



Department for
Communities and
Local Government

Rebecca McAllister
Savills
Ground Floor, Hawker House
5-6 Napier Court
Napier Road
Reading RG1 8BW

Our ref: APP/Y3940/V/15/3142170

23 March 2017

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY THE SOCIETY OF MERCHANT VENTURERS
LAND AT QUAKERS ROAD, DEVIZES
APPLICATION REF: 15/01388/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Ken Barton BSc(Hons) DipARch DiArb RIBA FCIArb, who held a public local inquiry on 25 and 26 October 2016 into your client's application for outline planning permission for residential development of up to 123 dwellings together with associated open space, landscaping, parking and access, in accordance with application ref: 15/01388/OUT, dated 13 February 2015.
2. On 22 December 2015, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority, Wiltshire Council.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application should be approved, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. He has decided to grant outline planning permission, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. Post-inquiry representations were received from Tracey Whiting and the Trust for Devizes, primarily dealing with a grant of planning permission by Wiltshire Council on the northern section of the site. For the reasons set out in paragraphs 12-13 below, the

Secretary of State is satisfied that this issue does not affect his decision. No other new issues were raised in post-inquiry correspondence to warrant further investigation or necessitate additional referrals back to parties. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the adopted Wiltshire Core Strategy 2015, the saved policies of the Kennet Local Plan 2011 and the Devizes Area Neighbourhood Plan, made on 7 December 2015. The Secretary of State considers that the development plan policies of most relevance to this case include Core Strategy Core Policies 2, 41, 43 and 50, and NP Policies H1, H2, H3, T1 and ESD1.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Main issues

Accordance with the Development Plan

10. For the reasons given at IR101-102 and 105, the Secretary of State agrees with the Inspector that the proposal would accord with CS Core Policy CS2 and there would be a development plan presumption in favour of sustainable development. He further agrees that it would accord with NP Policy H1, which focuses development within the Line of Development (IR105).
11. The Secretary of State has considered carefully whether the proposal is in accordance with NP Policy H2. For the reasons given at IR106-108, IR111 and IR124, he agrees with the Inspector that there is no evidence of any harm as a result of the proposed scheme and the NP objectives would be met (IR111). He considers that an appropriate quality of design could be secured via reserved matters, and that the proposed development would not raise the same problems as the previous pattern of development. He agrees with the Inspector that the proposal complies with the objectives of Policy H2 (IR111) and would accord with NP Policy H2 when taken as a whole and when the purpose of the NP Policies is taken into consideration (IR125). He further agrees that the proposal would comply with the objectives of the NP and CS when considered as a whole (IR111), and would conform with the development plan as a whole (IR125).

Existing planning permission

12. On 25 October 2016 the Council granted outline planning permission for a 65 dwelling scheme on the northern part of the application site (IR13 and IR126). Paragraph 13 of the

Secretary of State's call-in letter of 22 December 2015 directed the Council not to grant planning permission, without specific authorisation, for any development which is the same kind as that which is the subject of the current application, on any land which forms part of, or includes, the site to which the current application relates until the Secretary of State has issued his decision on the current application. The Trust for Devises in their representations ask the Secretary of State to treat that permission as not being a material consideration.

13. The Secretary of State considers that the Council's grant of permission for the 65 dwelling scheme may be in conflict with his direction of 22 December 2015, and it is possible that had the permission been challenged, it would have been found to be unlawful. However, no challenge has been brought to date, and the permission still stands. The Secretary of State agrees with the Inspector that the permission is a material consideration (IR126). He considers that it carries very little weight in the planning balance. For the avoidance of doubt, the Secretary of State's overall conclusion on this case would have been the same if he had concluded that the grant of permission was not a material consideration.

Other matters

14. The Secretary of State has considered the Inspector's analysis of the traffic impacts of the proposal, as set out at IR110 and IR113-115. He notes that the Applicant's detailed evidence has been agreed with the highway authority and is not challenged by any technical evidence (IR110). For the reasons given by the Inspector, the Secretary of State agrees with his conclusion that there would be little adverse impact on safety and the flow of traffic in accordance with NP Policy T1 (IR110), and considers that this does not weigh against the proposal.
15. For the reasons given in IR115-121, the Secretary of State considers that matters relating to noise, access to local services, ecology/wildlife, open space and flooding do not weigh against a grant of planning permission.
16. The Secretary of State notes that the site is best and most versatile agricultural land. He agrees with the Inspector that this proposal does not constitute significant development of agricultural land as set out in paragraph 12 of the Framework, and considers that the loss of this agricultural land carries little weight against the proposal.
17. The Secretary of State agrees with the Inspector that the proposal would not have any material impact on the setting of the Grade I listed St Mary's Church (IR123). He has had regard to the statutory duty in s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that he pay special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings. As there is no harmful impact, he concludes that the setting is preserved. He further considers that the proposal is in accordance with paragraph 132 of the Framework, as there is no harm to the significance of the listed building.

Planning conditions

18. The Secretary of State has given consideration to the Inspector's analysis at IR127-131, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test

set out at paragraph 206 of the Framework, and that the conditions set out at Annex B should form part of his decision.

Planning obligations

19. Having had regard to the Inspector's analysis at IR132, the signed and dated Section 106 Agreement, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR132 that the Agreement complies with Regulation 122 of the CIL Regulations. He further considers that it complies with the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
20. The Secretary of State has taken into account the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project or type of infrastructure for which an obligation has been proposed in relation to the application (IR132). The Secretary of State concludes that the obligations are compliant with Regulation 123(3), as amended.

Planning balance and overall conclusion

21. For the reasons given above, the Secretary of State considers that the application is in accordance with the relevant NP and CS policies, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
22. The Secretary of State considers that the provision of market and affordable housing carries significant weight in favour of the development, and that the 65 dwelling permission carries very little weight in favour.
23. He considers that the loss of best and most versatile agricultural land carries little weight against the proposal.
24. Overall he considers that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
25. The Secretary of State therefore concludes that outline planning permission should be granted, subject to conditions.

Formal decision

26. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants outline planning permission, subject to the conditions set out in Annex B of this decision letter, for residential development of up to 123 dwellings together with associated open space, landscaping, parking and access, in accordance with application ref: 15/01388/OUT, dated 13 February 2015.
27. 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 Town and Country Planning Act 1990.

Right to challenge the decision

28. 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 Town and Country Planning Act 1990.
29. 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.
30. 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

Maria Stasiak

Authorised by Secretary of State to sign in that behalf

Annex A Schedule of representations

Party	Date
Tracey J C Whiting	7 November 2016
Trust for Devizes	21 November 2016
Trust for Devizes	21 December 2016
Trust for Devizes	23 December 2016
Trust for Devizes	23 January 2017
Claire Perry MP (enclosing Trust for Devizes letter of 21 November 2016)	3 February 2017
Trust for Devizes	11 February 2017
Claire Perry MP	1 March 2017

Annex B Schedule of conditions

- 1) No development hereby permitted shall commence in any phase until plans and particulars specifying the detailed proposals for all of the following aspects of the same, herein called "the reserved matters", have been submitted to and approved in writing by the Local Planning Authority for that phase.
 - (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. Any reserved matters application pertaining to layout shall include the details of the access to the Rugby Club, as shown on the Illustrative Masterplan (Rev 003), dated January 2015 and shall make provision for a 35 metre buffer zone with Quakers Walk.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be commenced either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans Site Location February 2015; Site Boundary February 2015; and broadly in accordance with the Development Framework Revision 005 January 2015, with the provision of a landscaped buffer to Quakers Walk of a minimum width of 35 metres.
- 5) No development shall take place until a phasing scheme has been submitted to and agreed in writing by the Local Planning Authority.
- 6) No development shall commence on site until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This should include details of:
 - a) Habitat creation and management measures along Quaker's Walk;
 - b) Mitigation measures for reptiles;
 - c) Monitoring for Annex II bat species;
 - d) Enhancements for Wiltshire BAP habitats/species.

For clarity, these details should be represented on a site drawing. All development shall be carried out in accordance with the approved Ecological Management Plan.
- 7) No development shall commence on site until a Construction Environmental Management Plan, incorporating pollution prevention measures together with precautionary timings and working practices to prevent adverse impacts to sensitive habitats and species, has been submitted to and approved in writing by the local planning authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.
- 8) No external lighting shall be installed without the prior approval of the local planning authority. Any request for external lighting submitted pursuant to this

condition shall include details of the type of light fitting and information regarding its position, height, orientation and power. The lighting shall be installed in accordance with the approved details and it shall not thereafter be modified unless agreed beforehand in writing by the local planning authority.

- 9) No development shall commence on site until a Construction Method Statement, which shall include the following:
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the location of construction compound(s) and positions for site office(s);
 - e) the erection and maintenance of any security hoarding/fencing;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) hours of construction, including deliveries;
 - i) wheel washing facilities.
- has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.
- 10) No development shall commence on site until details of protective fencing for the trees along Quakers Walk have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall accord with British Standard 5837 (2012): 'Trees in Relation to Design, Demolition and Construction - Recommendations' and the information shall include details of the type of fencing to be used and its position. Once the fencing has been erected it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising or lowering of ground levels, shall be allowed within the protected area(s).
- 11) The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been submitted to and approved in writing by the local planning authority which demonstrates that this level or equivalent has been achieved.
- 12) No development shall commence on site until details of existing and proposed ground levels across the site (including within the Quakers Walk buffer zone), proposed slab levels and details of spoil disposal have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 13) Prior to occupation of the 30th dwelling a 3 metre wide shared use cycleway shall have been provided and made available for use to enable connection with the existing shared use path in front of 65B Quakers Road, running parallel to Quakers Walk, and connecting at its south western end to Quakers Walk, as indicated in outline on the Development Framework plan January 2015.
- 14) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 plus if a discharge to the canal is proposed details of the Canal & River Trust approval and details of ownership of attenuation ponds, and maintenance regimes,

has been submitted to and approved in writing by the Local Planning Authority. Any scheme proposing drainage ponds in the 35 metre buffer zone shall demonstrate how their construction and use is compatible with the purpose of the buffer zone to provide an informal and safe landscaped area. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- 15) No development shall commence on site until a scheme for the discharge of foul water from the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and no dwelling shall be occupied until the necessary works serving that dwelling have been completed and made operative in accordance with the approved details.
- 16) No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.
- 17) Prior to the commencement of development, a scheme setting out the boundary treatment to the adjoining Rugby Club shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the occupation of dwellings.

