dwellings (7,907 versus the Council's figure of 8,945). This is because of dwellings being removed from the supply figure, from the windfall allowance and from 12 disputed sites.

12.35 Mr Harris' evidence sets out that his approach to windfall sites is consistent with that adopted by other Inspectors and sets out in some detail why not all the sites relied upon by the Council contribute to the deliverable supply or contribute as much as the Council suggests. In the absence of any substantive evidence from the Council regarding 5yrHLS to rebut Mr Harris' detailed evidence, I accept his evidence which I found to be pragmatic, credible and robust and having regard to the requirements of the Framework and relevant NPPG.

12.36 Although the Council referred Mr Harris to several recent appeal decisions in Wiltshire where a 5yrHLS figure of 2.42 years has been accepted (page 12 of Mr Harris' POE), it appears from the evidence before me that in those cases the 5yrHLS figure was not in dispute and so the Inspectors were not required to make a specific finding on it. I therefore attach limited weight to them insofar as they relate to 5yrHLS.

12.37 Similarly, when determining a very recent appeal decision for residential

[218] CD7.4
[219] CD5.1
[220] Planning Application: PL/2024/07097 Mr Reynolds POE
[221] Planning Application: PL/2024/07097 Mr Harris POE & verbal evidence as referenced in ID14

development in Melksham[222] dated 9 April 2026, an Inspector proceeded on the basis that the Council has a 5yrHLS of 2.42 years. However, I do not know what evidence regarding 5yrHLS was before the Inspector in that case and at the Inquiry, I heard evidence to suggest that this matter was not in dispute between the parties in this other Melksham appeal.

12.38 Therefore, for the purposes of this appeal and based on the evidence before me, I consider that the extent of the shortfall is 2.16 years which equates to 10,405 dwellings. This is a very significant shortfall.

12.39 In such circumstances, and as agreed by the parties, paragraph 11(d) of the Framework states that the policies which are most important for determining the application are out of date and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole having regard to the stated key policies. This would be the case even if I had accepted the Council's higher 5yrHLS figure.

Main Consideration 4 – Other Considerations including Benefits of the Proposal

[4.1, 4.3, 6.4, 6.16, 6.36, 7.16, 7.17, 7.62 – 7.67, 7.93, 7.94, 8.26 – 8.29] (and 12.77 & 12.78 regarding S106 planning obligation)

Provision of open-market housing

12.40 The proposal includes development of up to 300 dwellings, in a location accessible to various services and facilities, 30% of which would be affordable. This equates to up to 210 open-market dwellings which the Appellant states would comprise of a locally sensitive mix of dwelling types and sizes. As agreed by the parties[223], the proposal is capable, subject to being brought forward quickly, of making a meaningful contribution to the 5yrHLS position of the Council. Notwithstanding previous housing delivery within the Melksham Community Area over the WCS period and the Council's recent Housing Delivery Test results[224], noting the current extent of the Council's 5yrHLS shortfall, I attach significant weight to the provision of open-market housing on the scale proposed. This would have been the case even if I had accepted the Council's figure for the 5yrHLS shortfall.

Provision of affordable housing

12.41 The proposal includes development of up to 90 affordable dwellings and complies with the requirements for affordable housing as set out in Policy CP43 of the WCS[225]. Ms Gingell provided expert evidence for the Appellant in relation to affordable housing. She set out that there is a significant existing need for affordable housing in Wiltshire and that this equates to an affordable housing emergency. Her POE[226] sets out that Policy CP43 of the WCS is underpinned by an expectation that around 13,000 affordable homes would be delivered over

[222] APP/Y3940/W/25/3374421
[223] CD10.3
[224] Mr Reynolds POE paragraphs 7.1, 7.2 & 7.5 Planning Application: PL/2024/07097
[225] CD3.1
[226] Planning Application: PL/2024/07097 Ms Gingell's POE Summary paragraphs 10.8 to 10.11

the plan period, equivalent to approximately 650 dwellings per annum. This is below the need for 1,360 affordable homes per annum identified by the 2011 SHMA[227] and 1,667 per annum identified in the 2023 LHNA[228]. Ms Gingell's POE states that delivery has consistently failed to meet DP expectations with net affordable housing delivery of around 577 dwellings per annum since the Council was formed in 2009/10[229]. Since 2020/21 she states that the Council has met only a third of the need identified in the 2023 LHNA all this resulting in historic and ongoing under-delivery.

12.42 Ms Gingell's evidence was not challenged by the Council who did not provide an expert witness on this matter. Given the unchallenged evidence of an acute need for affordable housing in the area and the contribution that the proposal would make to affordable housing, I attach significant weight to this benefit.

Other Social Benefits

12.43 The development also includes land for a community use or building, the provision of on-site publicly accessible open space, the provision of an equipped play space and improvements to the public rights of way network. Some of these aspects of the development are shown on the submitted plans and detailed in supporting documents[230] and others are dealt with and secured by the obligations in the S106 planning obligation. I attach moderate weight to these other social benefits of the proposal.

Economic Benefits

12.44 The proposal would deliver short-term economic benefits during the construction period and long-term economic benefits from additional spending in the local area. Given the scale of the proposal, I attach moderate weight to these benefits.

Environmental Benefits

12.45 The parties agree that the site is capable of exceeding its statutory 10% BNG requirements and that the completed statutory metric calculation (dated 19 July 2024) confirms that the proposal would result in a percentage gain of 29.21% for habitat units, 10.24% for hedgerows and a 58.1% gain for watercourse units[231]. Noting the extent of the BNG proposed, I attach moderate weight to these environmental benefits.

12.46 It is common ground that the proposal would result in improvements to on-site surface water drainage[232], though to ensure that all the Council's drainage officer requirements are met, additional information regarding drainage is required to be submitted by the imposition of conditions. However, based on the available evidence, there are no concerns that all the requirements can be met. Noting this, I attach moderate weight to these environmental benefits.

