



Ministry of Housing,  
Communities &  
Local Government

Ms Amy Hickson  
Turley  
40 Queen Street  
Bristol  
BS1 4QP

Our ref: APP/U3935/W/16/3154441  
Your ref: AINA3003

13 June 2018

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY AINSCOUGH STRATEGIC LAND LTD  
LAND AT LOTMEAD FARM, SWINDON SN4 0SN  
APPLICATION REF: S/OUT/15/0754/KICO**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Diane Lewis BA(Hons) MCD MA LLM MRTPI, who held a public local inquiry from 7 November 2017 for four days into your client's appeal against the decision of Swindon Borough Council to refuse your client's application for planning permission for outline planning permission, with all matters reserved save detailed access to Wanborough Road, for up to 200 residential units (Use Class C3), with open space, landscaping and associated road and drainage infrastructure, to form the southern part of Lotmead Village, in accordance with application ref: S/OUT/15/0754/KICO dated 30 April 2015 ("the phase 1 scheme").
2. The inquiry also considered an appeal against the decision of Swindon Borough Council to refuse planning permission for a mixed use development at Land at Lotmead Farm, Swindon SN4 0SN, in accordance with application ref: S/OUT/15/0753/KICO dated 30 April 2015 ("the masterplan scheme"). That appeal is subject to a separate decision letter, also being issued today.
3. On 19 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

4. The Inspector recommended that the appeal be dismissed.
5. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Environmental Statement**

6. In reaching this position, the Secretary of State has taken into account the Environmental Statement and the addendum to the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR1.8-1.9, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Procedural matters**

7. The appellant submitted amended proposals on 30 June 2017. The Secretary of State has taken into account the Inspector's comments at IR1.4 that the inquiry would proceed on the basis of the schemes refused by the Council but also that evidence on the amended schemes would be heard. (See also paragraphs 13-16 below).

## **Matters arising since the close of the inquiry**

8. An application for a full award of costs was made by Swindon Borough Council against Ainscough Strategic Land Ltd. (IR1.11). This application is the subject of a separate decision letter, also being issued today.

## **Policy and statutory considerations**

9. 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.
10. In this case the development plan consists of the Swindon Borough Local Plan 2016, adopted in March 2015 and the Wiltshire and Swindon Waste Core Strategy 2006-2026, adopted in July 2009. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR4.3-4.13.
11. 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'), as well as Department for Transport Circular 02/2013 *The Strategic Road Network and the Delivery of Sustainable Development* and Historic England's Good Practice Guide on the Setting of Heritage Assets.
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), 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**

### *Preliminary matters*

#### *The amendments*

13. The Secretary of State has given careful consideration to the Inspector's analysis at IR10.1-10.15. The Secretary of State has taken into account that all parameter plans and the illustrative masterplans were amended (IR10.6). The Secretary of State has further taken into account that the ES also was substantially reviewed, with six of the topic chapters being superseded. The Secretary of State has further taken into account at IR10.7 that further amendments were made including proposals for access, surface water management, trees and landscaping. For the reasons given at IR 10.6-10.7, the Secretary of State agrees with the Inspector at IR10.7 that the evolution of the proposals results in an overall very considerable change to the schemes and to the quality of the supporting information.
14. For the reasons given at IR10.6-10.7, the Secretary of State agrees with the Inspector at IR10.8 that the amended schemes are not the schemes determined by the local planning authority in June 2016 and on which interested people's views were sought (IR10.8). The Secretary of State agrees with the Inspector that the narrowing of the areas of dispute was of assistance to the efficient running of the inquiry but was carried out very late in the day. He further agrees that the approach adopted by the appellant during the course of the appeals has not been in accordance with procedural guidance (IR10.8).
15. As such, the Secretary of State agrees with the Inspector at IR10.9 that the changes to the proposals in the Masterplan and the Phase 1 appeals are sufficiently material that consultation on the amendments would be essential.
16. The Secretary of State has taken into account the Inspector's conclusions on consultation at IR10.10-10.13. The Secretary of State agrees with the Inspector at IR10.14 that the amended schemes are very significantly different to those determined by the Council and have evolved considerably during the course of the appeals. He further agrees that to use the appeal process in this way is contrary to procedural guidance and does not sit comfortably with the *Wheatcroft* principle and there are no exceptional circumstances to justify this approach; and agrees that no specific case of prejudice has been highlighted but compliance with the procedural guidance is the best way to ensure no-one is disadvantaged through the appeal process (IR10.14). He concludes, in agreement with the Inspector at IR10.15 that the appeals should be determined on the basis of the original proposals (IR10.15).

#### *Outline proposals*

17. The Secretary of State has given careful consideration to the Inspector's analysis at IR10.16-10.17. He agrees for the reasons given that an outline planning permission should be subject to conditions which 'tie' the scheme to what has been assessed.

#### *Main considerations*

18. The Secretary of State has given careful consideration to the Inspector's summary at IR10.20-10.29 of the main considerations. He has taken into account that the consideration in relation to the Canal is relevant only to the Masterplan scheme.