Report to the Secretary of State for Communities and Local Government

by Ken Barton BSc(Hons) DipArch DipArb RIBA FCI Arb

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 29 November 2016

TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION BY THE SOCIETY OF MERCHANT VENTURERS
TO
WILTSHIRE COUNCIL

Inquiry opened on 25 October 2016

Land at Quakers Road, Devizes

File Ref: APP/Y3940/V/15/3142170

File Ref: APP/Y3940/V/15/3142170

Land at Quakers Road, Devizes

- The outline application was called in for decision by the Secretary of State (SoS) by a direction, made under section 77 of the *Town and Country Planning Act 1990*, on 22 December 2015.
- The application is made by the Society of Merchant Venturers to Wiltshire Council.
- The application Ref 15/01388/OUT is dated 13 February 2015.
- The proposal is for residential development of up to 123 dwellings together with associated open space, landscaping, parking and access. Access to be taken from the existing site access onto Quakers Road.
- The reason given for making the direction was the Secretary of State's policy on calling-in planning applications.
- On the information available at the time of making the direction, the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application were "the conflict with the Devizes Area Neighbourhood Plan and any other matters the Inspector considers relevant".

Summary of Recommendation: The application be approved, subject to conditions.

Procedural Matters

1. The Inquiry sat on 25 and 26 October 2016. An unaccompanied site visit was undertaken on 25 October and included the evening peak period for traffic although it was half-term.
2. A Pre-Inquiry Note was issued highlighting additional issues raised by interested parties which the Inspector considered should also be addressed. These matters are:
 - i) The effect of the proposal, including construction traffic, on highway safety and the surrounding highway network;
 - ii) The effect of any additional traffic on pollution and health;
 - iii) The comparison between the proposal and the approved scheme for a Care Village on the application site;
 - iv) The effect on the character and appearance of the area, including green space and the natural environment;
 - v) The effect on local infrastructure, including doctors, dentists, shops etc;
 - vi) The need for any mitigation matters and the mechanisms (conditions or Section 106 obligations) that would ensure their provision.
3. This report includes a description of the site and its surroundings, a summary of the planning policy background and the recent planning history of the site, the gist of the representations made at the Inquiry, and in writing, and my conclusions and recommendation. Lists of appearances and documents, a schedule of conditions to be attached should the SoS be minded to grant planning permission, and a glossary of abbreviations are attached as appendices.

The Site and its Surroundings¹

4. The site, which has an area of approximately 4.72 hectares, is in agricultural use. There is a slight drop in level towards a pedestrian route, Quakers Walk, to the west that is 'sunk' into the landscape and flanked on either side by mature trees. To the north is the Quakers Road residential development, with Trinity Primary School, completed in 2013. Devizes Sports Club lies to the east with the Wiltshire Police Headquarters and associated grounds beyond, whilst to the south are allotments with the Kennet and Avon Canal beyond.
5. A bridge crosses the canal from Quakers Walk to the town on the other side. London Road to the east also provides a public right of way to the town centre for pedestrians and cyclists. Vehicular access to the site is proposed from an existing access onto Quakers Road, an adopted highway that runs to the boundary in the north-east corner of the site.
6. The site is not in, or adjacent to, a Conservation Area but the tower of the Grade I listed St Mary's Church, some 420 metres to the south-west, is visible from within the site.
7. The site is around 800 metres to the north of Devizes town centre. The town has a growing population and there are employment opportunities on the Hopton Industrial Estate, some 1.6 kilometres to the north of the site. Experian's latest Goad Centre Report (December 2015) confirms that the town centre is vital and vibrant with a diverse range of facilities and a range of retail provision. There are also a number of doctor's surgeries, dental practices and a leisure centre. A *Statement of Common Ground* (SOCG) includes a list of amenities and their distance from the site. All are within the recommended walking distance set out in the Chartered Institute of Highways and Transportation 'Providing for Journeys on Foot' and cycling distance as outlined in the superseded *Planning Policy Guidance Note 13*.²
8. London Road provides direct pedestrian links to employment uses to the north and the town centre to the south. Footways are provided on both sides of London Road and typically on both sides of roads within the town centre. Quakers Walk to the west of the site provides an additional off-road route to the town centre. The whole of Devizes is within a 5 kilometre distance of the site making cycling a real and viable alternative to the car. An off-road cycle route is also provided adjacent to the Canal further encouraging cycle trips to and from the site.³
9. There are north and south bound bus stops on London Road immediately to the north of the Quakers Road junction. Service 49 connects the site with the town centre, Swindon, and Trowbridge whilst the X49 is a school service linking to local schools/colleges on a route between Devizes and Trowbridge. A northbound bus stop is provided on Keepers Road to the north of the site and service 1C provides a regular service to and from the town centre. There are also services to Swindon, Trowbridge and Marlborough.⁴

¹ SMV8 Paras 2.1-2.4

² SMV8 Paras 2.8-2.12

³ SMV8 Paras 2.13-2.15

⁴ SMV8 Paras 2.16-2.18

Planning Policy

10. The development plan for the area includes the saved policies in the *Kennet Local Plan 2011* (LP) the adopted *Wiltshire Core Strategy 2015* (CS) and the *Devizes Area Neighbourhood Plan*, made on 7 December 2015 (NP). The site lies within the Devizes Limits of Development (LOD) as defined in the LP and carried forward in the CS and NP. CS Core Policy 2 states that within the LOD there is a presumption in favour of sustainable development.⁵
11. The site is not subject to any environmental designations and is not in the Green Belt. The Environment Agency (EA) flood mapping indicates that the site is within flood zone 1 where there is the least possible risk of flooding.⁶

Planning History

12. Members refused planning permission, contrary to Officer recommendation, for a Care Village on the site comprising 121 extra-care apartments, 18 extra-care cottages and an 80 bed care home with associated access, parking and landscaping, LPA Ref E/2011/1139/OUT. Permission was allowed on appeal on 5 November 2012 but lapsed in November 2015 due to a lack of interest in its implementation.⁷
13. Outline planning permission, LPA Ref 16/05341/OUT, has been granted, on 25 October 2016, for a 65 unit scheme on the northern part of the application site. This is compatible with the scheme for 123 dwellings on the whole site that is the subject of this Inquiry.

The Proposals

14. The application is in outline with all matters other than access reserved for future consideration. Officers recommended approval and were supported by Members, subject to the completion of a Section 106 Obligation. The application was called-in by the SoS before the Obligation could be completed and a formal decision notice issued.⁸
15. A Development Framework plan identifies 3.51 hectares of the site for residential development and 1.21 hectares for public open space, including a 35 metre wide buffer to Quakers Walk, the same width as in the Care Home scheme and the minimum design width for the Quakers Road scheme to the north. The Council confirms that the buffer can include other uses such as attenuation ponds and a Local Equipped Area of Play (LEAP). The 3.51 hectare residential area would include access roads as indicated on an illustrative Masterplan and the 123 dwellings were calculated by applying a density of 35 dwellings per hectare across the developable area. CS Policy CP43 requires 30% affordable housing and this would be secured by a Section 106 Agreement, as would the open space and equipped play area and a landscape plan, as well as other mitigation measures.⁹

⁵ SMV8 Paras 4.1, 2.5

⁶ SMV8 Paras 2.6-2.7

⁷ SMV8 Paras 2.20-2.21

⁸ SMV8 Paras 3.1-3.4

⁹ CD5, SMV6B, SMV8 Paras 3.5-3.6, 3.8-3.9

16. Access to the site would be via the existing access onto Quakers Road, the same as for the Care Village and 65 unit schemes. Towards the north-eastern corner an emergency access to the Sports Club is proposed. Immediately south of this access would be a new pumping station to serve the development. A new pedestrian/cycle link is proposed along the boundary of the developable area and buffer with Quakers Walk. This follows the need, identified in consultation, for an alternative to Quakers Walk in the winter months.¹⁰

The Case for the Society of Merchant Venturers

17. The Application was called in to consider whether there is any conflict between the proposed scheme and the NP. Only one substantive point has been raised, that the 123 proposed units would breach NP Policy H2 by exceeding the figure of 65 units in its first criterion. The NP Steering Group suggests that the proposals would also conflict with NP Policy T1, due to additional traffic on London Road, and that the scheme would affect the setting of open space. These matters are considered below.¹¹
18. The development plan for the area includes the CS, LP and the NP. The Council has an up-to-date 5 year housing land supply and therefore the development plan policies carry the full statutory weight of Section 38(6) of the 2004 Act. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 198 of the Framework does not give greater priority to NPs but applies to the entire development plan. Conflict with part of the development plan would normally indicate that permission should be refused unless there were counterbalancing issues. In this case the proposals accord with the NP.¹²
19. There is disagreement between the main parties and objectors about the degree of conformity with the NP. The Council emphasises that the development plan should be read as a whole, with a focus on its objectives and the policies that give effect to them, and that conflict with a single policy, let alone a part of a policy, does not necessarily mean an application fails to accord with the development plan as a whole. It is not correct that any proposal for more than 65 residential units does not accord with the development plan. The NP establishes locational criteria and guidelines or criteria aimed at achieving certain outcomes and avoiding others. The NP does not preclude applications for more than 65 units.¹³
20. NP Policy H1 focuses development within the LOD and a wider area of 1600 metres from the Market Cross. The reason for the wider area for appropriate housing development is that otherwise “suitable land within walking distance of the town centre would otherwise be excluded”.¹⁴
21. The NP Vision sets out guiding principles which feed into NP Policy H2. This restates “the problem” and explains the objectives of the Policy. “In the recent past, growth in the Devizes Neighbourhood Area has been achieved mainly through large new housing estates built on the periphery of the town. This has

¹⁰ SMV8 Paras 3.10-3.1

¹¹ SMV11 Para 1

¹² SMV11 Paras 12-14

¹³ SMV11 Paras 18-19

¹⁴ SMV11 Para 20

resulted in homogenous and bland developments that do not reflect or add to the historic character and local distinctiveness of the area. Creating large, new isolated communities has not fostered social cohesion and has resulted in a reduction in the sense of belonging and civic pride. This policy seeks to redress this problem.

Future housing growth is to be managed in an incremental manner, utilising land distributed throughout the settlement so as to avoid any quantum change in population focused in any one location.

All new housing must be capable of being readily assimilated within the existing built environment and the social fabric of the settlement”¹⁵.