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[227] CD6.10
[228] CD6.11
[229] Table 6.1, page 42 of Ms Gingell's POE
[230] CD7.4, CD7.5, CD7.6, CD7.19, CD7.33, CD7.36
[231] CD10.3
[232] CD10.3

12.47 The Appellant also refers to the social and environmental benefits associated with the provision of two new accesses onto Eastern Way and to the environmental benefit of landscape enhancement. However, as the accesses are required solely for the proposed development and do not appear to connect to other access routes including cycle routes, I do not consider them to offer wider benefits and therefore attach no weight to this matter. Similarly, as it is agreed that there would be landscape harm arising from the proposal, I do not consider that there would be landscape enhancement or that this would amount to an environmental benefit.

12.48 In determining the weight that ought to be attached to the various identified benefits, I have had regard to the evidence before me. However, I note that in some cases my weightings differ from those applied by other Inspectors dealing with similar proposals under similar 5yrHLS circumstances, including the Inspector who determined a recent appeal in Melksham[233]. Nevertheless, given I have very limited knowledge of the evidence before those Inspectors, I have considered the proposal before me on its own merits.

Main consideration 5 – Planning Balance

[5.3, 5.4, 5.8 – 5.17, 5.23, 5.24, 6.1, 6.2, 6.5 – 6.7, 6.9 – 6.11, 7.6 – 7.15, 7.20, 7.22 – 7.28, 7.33, 7.34, 7.41, 7.51 – 7.53, 7.81 – 7.92, 7.95, 8.1 – 8.5, 8.12 – 8.17, 8.30 – 8.42, 9.2 – 9.7, 9.9, 9.10, 9.12 – 9.15, 9.17 – 9.24, 9.26, 9.27, 9.29, 9.48 – 9.49, 9.52 – 9.55, 9.59, 9.62, 9.64, 9.65, 9.68]

12.49 The parties agree that WCS policies CP1, CP2 and CP15 and JMNP2 Policy 6 are out of date for the purposes of the determination of the appeal[234]. The parties also agree that this affects the weight to be given to these policies, though differ in terms of the actual weight itself.

12.50 The Appellant considers that the weight is limited and that the proposal complies with the development plan as a whole. However, the Council considers that the WCS policies carry reduced weight but that JMNP2 Policy 6 should be afforded significant weight given that the JMNP2 is recently made, has been found to meet the basic conditions for NPs and provides for at least twice the level of growth which it has been identified to provide. The Council therefore attaches substantial weight to the conflict with JMNP2 and moderate weight to the conflict with the relevant WCS policies identified.

12.51 As outlined above, I have found conflict with WCS policies CP2 and CP15 and JMNP2 Policy 6. Notwithstanding compliance with other policies within the development plan, including those listed earlier in this report as being of relevance, given that these policies form an important part of the spatial strategy for the area, I find conflict with the development plan as a whole. Nonetheless, given the Council's 5yrHLS which I have found to be 2.16 years, significantly below the five year requirement, I give limited weight to the harm arising from the conflict with these policies as well as to the identified landscape harm with the loss of BMV attracting moderate weight.

[233] ID21
[234] CD10.3 paragraph 5.2

12.52 Weighed against this harm are the significant benefits that would arise from the proposal as set out above and which include up to 300 dwellings, up to 90 of which would be affordable against a backdrop of a very poor 5yrHLS position of 2.16 years and a deficit of 10,405 dwellings. In this case and applying the tilted balance of paragraph 11(d) of the Framework, any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the stated key policies which include those providing affordable homes.

12.53 In coming to this conclusion I have given careful consideration to the fact that the JMNP2 is a recently made neighbourhood plan (made in August 2025) and paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

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

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

12.54 There is no dispute between the parties that the neighbourhood plan is less than five years old and that paragraph 14 is engaged[235]. I have found conflict with Policy 6 of the JMNP2. However, the wording of paragraph 14 is such that conflict with a neighbourhood plan will not be determinative in every case.

12.55 The JMNP2 identifies a housing figure of approximately 270 dwellings for the neighbourhood plan area for the plan period of 2020-2038. This figure is derived from the ELP figure of 2,160 dwellings for Melksham and is a result of completions and commitments in the last five years along with allocations proposed in the ELP. At the Inquiry the Council and interested parties stated that the JMNP2 is over-providing against its housing requirement with allocations within the JMNP2 providing for more than 270 dwellings on sites more appropriate than the appeal site[236]. The JMNP2 housing allocations provide for a figure up to 415 dwellings plus any dwellings provided at Whitley Farm.

12.56 The ELP was withdrawn from examination on 22 May 2026[237] following various correspondence between the Council and the examining Inspectors.

12.57 The most recent letter from the Inspectors[238] concludes that they had significant soundness concerns regarding the ELP, some of which are strategic in nature and relate to housing[239]. They therefore suggested that the ELP be withdrawn and that the Council prepare a new plan under the new local plan-making system. They stated that the alternative would be for the examination

[235] CD10.3 paragraph 5.58
[236] CD3.5 Policies 7.1 to 7.5 page 46 onwards
[237] ID23
[238] ID17
[239] CD4.8

to progress but that this would inevitably lead to a recommendation that the ELP is not adopted due to soundness concerns. As stated, the Council subsequently withdrew the ELP from examination meaning that the ELP position at the time that the Inquiry closed has moved on somewhat such that there is no longer any prospect of the deficiencies of the ELP being overcome during the current examination as referred to by the Council in closings[240].

12.58 Given the above, there is no longer an ELP and there is therefore no prospect of a new plan to replace the CS in the short to medium term. The CS housing figures are now significantly out of date. The ELP is the plan which the housing figures in JMNP2 are derived from and rely upon. The Qualifying Bodies (QBs) preparing the JMNP2 sought a housing figure for the neighbourhood plan from the Council and were perfectly entitled to rely upon it in preparing the JMNP2. However, circumstances have since changed and based on the evidence before me, there is no longer any sound basis for this housing figure or any compelling evidence that the housing requirement identified in the JMNP2 is sufficient to meet the needs of the area over the plan period.