## *Heritage*

### *Scheduled Ancient Monument*

19. The Secretary of State has given careful consideration to the Inspector's analysis of the Scheduled Ancient Monument (SM) at IR10.30-10.46. The Secretary of State agrees with the Inspector at IR10.30 that the fact that SM is a designated heritage asset is of national importance. He further agrees at IR10.30 that as a matter of national policy great weight should be given to its conservation and the Framework places scheduled monuments within a group of designated heritage assets of the highest significance. He further agrees that Local Plan Policy NC3 requires the development to ensure the SM is protected and enhanced and Policy EN10 requires the historic environment to be sustained and enhanced.
20. For the reasons given at IR10.30-10.36, the Secretary of State agrees with the Inspector at IR10.37 that there are attributes of the setting that contribute to the significance of the asset, both in terms of the physical surroundings and experience. He further agrees that the contribution is small but it cannot be discounted. The Secretary of State has taken into account at IR10.38 that the proposed development would not involve encroachment into the designated area through operational development and would have no direct physical impact of the SM. He has further taken into account that housing within plots 10 and 14 would replace the 19<sup>th</sup> Century fields.
21. He further agrees that residential and associated development is in accordance with Local Plan Policies SD2 and NC3. For the reasons given at IR10.39-10.40 he further agrees that views of the setting would not be of open fields and a rural setting but a 'gateway' into the scheme.
22. For the reasons given at IR10.41, the Secretary of State agrees with the Inspector at IR10.41 that the proximity of residential development to the SM would have an undue urbanising effect on the SM and therefore adversely affect the experience of the asset. He further agrees that the development would have an adverse effect on the significance of the SM by reason of harming the contribution to that significance made by the setting. For the reasons given at IR10.42, the Secretary of State agrees that the prospect of a proposed heritage management plan, if secured and implemented, adds support to ensuring the SM is able to be properly experienced from its setting.
23. The Secretary of State agrees with the Inspector at IR10.43 that the identified harm to the SM has considerable importance and weight, for the reasons given above. He further agrees that in the terms of the Framework, the proposal would lead to less than substantial harm to the significance of the SM and, as required by paragraph 134, this harm should be weighed against the public benefits of the proposal.
24. For the reasons given at IR10.30-10.44, the Secretary of State agrees with the Inspector at IR10.46 that in terms of the development of the Phase 1 site the public benefits would be on a much smaller scale than those offered by the 'Masterplan' proposal, as set out at IR10.44. He further agrees that the ability to re-site the dwellings as part of the Phase 1 scheme would be constrained by the small site area but the Masterplan site provides the opportunity to do so. He further agrees that the less than substantial harm to the significance of the SM is not outweighed by the public benefits of the proposal. He further agrees that Policy EN10 criterion (b) is not met. The Secretary of State agrees with the Inspector's conclusion that the Phase 1 proposals conflict with criterion (a) of Policy

EN10 and criterion (c) of Policy NC3 because they do not ensure that a nationally important SM would be sustained and enhanced.

#### *Lotmead Farmhouse*

25. For the reasons given at IR10.47-10.48, the Secretary of State agrees with the Inspector at IR10.48 that harm would be caused to the significance of the non-designated heritage asset by development within its setting. The Secretary of State agrees with the Inspector at IR10.49 that the scale of the harm would be much reduced by retention of adjacent grounds and the converted courtyard buildings. He further agrees that low density housing on plot 14 would have little adverse effect on the inter-visibility of the area between the farmhouse and cottages because the principal elevation of the farmhouse faces north and the tree belt would provide additional screening. He further agrees that in contrast to these positive aspects, the development of the tree lined avenue would be harmful to the rural approach to the farmhouse.

#### *Heritage conclusions*

26. For the reasons set out above, the Secretary of State agrees with the Inspector at IR10.53 that the Phase 1 proposals would not conserve the setting to Lotmead Farmhouse and would adversely affect the significance of this non-designated heritage asset. He further agrees that the requirements of Policy NC3 criterion (c) and Policy EN10 (a) and (b) are not met. The Secretary of State agrees with the Inspector's conclusions at IR10.55 and he attaches moderate weight to the harm in the phase 1 scheme.

#### *Open Space*

27. The Secretary of State has given careful consideration to the Inspector's analysis at IR10.66-10.81. For the reasons given at IR10.70, the Secretary of State agrees with the Inspector that overall, the location and distribution of play areas is not well planned and may give rise to problems of delivery to serve early phases of development and the potential locations do not meet SPD guidance.

28. The Secretary of State agrees with the Inspector at IR10.71 that sports provision and community open space, as shown on the green infrastructure (GI) parameter plan, potentially would conflict with measures to attenuate surface water discharge, and areas of ecological enhancement. He further agrees that this conflict is most clearly shown in the north eastern area of the Phase 1 site and that no area of land is clearly identified for allotments.

29. For the reasons given at IR10.72, the Secretary of State agrees with the Inspector at IR10.72 that the conditions and obligation offer a means of overriding the GI parameter plan and illustrative masterplan. However, he further agrees that it would be unreasonable to do so, taking into account the details of the wording of the terms used in the obligation. He further agrees with the Inspector's concern at IR10.72 that repeated and overlapping requirements would increase a risk of a lack of consistency and clarity over proposed provision and cause enforcement difficulties.

30. The Secretary of State agrees with the Inspector at IR10.73 that similar considerations apply to the Phase 1 site, although relevant planning conditions would be fewer in number. He further agrees that open space provision also highlights that bringing forward the Phase 1 development outside the framework of an outline planning permission for the

Masterplan site would reduce the ability to ensure coordinated proposals across the development sites.

31. For the reasons given at IR10.66-10.73, the Secretary of State agrees with the Inspector's conclusion at IR10.74 that the Phase 1 proposals do not demonstrate the quantity and quality of open space sought by the open space standards would be achievable within the proposed parameters and environmental constraints of the site. He further agrees that the GI parameter plans are not of a standard to be approved. He further agrees that to leave all matters to be resolved through planning condition(s) and/or a planning obligation would not be reasonable taking into account the inadequacy of the GI parameter plans. As such the Phase 1 proposals fail to comply with Policy EN3.

### *Trees*

32. The Secretary of State has given careful consideration to the Inspector's analysis of trees at IR10.82-10.85. The Secretary of State has taken into account at IR10.83 that the scheme proposed the removal of protected trees on the western side of the internal road in order to widen the access route to serve the development site. For the reasons given at IR10.82-10.84, the Secretary of State agrees with the Inspector at IR10.85 that the scheme is not in accordance with a requirement of Policy EN1 criterion (a).

### *Transport and Accessibility*

#### *Southern Connector Road (SCR)*

33. The Secretary of State has given careful consideration to the Inspector's analysis of the SCR at IR10.86-10.90. The Secretary of State has taken into account at IR10.86 that the provision of the SCR is a requirement of Policy NC3 in order to offer a second access from the New Eastern Villages (NEV) to the A419 as a means of dispersing traffic from the development. The Masterplan in the SPD shows the northern part of the route running through the Lotmead Farm sites. For the reasons given at IR10.86, the Secretary of State agrees with the Inspector at IR10.86 that securing appropriate provision for the SCR in the current proposals is important to achieving the safe and efficient movement of people and goods and a high quality public realm in accordance with Policies TR1 and DE1.
34. The Secretary of State agrees with the Inspector at IR10.87 that the submitted plans do not identify a route for the SCR. The Secretary of State agrees with the Inspector at IR10.89 for the reasons given that securing the route by condition would not be reasonable. He further agrees that the Council's suggested condition in effect requires the submission and approval of a revised set of parameter plans and illustrative masterplan. He further agrees that the condition would not be consistent with an outline planning permission and would fail the test of reasonableness.
35. For the reasons given at IR10.86-10.89, the Secretary of State agrees with the Inspector's conclusion at IR10.90, that by reason of the SCR alone, the proposals would not achieve good connectivity within the development and to the surrounding area and not provide highway infrastructure in accordance with an acceptable strategy. He further agrees that the proposal conflicts with Policies TR1(a), DE1 and NC3(b).