22. The objectives are critical to an understanding of NP Policy H2 which applies to allocated sites within the NP “and on any other sites within the limits of development”. Proposals should:

- i) Be limited to clusters of no more than 65 dwellings;
- ii) Demonstrate that access to health, education, retail and leisure facilities has been designed in such a way as to minimise dependence on the private car;
- iii) Be designed so as to be related to the character of the surrounding area;
- iv) Wherever practicable, contribute to the regeneration of the built environment in those areas of the settlement that would benefit; and
- v) Enhance the public realm thus positively contributing to its development.¹⁶

23. It is clear that the 65 unit cluster criterion has been adopted to redress a perceived problem with negative outcomes from large homogenous isolated development on the edge of town. At the Inquiry, representations suggested that the 65 unit figure was a local view as to the maximum size for residential development before harm, in particular traffic harm, would arise. It cannot be a reasonable interpretation of NP Policy H2 that a proposal that breaches the NP if it is over 65 units, but does not have any of the negative effects on which the policy is predicated, is unacceptable. It would be illogical to apply the 65 unit threshold mechanically. It would lead to a guideline established to avoid certain outcomes preventing sustainable development which would not give rise to those outcomes.¹⁷

24. These points are borne out by the development of the Policy. It first arose in a question posed by the NP Steering Group, whether housing developments should be limited to “no more than 50 or 60 houses”. The Steering Group had looked at sites using a matrix that tested sites partly against a threshold of 40 homes. When queried by the NP Examiner, the Group’s response was “the objective of the plan is to keep housing sites smaller and anything of 40 dwellings or lower is ideal but the plan will accept up to 65”. The Examiner commented that the 65 threshold was “somewhat controversial” and that the difference between 40 and 65 “does not appear critical” and found that “the only rationale for this choice

¹⁵ SMV11 Para 20(3)-(4)

¹⁶ SMV11 Para 20(5)

¹⁷ SMV11 Paras 20(6) & (7)

appears to be community preference". The Examiner's recommendation was that the policy be recast as a more flexible and positive tool. This is consistent with the point that the H2 criteria are locally-derived guidelines aimed at encouraging a certain set of outcomes.¹⁸

25. Notwithstanding this, objectors at the Inquiry asked for the development to be refused because it would be over 65 units. Moreover, objectors seek refusal as they say the proposal is an example of why an over-65 scheme would cause harm for instance in highway terms on London Road. However, the detailed and comprehensive evidence, which was not challenged with technical evidence and was agreed with the local highway authority, is that there would not be any adverse impact on safety and free flow of traffic. There is a world of difference between perception and reality and what underpins the 65 unit threshold may be incorrect in any particular case. It is vital not to interpret the criterion as a strict test.¹⁹
26. It is clear from the drafting of the NP, and the representations made at the Inquiry, that the 65 unit threshold is not a rigid figure but is intended as a guide when considering whether adverse impacts may occur. If a development of more than 65 dwellings would not cause any policy objectives to be breached there could be no objection based on the numbers themselves. Fundamentally the purposes of NP Policy H2 would be achieved as the development would be sustainable development on an excellent site accessible to services and jobs by non-car modes. Even if there were a breach on the face of the Policy due to the 65 unit criterion, the proposal would still accord with the objectives of Policy H2, and the NP itself, when considered as a whole.²⁰
27. There is no evidence of any harmful effects in any respect and the Council recognises that to grant planning permission would not undermine the NP in any way. There would not be any negative precedent as any future schemes for more than 65 units would only accord with the NP if they met all the objectives, and caused none of the harm local people associate with the larger, isolated, less cohesive, residential development on the fringes of Devizes.²¹
28. Turning to whether the current scheme would accord with the NP, the following is clear:
 - i) The scheme within the LOD would accord with Policy H1;
 - ii) It would not breach H3 as that Policy does not relate to sites that have not been allocated, ie the "other" sites referred to in H2;
 - iii) The scheme would accord with bullet points 2, 3 and 5 of NP Policy H2. Bullet point 4, regeneration where possible is of relatively little importance here;
 - iv) The "problem" of new large bland and homogenous housing estates or a "Quantum change in population focused in any one location" does not arise here; and

¹⁸ SMV11 Para 20(8)

¹⁹ SMV11 Paras 20(9)-21

²⁰ SMV11 Paras 2-4

²¹ SMV11 Para 5

- v) The objective of being readily assimilated within the built environment would apply and be met.²²

29. Turning to more generalised objectives in the NP:

- i) The new houses would be capable of complementing the existing built environment;
- ii) There is no reason why a “spirit of community” would not be fostered;
- iii) Affordable housing would be provided;
- iv) The proposal would not represent “urban sprawl”;
- v) It would not put undue pressure on schools or immediate local services;
- vi) It would not put undue pressure on any junction or road;
- vii) It may provide an opportunity for local builders but it is not clear whether any allocated NP sites would have that effect; and,
- viii) New residents would improve social cohesion.²³

30. There is no evidence of any harm as a result of the proposals and the objectives of the NP, including those underlying the smaller sites point, would all be met. The proposals accord with all other NP Policies and the CS Policies and accord with the development plan as a whole. It was suggested that the real point of H2 was to enable a dispersal strategy across the town but that would not be affected by granting planning permission in this case. The NP allocations are widely scattered over the town and the Coate Road scheme has been refused. This latter would have been a fundamental breach of the NP and the CS as the site lies outside the LOD and the 1600 metre zone. NP Policy H1 would clearly have been breached by the proposed 350 dwellings which could have been seen as undermining the NP. The current scheme would be entirely different.²⁴

31. The proposal would represent sustainable development. In transport terms it lies within the LOD for Devizes and within easy walking distance of the town centre, which has one of the largest concentrations of goods and services in the County. It also enjoys good accessibility to schools and employment by all modes. The existing Quakers Road site to the north of the application site was recognised in the LP Inspector’s report as one with good sustainability connections to the centre of Devizes. The Council’s view of the application site is that it “would be difficult to find a more sustainable site for residential development in the town that has such easy access to such a wide range of facilities without a requirement to use a car”.²⁵

32. The social and economic dimensions of sustainability also favour granting permission. Housing requirements for Devizes are a minimum and there would also be 30% affordable housing. There would be benefits in terms of open space and play provision and works to the canal towpath and Quakers Walk. The development would accord with the relevant parts of the CS. There is no

²² SMV11 Para 22

²³ SMV11 Para 22(6)

²⁴ SMV11 Paras 23-24 & 30

²⁵ CD77 pp 32 & 79, CD86 p76, CD100, SMV3, SMV11 Para 15

suggestion that the design would lead to an isolated fringe development that would not integrate properly. Indeed, it benefits from the location between the existing Quakers Road development and the town centre. There would be no harm to safety or the free flow of traffic and no suggestion of a severe adverse cumulative residual effect. The Highway Authority is satisfied with the likely effects of the proposal and there is no technical evidence to the contrary. Subject to the NP point there is a presumption in favour of sustainable development, *Framework* paragraph 14 is engaged and permission should be granted “without delay”.²⁶

33. In relation to the ‘other matters’ raised by the Inspector, the NP Steering Committee suggested that the proposals offend NP Policy T1. Local objectors appear to consider that London Road is at capacity and that the NP is bound up with not allowing further traffic to affect the road. Even at Coate Road the SoS found that 350 additional units would not harm traffic conditions on London Road. The objection has no evidential background and is completely unjustified. CPRE suggested that as locals have decided there would be traffic harm, localism means that the SoS has to find harm. The idea that an otherwise highly sustainable site should be judged harmful and contrary to the development plan on the basis of locals’ concerns about traffic impact, which are completely contrary to the evidence before the Inquiry, is alarming. It would not be localism but the breakdown of rational planning. The NP has no restriction on additional traffic on London Road and there is no development plan issue. In any event, the majority of NP allocated sites are not on London Road and other developments such as Laywood and Bureau West are already factored into the Council’s traffic modelling.²⁷
34. The proposal would provide walking and cycling infrastructure that would connect with the wider networks. On-site parking would meet the Council’s standards and the internal roads would be designed to appropriate standards. Trip generation methodology and growth assumptions are generated using industry standard data agreed with the Council and trip generation compares with that surveyed from the existing Quakers Road residential development.
35. Forecast traffic impact is low, in the order of one additional vehicle movement a minute at peak network periods and additional vehicles can be accommodated on the network without significant capacity issues. The traffic that would be generated has been tested using the Council’s traffic model for the London Road corridor and there would be only marginal changes to journey times. Existing accident levels are low and there is no reason that highway safety would be compromised.
36. A detailed Construction Method Plan would be required to minimise the vehicular impact of construction traffic. A mitigation package would be provided, secured by conditions and a Section 106 Agreement. There would be no material residual impact in transport terms, and the local highway authority has no objection to the development proposals.²⁸

²⁶ CD77 p 32, CD131 para 13, SMV11 Paras 16-17

²⁷ SMV11 Paras 25-228

²⁸ SMV9C APP 1

37. In terms of air quality, the EPUK/AQM guidance has become more stringent since an air quality statement was produced to support the application for 123 dwellings. This updated guidance requires a more detailed assessment which has been carried out. A quantitative assessment has been conducted to predict traffic derived pollutant concentrations at sensitive receptors within the Air Quality Management Area on London Road. In the absence of traffic data for roads within the remainder of the AQMA a semi-quantitative assessment has taken into consideration the results of the modelling assessment, the Council's monitoring, and cautious assumptions for the distribution of development traffic.²⁹
38. The assessment concludes that the largest increase in mean NO₂ concentration of 0.5µg/m³ is predicted at a residential property adjacent to the junction between Quakers Road and London Road. Due to the low absolute levels predicted and the small magnitude of change the impact is considered to be Negligible. Negligible impacts are predicted at all receptors on London Road with regards to: the 1 hour NO₂ objective; the annual mean PM₁₀ objective; the daily mean PM₁₀ objective and the annual mean PM_{2.5} objective.
39. In terms of the AQMA, excluding London Road, the semi-quantitative assessment concludes that an additional 348 vehicles associated with the development are predicted on London Road south of Quakers Road. Council monitoring near a roundabout at the southern end of London Road indicates that annual mean NO₂ concentrations were up to 40µg/m³ in 2015 at worst case sensitive receptors. The largest increase would be 0.4µg/m³. If a worst case assumes that all development traffic travels on the A361 or A360 within the Devizes AQMA then it would be reasonable to assume that sensitive receptors adjacent to these roads would experience an increase of no more than 0.4µg/m³.
40. Considering the monitored concentrations on the A361 and A360 and the modelled maximum increase in NO₂ concentration on London Road south of Quakers Road the impact of the proposal with regard to annual mean NO₂ objective is considered to be Negligible at most locations but Minor Adverse effects could be feasible at a small number of receptors near the A360, A342 and A362 roundabout. Overall the development is considered to be Not Significant in terms of air quality consistent with the CS, NP and the Wiltshire Air Quality Action Plan.
41. Turning to noise, baseline monitoring and assessment criteria were agreed with the Council. It was agreed that helicopter movements need not be considered as the helipad at the nearby Police Station will cease to be used when the lease expires at the end of 2017. Consequently the following operational noise limits are proposed: Daytime (07:00-23:00) 35dB(A); Night-time (23:00-07:00) 30dB(A). The Council confirmed it has no objection provided the mitigation measures in an acoustic report (60318226 AECOM Ltd Jan 2015) are implemented. Concern has been raised about traffic noise. The traffic data has been reviewed and it is predicted that there would be a 2-3% increase in traffic noise during peak hours on London Road in 2018. This equates to a 0.1dB increase that would be unnoticeable to the human ear. On Quakers Road there would a 21% increase in the morning peak and a 39% increase in the evening