12.59 Whilst the housing allocations in the JMNP2 exceed this figure of 270 dwellings and allocate land for up to 415 dwellings plus any dwellings provided at Whitley Farm, there remains a high level of uncertainty regarding the housing requirement for Melksham. The ELP was being examined under the transitional arrangements set out within the Framework but the housing requirement of any new plan to replace the CS will be expected to be calculated in accordance with the standard method. Based on the current standard method, this will result in a higher housing requirement for Melksham than that set out within either the CS or the ELP, upon which the JMNP2 housing requirement was based.

12.60 Moreover, there is agreement between the parties that the settlement boundary of Melksham is out of date and does not align with the current housing needs for the town and that Melksham is a sustainable location for new residential growth[241]. Several residential developments beyond the settlement boundary have recently been granted planning permission, both by the Council and at appeal, including at Blackmore Farm[242] and at Woodrow Road[243].

12.61 It is understandable that the QBs will be frustrated by all of this given that the JMNP2 is very recently made and reflects local wishes, but for the reasons stated, the housing requirement within it can no longer be relied upon. The circumstances of this case together with the wording of paragraph 14 of the Framework means that I do not consider that allowing this appeal would seriously undermine the neighbourhood plan making process or diminish its role in the planning system. It is clear that local residents have invested a significant amount of time and effort in producing the JMNP2 which was recognised as an exemplar by the independent examiner. Nevertheless, its housing requirement is not a sound basis upon which to assess housing proposals in Melksham and for the reasons stated, I am not convinced that the

[240] ID13 paragraph 34
[241] CD10.3 paragraphs 5.6 & 5.8
[242] CD9.4 & CD9.5
[243] ID21

higher housing figure provided for by the JMNP2 allocations is likely to be enough to meet the needs of the neighbourhood plan area moving forward.

12.62 The relationship between the JMNP2 and the ELP and consequent uncertainty regarding the housing requirement for the neighbourhood plan area was recognised by the independent examiner who stated that the QBs should assess the need or otherwise for a review of the JMNP2 within six months of the adoption of the ELP[244]. The examiner did not anticipate a situation where the ELP was not adopted as is the case now, but its withdrawal only increases the uncertainty regarding the robustness of the JMNP2 housing requirement.

12.63 Under these circumstances, it could be argued that Framework paragraph 14 is no longer engaged. However, given the central importance of this matter to the case and to the interested parties, I have taken it into account. Nonetheless, due to the substantial housing land supply shortfall in the area, including the affordable housing shortfall, and the withdrawal of the ELP, I conclude that conflict with the neighbourhood plan is not determinative. In the particular circumstances of this case therefore, the adverse impact of allowing development does not significantly and demonstrably outweigh the benefits.

12.64 Concerns have been raised by interested parties that the JMNP2 housing allocations include brownfield sites, some of which are difficult and complex and that approval of the proposal on a greenfield site will undermine the delivery of the JMNP2 sites. However, there is no compelling evidence that this would be a likely consequence of approval of the proposal, particularly given the current significant housing shortfall in the area which means that demand for additional housing will be high.

12.65 The Council has drawn my attention to several appeal decisions where Inspectors have found conflict with NPs and Framework paragraph 14 and where appeals have been dismissed[245]. Whilst I have had regard to these, I note that other Inspectors have taken a different view[246].

12.66 In dismissing the appeals cited by the Council, the Inspectors had regard to the circumstances of those cases before them which differ to those before me and so the cases are not directly comparable. I therefore attach limited weight to these other decisions cited by the Council and have made a recommendation on the case before me on its own merits.

12.67 To conclude and having regard to all of the above, notwithstanding conflict with the neighbourhood plan and other development plan policies, any adverse impacts of granting planning permission for the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including paragraph 14.

[244] CD3.8 paragraph 7.66
[245] CD8.3, CD8.4, CD8.5
[246] CD8.1, Mr Neame's POE Appendix 3

Conditions and Planning Obligation

Conditions

12.68 In the event that planning permission is granted, the Appellant and the Council have agreed a list of conditions that they consider ought to be imposed.

12.69 Conditions relating to the submission of the reserved matters; what these are and the timing of this as well as requiring the commencement of development within 2 years of the approval of the last of the reserved matters are necessary. The reduced timeframe of 2 years is agreed and is justified in this case to ensure that development comes forward without delay to address the housing shortfall in the area and to bring forward the benefits associated with the development (conditions 1, 2 & 4). Condition 3 relating to the phasing of the development is necessary to ensure the proper delivery of the development.

12.70 Condition 5 specifies the approved plans and is necessary to provide certainty. Condition 6 is necessary to ensure that the reserved matters applications accord with the design parameters set out within the Design and Access Statements and that they include an acoustic design scheme. A condition is also necessary to ensure that the reserved matters applications make provision for various sustainable transport requirements in order for the development to prioritise sustainable modes of transport. This condition requires agreement prior to any works taking place on site due to the strategic nature of the requirements (condition 7). Condition 8 requires a detailed housing mix to be submitted as part of the reserved matters and is necessary to ensure the development provides a diverse and balanced range of housing types and sizes. A final sustainable energy strategy is also required to be submitted with the reserved matters and is necessary to ensure that the development appropriately responds to climate change (condition 9).

12.71 Conditions 10 to 20 (inclusive) prevent development from taking place until the requirements of the conditions have been met. These requirements relate to tree protection and arboricultural management, archaeological investigations, drainage strategy, foul drainage, the need for a construction management plan, a landscape and ecology management plan, a habitat management and monitoring plan, construction details of the accesses and details of the internal estate roads. The nature of the requirements of these conditions is such that details need to be agreed and measures put in place prior to any works taking place. They are necessary to ensure tree protection, the protection of archaeological features, suitable drainage including foul drainage and appropriate management of the construction phase of the development to ensure no adverse effects on living conditions, highway safety and the wider environment, ecological management and enhancement and a safe and sufficient access strategy.