#### *Other highway infrastructure*

36. The Secretary of State has given careful consideration to the Inspector's analysis at IR10.91-10.94. For the reasons given at IR10.91, the Secretary of State agrees with the

Inspector that in view of the information now available, the use of planning conditions would be an acceptable way forward as a means of bringing forward the Masterplan lands as part of the NEV development.

37. For the reasons given at IR10.93, the Secretary of State agrees with the Inspector that reliance on the route between the Phase 1 site and Covingham for more than a minimum temporary period to get to Covingham primary school would not encourage pedestrian accessibility but rather would increase the use of the private car.
38. The Secretary of State has taken into account at IR10.94 that Wanborough and nearby villages are likely to experience an increase in traffic as a result of development. For the reasons given at IR10.93-10.94, the Secretary of State agrees with the Inspector at IR10.94 that in the short/medium term the probability is that there would be an adverse effect on nearby villages until the completion of the strategic infrastructure.

### *Infrastructure and Mitigation*

#### *Planning obligations and highway agreements*

39. The Secretary of State has given careful consideration to the Inspector's discussion at IR10.102-10.106.

#### *Phase 1 section 106 agreement planning obligations*

40. The Secretary of State agrees with the Inspector at IR10.139 that the following planning obligations are CIL compliant: Education: the arrangements for land transfer and contribution for the delivery of a 2 FE primary school; allotments contribution because no land is proposed within the Phase 1 site for this use; outdoor sports contribution towards the provision of a mix of winter and summer sports facilities at Lotmead or Lower Lotmead; community forest planting; travel plan contribution; Wanborough Road traffic calming contribution; bus service strategy contribution; affordable housing; open space strategy; public roads and public access areas in order to ensure their construction to the required standard, adoption and availability for use and public art contribution.
41. The Secretary of State agrees with the Inspector at IR10.140 that no part of the heritage asset is within the Phase 1 site and therefore the definition in the Deed as to what constitutes the Heritage Management Plan is inaccurate. He further agrees that the obligation on the Heritage Management Plan has no effect and therefore is not taken into account. For the reasons given at IR10.111-10.118 and IR10.122-10.131, the Secretary of State agrees with the Inspector that the following matters are not CIL compliant: adult social care, a healthcare facility, archaeology (storage and display of archaeological finds), a leisure facility (a four lane swimming pool), a library facility, a nature park visitor centre and waste kerbside collection provision.
42. For the reasons given at IR10.142-10.143, the Secretary of State agrees with the Inspector at IR10.143 that the obligation in relation to bridge vision works is not CIL compliant. For the reasons given at IR10.144-10.146, the Secretary of State agrees with the Inspector at IR10.146 that the park and ride obligation is CIL compliant. For the reasons given at IR10.147-10.148, the community facility obligation is not CIL compliant.

#### *Phase 1 section 278 agreement*

43. For the reasons given at IR10.149-10.152, the Secretary of State agrees with the Inspector at IR10.153 that the contributions that would be secured through Schedule 2 of

the section 278 agreement meet the appropriate tests and that the provisions within the agreement are able to be taken into account in the assessment of the scheme.

#### *Phase 1: unilateral undertaking*

44. The Secretary of State agrees with the Inspector at IR10.154 that the planning obligations in the Unilateral Undertaking meet the Regulation 122(2) criteria. However, for the reasons given at IR10.56-10.59, the Secretary of State agrees with the Inspector's conclusion at IR10.60 that a 3 form entry (FE) school on a 2.9 ha site is outwith the original masterplan application and therefore should not be considered. Therefore the Deed would not apply.

#### *Conclusions: Phase 1 schemes*

45. The Secretary of State agrees for the reasons given at IR10.155 that the inability to consider the facilities and infrastructure which are not CIL compliant should not count against the scheme, which complies with Policy IN1. He further agrees at IR10.156 that the proposals, by means of legal agreements, make suitable provision towards mitigating any resultant adverse impact on the environment and on the social and physical infrastructure of the surrounding area, and ensuring the necessary social and recreational infrastructure and services for the new community.

#### *Infrastructure and mitigation*

##### *46. Other matters*

47. For the reasons given at IR10.157, the Secretary of State agrees that planning conditions are the appropriate way of securing an acceptable strategy on flooding, a detailed scheme for each development phase and confirmation of management and maintenance responsibilities in order to ensure compliance with Policy EN6. He further agrees that development would be served by adequate infrastructure in respect of foul water drainage and complies with Policy IN2, for the reasons given at IR10.158. For the reasons given at IR10.159 he agrees that mitigation and enhancement in terms of biodiversity and species protection can be achieved through compliance with planning conditions. He agrees (IR10.160) that no mitigation in respect of air quality for residents of the development, and that suitable mitigation during the construction phases could be secured through planning conditions. He also agrees (IR10.160) that residential amenity of the occupiers of the cottages at the corner of Wanborough Road would be reduced by noise impact, but this could be addressed by design of the junction, and through landscaping measures, boundary treatment, and appropriate surface materials in response to Policy DE1 criterion (c).

#### *Sustainable development*

48. The Secretary of State agrees with the Inspector at IR10.162 that the appeal sites are part of the strategic NEV allocation and development of the land would be compatible with the sustainable development strategy set out in Local Plan Policy SD2. He further agrees that a critical component is whether the development proposals comply with the sustainable development principles identified by Policy SD1 and the requirements for the NEV set out in Policy NC3.
49. The Secretary of State agrees with the Inspector at IR10.181 that bringing forward the Phase 1 site by means of a discrete outline permission would allow early progression and delivery of homes, but this would be at the expense of coordinated frameworks for

development of the Masterplan site across a range of planning considerations including phasing, ecology, open spaces, design, management of surface water and drainage.