²⁹ SMV9C APP 2

- peak which equate to 0.8dB and 1.4 dB increases in noise levels which is not significant as a change of 3dB(A) is typically the minimum perceptible to the human ear.³⁰
42. The scheme would generate a population of approximately 287. The ratio of local GPs to patients suggests that there is some capacity. In addition, the Devizes urgent care centre is due to open in 2017. However, two of the three local surgeries have waiting times for appointments above county and national averages. CIL payments could be made to provide mitigation. Retail provision in the town is healthy and the centre could serve the new population. In addition the additional spend would benefit the town and help offset trends such as increased internet shopping. Existing library facilities in terms of floorspace appear to be sufficient to meet the needs of the proposed development. Other infrastructure including education, open space and public rights of way are adequate to meet needs and/or suitable provision is included in the proposals and the S106 Agreement.³¹
 43. When the proposal is compared to the Care Village scheme there are a number of similarities such as access, use, and the broad distribution of development. However, the current scheme would provide a greater proportion of undeveloped land and accessible green space with the proposed LEAP and drainage mitigation ponds providing wider public benefit and ecological advantages.³²
 44. In terms of open space, its setting was not considered to be affected by the Care Village scheme and a suggested condition would require the same set off from the boundary in this scheme. CPRE appears to consider that the site should be treated as countryside. However, the site is well screened from undeveloped land to the east by mature trees on Quakers Walk that leads from the existing Quakers Road development to the town centre. The site was included within the Limits of Development for Devizes in the 2011 LP and was subject to an outline permission for substantial development in 2013. The NP does not treat the site as countryside. Indeed, the site was not considered in the NP process as it had a recent planning permission for a Care Village.³³
 45. Numerous ecological surveys have been carried out at the site since 2009 but updates in 2014 show no significant change. Based on the findings it is agreed that an Ecological Method Statement should be required by condition. A number of wildlife features have been proposed and should be addressed in the Management Plan.³⁴
 46. The site is within flood zone 1 and is in an area at the lowest risk of flooding. Indeed, it is not subject to flooding in 1 in 100 years return periods. The drainage strategy and associated flow rates are comparable to the previously consented Care Village scheme and no objections were raised by statutory consultees on flood risk and drainage grounds.³⁵

³⁰ SMV9C APP 3

³¹ SMV9C APP 7

³² SMV9C APP 4

³³ CD109, SMV11 Para 1 & Footnote 1, Para 8 & Footnote 4, Paras 9-10

³⁴ SMV9C APP 5

³⁵ SMV9C APP6

47. The site is Best and Most Versatile agricultural land but this has never been raised as an objection. The site is small and would not fall within the terms of paragraph 112 of the Framework. Negligible weight should be given to this point.³⁶
48. Conditions have been suggested by the main parties and would, if attached, ensure no harm would arise as a result of the scheme. Similarly, a Section 106 Agreement is uncontroversial and would comply with Community Infrastructure Levy (CIL) Regulations 122 and 123.³⁷
49. Although the CPRE asked that the planning permission for 65 units on the northern part of the site be disregarded, it is a material consideration and was consulted on in the normal way during the course of the application. The application was made to establish the following points:
- i) Half the proposed 123 units already have an implementable permission;
 - ii) The principle of residential development has been re-affirmed;
 - iii) The development of half of the site was not considered to warrant examination by the SoS; and
 - iv) The focus of the debate rests on the southern part of the application site which with the 65 unit scheme in place would be smaller, more integrated, and closer to the town centre.
- There is no sense that the development of the southern part of the site would be objectionable and it would border on the nonsensical not to develop that part of the site now.³⁸
50. The permission was also sought to obtain an implementable permission that could start on site without delaying the 123 unit scheme further, if it gains permission. It exemplifies why it would be wrong to treat the 65 unit point in Policy H2 as a strict rule. It would be ineffective and lead to poor planning. The right outcome is a good development for the whole site.³⁹
51. The application accords with, rather than breaches, the NP. The grant of consent is required by S38(6) of the 2004 Act and it should be done speedily according to *Framework* paragraph 14.⁴⁰

The Case for Wiltshire Council

52. The Council not only relies on its own evidence but also on that of the Applicant. The two main parties agree that the proposal would be in accordance with the development plan and, as there are no other material considerations to indicate otherwise, planning permission should be granted. The Council's support for the Application derives from it being in accordance with the development plan 'as a whole' and that conclusion is in line with support for the NP as expressed in the successful opposition to a development of 350 houses on land at Coate Road (APP/Y3940/A/13/2206963) which is also located on the east side of Devizes

³⁶ SMV11 Footnote 45

³⁷ SMV11 Paragraph 32

³⁸ SMV11 Para 33-34

³⁹ SMV11 Para 35

⁴⁰ SMV11 Para39

- where London Road provides the main vehicular link to the town centre. That approach is not inconsistent.⁴¹
53. The Coate Road Inspector found that scheme acceptable in terms of traffic generation and road safety, that air quality in the AQM would be unaffected, and that although it would have been around three times the size of the current proposal no adverse comment was made on the effect on infrastructure, including access to doctors and dentists.⁴²
 54. Whilst it is acknowledged that the Council has an 8.21 years housing land supply for the Eastern Housing Market Area, the SoS in his decision relating to the Coate Road application stated that the delivery of new homes was still “a significant positive aspect of the social dimension of sustainability, despite the fact that there is not an established current shortfall in the five year housing land supply”. Moreover, the principle of development on the Application site has already been recognised by the outline permission for the Care Village, LPA Ref E/2011/1139/OUT.⁴³
 55. The Council supports the view of the Applicant’s witness that the NP should carry significant weight. This was its stance at the Coate Road Inquiry and was accepted by the Inspector and the SoS.⁴⁴
 56. Conflict with a single policy does not necessarily mean a failure to accord with the development plan as a whole, *Cummins v LB Camden* [2001] EWHC Admin 1116. In this case there would be conflict with only one of five criteria in NP Policy H2, which seeks that proposals “should be limited to clusters of no more than 65 dwellings”. The other four criteria would be met or not relevant. In addition, the H2 criteria are not mandatory but included on the basis that “such proposals should meet the policies within this plan.”⁴⁵
 57. In *Crane v SoS for Communities and Local Government* [2015] EWHC 425 (Admin) it states that when reading the development plan as a whole there must be a ‘focus’ on its relevant objectives. An objective of the NP is to avoid large, bland, homogenous developments on the periphery of the town and to ensure that residential developments integrate into existing communities and the built environment to reduce urban sprawl. There would be no conflict with that objective.⁴⁶
 58. The Application would also accord with the overarching vision statement in the NP which states “Devizes should grow in a manner which enables its residents to live a sustainable lifestyle, with a reduced need to travel; where there is a provision for easy access to open space and the public realm and the scale and ambiance of the built environment promotes wellbeing”.⁴⁷
 59. Roundway Parish Council identifies 2 key points. The Application site does not feature in the NP as when the site assessment in the NP was done the Application site had planning permission for a Care Village. Secondly although the size of the

⁴¹ WC1 Paras 1, 3 & 4, WC4 Para 1.04

⁴² WC4 Parar 1.07

⁴³ WC1 Paras 5-6

⁴⁴ WC1 Paras 7-9

⁴⁵ WC1 Paras 10-11

⁴⁶ WC1 Para 12

⁴⁷ WC1 Para 13

proposed development is questioned, the PC does not reference NP Policy H2 limiting proposals to no more than 65 dwellings. There is no sense in arguing that 65 units are acceptable but 66 are not. Moreover, there is nothing in the NP to prevent two adjoining proposals of 65 being acceptable. The site is not too big and the first criteria in H2 should be read as a guide not an absolute. There is no evidence base to sustain it, rather it is a local preference. The real test of size is to consider any harm caused.⁴⁸

60. In addition, the proposal accords with the principles that underpin the NP vision statement. The argument should also be considered against paragraph 47 of the *Framework* which seeks to boost significantly the supply of housing. A fact of which the PC says it is aware. The PC's assertion that the proposal would skew anything it was trying to solve is not borne out by the Applicant's expert evidence, despite developments at Bureau West and Laywood forming part of the analysis. There would be no conflict with the CS and the conflict with one criterion of NP Policy H2 should be given little weight.⁴⁹
61. The NP Steering Committee also maintains that there is a lack of conformity with NP Policy H2. The growth of large new housing estates on the periphery of the town is stated to be the catalyst for the Policy. However, that is not the case here as the application site is well contained, lies within the limits of development, and does not expand the settlement into the surrounding countryside.⁵⁰
62. In relation to sites allocated for development in NP Policy H3 in the period April 2014-2019, extant planning permission exists on only 3 of them half way through the period. Construction has begun on only one and the Wadworth Warehouse site will be staying in commercial use. The Council considers that granting permission for the current application would help to satisfactorily achieve the level of residential development within the limits of development anticipated in NP Policy H3.⁵¹
63. Reference was also made by CPRE to sites at Bureau West and Laywood to the north east of the town. These are not allocated in the NP. Two sites at Bureau West have been built out and form no part of the Council's deliverable sites. The Laywood site is an important part of the supply. Permission was granted in 2014 when the Council could not demonstrate a 5 year housing land supply. All 230 houses would be delivered in the 5 years starting in 2016-17.⁵²
64. In terms of Other Matters highlighted by the Inspector, the Council supports the further expert evidence submitted by the Applicant. The NP Steering Group claims there is a lack of conformity with NP Policies T1 and ESD1 but the Care Village Inquiry Inspector stated that "The view that the appeal site should be left as an open green area is not supported by any adopted planning policy". That position is unchanged. Whilst need is also mentioned, the housing figures for Devizes are minima and the *Framework* refers to the need to boost significantly the supply of housing.⁵³