12.72 Condition 21 is necessary to ensure that sufficient access facilities are provided prior to each phase of the development being occupied. Condition 22 requires a scheme of water efficiency to be submitted and is necessary to ensure that the development contributes to sustainable development and responds to climate change. Details are required to be submitted regarding the proposed bus stop/shelter and toucan crossing which shall be provided prior to first occupation and regarding an extension of the existing shared walking and

cycling facility along Eastern Way (conditions 23 & 24). These conditions are necessary to ensure that safe and sufficient access is provided and that the development is accessed by a variety of transport modes.

12.73 A condition is required to ensure that any lighting on site meets appropriate standards so as to not cause harm to bats (condition 25) and an updated mitigation strategy for Great Crested Newts and Badgers are required to be submitted by condition 26. This is necessary to ensure adequate protection for these protected species. Finally, condition 27 relates to the delivery of the proposed site for the community use/building and is necessary to ensure its provision.

12.74 The two suggested conditions regarding landscaping (numbered 25 & 26 on ID10) are not necessary as landscaping is a reserved matter so can be dealt with at that stage.

12.75 Where necessary I have amended the wording of the suggested conditions slightly to improve clarity, to require the approval of details in writing and to remove tailpieces at the end of conditions as these create uncertainty and do not meet the tests for conditions as set out at Framework paragraph 57, particularly the precision test. However, none of these amendments have fundamentally altered the requirements of the conditions.

Planning Obligation

12.76 A S106 planning obligation has been completed by the Appellant and the Council together with the site owners[247].

12.77 The planning obligation includes the following covenants and obligations:

- The provision of at least 30% of the residential units within the development as affordable housing of which 60% will be affordable rent, 15% as shared ownership and 25% as First Homes.
- The submission of a Landscape Plan including Management Scheme and Allotment Scheme prior to the commencement of development and to complete the open space works and play area works in accordance with the approved Landscape Plan and to complete the allotments in accordance with the approved Allotment Scheme.

12.78 The planning obligation also includes the payment of a financial contribution towards:

- Biodiversity Net Gain monitoring;
- The provision of a bus service in the vicinity of the development;
- The cost of provision of a community building in the vicinity of the development;
- The administration, printing and provision of cycle maps for the purposes of distribution to local residents of the development as part of the Travel Plan;

[247] ID15

- The provision of a new primary school or towards the provision of early years facilities at the new nursery site;
- Green travel vouchers for occupiers of the residential units;
- Additional floorspace at nearby medical centres;
- The delivery of cycling and walking improvements to connect the development to the town centre and associated facilities and employment opportunities;
- Various highway works;
- The delivery of a public art scheme;
- Accessibility measures and facility enhancements at Melksham Railway Station;
- Various works to public rights of way near to the development;
- The provision of sports pitches or ancillary provision within the vicinity of the development;
- Travel Plan monitoring; and
- The provision of waste and recycling equipment.

12.79 Having regard to the submitted CIL compliance schedule[248] and to discussions at the Inquiry, I am satisfied that all the obligations included within the S106 planning obligation are supported by policy and meet the tests for obligations set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 58 of the Framework. I have therefore taken them into account in considering the proposal.

12.80 The obligations also mean that the Council's initial concerns regarding infrastructure as set out in RfR2 have been overcome. The S106 planning obligation makes adequate provision for on-site and off-site infrastructure to make the proposal acceptable in planning terms and to ensure that it complies with Policy CP3 of the WCS and with the relevant requirements of paragraph 8 of the Framework.

Conclusion and overall Planning Balance

12.81 Although I have found that the proposal conflicts with the development plan as a whole, in this case there are material considerations which indicate that the decision should be taken otherwise in accordance with it.

13 RECOMMENDATION

13.1 I recommend that the appeal should be allowed.

Beverley Wilders

INSPECTOR

[248] ID12

ANNEX A – APPEARANCES

FOR Wiltshire Council

Edward-Arash Abedian, Counsel instructed by Hannah Bartlett of Wiltshire Council

They called:

Mark Reynolds, BSc (Hons), MSc, MRTPI	Planning Managing Director of Context Planning Ltd

Additional participants at the Conditions and Obligations Round Table Session:

Verity Giles-Franklin	Senior Planning Officer, Wiltshire Council
Kenny Green	Planning Manager, Wiltshire Council
Robert Rossiter	Strategic Specialist for Major Highways Projects, Wiltshire Council
Chris Herz	Senior Legal Assistant, Wiltshire Council
Chrisa Tsompani	Solicitor on behalf of Wiltshire Council

FOR Catesby Estates Promotions Limited

Christopher Young KC and Tobin Byers, Counsel instructed by Ian Humble of Catesby Estates Promotions Limited

They called:

David Neame, BSc (Hons), MSc, MRTPI	Planning Director of Neame Sutton Chartered Town Planners
Stephen Harris, BSc (Hons), MRTPI	Housing Land Supply Director, Emery Planning
Annie Gingell BSc (Hons) MSc MRTPI	Affordable Housing Associate Director, Turley

Additional participants at the Conditions and Obligations Round Table Session:

Rhiannon Jones	Neame Sutton Limited
Ian Humble	Catesby Estates Promotions Limited
Karen Howe	Shoosmiths

INTERESTED PERSONS

Lance Allan	Society of Local Council Clerks
James Bradshaw	National Trust (Lacock)
Fiona Dey	Local Resident
Graham Ellis	Melksham Transport User Group
John Glover	Melksham Without Parish Council
Anne Henshaw	CPRE Wiltshire

Chris Holden	Melksham Community Partnership
Cllr Nick Holder	Wiltshire Council
Jacob Lawrence	On behalf of Brian Mathew MP
Nico Mengini	Director, Jarboom (festival organiser)
Francis Morden	Local Resident
Cllr David Pafford	Melksham Without Parish Council
Saffi Rabey	Mayor – Melksham Town Council
Campbell Ritchie	WALPA (Wiltshire Area Localism and Planning Alliance
Liz Rowley	Local Resident
Cllr Charlie Stokes	Wiltshire Council
Teresa Strange	Melksham Without Parish Council
Vaughan Thompson	Chartered Town Planner
Cllr Simon Wise	Lacock Parish Council
Cllr Richard Wood	Melksham Without Parish Council
Jerry McConn	Press – Melksham Independent News