50. For the reasons given at IR10.181-10.184, the Secretary of State agrees with the Inspector at IR10.185 that these matters referred to, including the obligations on education, the establishment of a community initially isolated from local facilities and services, the constraints on layout and achieved high quality design, and the implications for the enforcement of conditions on a 'Masterplan' permission, weigh against the sustainability credentials of the appellant's approach to development of the Lotmead land.
51. For the reasons given above the Secretary of State agrees with the Inspector at IR10.186 that the scheme would not conserve the natural and historic environments by reason of the identified harm to the SM and Lotmead Farmhouse and the loss of trees of amenity value. He further agrees that there is conflict with Policies EN10, EN1 and NC3.
52. The Secretary of State agrees with the Inspector at IR10.187 that the green infrastructure parameters and open space proposals fail to comply with Policy EN3 because the required quantity and quality of open space are not shown to be achievable. He further agrees that the lack of consideration of the SCR conflicts with Policies TR1, DE1 and NC3.
53. The Secretary of State agrees with the Inspector at IR10.188 that the Phase 1 section 106 and section 278 agreements provide proportionate and necessary infrastructure contributions in accordance with Policy IN1. Nevertheless, he further agrees that securing contributions would not overcome the potential isolation of the site in advance of development on the wider NEV.
54. The Secretary of State agrees with the Inspector at IR10.189 that the scheme would contribute to job creation and the local economy during the construction phase. He further agrees that in the longer term economic gains would come from the increased population and their support and input to the local economy. He has taken into account at IR10.189 that the economic role of the development is acknowledged by the appellant to have limited weight, which the Secretary of State agrees with the Inspector is a fair assessment.
55. For the reasons given at IR10.186-10.189, the Secretary of State agrees with the Inspector at IR10.190 that the scheme would not deliver a sustainable form of development and is not in accordance with Policies SD1 and SD3.

### **Planning conditions**

56. The Secretary of State has given consideration to the Inspector's analysis at IR9.51-9.66, 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. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

57. Having had regard to the Inspector's analysis at IR9.1-9.39 the planning obligations dated 29 November 2017, 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 IR10.139 that the obligations, except where noted above, comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. However, the Secretary of State does not consider that the obligations overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

58. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies NC3, EN10, EN1, EN3, TR1, DE1, SD1 and SD3 of the development plan, and is not 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.
59. The Secretary of State considers that the provision of housing, including affordable housing, carries significant weight in favour of the proposal. He also considers that economic benefits, including job creation during the construction phase and the input of the increased population into the local economy, carry limited weight.
60. Against this, the Secretary of State considers that the proposal would lead to less than substantial harm to the significance of the SM. He considers that the proposal would not conserve the setting to Lotmead Farmhouse and would adversely affect the significance of this non-designated heritage asset. Having regard to s66(1) of the LBCA he affords these harms substantial weight. He gives further moderate weight to the harm by way of the loss of amenity trees.
61. Paragraph 134 of the Framework is a 'specific policy' for the purposes of paragraph 14 of the Framework, and the Secretary of State has considered whether the less than substantial harm to the SM is outweighed by the public benefits of the proposal. Overall the Secretary of State considers that the benefits of the appeal scheme are not collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the SM. He considers that the balancing exercise under paragraph 134 of the Framework is therefore not favourable to the proposal, and that therefore paragraph 14 of the Framework indicates that development should be restricted.
62. The Secretary of State considers that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
63. The Secretary of State therefore concludes that the appeal should be dismissed.

### **Formal decision**

64. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission, with all matters reserved save detailed access to Wanborough Road, for up to 200 residential units (Use Class C3), with open space, landscaping and associated road and drainage infrastructure, to form the southern part of Lotmead Village, in accordance with application ref: S/OUT/15/0754/KICO dated 30 April 2015.

## **Right to challenge the decision**

65. 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.
66. A copy of this letter has been sent to Swindon Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Philip Barber*

Authorised by the Secretary of State to sign in that behalf



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# Report to the Secretary of State for Housing, Communities and Local Government

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Date: 2 February 2018

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TOWN AND COUNTRY PLANNING ACT 1990

SWINDON BOROUGH COUNCIL

APPEALS BY AINSCOUGH STRATEGIC LAND LTD

Inquiry opened on 7 November 2017

Land at Lotmead Farm, Swindon SN4 0SN

File Refs: APP/U3935/W/16/3154437, APP/U3935/W/16/3154441

**File Ref: APP/U3935/W/16/3154437**  
**Land at Lotmead Farm, Swindon SN4 0SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ainscough Strategic Land Ltd against the decision of Swindon Borough Council.
- The application Ref S/OUT/15/0753/KICO, dated 30 April 2015, was refused by notice dated 30 June 2016.
- The development proposed, as described on the planning application form, is: An outline application (with all matters reserved save the detailed access off Wanborough Road) for demolition and/or conversion of the existing buildings on the site and redevelopment to provide:
  - Up to 2,600 residential units (Use Class C3);
  - Up to 1,765 sq m of community/retail uses (Use Classes D1/D2/A1/A2/A3/A4)
  - Up to 3,000 sq m of business/employment use (Use Class B1);
  - A Primary School (2.2 ha);
  - Open space, strategic landscaping and other green infrastructure (including SUDs and areas for nature conservation);
  - Other associated road and drainage infrastructure;
  - Indicative primary access road corridors to the A420; and
  - Improvements and widening of existing route off Wanborough Road to provide pedestrian, cycle and bus access.

**Summary of Recommendation: That the appeal be dismissed**

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**File Ref: APP/U3935/W/16/3154441**  
**Land at Lotmead Farm, Swindon SN4 0SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ainscough Strategic Land Ltd against the decision of Swindon Borough Council.
- The application Ref S/OUT/15/0754/KICO, dated 30 April 2015, was refused by notice dated 30 June 2016.
- The development proposed, as described on the planning application form, is: The application seeks outline planning permission, with all matters reserved save detailed access to Wanborough Road, for up to 200 residential units (Use Class C3), with open space, landscaping and associated road and drainage infrastructure, to form the southern part of Lotmead Village.