⁴⁸ WC6 Paras 1-6

⁴⁹ WC6 Paras 7-11

⁵⁰ WC6 Para 12

⁵¹ WC4 Para 1.10, WC5

⁵² WC5

⁵³ CD109 Para 36, WC1 Paras 13, 14 & 16

65. CPRE refers to *Framework* paragraph 198 that states “where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted”. However the development plan must be read as a whole. In this case only one criterion of one policy in the NP is not adhered to and this is only a guideline. To dismiss the application on this one ground when the rest of the proposal accords with the development plan would be disproportionate and unreasonable.⁵⁴
66. Cumulative effects are also raised by the CPRE, particularly in respect of traffic and air quality, but its view is not supported by expert evidence, unlike the Applicant’s case. A technical note concludes “The air quality assessment undertaken concluded that the development would not have a significant impact upon air quality; it can also be stated that with regards to air quality, the development is also consistent with the Core Strategy, Devizes Neighbourhood Plan and the Wiltshire Air Quality Action Plan.”⁵⁵
67. Objectors raise relevant issues but are countered by detailed expert evidence. The objections do not reach the level required to say the proposal does not conform with the development plan as a whole or that material considerations indicate planning permission should not be granted. Nor do they indicate that the NP has been undermined in the circumstances of this case.⁵⁶
68. The main parties have agreed a list of 17 suggested conditions, the latest version of which is dated 25 October 2016, to be attached if the SoS is minded to grant planning permission.⁵⁷
69. A Signed Section 106 Agreement, dated 25 October 2016, has also been submitted to cover:
- i) The provision of affordable housing;
 - ii) A financial contribution towards surface upgrades of the canal towpath;
 - iii) A financial contribution towards surface upgrades to the Quaker’s Walk footpath, together with a financial contribution towards the Council’s costs of changing the status of the Quakers Walk footpath to a bridleway/cycleway;
 - iv) The submission of a Full Travel Plan;
 - v) The provision of Travel Plan Vouchers; and,
 - vi) The provision of open space and 744m² of equipped play space in addition to obligations relating to the management and maintenance of the open space and equipped play space.⁵⁸
70. A *Section 106 Compliance Statement* document sets out how the obligations meet the requirements of *Community Infrastructure Levy* (CIL) Regulations 122 and 123. Since the planning committee resolution, a revised CIL Regulation 123 List was adopted on 13 September 2016. However, the amended list does not

⁵⁴ WC6 Paras 15 & 16

⁵⁵ WC6 Para 17

⁵⁶ WC6 Paras 18-19

⁵⁷ SMV5B

⁵⁸ SMV6B

alter the conclusions reached in the CIL Compliance document. Moreover, the main parties agree that the Section 106 obligations are compliant with the requirements of Regulation 123 in respect of pooling restrictions.⁵⁹

The Cases for Interested Parties

71. **Devizes Area Neighbourhood Plan Steering Group** is aware that Devizes Town Council will be making representations, particularly in respect of traffic and pollution. The NP Steering Group supports these points, which would not be improved by the proposal, but does not repeat them.⁶⁰
72. The Devizes NP has been made and forms part of the development plan for the area. It allocates sites to meet the town's housing needs but in a way that will ensure they integrate into the town. The strategic intent of NP Policy H2 is to reduce the size of housing developments and encourage development of previously developed sites. A criterion in the policy sets a limit of not more than 65 houses which would be far exceeded by the proposal, particularly when added to the existing houses in Quakers Road.
73. NP Policy H3 provides site specific allocations that would deliver the identified housing requirement to 2026. The Housing Matrix measures sites against criteria in the NP. The application site was not included as when the NP was drawn up it was identified for a Care Village. When the Matrix is applied the site performs less well against the allocated sites. Wiltshire Council's CS requires a further 333 dwellings in the Devizes area before 2026. Through the NP process land for 364 dwellings has been identified. This exceeds the requirement by 9.3% and there is no justification in terms of need.
74. The impact on traffic is the subject of NP Policy T1. The development would have a single point of access onto the already congested A361 with little in the way of mitigation to demonstrate how increased traffic flows would be managed. Policy ESD1 of the NP seeks to protect open spaces from negative change. However, it is difficult to see how the proposal would not have a significant impact on the fragile setting of Quakers Walk. The NP is a material consideration, a view shared by the Inspector at Coate Road Devizes who recommended the SoS to dismiss an appeal for 350 dwellings.
75. The CS recognises that the rate of development in the town should reduce. There have been a number of larger housing applications in the last 18 months and this proposal would not reduce previous trends. The loss of green space has been identified as undermining the character of the town. The proposal would provide less green space than the Care Village scheme although its residents would be likely to be more active. Finally, the site provides habitat for rare bats but no trees or native hedging are proposed to support wildlife contrary to CS Policy 50.
76. Too much weight has been given to similarities with the Care Village scheme. That scheme provided significant mitigation which on balance found acceptability within the community. No such mitigation is proposed in this case and insufficient weight was given to the emerging NP. The NP has since been made.

⁵⁹ SMV4

⁶⁰ IP1, IP2

77. The proposal has little regard to local views or the real impact on the rest of the community. The NP is the embodiment of democracy and local decision making.
78. The Chair of **Roundway Parish Council** believes that the application scheme would fail a number of tests. Two key points are that the site does not feature in the NP, as it had permission for a Care Village, and that the size of the development is too large. The size is limited as Devizes is better suited to distributed development. The NP has been lawfully produced via a referendum and recognises local needs. The extra houses proposed would skew what the NP seeks to solve. The size of development would bring London Road to a stand still raising stress levels and causing hidden health issues. The Parish Councils' receive a number of recurring issues three of which are: traffic on and off London Road; insufficient parking for residents; and, danger to school children walking to and from school due to traffic.⁶¹
79. The NP is compatible with local needs and that work should not be undone.
80. The **Campaign to Protect Rural England**, Kennet District Group, notes that *Framework* paragraph 198 states "Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted". The Main Parties do not consider that this elevates the NP above other parts of the development plan but the *Framework* states that conflict with the NP alone should mean planning permission should not normally be granted. The application does conflict with the NP. Indeed, the SOCG acknowledges as much and normally permission should not be granted.⁶²
81. The NP has been properly made and the Devizes community has set out its ambitions which do not include the application site. There are no abnormal circumstances to justify such a major alteration to the community's wishes and permission should not normally be granted.
82. The Ministerial Foreword to the *Guidance* calls for planning to be a creative exercise. The CPRE asks that its intervention is seen as a strong positive support for the local community's creative and approved scheme of things to be implemented.
83. The SOCG acknowledges that there would be 51 additional traffic trips in the am peak hour and 67 in the pm peak. Whilst the Applicant claims that this would not have a significant impact they would be increments to existing traffic that is already a concern. Indeed, the CS acknowledges that traffic congestion is a major issue in Devizes. No mitigation is proposed for another 623 vehicle movements a day.
84. The CS also emphasises that air quality is a major issue in Devizes but no measures to improve air quality are proposed. The Care Village would have increased vehicle emissions but this proposal would increase them even more, some 352 vehicles extra per day on London Road south of Quakers Road and 274 more to the north. The SOCG notes that air quality impacts will "Likely be slightly greater than with the associated care village". This is subjective and generous. The Council's observation on the same data is sadly lacking being

⁶¹ IP3

⁶² IP4

limited to stating that air quality would be only slightly worse than the Care Village which ignores the full impact.

85. Whilst noxious discharges from housing developments to the east of Devizes might not in themselves cause unacceptable impacts on London Road there would be a cumulative effect. The accumulation is now at a stage where further impacts warrant refusal. A strong reason for refusing permission is that there would be a spread of impact from smaller parcels of land around the town. Although the Applicant argues that two 65 unit developments side by side could be provided, the NP's policy of distributing controlled size developments around town would discourage this happening.
86. The CS notes that the loss of green space for development would undermine the character of Devizes. The loss of the application site to built development would mean that the last stretch of Quakers Walk redolent of country surroundings would be lost. This is another reason for supporting the NP policy of distribution to smaller sites.
87. In response to a question by the Inspector about the location of 9 sites allocated for residential development in the NP compared to London Road, a plan was submitted by the Applicant. However, the plan was criticized by CPRE as being incomplete and a note updating housing figures was submitted by the Council. The CPRE also commented that this was not entirely accurate but that ignores the reason for the plan in the first place.⁶³
88. **Devizes Town Council** is aware that the NP Steering Committee will be making representations, particularly in respect of the lack of conformity between the application and the NP. The Town Council supports these points, but does not repeat them.⁶⁴
89. The Town Council believes that the impact of the proposal on traffic and pollution has been understated. The Applicant relies on specialists' reports, particularly in respect of traffic. The statistics used are open to interpretation and different conclusions could be drawn, as in the original Care Village application. Conclusions depend on assumptions that are frequently subjective and the conclusions of the Applicant's traffic consultant are open to question and the effects on pollution and health are seriously understated.
90. In addition, there are misleading statements and omissions in the reports. The original application recognised that in future traffic to and from the Sports Club would be routed through the Quakers Road junction as the existing access is unsatisfactory but that traffic does not feature in the current application. This raises questions about the emergency access to the new development via the Sports Club.
91. In respect of buses, Service TL3 has ceased and Services 1/1C and the 244 are under threat due to cutbacks. Only the 49 seems secure but is limited to an hourly service. Consequently, commuting by bus, or train, is very limited. In contrast commuting by car is significant, 73% from Roundway Ward in 2011. Anecdotal evidence is that car use is increasing as the economy improves but good quality local employment has not significantly improved. The main

⁶³ WC4 Para 1.10, WC5, SMV10

⁶⁴ IP1

commuting route is up the A361 London Road where there are bottlenecks at each end. The Quakers Road junction has the potential to become a further bottleneck. The proposed dwellings would generally generate one or two additional car journeys for commuting and school trips which is probably underestimated by the Applicant's expert.

92. The A361 through Devizes has an AQMA throughout its length and conditions are not good. Congestion and pollution increase exponentially where congestion is already significant and have probably been understated by the Applicant. Whilst there was an improvement in pollution in 2012-13, there is no reason to believe this would be a long term trend. Devizes is at the centre of Wiltshire and much traffic between Wiltshire towns has to pass along London Road. New up-to-date traffic surveys and population figures are needed and no development at Quakers Walk should be allowed until it is available. Alternative sites allocated in the NP would have a much lower traffic impact on the key London Road corridor.
93. **Mr Roger Appleby** expressed concern about the narrowness of the junction giving access to the site and highlighted the *Statement of Common Ground* which is based on the 2011 census and indicates that 5 car passenger trips would be generated.⁶⁵

Written Representations

94. In addition to those who spoke at the Inquiry, there were written submissions at Inquiry stage from Bishops Cannings Parish Council, Mrs Philippa Morgan, and Michelle and Ross Hudson.⁶⁶
95. **Bishops Cannings Parish Council** objected on the following grounds:
- i) The proposal is inconsistent with the NP as adequate sites have been allocated within it and do not include the application site;
 - ii) There would be an increase in traffic on the already congested London Road compared to the Care Village;
 - iii) There would be a reduction in green space compared to the Care Village, despite an expected increase in the number of active residents; and
 - iv) There would be an environmental impact on the resident wildlife.
96. Differences from the Care Village scheme are highlighted by **Mrs Philippa Morgan**. The proposal would not provide the jobs and other healthcare benefits claimed for the earlier scheme. The failure of the Applicant to sell the site with the Care Village permission reflects the Council's concern that there would be an over-supply of extra-care accommodation. In addition, the Care Village scheme included a considerable amount of green space, which the proposal would not. It is also unacceptable for the landscape buffer, which would be narrower than that in the earlier schemes, to be used for a LEAP and drainage. Finally, Quakers Walk is an important 'commuting' path for bats. Houses and street lighting so close to Quakers Walk would cause unacceptable infringement of the bats' route.