ANNEX B: CORE DOCUMENTS

Core Documents can be accessed at: AP-37487

CD Ref	Title
CD1	National Policy and Guidance
CD2	Other National Guidance Documents, including MHCLG
CD3	Adopted Wiltshire Council Development Plan Documents, Guidance and Background Documents
CD4	Wiltshire Local Plan Review Examination Documents
CD5	Housing Land Supply Documents
CD6	Affordable Housing Documents
CD7	Appeal Scheme Documents
CD8	Case Law and Appeal Decisions
CD9	Other Relevant Documents
CD10	Planning Appeal Documents
CD11	JMNP2 Evidence Base
CD12	Inquiry Documents

Proofs of Evidence can be accessed at: Planning Application: PL/2024/07097

POE Ref	Title and Author
FOR Wiltshire Council	Proof of Evidence of Mark Reynolds on behalf of Wiltshire Council – Mark Reynolds
FOR Catesby Estates Promotions Limited	Proof of Evidence – Planning Matters – David Neame

Proof of Evidence – Housing Land Supply – Stephen Harris
Proof of Evidence - Affordable Housing Matters – Annie Gingell

ANNEX C: DOCUMENTS SUBMITTED DURING THE INQUIRY

Inquiry Documents can be accessed at: AP-37487

INQ Ref	Description
ID1	Latest version of Draft S106
ID2	Appellant's Opening Statement
ID3	Council's Opening Statement
ID4	Interested Parties details and overview of their comments
ID5	Detailed Comments of Interested Parties
ID6	Paper Copy Bundle of Plan before the Council when it made its decision
ID7	Updated CIL Compliance Schedule
ID8	Settlement Boundary Note
ID9	Housing Requirement for Melksham addendum to SOCG
ID10	Updated Conditions List
ID11	Updated Draft S106
ID12	Updated CIL Compliance Schedule with Appendices
ID13	Council's Closing Statement
ID14	Appellant's Closing Statement
ID15	Completed S106
ID16	Council response letter to ELP Inspectors dated 30 January 2026
ID17	ELP Examining Inspectors letter to Council dated 27 February 2026
ID18	Council response letter to ELP Inspectors dated 12 March 2026
ID19	Appellant's comments on ID17
ID20	Council's comments on ID17
ID21	Appeal Decision APP/Y3940/W/25/3374421
ID22	Appellant's comments on ID21
ID23	Council letter to PINS dated 22 May 2026 withdrawing the ELP
ID24	Interested Parties comments on ID21 and ID23

ANNEX D – SCHEDULE OF RECOMMENDED CONDITIONS

1) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

2) Application(s) for the approval of all reserved matters specified in Condition 4 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

3) No application for reserved matters shall be submitted until there has been first submitted to and approved in writing by the Local Planning Authority a detailed Phasing Plan and order of delivery schedule for the entire application site indicating geographical phases for the entire development.

   Where relevant these phases shall form the basis for the reserved matters applications, and each phase shall include within it the defined areas and the quantities of open market and affordable housing as well as the community area, POS, on-site BNG provision, and on-site play provision uses and associated infrastructure relevant to any given phase.

   The 'order of delivery schedule' shall also specify the order in which each land parcel shall commence.

   In addition, detailed plans and an order of delivery schedule for 'non-phase specific' landscape and ecology mitigation measures shall be submitted to and approved in writing by the local planning authority.

   The development shall be carried out in strict accordance with the provisions of the approved phasing plan.

4) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

   a) The scale of the development.
   b) The layout of the development.
   c) The external appearance of the development.
   d) The landscaping of the site.

   The development shall be carried out in accordance with the approved details.

5) The development hereby permitted shall be carried out in a phased manner in accordance with the following approved plans and documents:

   Dwg 05d, Location Plan, received on 22 May 2025;
   Dwg AI14h, Development Parameters Plan, received on 22 May 2025;
   Dwg 18507-03-1 Rev C, Proposed Roundabout Site Access and Crossing Works (North Access), received on 22 July 2025;
   Dwg 18507-06, Proposed Roundabout Site Access (South Access), received on 22 May 2025;
   Dwg 18507-03-3 Rev A, Proposed Toucan Crossing, received on 4 September 2024;

Ecological Impact Assessment (Produced by Ethos, issue V1, dated July 2024);
Great Crested Newt Licensed Mitigation Strategy (Produced by Ethos, issue V1, dated March 2025);
Ecological Parameters Plan (Produced by Ethos, dated 15 May 2025);
Tree Retention and Removal Plans (produced by EDP, reference edp8111_d002b (Overview and Sheets 1- 4)

6) The subsequent reserved matters application(s) (phased or otherwise) to be submitted pursuant to Condition 4 shall accord with the principles, objective and parameters set out in the Design and Access Statement (produced by Catesby Estates, Parts 1-4, Rev D, dated 24 July 2024) and the Design and Access Statement Addendum (produced by Catesby Estates, Rev C, dated 6 March 2025) to ensure a high standard of design and placemaking is achieved at detailed design stage and shall include an acoustic design scheme for protecting the proposed dwellings from external (traffic) noise.

7) The subsequent reserved matters applications (phased or otherwise) shall make appropriate provision for the following:

- Plan to deliver a contiguous carriageway network to reduce the need for large vehicle turning areas.
- Provide refuse collection vehicle tracking and walking distances to collection points.
- Provide full details of pedestrian realm infrastructure and the means to identify priority and continuity across side roads and where routes cross the spine road.
- Provide full details of Public Rights of Way treatment, including construction and surfacing materials where appropriate and any diversions/stopping up.
- Provide an access and movement plan illustrating dedicated walking and cycling routes, construction, geometry and connectivity with external networks.
- Provide full details of Shared Surface streets and transitions, including geometry details and material treatment
- Provide full details for the on-street landscaping.
- Provide details on speed restraint measures to reduce on-site traffic speeds to 20mph or lower.