**Summary of Recommendation: That the appeal be dismissed.**

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## LIST OF ABBREVIATIONS

CCG	Clinical Commissioning Group
CD	Core Document
DAS	Design and access statement
dph	dwellings per hectare
EIA	Environmental Impact Assessment
ES	Environmental Statement
FE	Form entry
FLEAMP	Framework Landscape, Ecology and Arboriculture Management Plan
GI	Green infrastructure
GWCF	Great Western Community Forest
ha	hectares
LLAP	Local landscaped area for play
Local Plan	Swindon Borough Local Plan 2026
NEV	New Eastern Villages
SCR	Southern Connector Road
SM	Scheduled Ancient Monument
sq m	square metres
SPD	Supplementary Planning Document
SRN	Strategic Road Network
SuDS	sustainable drainage systems
The Framework	National Planning Policy Framework
TPO	Tree Preservation Order
WBCT	Wilts & Berks Canal Trust

Footnotes in the report provide references to documents as well as points of information and clarification.

## 1. INTRODUCTION AND PROCEDURAL MATTERS

- 1.1 The appeal sites are located within the New Eastern Villages (NEV) urban extension to Swindon. Appeal 1 relates to the proposed Masterplan development covering an area of about 160 hectares (ha). The decision notice issued by the Council cites 23 reasons for refusal<sup>1</sup>. Appeal 2 relates to the Phase 1 site of some 11.9 ha within the Masterplan appeal site. The planning application was refused planning permission by the Council for 20 reasons<sup>2</sup>.
- 1.2 The appeals were recovered by the Secretary of State by a Direction dated 19 August 2016 because he considered that he should determine them himself. The reason for the Direction is that 'the appeals involve proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities'.
- 1.3 A pre-inquiry meeting was held on 5 May 2017<sup>3</sup>. Amongst the matters considered were proposed changes to the scheme, statements of case and the adequacy of time for preparation for an inquiry due to open on 13 June 2017. A revised timetable was agreed, working towards an inquiry date in November 2017.
- 1.4 The appellant submitted amended proposals on 30 June 2017. In order not to fetter the Secretary of State's discretion, I confirmed in a note dated 28 July that the inquiry would proceed on the basis of the schemes refused by the Council but also that evidence on the amended schemes would be heard<sup>4</sup>.
- 1.5 In September 2016 Highways England requested and was granted status as a Rule 6 party in view of its concerns about the implications of the proposals for the strategic road network. Following the submission of an agreed statement of common ground with the appellant, Highways England withdrew its request to be a Rule 6 party on 25 July 2017 and took no part in the inquiry.
- 1.6 The inquiry took place at The Council Offices, Swindon, opening on 7 November 2017. On 8 November the appellant and the Council confirmed that all viability evidence was withdrawn and would no longer form part of their respective cases. The inquiry adjourned in order that the appellant and the Council could continue their discussions with a view to reaching common ground on various matters.
- 1.7 By the time the inquiry resumed on 14 November an additional statement of common ground had been agreed<sup>5</sup>. The inquiry sat for four days to 17 November when the two main parties' oral evidence centred on the issues remaining in dispute regarding education, transport, heritage, open space and infrastructure delivery. Interested parties' concerns were primarily related to flooding, the proposed canal, phasing and infrastructure and traffic affecting Covingham, Wanborough and nearby villages. The inquiry was closed in writing

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<sup>1</sup> CD 2.23

<sup>2</sup> CD 2.42

<sup>3</sup> CD 3.11

<sup>4</sup> CD 3.12

<sup>5</sup> ID 10

on 13 December 2017 following the submission of all outstanding documents, including the completed legal agreements. The accompanied site visit took place on Monday 13 November 2017. On the visit attention was directed to identifying features in the area around Wanborough Road and Lotmead Farmhouse, the boundaries of the Phase 1 site and the Scheduled Ancient Monument (SM). I also made unaccompanied visits to the area.

- 1.8 The proposed development is subject to an Environmental Impact Assessment (EIA) under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, SI 2011 No.1824 (EIA Regulations 2011). An Environmental Statement (ES), comprising a Main Report, Technical Appendices and Non-Technical Summary, were submitted alongside the planning application in April 2015. In accordance with the EIA Regulations 2011<sup>6</sup> planning permission cannot be granted unless all the environmental information, which includes the written and oral evidence to the inquiry, has been taken into consideration.
- 1.9 On 16 May 2017 the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations 2017) came into force. Regulation 76 of the EIA Regulations 2017 includes transitional arrangements for qualifying applications and appeals. I consider that the appeal meets the requirements of the transitional arrangements. Therefore the EIA Regulations 2011 will continue to apply to this appeal, as relevant.
- 1.10 The opening sections of this Report are primarily factual in describing the site and surrounding area, the proposals, the planning policy context and the content of the statements of common ground. There follows the main points of the cases presented on behalf of the Council, the appellant and the interested parties and a summary of the written representations. The next section covers planning conditions, the section 106 planning obligations and other agreements. My conclusions and recommendations follow. Schedules of inquiry appearances, planning conditions and a list of documents form Appendices 1 to 3.
- 1.11 At the inquiry the Council made an application for a full award of costs against the appellant. This application is the subject of a separate Report.

## **2. THE SITE AND SURROUNDINGS**

- 2.1 The overall Masterplan site extends to some 160 ha under the control of the appellant, increasing to some 167.8 ha when the indicative road corridors to the A420 are included. The land is located to the east of the built-up area of Swindon and the A419 and to the south of the A420<sup>7</sup>. The Phase 1 site comprises 11.9 ha located in the south western corner of the larger area. The site fronts onto Wanborough Road, a single carriageway road linking Covingham with Wanborough and nearby villages to the south. The strategic road network (SRN) in this location comprises the A419 White Hart junction (A419/A420/A4312/Ermin Street grade separated junction) and the A419 corridor south to and including the M4 junction 15<sup>8</sup>.