⁶⁵ SMV8 App2 para1.18

⁶⁶ IP1

97. **Michelle and Ross Hudson** indicate several reasons why they consider the proposal should not go ahead. Quakers Road is the sole access to the existing estate and its junction with London Road can take several minutes to negotiate. London Road is infamous for its gridlock in the rush hour and presently exceeds European pollution levels. The proposal would only increase these levels. Indeed, a proposal was rejected recently due to additional congestion and pollution as well as additional noise.
98. Trinity Primary School is on Quakers Road and with additional traffic the health and safety of the children is a concern. Parents park on both sides of the road making it impossible for opposing cars to pass. Quakers Road is a narrow residential road designed for the original development, not for the additional traffic. On the corner by Trinity School Quakers Road divides into Palmers Road/Keepers Road and becomes subsidiary so the additional traffic would have to give way, increasing pollution to residents and the school. The access would be very narrow and potentially dangerous for adults and children. Construction traffic would only exacerbate the problem.
99. The proposal would mean the loss of more green fields and would spoil the natural beauty and wildlife in the area. The current amenities and infrastructure do not support the population, which has increased rapidly. It can take 3 weeks to see a doctor and there are insufficient shops meaning residents have to go to other towns adding to congestion and pollution. Finally, the proposal is not part of the NP and it is considered that the Council railroaded it through before the NP was 'made'. The Council's decision was one sided and Members lacked knowledge of the existing and future conditions and issues.
100. I have also been provided with, and have taken note of, written submissions made to the Council when the application was considered by Members. However, the matters raised generally reflect those of interested parties who spoke at the Inquiry or made submissions at Inquiry stage and so are not repeated.⁶⁷

⁶⁷ CD44-CD71

Inspector's Conclusions

[Paragraph numbers in square brackets are from earlier paragraphs in this report]

101. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case comprises the saved policies in the 2011 LP, the CS 2015 and the NP made in December 2015. It is agreed that the Council has an up-to-date 5 year housing land supply therefore the development plan policies carry the full statutory weight of Section 38(6). In addition, the site lies within the Devizes LOD where CS Core Policy 2 states that there is a presumption in favour of sustainable development.^[10, 18, 54, 55, 72, 74, 81]
102. Although the Town Council states that bus service TL3 has ceased and that other routes are under review the site has good accessibility, by all modes of transport, to schools, employment and the town centre, which has a wide range of goods and services. In addition, the proposals would provide 30% affordable housing, and there would be benefits in terms of open space and play provision. I agree with the Council's view that "it would be difficult to find a more sustainable site for residential development in the town that has such easy access to such a wide range of facilities without a requirement to use a car".^[31, 32, 91]
103. On the other hand, *Framework* paragraph 198 states "Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted". However, notwithstanding the view of CPRE, *Cummins v LB Camden* states that conflict with a single policy does not necessarily mean a failure to accord with the development plan as a whole. Moreover, *Crane v SOS for Communities and Local Government* indicates that when reading the development plan as a whole there must be a 'focus' on its relevant objectives. To dismiss the proposal on one ground when it would accord with the development plan as a whole would be disproportionate and unreasonable.^[18, 19, 56, 57, 65, 80, 81]
104. In this case, the application was called in as the SoS wished to be informed of any conflict with the Devizes Area Neighbourhood Plan. The major difference between the main parties and interested parties relates to NP Policy H2, and in particular the first criterion within it.^[17]
105. The proposal would be within the LOD and therefore would accord with CS Core Policy CS2 and there would be a development plan presumption in favour of sustainable development. A location within the LOD would also conform to NP Policy H1 which focuses development in the LOD, and in a wider area of 1600 metres from the Market Cross. The reason for the wider area is that "suitable land within walking distance of the town centre would otherwise be excluded".^[10, 20, 28]
106. The NP Policy H2 criterion in dispute seeks to limit development to a maximum of 65 dwellings. The proposed scheme would accord with the NP Vision which states "Devizes should grow in a manner which enables its residents to live a sustainable lifestyle, with a reduced need to travel; where there is a provision for easy access to open space and the public realm and the scale and

ambiance of the built environment promotes wellbeing". The Vision feeds into Policy H2 which explains the Policy objective "In the recent past, growth in the Devizes Neighbourhood Area has been achieved mainly through large new housing estates built on the periphery of the town. This has resulted in homogenous and bland developments that do not reflect or add to the historic character and local distinctiveness of the area. Creating large, new isolated communities has not fostered social cohesion and has resulted in a reduction in the sense of belonging and civic pride. This policy seeks to redress this problem". [21, 22, 58, 60, 72, 81]

107. NP Policy H2 developed from a question posed by the NP Steering Group about limiting developments to "no more than 50-60 houses", having tested sites partly against a threshold of 40. The NP Examiner was told "the objective of the plan is to keep housing sites smaller". He considered the 65 threshold "somewhat controversial" and observed that the difference between 40 and 65 "does not appear critical" and that "the only rationale for this choice appears to be community preference". His recommendation was that the policy be rewritten as a more flexible, positive tool. [24, 72]
108. Notwithstanding this, objectors seek refusal solely as the proposal would be larger than 65 dwellings. The criterion seeks to resolve a specific problem but it cannot be right that a proposal for over 65 units which has none of the negative effects the policy is based on is unacceptable. The 65 unit threshold should be interpreted as a guideline. If there were no harmful effects, granting planning permission would not undermine the NP. In addition, there would be no harmful precedent as only schemes of more than 65 units that met all the objectives and caused no harm would accord with the development plan as a whole. [23, 25, 26, 56, 59, 60, 78]
109. Of the H3 sites only 3 have extant planning permission and, halfway through the allocation period, construction has begun on only one. The proposal, in the LOD, would help "fill the gap". Reference was made to other sites at Bureau West and Laywood but the former has been built out whilst the latter is already a key part of the Council's supply with all 230 houses due to be delivered in the 5 years starting 2016-17. [62, 63, 73, 87]
110. Objectors consider that harm would also be caused due to additional traffic on the A361 London Road, contrary to NP Policy T1. However, whilst data can be interpreted in different ways, the Applicant's detailed evidence has been agreed with the highway authority and is not challenged by any technical evidence. There is no reason to disagree with the conclusion that there would be little adverse impact on safety and the flow of traffic in accordance with NP Policy T1. [25, 32, 66, 78, 83, 89, 90, 91, 93, 97]
111. In terms of more generalised NP objectives, the proposal would be capable of complementing the existing environment and there is no reason why a spirit of community could not be fostered and new residents could help improve social cohesion. There would be no urban sprawl but affordable houses would be provided. There would be no undue pressure on schools, local services, or any road or junction. There is no evidence of any harm as a result of the proposed scheme and the NP objectives would be met. Even if there were a breach of the 65 unit criterion the proposal would still comply with the objectives of Policy H2 and the NP and CS when considered as a whole. [26, 29, 30, 79]

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112. Reference has been made to the Coate Road scheme refused at appeal (APP/Y3940/A/13/2206963) but that differs from this scheme as it would have been a fundamental breach of the CS and NP. The Coate Road site lies outside the LOD and 1600 metre zone and 350 dwellings in that location would have undermined the NP. Despite that the scheme was found acceptable in terms of traffic, air quality and infrastructure including access to doctors and dentists and the SoS stated that the delivery of new homes was “a significant positive aspect of the social dimension of sustainability, despite the fact that there is not currently a shortfall in the five year housing land supply”.^[30, 53, 54, 74]
113. A number of other matters were raised by interested parties, including a lack of conformity with NP Policy T1. Local objectors refer to the CS in relation to congestion and consider that London Road is at capacity. They maintain that the traffic data could be interpreted differently. There is little evidence to support such a view, even at the Coate Road site where a scheme for 350 dwellings was dismissed on appeal, the SoS concluding that the additional traffic would not harm the traffic conditions on London Road.^[33, 64, 74, 83, 89]
114. New walking and cycling infrastructure would connect to the existing wider network whilst on-site parking and roads would be designed to the Council's Standards. Industry standard data, agreed with the highway authority, has been used for trip generation methodology and growth assumptions and forecast traffic impact is low, at around one additional vehicle movement a minute in the peak periods. The additional traffic that would be generated could be accommodated on the network and there would be only marginal changes to journey times. Accident levels are low and there is no reason why safety would be compromised. A mitigation package would be provided including a detailed Construction Management Plan to minimise the impact of construction traffic.^[34, 35, 36, 90, 95, 98]
115. Cumulative effects have been mentioned, particularly in relation to traffic and air quality but these objectors' concerns are not supported by expert evidence.^[66]
116. Air quality is another major concern of local people. However, an air quality assessment in accordance with updated guidance has been undertaken. On London Road the impact is considered to be Negligible due to the low absolute levels and the small magnitude of change. In the Air Quality Management Area (AQMA) excluding London Road the worst case sensitive receptors adjacent to the A360 and A361 would experience an increase of no more than 0.4µg/m³ in the annual mean NO₂. Impact on the annual mean NO₂ is considered Negligible at most locations but there might be Minor Adverse effects at a small number of receptors. Overall the development would be Not Significant in terms of air quality and whilst the CPRE in particular has a different view, there is little expert evidence that would justify an alternative conclusion.^[37, 38, 39, 40, 84, 85, 89, 92, 97]
117. Turning to noise, the Council has no objection provided the mitigation measures in acoustic report 60318226 AECOM Ltd Jan 2015 are implemented. In terms of traffic, there would be a predicted increase in noise during peak hours on London Road in 2018 equating to a 0.1dB increase. On Quakers Road the am and pm peaks would have increases of 0.8dB and 1.4 dB. These

are not significant as 3dB(A) is generally the minimum increase perceptible to the human ear.^[37]