With the aforesaid requirements for any given phase to be submitted to and approved in writing by the Local Planning Authority before any on site works commence. Following receipt of written approval, the work shall be delivered in full accordance with the phasing plan.

8) A detailed housing mix strategy, including the number and size of dwelling units shall be submitted as part of the reserved matters application(s) (phased or otherwise). The development shall be carried out in accordance with the approved housing mix.

9) A final Sustainable Energy Strategy shall be submitted as part of the reserved matters application(s) for the housing development to provide details of operational energy, embodied carbon, climate change adaptation measures, low-carbon and renewable energy technologies, water efficiency, electric

vehicle charging points, cycle parking, and sustainable transport for the written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

10) No site clearance, preparatory work or development shall take place until an Arboricultural Impact Assessment incorporating a Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement prepared in accordance with BS5837:2012, has been submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters application and then submitted with each subsequent reserved matters application, to demonstrate the protection of all trees and hedgerows and the appropriate working methods and materials used for construction. The development shall then be carried out in accordance with the details approved by the Local Planning Authority.

11) No development shall commence on site until:

a) A Written Programme of archaeological investigations is submitted to, and approved in writing by, the Local Planning Authority. This programme will include archaeological Strip, Map and Record (SMR) excavations covering the locations of evaluation trenches 5, 6, 7, 8 and 9 in Field 1(field numbers as defined by the evaluation report of January 2025) and trenches 33, 35, 36, 43, 44, 45, 50, 51, 53, 55, 56 and 57 in Field 4, as well as an open area excavation site in Field 2, covering locations of evaluation trenches 19, 20, 22, 24, 26, 27, 28, 29 and 30. The written programme should include all on-site work and off-site work, including the analysis, publishing and archiving of the results; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details between the calendar months of April and September.

The excavations and required works are to be undertaken by qualified archaeologists following the standards and guidelines for Sites and Monuments Records and open area excavations, as set out by the Chartered Institute for Archaeologists (CIfA).

12) No development shall commence on site until a detailed drainage strategy for the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority and detailing the following matters.

- Evidencing how the surface water disposal hierarchy has been applied and how all other options have been exhausted.
- Providing drainage calculations which demonstrate that the required 30% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100-year return period storm events. Large attenuation features shall achieve a minimum of 300mm freeboard above the 1 in 100 year + 45% climate change water level.
- Confirmation that there is sufficient attenuation on site to fully attenuate the 1 in 100 years plus climate change storm event.

- Full labelled drawings for the proposed drainage layout, including layout plans to show the pipe network and attenuation ponds, which should correspond with the drainage calculations.
- Cross sections and design details for all attenuation ponds and their components.
- Confirmation that all development and SuDs attenuation areas are located outside the current and future flood extents.
- Confirming the arrangements for ownership and ongoing maintenance of SuDS over the lifetime of the development.
- Construction phasing plan.

The development shall then be carried out in accordance with the approved details.

No housing shall be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

13) No development shall commence on site until a scheme to dispose of foul drainage, including connection to the public foul sewer network, has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

14) No development shall commence on site (including any works of demolition), until a Construction Management Plan (CMP), has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

i. The movement of construction vehicles;
ii. The parking of vehicles of site operatives and visitors;
iii. The cutting or other processing of building materials on site;
iv. Wheel washing and vehicle wash down facilities;
v. The transportation and storage of waste and building materials;
vi. The storage of plant and materials used in constructing the development;
vii. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
viii. Measures to control the emission of dust and dirt during construction;
ix. A scheme for recycling/disposing of waste resulting from demolition and construction works;
x. Measures for the protection of the natural environment;
xi. Pre-condition photo survey of local roads and highway infrastructure;
xii. Large Vehicle Routing plan;
xiii. Traffic Management Plan (including signage drawing(s));
xiv. Number (daily/weekly) and size of delivery vehicles;
xv. Number of staff vehicle movements;
xvi. Details of temporary/permanent Traffic Regulation Orders;
xvii. Construction phasing plan;
xviii. The recycling of waste materials (if any);
xix. The loading and unloading of equipment and materials;
xx. The location and use of generators and temporary site accommodation;

xxi. Where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts;
xxii. Hours of construction, including deliveries;
xxiii. Hours of Operation (8am to 6pm Mon – Fri, 8am – 1pm Sat, no working on Sundays or Bank Holidays)

The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

15) No development shall commence on each phase of the development hereby approved, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to the following, and the development shall be carried out in strict accordance with the approved CEMP:

a. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing;

b. Working method statements for protected/priority species, such as bats, nesting birds, riparian mammals and reptiles;

c. Mitigation strategies for great crested newts and badger – this should comprise the preconstruction/construction related elements of strategies only;

d. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site;

e. No external night-time works or use of artificial lighting during the construction phase;

f. Pollution prevention measures including the location of site and storage compounds, the use of plant and machinery, measures to control of dust and noise, the location and use of wheel washing and vehicle washdown plant/machinery, and the location and use of oils/chemicals;

g. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

16) No site clearance or development shall commence on each phase of the development hereby approved until a Landscape and Ecology Management

Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

i. An Ecological Enhancement Plan showing:

a. The location, number and type of features for wildlife in accordance with Paragraph 7.2.1 of the Ecological Impact Assessment.

b. Locations of fence gaps for hedgehogs.

c. The location, type and extent of exclusion measures (e.g. fencing) to protect sensitive ecological features i.e., great crested newt breeding pond.

d. Identification of the habitats to be created/enhanced and managed specifically for the benefit of target species i.e. great crested newt.

ii. Long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature shown on the Ecological Enhancement Plan.

iii. The mechanism for monitoring success of the management prescriptions and a procedure for review and necessary adaptive management in order to attain targets.

iv. Details of the mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

17) No site clearance or development shall commence on each phase of the development hereby approved until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the statutory Biodiversity Gain Plan, has been submitted to and agreed in writing with the Local Planning Authority. The HMMP shall include:

1. A non-technical summary;

2. The roles and responsibilities of the people or organisation(s) delivering the HMMP;

3. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the statutory Biodiversity Gain Plan and schedule for implementation;

4. The management measures to maintain habitat in accordance with the statutory Biodiversity Gain Plan for a period of 30 years from the completion of development; and

5. The monitoring methodology and specification of a Monitoring Pack (to include but not exclusively up to date Management Actions Logs, Habitat Condition Assessment Reports, metric calculation, and corresponding post-intervention Habitat Map), which shall be submitted to the Local Planning Authority in years 2 (two) 5 (five) 10 (ten) 15 (fifteen) 20 (twenty) and 30 (thirty) of the Maintenance Period.