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<sup>6</sup> Regulation 3(4)

<sup>7</sup> CD 4.2.1

<sup>8</sup> CD 3.13 paragraph 1.5

- 2.2 The overall site is predominantly agricultural land associated with Lotmead Farm<sup>9</sup>. The land is of moderate to poor quality (sub grade 3b and grade 4) and is mainly permanent pasture supporting a dairy herd. Lotmead Farmhouse, the farm buildings and farm yard are located just to the north of the Phase 1 site<sup>10</sup>. Within this group Lotmead Business Village is based in converted agricultural buildings, which provide some 1,500 square metres (sq m) of floorspace for office and other commercial uses (described as Use Class B1 and sui generis uses). The family farm also includes the Lotmead 'Pick Your Own' enterprise, which is based on the cultivation of various fruits and vegetables on land to the west. A farm shop and café, an animal and bird sanctuary, a nature trail and a children's play area are among the attractions.
- 2.3 The farmstead and business premises are served by a private road that joins Wanborough Road. On the north side of the junction is a pair of cottages, which along with another four dwellings near Wanbrough Road are known collectively as Lotmead Cottages. The southernmost corner of the site adjoins the grounds of Poplars Day Care nursery.
- 2.4 Three groups of trees along the private road, in the main common lime, are subject to a Tree Preservation Order (TPO)<sup>11</sup>. A separate TPO covers a large number of trees, groups of trees and woodlands within a much more extensive area over the NEV allocation<sup>12</sup>.
- 2.5 A Scheduled Ancient Monument (SM), a broadly linear designation, is situated adjacent to Wanborough Road and, further to the north, the A419. Part of the designated area is located within the Masterplan (but not the Phase 1) site<sup>13</sup>. The nationally significant former Roman settlement, known as Durocornovium, is largely below ground.
- 2.6 The River Cole flows west to east along the northern boundary of the Masterplan site. Dorcan Stream, to the west of the Lotmead Farm buildings and access, flows from south to north and forms a boundary to the Phase 1 site. The Liden Brook flows broadly in a south to north direction along the southern and eastern boundaries of the Masterplan site to its confluence with the River Cole. Two land drains, which cross the site, drain into the River Cole<sup>14</sup>.
- 2.7 On the Environment Agency's flood map the Masterplan site lies within flood zones 1, 2 and 3<sup>15</sup>. The Phase 1 land is almost entirely located with flood zone 1 (low probability of river or sea flooding). The Wanborough Road flood storage area on Dorcan Stream is located between the A419 and Wanborough Road, west of the site<sup>16</sup>.

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<sup>9</sup> CD 2.1 paragraphs 7.29 to 7.79 contain information about agricultural land quality, soil resources and the farm holding and assess the impact of the proposals.

<sup>10</sup> CD 4.2.51 shows the buildings within the Masterplan site

<sup>11</sup> CD 2.44

<sup>12</sup> ID 9

<sup>13</sup> CD 2.2.51

<sup>14</sup> CD 2.3.3 paragraphs 2.4.1 to 2.4.3 and figure 2.2

<sup>15</sup> CD 2.3.3 paragraphs 3.2.2 and figure 3.2

<sup>16</sup> CD 2.3.3 paragraph 2.4.4

- 2.8 Redlands Airfield lies to the south east and is currently used for skydiving, microlight flying and pilot training<sup>17</sup>.

### 3. PROPOSED DEVELOPMENTS

#### Masterplan site: scheme as first submitted

- 3.1 The description of the original proposal, set out in the banner heading to this report, is taken from the planning application form<sup>18</sup>. The same description is also included on the appeal form<sup>19</sup> and in the ES<sup>20</sup>.
- 3.2 The accompanying plans are the plan showing the red line site boundary, the parameter plans (land use, green infrastructure, movement, building heights and density), the illustrative masterplan and the detail of the junction at Wanborough Road<sup>21</sup>. The intention was that the detailed design would be in accordance with the parameter principles and masterplan because they formed the basis for the EIA. Approval was sought for the parameter plans and access but not the masterplan<sup>22</sup>. The ES states that the parameter plans have formed the basis of the EIA for the application, together with the illustrative masterplan. The ES further states that appropriate conditions attached to any planning permission would ensure that the detailed design is in accordance with these parameter principles<sup>23</sup>. The ES sets out the scheme land use content<sup>24</sup>.
- 3.3 The proposal is for a residential led scheme and the ES states up to 2,600 dwellings are considered to be deliverable within the identified environmental constraints<sup>25</sup>. A mix of dwelling types and tenures is indicated, with densities ranging from 10 to 55 dwellings per hectare (dph). Affordable housing provision would comprise 30% of the unit total, with the precise location and tenure to be determined through subsequent applications<sup>26</sup>. The development is expected to house a population of about 6,162 residents<sup>27</sup>.
- 3.4 Two separate mixed use local centres are proposed with a view to including up to 930 sq m of food retail. The provision for 3,000 sq m business use within the centres allows for the retention of the existing Lotmead Business Village or its subsequent rebuilding. A new 2 form entry (FE) primary school is shown centrally located within the scheme, on the eastern edge of Lotmead Village and adjacent to the central greenway<sup>28</sup>.
- 3.5 The majority of buildings across the site would be 2 to 3 storeys in height, with an allowance for 'marker' buildings to increase in height up to 5 storeys.

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<sup>17</sup> CD 4.1 paragraph 14.100