118. The proposal would have around 287 inhabitants and the ratio of doctors to patients suggests some capacity but in any event an urgent care centre is due to open in 2017. Two of the three local surgeries have lengthy waiting times for appointments but a CIL contribution would help provide mitigation. Retail provision is healthy and there is adequate library floor space. Education, open space and public rights of way are adequate to meet needs or suitable provision is included in the proposals or the Section 106 Agreement.^[42, 99]
119. Based on updated surveys it is agreed that an Ecological Method Statement should be required. Wildlife Features have been proposed and would be addressed in a Management Plan. A lack of conformity with NP Policy ESD1 is claimed by objectors but the Care Village Inspector noted that “the view that the appeal site should be left as an open green area is not supported by any adopted planning policy”. That situation has not changed.^[45, 64, 74, 75, 86, 95, 96, 99]
120. The proposal would be similar to the Care Village scheme in terms of access, use and the broad distribution of development but it has more undeveloped land and accessible green space with a proposed LEAP and drainage mitigation ponds providing public and ecological benefits. The setting of open space was found acceptable in the Care Village scheme and the same set off and width of buffer would be provided in this scheme. CPRE suggests that the site should be treated as countryside but it was included in the LOD in the 2011 LP and was subject to an outline permission for substantial development in 2013. Although Roundway Parish Council and the NP Steering Group identify that the site was not considered in the NP process that was because it had permission for the Care Village scheme.^[43, 44, 59, 73, 75, 76, 78, 81, 86, 90, 95, 96, 99]
121. The site lies within flood zone 1 and is not subject to flooding in 1 in 100 year return periods. The drainage strategy and flow rates are comparable to the Care Village scheme and there are no objections from statutory consultees on flood risk and drainage grounds.^[46]
122. The site is Best and Most Versatile agricultural land but the site is small and would not be covered by Framework paragraph 112. There has been no objection on this basis and the loss of the agricultural land would not justify refusing planning permission.^[47]
123. I have had regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 but do not consider that the proposal, sited against existing houses, would have any material impact on the setting of the Grade I listed St Mary’s Church. This conclusion is reflected in the SOCG.^[6]
124. Considering whether the proposal would accord with the NP, it would lie within the LOD and so accord with Policy H1. Policy H3 would not be breached as it does not relate to unallocated sites but to the ‘other sites’ referred to in H2. The proposal would accord with bullet points 2, 3, and 5 of H2 relating to access to health, education, retail and leisure facilities whilst minimising dependence on the car, design relating to the surrounding character, and enhancing the public realm. Bullet point 4 ‘regeneration where possible’ is not relevant in this case. The problem of a new large bland estate or a quantum

change in population at one location would not arise in this sustainable location where the proposal would be assimilated into the existing environment .[22, 28, 57, 61]

125. I consider that rather than undermine the NP, the proposal would accord with NP Policy H2 when taken as a whole and the purpose of the NP Policies is taken into consideration. There is little evidence that the proposal would cause any wider material harm and it would also conform with the development plan as a whole. The presumption in favour of sustainable development would apply.
126. On 25 October 2016 the Council granted outline planning permission for a 65 dwelling scheme on the northern part of the site compatible with the northern part of the 123 dwelling scheme subject of this Inquiry. Although the CPRE asked that this be ignored, it is a material consideration that focusses debate on the southern part of the site as it demonstrates that half the units could be implemented without delay and reaffirms the principle of residential development without recourse to the SoS. There is no indication that the development of the southern part of the site alongside the approved 65 unit scheme would be unacceptable and it would be illogical not to develop that part of the site now, despite the CPRE's view that the NP's policy of distributing controlled size development around the town would discourage this. Treating the 65 unit point in H2 as a strict rule would be ineffective in this case.[13, 49, 50, 85]
127. The two main parties have agreed a list of 17 conditions to be attached should the SoS be minded to grant planning permission. The first three suggested conditions relate to the approval of reserved matters and include time limits for making reserved matters applications and implementing the approved development and should be attached to any permission. Condition 4 confirms the plans that would be approved and should also be attached for the avoidance of doubt and in the interests of proper planning. A phasing plan should also be required as suggested in condition 5, also for the avoidance of doubt, in relation to when CIL payments would become due.[48, 68]
128. Suggested conditions 6, 7 and 8 relate to ecological measures. Condition 7 would require a Construction Environmental Management Plan to protect against pollution during construction. Conditions 6 and 8 respectively require an Ecological Management Plan and prior approval of any external lighting in the interests of mitigating against impacts on protected species and habitats. All three conditions are necessary.[96]
129. A Construction Method Statement and protective fencing of trees along Quakers Walk during construction would be required by conditions 9 and 10. The former is required to prevent pollution and maintain highway safety whilst the latter is necessary to safeguard visual amenity. Suggested condition 11 derives from CS Policy CP41 and seeks a minimum level of energy performance. Condition 12 requires details of levels to be provided and, like earlier conditions, is required for the avoidance of doubt.
130. Suggested condition 13 sets a timetable for the provision of a shared use cycleway in the interests of sustainability and accessibility. Conditions 14, 15 and 16 concern drainage matters and 14 and 15 require details of surface

water and foul water schemes to be approved as drainage is a problem and a new pumping station would be required. Condition 16 similarly requires a water efficiency scheme in the interests of sustainable development. Details of the boundary treatment between the adjoining Rugby Club and the site would be required by suggested condition 17 and would be necessary in the interest of amenity.

131. I consider that all the conditions should be attached to any planning permission for the scheme and that they would comply with the six tests in the *Guidance*.
132. A signed and dated Section 106 Agreement addresses the provision of affordable housing, open space and equipped play area, a landscape plan, the payment of contributions towards improvements of both the canal towpath and Quakers Walk, and a full travel plan and the provision of green travel vouchers. A contribution would also be made changing the status of Quakers Walk to a bridleway/cycleway. A *Section 106 Compliance Statement* sets out how the CIL Regulation 122 tests are met and the Regulation 123 pooling restrictions, where applicable. I agree with the conclusions that the Agreement complies with the Regulation 122 tests.^[69, 70]

Recommendation

133. I recommend that planning permission be granted, subject to the conditions set out in Appendix 3 of this report.

Ken Barton

Inspector

APPENDIX 1

APPEARANCES

FOR THE SOCIETY OF MERCHANT VENTURERS:

Rupert Warren QC

Instructed by Savills UK Ltd

He called

Mrs Rebecca McAllister
BA(Hons) MSc MRTPI

Director and Head of Planning Savills UK Ltd
Reading Office

Mr Jeremy Douch
BA(Hons)DipTP MCILT

AECOM Ltd

FOR WILTSHIRE COUNCIL:

Tim Felton of Counsel

He called

Michael Wilmott
BSc(Hons) DipTP DM
MRTPI

Head of Development Management, Wiltshire
Council

INTERESTED PERSONS:

Mr Fisher

Devizes Area Neighbourhood Plan Steering
Committee

Mr Callow

Chairman Roundway Parish Council

Mr Kirkman

Chairman, Campaign to Protect Rural England,
Kennet District Group

Mr Appleby

Mr Eccles

Campaign to Protect Rural England, Kennet
District Group

Mr Geddes

Devizes Town Council

APPENDIX 2

DOCUMENTS

Core Documents

Original Outline Planning Application Documentation

CD1	Application Form	13/2/2015
CD2	Cover Letter	13/2/2015
CD3	Site Location Plan (Rev 000)	Feb 2015
DC4	Site Boundary Plan (Rev 000)	Feb 2015
CD5	Development Framework Plan (Rev 005)	Jan 2015
CD6	Illustrative Masterplan (Rev 003)	Jan 2015
CD7	Topographical Survey Model1	13/10/2006
CD8	Topographical Survey Model2	13/10/2006
CD9	Design and Access Statement Parts 1-4 (Rev 5)	Feb 2015
CD10	Planning Statement	Feb 2015
CD11	Statement of Community Involvement	Feb 2014 (incorrectly dated)
CD12	Transport Assessment (V.01) Parts 1-2	Jan 2015
CD13	Outline Residential Travel Plan (V.01) Parts 1-2	Jan 2015
CD14	Flood Risk Assessment	Jan 2015
CD15	Drainage Assessment (Rev No 1)	Jan 2015
CD16	Noise Impact Assessment (Rev No 0)	Nov 2014
CD17	Air Quality Statement (Rev No 2)	Jan 2015
CD18	Badger Survey (Rev 1)	June 2014
CD19	Bat Activity Transect Survey Report (Rev 1)	Summer 2014
CD20	Reptile Presence/Absence Survey	May 2014
CD21	Summary Ecological Method Statement (Rev 2)	4 Feb 2015

Consultee Responses to the Outline Planning Application

CD22	Arts Development Officer	16/4/2015
CD23	Canal and River Trust	4/3/2015
CD24	CPRE Wiltshire Kennet District Group	25/3/2015
CD25	Devizes Town Council	Undated
CD26	Wiltshire Council's Drainage Officer	18/2/2015
CD27	Wiltshire Council's Senior Ecologist	2/4/2015

CD28	Wiltshire Council's Senior Premises Officer (School Building and Places) original, revised and updated versions	22/5/2015, 11/6/2015 and 4/8/2015
CD29	Environment Agency	10/3/2015
CD30	Wiltshire Council's Senior Protection Officer Noise and Air Quality	4/3 2015 and 18/5/2015
CD31	Wiltshire Fire and Rescue Service	25/2/2015
CD32	Wiltshire Council's Landscape and Design Team	21/4/2015
CD33	Wiltshire Council's Leisure Team	Undated
CD34	Wiltshire Council's New Housing Principal Development Officer	24/2/2015
CD35	Wiltshire Council's Environment Services Technical Officer	24/3/2015
CD36	Mid Wiltshire Ramblers Association	31/7/2015
CD37	Wiltshire Council's Rights of Way Officer	18/2/2015
CD38	Roundway Parish Council's Planning Committee Chair	17/3/2015
CD39	Wiltshire Council's Spatial Planning Service Major Projects Officer	10/4/2015
CD40	Wiltshire Council's Sustainable Transport	8/5/2015
CD41	Trust for Devizes	6/3/20215
CD42	Wiltshire Council's Urban Design Officer	2/6/2015
CD43	Wessex Water's Planning Liaison Officer	23/7/2015
Public Responses to the Outline Planning Application		
CD44	Clive Buckingham	No Date
CD45	Michelle and Ross Hudson	2/3/2015
CD46	Mrs Miriam Dutoy	5/3/2015
CD47	Peter Lamb	5/3/2015
CD48	Mrs Philippa Morgan	5/3/2015
CD49	Mr Henry J Pawlak	6/5/2015
CD50	Mrs Judy M D Rose	5/3/2015
CD51	Mrs Anna Evans-Wylie	9/3/2015
CD52	Mrs Philippa Morgan	9/3/2015
CD53	Mr Steve J Wylie	9/3/2015
CD54	Mr C J Edwards	9/3/2015
CD55	John Baumber	10/3/2015
CD56	Mr & Mrs I Goodridge	11/3/2015
CD57	Tony Sedgwick	No Date