6. A timetable for the delivery of the habitation creation enhancement works

The created and/or enhanced habitat shall be managed and maintained in accordance with the agreed HMMP at all times thereafter.

18) Notwithstanding the submitted details, no works shall commence (except for site enabling or site clearance operations) on site until full construction details for the northern access have been submitted to and approved in writing by the Local Planning Authority.

The construction details shall take into consideration planned and delivered pedestrian infrastructure in the vicinity of the junction, including necessary carriageway surface treatments, and shall incorporate details of an uncontrolled LTN 1/20 compliant crossing of the development arm of the roundabout. The full construction details shall be subject of a Stage 2 Road Safety Audit.

Prior to first occupation of any dwelling served from the northern access, the northern access shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

19) Notwithstanding the submitted details, no works shall commence (except for site enabling or site clearance operations) on site until full construction details for the southern access facilities have been submitted to and approved by the Local Planning Authority. The construction details shall include details of an uncontrolled LTN 1/20 compliant crossing of the development arm of the roundabout. The full construction details shall be subject of a Stage 2 Road Safety Audit. Prior to first occupation of any dwelling served from the southern access, the southern access shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

20) No works shall commence (except for site enabling or site clearance operations) on site until full details of all internal estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for the provision of such works (or during which phase) shall be submitted to and approved in writing by the Local Planning Authority. Each phase of the development shall not be first occupied until the works have been undertaken in accordance with the approved details and timetable.

21) The internal estate roads, including footpaths and turning spaces where necessary, shall be constructed so as to ensure that before that phase is occupied, each dwelling shall be provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the existing highway.

22) No development shall commence above ground floor slab level until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme will demonstrate a standard of a maximum of 110 litres per person per day is applied for all residential development. The scheme shall be implemented in accordance with the agreed details.

23) No development shall commence above ground floor slab level until full construction details of the proposed toucan crossing and bus stop and shelter provision have been submitted to and approved in writing by the Local Planning Authority. The construction details shall include but not be limited to all necessary surface treatments to accommodate the crossing, shelter and real time information specification and orientation of bus stops to maximise pedestrian crossing visibility.

The full construction details shall be subject of a Stage 2 Road Safety Audit.

Prior to first occupation of any dwelling, the Toucan Crossing and Bus Stop/Shelter provision shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

24) No development shall commence above ground floor slab level until full design and construction details of an extension of the existing shared walking and cycling facility along the eastern side of Eastern Way linking the existing facility to the south with Bridleway MELW41 in the north have been submitted to and approved in writing by the Local Planning Authority.

Prior to first occupation of the 150th dwelling, the shared walking and cycling facility shall be provided in all respects in accordance with the approved details and maintained as such thereafter.

25) All lighting provided on site shall be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 'Bats and artificial lighting at night', issued by the Bat Conservation Trust and Institution of Lighting Professionals and shall demonstrate that bat habitat (trees with bat roost potential, Clacker's Brook river corridor and hedgerows) on the perimeter of the site shall remain below 0.5 lux (or no higher than existing.

26) The Reserved Matters application(s) (phased or otherwise) shall be accompanied by an updated mitigation strategy For Great Crested Newt and Badger. The mitigation strategies shall be informed by up-to-date surveys where required.

27) The site for the Community Use/Building, as shown on the Development Parameter Plan Reference AI14h, shall be delivered by the occupation of the 200th dwelling, in accordance with details and a specification to be submitted to and approved in writing by the Local Planning Authority.

END.

Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Planning Inspectorate

Appeal Decision

Site visit made on 12 May 2026

by SE Hughes BA (Hons) PGDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2026

Appeal Ref: 6003438
Land South of 214B Corsham Road, Whitley, Melksham, Wiltshire SN12 8QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
- The appeal is made by Mr Tom Nicholas against the decision of Wiltshire Council.
- The application Ref is PL/2025/08613.
- The development proposed is the erection of up to 5 dwellings.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle (PIP) consent route has two stages: the first establishes whether a site is suitable in-principle and the second (technical details consent - TDC) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.

3. The scope of the considerations for PIP is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if permission in principle is granted.

4. I have taken the description of development from the application form. However, any grant of permission in principle must be expressed as a minimum and maximum of dwellings. In this case, the application form goes onto clarify that a minimum of 2 dwellings and maximum of 5 dwellings are sought.

Main Issue

5. The main issue is whether the site is suitable for the residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

6. Policies CP1 and CP15 of the Wiltshire Core Strategy, January 2015 (WCS) outline the hierarchical spatial strategy for accommodating new housing in Wiltshire, with development focused on principal settlements, then market towns, then local service centres, then large villages, such as Whitley, and small villages.

7. Policy CP2 of the WCS sets out the Council's housing delivery strategy and states that, unless permitted by other policies within the WCS as set out at paragraph 4.25, development will not be permitted outside the limits of development.

8. Likewise, Policy 6 of the Joint Melksham Neighbourhood Plan 2, 2020 – 2038[1] (JMNP2) supports housing development within existing settlement boundaries.

9. The appeal site is not allocated for housing development and is classified as a location outside the defined limits of development under both Policy 6 of the JMNP2 and Policy CP2 of the WCS. None of the paragraph 4.25 exceptions of Policy CP2 apply in this case.