<sup>18</sup> CD 2.6

<sup>19</sup> CD 3.2

<sup>20</sup> CD 2.1 paragraph 4.2

<sup>21</sup> CD 2.8 to CD 2.15

<sup>22</sup> CD 2.5

<sup>23</sup> CD 2.1 paragraph 4.3

<sup>24</sup> CD 2.1 Table 4.1

<sup>25</sup> CD 2.1 paragraph 4.9

<sup>26</sup> CD 2.19 paragraph 4.6

<sup>27</sup> CD 4.1 paragraph 8.30

<sup>28</sup> CD 2.1 paragraph 4.18

- 3.6 The design of the proposed movement strategy is said to complement the overall NEV access strategy. The design principles are detailed in the Design and Access Statement (DAS)<sup>29</sup> and in summary the movement hierarchy consists of:
- primary street – an all purpose vehicular road to link both villages to the A420 and to the proposed NEV rapid transit/bus route north of the River Cole;
  - secondary street, internal to Lotmead Village together with the Phase 1 application bus route;
  - local access lane leading off the primary and secondary streets into the heart of the villages;
  - semi-private access – shared surfaces leading from the local access lanes into individual housing blocks;
  - greenways – pedestrian and cycle use only running through the centre of the site linking both villages.
- 3.7 Two primary access road corridors to the A420 to the north are identified on the site plan, leaving full details to be provided at reserved matters stage. The access for determination solely relates to the existing point of entry/egress from the public highway at Wanborough Road (rather than the internal roads and parking areas)<sup>30</sup>. The DAS recognises the importance of designing the proposed primary route as an integrated element of the village townscape. The secondary route to Wanborough Road is identified as a green route<sup>31</sup>.
- 3.8 The green infrastructure provides for a hierarchy of spaces including strategic parkland, village recreation areas, neighbourhood space and courtyards. The SM is proposed to remain in its current use as part of the Pick Your Own and/or managed grassland. Buffer zones are proposed to the north of the SM (areas E and F) to protect buried archaeology. A similar provision was considered unnecessary by the appellant on the western edge of plot 14<sup>32</sup> because there are no archaeological deposits in this location<sup>33</sup>. A second purpose of the buffer zones is to soften the transition between the housing and the monument. The illustrative masterplan proposes the new development is set back by some 50 m from the monument and that a hedge is planted<sup>34</sup>.

### **Masterplan site: amended scheme**

- 3.9 On 30 June 2017 the appellant submitted amendments to the proposed development. The description of the development remains the same except “a primary school (2.2 ha)” is replaced by “2 no. primary schools”.

<sup>29</sup> CD 2.18 pages 57, 58

<sup>30</sup> CD 2.19 paragraph 4.2

<sup>31</sup> CD 2.18 pages 50 and 51

<sup>32</sup> SBC 11 paragraphs 6.20, 6.21 and 6.22. The area of housing to the west of the access track is referred to by the main parties as plot 14 and the area to the east as plot 10. The numbers, taken from the Illustrative Masterplan (CD 2.9), are not actually plot numbers but the terminology is adopted in this report for the sake of consistency.

<sup>33</sup> ASL 1 paragraph 4.40

<sup>34</sup> CD 4.3.22 paragraph 9.12

3.10 At the same time an ES Addendum in three volumes (main report, figures and technical appendices) was submitted<sup>35</sup>. The purpose of the document is to ensure the environmental impacts of the proposals are fully assessed in light of any updated baseline data, relevant changes to policy and legislation, amendments to the proposals and consideration of cumulative projects<sup>36</sup>. The Figures include an amended set of parameter plans which formed the basis of the addendum EIA for the application<sup>37</sup>. The assessment in certain topic chapters remains unchanged (land use and agriculture, landscape and visual, ground conditions), some topic chapters have been updated and supplemented and other topic chapters have been fully superseded (transportation, ecology and nature conservation, air quality, archaeology and cultural heritage, overview of impact)<sup>38</sup>.

3.11 A comparison with the original land use content is shown below, with the amended figure in square brackets<sup>39</sup>.

Land use	Area (ha)	Land use	Area (ha)
Residential	58.3 [57.9]	Bus route through phase 1	0.7 [0.8]
Green infrastructure	90.8 [90.2]	Primary route (within appellant's control)	2.4 [2.4]
Local centre (Lotmead)	3.7 [2.8]	Primary route (outside appellant's control)	8.2 [8.2]
Local centre (Lower Lotmead)	1.1 [1.1]		
Primary school	2.2 [4.4]		
TOTAL (within ASL control)	159.2 [159.6]	TOTAL (overall)	167.4 [167.8]

3.12 The amendments to the original proposal are<sup>40</sup>:

- Extension of the red line boundary to include land necessary to deliver the eastern access to the A420 and to reflect the Council's latest proposals for the A420 improvements.
- Onsite primary school provision is changed from 1 no. 2 FE to 2 no. 2FE school, each with a site area of 2.2 ha.

<sup>35</sup> CD 4.1, CD 4.2, CD 4.3

<sup>36</sup> CD 4.1 paragraph 1.12

<sup>37</sup> CD 4.2.5 to CD 4.2.9 and CD 4.1 paragraph 2.27

<sup>38</sup> CD 4.1 Table 1.2

<sup>39</sup> CD 2.1 Table 4.1, CD 4.1 Table 4.1, CD 3.18 paragraphs 3.2 and 3.4

<sup>40</sup> CD 3.18 paragraph 3.5, CD 4.1 paragraph 4.4

- Retention of the avenue of TPO trees and realignment of internal access within Phase 1, using the existing access track as a dedicated greenway;
- Movement within Phase 1 – the access road from Wanborough Road, previously proposed as a primary vehicular link, is now identified as a secondary vehicular link and bus route<sup>41</sup>. (Traffic calming measures to be agreed with the highway authority at detailed stage).
- The illustrative masterplan and green infrastructure parameter plan incorporate the following changes:
  - i. removal of the sports pitch within Phase 1 which conflicted with the proposed attenuation basin and surface water drainage strategy;
  - ii. split and relocation of allotments to the western and north eastern areas of the Masterplan site (2 sites);
  - iii. provision of changing rooms and parking facilities adjacent to playing pitches (shown on masterplan only);
  - iv. update of parameter plan to show pitch provision, illustrating areas that could be used for a range of outdoor sports;
  - v. flood zones 2 and 3 shown on parameter plan.
- The safeguarded canal alignment moved away from the developable area to be more reflective of the alignment presented within the NEV indicative masterplan. The amended alignment is set away from the proposed flood restoration areas to reduce the extent of the flood plain displacement arising from the delivery of the canal and to present no conflict with the site's drainage strategy<sup>42</sup>.

3.13 The DAS Addendum explains the amendments in detail<sup>43</sup>. A draft heritage management plan was submitted as supporting information. The document included a condition survey and a list of management aims and objectives in relation to that part of the SM within the application site<sup>44</sup>. The proposals include measures to increase public awareness of the SM and its importance.

3.14 Off-site highway improvements and traffic calming measures are proposed along Wanborough Road to provide a safer and higher quality walking/cycling route to existing educational and other facilities. The works include widening of the footway to 3 m, converting it to a shared cycle/footway and narrowing of the carriageway to 5.5m; provision of two crossing points; new street lighting; installation of an improved parapet to a height of at least 1.4 m on the A419 bridge crossing; two gateway features and/or speed activated signs and anti-skid coloured surfacing<sup>45</sup>.