CD58	Mr & Mrs C Eagleton	12/3/2015
CD59	Mrs Tracey Eagleton	12/3/2015
CD60	Birch	No Date
CD61	Dr Dave Buxton	16/3/2015
CD62	Mrs Susan Buxton	16/3/2015
CD63	Dr Sarah Owen	16/3/2015
CD64	Mr Adrian P Dimitrio	16/3/2015
CD65	Mr Declan McSweeney	19/3/2015
CD66	Devizes Rugby Football Club	19/3/2015
CD67	Bishops Cannings Parish Council	19/3/2015
CD68	D L Furlong	19/3/2015
CD69	Nigel Carter	30/3/2015
CD70	Quakers Walk Protection Group	No Date
CD71	Miss Briony A Simpson	23/4/2015
Local Planning Authority Documentation		
CD72	Validation letter to Applicant	18/2/2015
CD73	Councillor Call-in to Committee Form	28/2/2015
CD74	Eastern Area Planning Committee Report	For 6/8/2015
CD75	Draft Minutes of the Eastern Area Planning Committee Meeting	No date
CD76	Approval of Minutes of the Eastern Area Planning Committee Meeting on 6/8/2015	No Date
CD77	Wiltshire Core Strategy	January 2015
CD78	Relevant Saved Policies of the Kennet District Local Plan HC34 and HC37	June 2004
CD79	Devizes Area Neighbourhood Plan Referendum Version	July 2015
CD80	Examiner's Report into the Devizes Area Neighbourhood Plan	May 2015
CD81	Community Infrastructure Levy Charging Schedule	May 2015
CD82	Wiltshire CIL Regulation 123 List	May 2015
CD83	Wiltshire Planning Obligations SPD	May 2015
CD84	Wiltshire Housing Land Supply Statement 2015	April 2015
CD85	Wiltshire Housing Land Supply Statement 2014	July 2014
CD86	Extract from 2002 report of the Inspector into the Kennet Local Plan 2011	2002
CD88	Wiltshire Council's LTP3 Car Parking Strategy (Appendix	March 2015

	C—Maximum Parking Standards	
CD89	Devizes Transport Strategy	September 2012
CD90	Non-Technical Summary of the Inspector's Report into the WCS	December 2014
CD91	Inspector's Report into the WCS Extract -page 8	December 2014
CD92	Landscape Character Assessment (Extract)	2005
CD93	DNP Examination: points for clarification and Additional Explanation	
CD94	DNP Examination: Further points for clarification on the approach to defining revised 'limits of development' for Devizes	
CD95	Devizes Town Centre Healthcheck	2012
Inquiry Documentation		
CD97	Correspondence from National Casework Planning Unit	22/12/2015
CD98	IC1 Guidance for document preparation and numbering	5/4/16
CD99	ID2 Pre-Inquiry Note	5/4/16
CD100	Wiltshire Council's Statement of Case	March 2016
CD101	Applicant's Statement of Case	March 2016
Care Village Documentation		
CD109	Care Village Appeal Decision APP/Y3940/A/12/2173814	5/11/12
CD110	Care Village Report to Committee	15/3/12
CD111	Technical Note (Transport)	May 2012
CD112	Devizes Traffic Model Results	May 2012
CD113	Transport Assessment	August 2011
CD114	Block Elevations	July 2011
CD115	Context Elevations	July 2011
CD116	Design Statement by KWL Architects	2011
CD117	Site Layout Plan	July 2011
CD118	Site Location Plan	March 2011
CD119	Extended Phase 1 Habitat Survey	May 2009
CD120	Bat Detector Transect Survey	Summer 2009
CD121	Reptile Survey	July 2009
Appeal Decisions		
CD126	Upper Chapel Launceston APP/D0840/A/13/2209757	11/4/2014
CD127	Honeybourne Evesham APP/H1840/A/13/2205247	2/4/2014

CD128	Elmwood Avenue Essington APP/C3430/A/12/2189442	11/4/2013
CD129	Ludlow Shropshire APP/L3245/W/15/3001117	30/11/2015
CD130	Cherwell APP/C3105/W/14/2226555	7/12/2015
CD131	Land off Coate Road & Windsor Drive Devizes APP/Y3940/A/113/2206963	21/9/2016
Third Party Comments		
CD135	Correspondence from Devizes Town Council	8/2/2016
CD136	Correspondence from Devizes Town Council on Transport Matters	8/2/2016
CD137	Correspondence from Bishops Cannings P C	21/2/2016
CD138	Correspondence from Mrs Philippa Morgan	24/2/2016
CD139	Correspondence from Michelle and Ross Hudson	13/1/2016
Other Documentation		
CD144	National Planning Policy Framework	March 201032
CD146	EPUK/IAQM 2015 Land-Use Planning and Development Control: Planning for air quality V1.1	2015
CD147	DAS Errata Sheet	2016
CD148	Guidelines for Providing for Journeys on Foot	2000
CD149	ONS Table 208	August 2016
CD150	Swindon and Wiltshire Strategic Economic Plan	January 2016
CD152	Chancellor's Mansion House Speech	2014
CD153	Former Prime Minister's Speech at the Conservative Party Conference	October 2015
CD154	Brandon Lewis Speech	22/3/2016
CD156	Sandbach Neighbourhood Plan Examiner's Report	January 2016
CD157	NP Consultation on Potential Housing Sites	Spring 2013
CD158	NP Site Prioritisation Matrix	
CD159	Extract from Officer's Report on application 5/10766/OUT	December 2015
CD160	NP Steering Group Stonebridge House Site Assessment	
CD161	NP Steering Group Hillworth Road Site Assessment	22/2/2013
CD162	NP Steering Group Garden Trading Estate Site Assessment	5/3/2013
CD163	Response by Mr Wilmot to NP Examination	22/12/2014
CD164	Wadworth Warehouse Planning Permission	28/4/2016
CD165	Wadworth Warehouse Application – Town Council Response	26/4/2016

Society of Merchant Venturers' Documents

SMV1	Opening Statement
SMV2	Kennet Local Plan 2011 Policies saved beyond September 2007
SMV3	Inset Map 11: Devizes
SMV4	S106 Compliance Statement
SMV5A	Revised Planning Conditions 24 October 2016
SMV5B	Revised Planning Conditions 25 October 2016
SMV6A	Draft S106 Agreement
SMV6B	Signed S106 Agreement
SMV7	Documents relating to approved scheme for 65 dwellings
SMV8	Statement of Common Ground
SMV9A	Rebecca McAllister's Summary Proof
SMV9B	Rebecca McAllister's Proof
SMV9C	Rebecca McAllister's Appendices
SMV10	Devizes Neighbourhood Plan – Housing Allocation Sites by SHLAA Number
SMV11	Closing Submissions

Wiltshire Council's Documents

WC1	Opening Statement
WC2	Crane v Secretary of State for Communities and Local Government
WC3	Cummins and Others v London Borough of Camden
WC4	Michael Wilmott's Proof of Evidence
WC5	Note on Devizes Housing Figures
WC6	Closing Statement

Interested Person's Documents

IP1	Bundle of representations received at Inquiry Stage
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- IP2 Submission by Simon Fisher on behalf of Devizes Area Neighbourhood Plan Steering Group
- IP3 Submission by Mr Callow, Chairman, Roundway Parish Council
- IP4 Submission by John Kirkman, Chairman, Campaign to Protect Rural England, Kennet District Group

APPENDIX 3

SCHEDULE OF CONDITIONS

- 1) No development hereby permitted shall commence in any phase until plans and particulars specifying the detailed proposals for all of the following aspects of the same, herein called "the reserved matters", have been submitted to and approved in writing by the Local Planning Authority for that phase.

- (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. Any reserved matters application pertaining to layout shall include the details of the access to the Rugby Club, as shown on the Illustrative Masterplan (Rev 003), dated January 2015 and shall make provision for a 35 metre buffer zone with Quakers Walk.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be commenced either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans Site Location February 2015; Site Boundary February 2015; and broadly in accordance with the Development Framework Revision 005 January 2015, with the provision of a landscaped buffer to Quakers Walk of a minimum width of 35 metres.
- 5) No development shall take place until a phasing scheme has been submitted to and agreed in writing by the Local Planning Authority.
- 6) No development shall commence on site until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This should include details of:
 - a) Habitat creation and management measures along Quaker's Walk;
 - b) Mitigation measures for reptiles;
 - c) Monitoring for Annex II bat species;
 - d) Enhancements for Wiltshire BAP habitats/species.

For clarity, these details should be represented on a site drawing. All development shall be carried out in accordance with the approved Ecological Management Plan.

- 7) No development shall commence on site until a Construction Environmental Management Plan, incorporating pollution prevention measures together with precautionary timings and working practices to prevent adverse

impacts to sensitive habitats and species, has been submitted to and approved in writing by the local planning authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

- 8) No external lighting shall be installed without the prior approval of the local planning authority. Any request for external lighting submitted pursuant to this condition shall include details of the type of light fitting and information regarding its position, height, orientation and power. The lighting shall be installed in accordance with the approved details and it shall not thereafter be modified unless agreed beforehand in writing by the local planning authority.
- 9) No development shall commence on site until a Construction Method Statement, which shall include the following:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the location of construction compound(s) and positions for site office(s);
 - e) the erection and maintenance of any security hoarding/fencing;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) hours of construction, including deliveries;
 - i) Wheel washing facilities.has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.
- 10) No development shall commence on site until details of protective fencing for the trees along Quakers Walk have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall accord with British Standard 5837 (2012): 'Trees in Relation to Design, Demolition and Construction - Recommendations' and the information shall include details of the type of fencing to be used and its position. Once the fencing has been erected it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising or lowering of ground levels, shall be allowed within the protected area(s).
- 11) The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been submitted to and approved in writing by the local planning authority which demonstrates that this level or equivalent has been achieved.
- 12) No development shall commence on site until details of existing and proposed ground levels across the site (including within the Quakers Walk buffer zone), proposed slab levels and details of spoil disposal have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 13) Prior to occupation of the 30th dwelling a 3 metre wide shared use cycleway shall have been provided and made available for use to enable connection with the existing shared use path in front of 65B Quakers Road, running parallel to Quakers Walk, and connecting at its south western end to Quakers Walk, as indicated in outline on the Development Framework plan January 2015.
- 14) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 plus if a discharge to the canal is proposed details of the Canal & River Trust approval and details of ownership of attenuation ponds, and maintenance regimes, has been submitted to and approved in writing by the Local Planning Authority. Any scheme proposing drainage ponds in the 35 metre buffer zone shall demonstrate how their construction and use is compatible with the purpose of the buffer zone to provide an informal and safe landscaped area. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 15) No development shall commence on site until a scheme for the discharge of foul water from the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and no dwelling shall be occupied until the necessary works serving that dwelling have been completed and made operative in accordance with the approved details.
- 16) No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.
- 17) Prior to the commencement of development, a scheme setting out the boundary treatment to the adjoining Rugby Club shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the occupation of dwellings.

APPENDIX 4

GLOSSARY

AQMA	Air Quality Management Area
CIL	Community Infrastructure Levy
CPRE	Campaign to Protect Rural England
CS	Core Strategy
EA	Environment Agency
LOD	Limits of Development
LEAP	Local Equipped Area of Play
LP	Local Plan
NP	Neighbourhood Plan
PC	Parish Council
SoS	Secretary of State



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, Queens 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.