10. The appeal site is part of an undeveloped field with a mature hedgerow boundary adjacent to Corsham Road. As an undeveloped area of land, the site's natural, verdant qualities make a positive contribution to the setting of Whitley. It also forms part of a wider area which is identified as a green wedge or green gap under Policy 19 of the JMNP2. Accordingly, I observed it acts as a clear visual buffer of open countryside between Whitley and Shaw which helps to preserve the separate identity of the two villages.

11. Whilst details of the design are not before me at this stage, the appeal site is of a size which is capable of accommodating up to five dwellings in a spacious low density manner, corresponding with the low density of the village. The extent of the proposed development would match the southern limit of existing built development on the opposite side of Corsham Road. Also, I acknowledge that further structural landscaping is proposed, and that this would help to redefine the southern edge of the settlement. However, despite this, the introduction of built form to the site and associated hard surfacing, lighting, and residential activity, would significantly alter the appearance of the appeal site, harmfully extending the settlement edge of Whitley into the open countryside and eroding the gap that distinguishes the separate identities of Whitley and Shaw.

12. Accordingly, for the reasons explained above, I find that the location, land use and amount of the proposed development would be contrary to locational Policies CP1, CP2 and CP15 of the WCS. Furthermore, as the appeal site is located within land identified as a green wedge, it would also conflict with Policy 6 and Policy 19 of the JMNP2 and Policy CP51 of the WCS which seeks to protect, conserve and enhance Wiltshire's distinctive landscape character. My findings are reinforced by the judgment of the Inspector in the appeal brought to my attention[2] who also found conflict with the aforementioned WCS policies.

13. The Council's decision notice also refers to loss of the best and most versatile agricultural land, but does not cite conflict with a development plan policy. Paragraph 187 of the National Planning Policy Framework (the Framework) requires decision-makers to take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, preference should be given to using areas of poorer quality over higher quality land. The Framework defines the best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification. Whilst there is no detailed and compelling evidence to establish whether the appeal site is grade 3a or 3b, since the

[1] Made August 2025
[2] Appeal Reference APP/Y3940/W/17/3185863

development would lead to a small loss of 0.3 ha, I am satisfied that it would not amount to significant development. Therefore, the preferential requirement to utilise poorer quality land does not apply. Accordingly, I do not consider that the proposal would result in a harmful loss of the best and most versatile agricultural land.

Other considerations

14. My attention has been drawn to two appeal decisions where either limited weight was attributed to the conflict with the spatial strategy of the WCS or the benefits of providing additional dwellings outweighed the WCS policy conflict. However, the circumstances and locational context of the appeals are not directly the same as this appeal. The Glenmore Farm appeal[3] concerned a much larger development of 145 homes to the north west of Westbury, a town which benefits from more services. Whilst the West Street appeal[4] is also located on the edge of a large village, unlike the appeal proposal it does not affect land identified as a green gap. Consequently, I disagree that the appeals are directly comparable. Therefore, I am not bound by the weightings applied by the Inspectors in those cases, although I have taken account of them. I have reached my own conclusions on the merits of the appeal proposal on the basis of the evidence before me.

15. I have been made aware that the Wiltshire Local Plan Review 2020-2038 is in the process of examination, but that process has paused. Nevertheless, it has limited weight and as such it does not materially change the circumstances surrounding the proposal and the primacy of its determination against the adopted development plan.

16. Whilst the Council does not raise any objections to the proposal from a sustainability or accessibility perspective, compliance with the development plan in these respects is a neutral factor. I have also taken account of the representation received in support of the planning application. However, I have addressed the matters raised within it, in my reasoning on the main issue.

Planning balance

17. There is no dispute that there is a substantial shortfall in housing land supply, both parties refer to it as comprising 2.42-years. Paragraph 11 of the Framework is engaged. This states that planning permission should be granted unless (i) policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. There is nothing to suggest 11(d) (i) is relevant to this case, hence the balance in 11(d) (ii) applies.

18. Paragraph 14 of the Framework advises that in situations where the presumption at paragraph 11(d) applies, the adverse impact of allowing development that conflicts with the Neighbourhood Plan (NP) is likely to significantly and demonstrably outweigh the benefits. This is provided that the NP became part of the development plan five years or less before the date on which the decision is made, and that it contains policies and allocations to meet its identified housing requirement.

[3] Appeal Decision APP/Y3940/W/24/3345598
[4] Appeal Decision APP/Y3940/W/24/3345527

19. The JMNP2 is less than a year old and the parties agree it meets the requirements of paragraph 14(a). However, they do not agree in relation to paragraph 14(b). The appellant contends there is a shortfall in allocation for Shaw and Whitley and that there has been a significant uplift in the level of housing need. Nevertheless, paragraph 14(b) refers to the identified housing requirement of the neighbourhood plan overall, which covers Melksham and Melksham Without. It allocates land for new housing through policies 7.1 to 7.5. The Examiner's report for the JMNP2, amongst other things, found overall that it addresses housing delivery in the plan period. Therefore, based on the evidence before me, I find that the requirements of paragraph 14(b) are also met and so it applies in this case.

20. The proposal would add to the housing stock and so it would help boost the supply of dwellings. Paragraph 73 of the Framework recognises that small and medium sized sites, like the proposal site can make an important contribution to meeting the housing requirement of an area.

21. In economic terms, the proposed development would provide construction jobs and some local investment during its build out, as well as longer term expenditure in the local economy, including Council Tax payments to the Council. Although a matter for the TDC stage, associated landscaping and the requirements to deliver 10% biodiversity net gain would provide biodiversity enhancements.

22. I have attributed these combined social, economic and environmental benefits moderate weight in the planning balance.

23. However, in light of paragraph 14 of the Framework, the adverse impacts of allowing the development that conflicts with policies of the JMNP2 would significantly and demonstrably outweigh the benefits of the proposed development. Therefore, I find the presumption in favour of sustainable development as detailed in paragraph 11 of the Framework does not apply.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

SE Hughes

INSPECTOR