<sup>41</sup> Inspector's note: the original movement parameter plans for the Masterplan site (CD 2.13) and the Phase 1 site (CD 2.31) indicate that the link to Wanborough Road would be a Phase 1 bus route and a secondary vehicular link.

<sup>42</sup> CD 4.7 page 3

<sup>43</sup> CD 4.3.1

<sup>44</sup> CD 4.3.23

<sup>45</sup> CD 3.18 paragraph 3.7, CD 4.1 paragraph 4.5, CD 4.2.26

- 3.15 In August 2017 the access plan was amended to incorporate a change to the red line boundary, widening of the footway, a change to the width of the internal access and inclusion of potential locations for uncontrolled highway crossings<sup>46</sup>.
- 3.16 The proposed Phase 1 surface water management strategy was submitted in August to replace ES Addendum figure 9.2<sup>47</sup>. The surface water drainage strategy was revised to address the reason for refusal by the submission of amended drawings and notes. The Addendum also includes updated baseline hydraulic modelling incorporating the latest climate change allowances<sup>48</sup>.
- 3.17 In September 2017 amended and additional information was submitted regarding trees and landscaping. The ES Addendum Arboricultural Impact Assessment was updated to include the correct tree retention and removal plans and an additional Phase 1 access road alignment plan and a preliminary landscape strategy plan were submitted<sup>49</sup>. In November a plan was submitted to show the buildings proposed to be demolished and retained<sup>50</sup>. At the same time the appellant confirmed that the original scheme comprises the proposals considered when the application was determined by the Council, with all subsequent amendments and information part of the amended scheme<sup>51</sup>.

### **Phase 1 site: original proposal**

- 3.18 The outline proposal is for up to 200 dwellings with open space, landscaping and associated road and drainage infrastructure. All matters are reserved save for detailed access to Wanborough Road, which relates solely to the existing point of entry/egress from Wanborough and not the internal roads and parking areas. The stated purpose of bringing forward the Phase 1 site was to allow early progression and delivery of homes<sup>52</sup>.
- 3.19 The red line site boundary plan encloses an area of land in the south west corner of the Masterplan site including the access with Wanborough Road. Lotmead Cottages and the land fronting Wanborough Road are excluded. The illustrative masterplan and the parameter plans (land use, green infrastructure, movement, building heights and density) are confined to the Phase 1 area and are basically extracts from the plans covering the overall Masterplan site. Approval is sought for the Phase 1 parameter plans and access but not the illustrative masterplan<sup>53</sup>.
- 3.20 The land use content comprises residential 6.8 ha, green infrastructure 4.5 ha and bus route through Phase 1 0.5 ha, giving a total of 11.8 ha. The ES states that the scale of the Phase 1 development has regard to its environmental context. It is also governed by the Council's limitation of 200 dwellings being

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<sup>46</sup> CD 3.15 explains that the Access plan at Figure 11.6 of the ES Addendum (ref 27970/003 rev H) has been replaced. The correct plan (rev J) was included in ES Addendum Technical Appendix 11.3. See also CD 4.11 for plan ref 27970/003 rev J and CD 4.7 for public notice.

<sup>47</sup> CD 4.7, CD 4.12 Plan ref 27970/015/005 rev A

<sup>48</sup> CD 4.3.3 Technical Note

<sup>49</sup> CD 4.3.14, CD 4.8, CD 4.13, CD 4.14, CD 4.15

<sup>50</sup> ID 13 paragraph 4

<sup>51</sup> ID 13 paragraph 5

<sup>52</sup> ID 13 paragraph 6

<sup>53</sup> CD 2.24 page 2

served from a single point of access, as well as the capacity of Wanborough Road to accept an increase in traffic<sup>54</sup>.

- 3.21 A mix of dwelling types and tenures is proposed. Affordable housing provision would comprise 30% of the unit total. Densities range from 10 to 40 dph, the lower density being in proximity to the SM.

### **Phase 1 site: amended scheme**

- 3.22 An amended scheme was submitted on 30 June 2017. The amendments to the original appeal proposal are<sup>55</sup>:

- Alteration of the red line boundary to include land the appellant deems necessary to deliver the access from Wanborough Road;
- Retention of TPO trees, use of existing track as a greenway and realignment of internal access road connecting with Wanborough Road;
- The access road from Wanborough Road is now identified as a secondary vehicular link and bus route;
- Removal of the sports pitch.

- 3.23 Further details of the amendments are provided in the DAS Addendum<sup>56</sup>. The proposed character of Lotmead Green (which includes Phase 1) is described as being formed around the Rural Avenue and the approach to the village common and village centre. The main residential area would be formed around a series of greens and courtyards<sup>57</sup>.

- 3.24 Off-site highway improvements and traffic calming on Wanborough Road form part of the scheme. The updated information regarding trees and landscaping applies to the Phase 1 scheme. Similarly a revised Phase 1 surface water management strategy was submitted in August<sup>58</sup>.

### **Consultation on the amended plans and documents**

- 3.25 In conjunction with the submission of the amendments and other information to support the EIA the appellant undertook consultation post 30 June 2017, details of which are found in various documents<sup>59</sup>. In summary this consultation took the form of:

- A letter dated 30 June 2017 to all landowners, neighbours, statutory consultees and other interested parties who commented on the original applications. They were advised to send representations to the Planning Inspectorate.
- A total of 3 public notices, dated 1 July, 12 August and 18 August 2017, were published in the Swindon Advertiser.

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<sup>54</sup> CD 2.1 Table 4.2 and paragraph 4.25

<sup>55</sup> CD 3.19 paragraph 3.5

<sup>56</sup> CD 4.3.1

<sup>57</sup> CD 4.3.1 pages 32 and 33

<sup>58</sup> CD 4.7, CD 4.12

<sup>59</sup> ASL 11 paragraphs 2.17 to 2.18, CD 3.14 paragraphs 2.11, 2.12 and Appendices 2 to 4, CD 4.5 – CD 4.8, SBC 11 paragraph 5.22

- A site notice was displayed on site on 30 June 2017. An additional site notice was displayed on 10 August, regarding the revised surface water management strategy and access proposals.
- The Council was provided with an electronic copy of the documentation on 30 June for uploading on the Council's planning portal for public viewing. Two hard copies were delivered to the Council offices to be made available for public inspection.
- An electronic copy of the documentation was issued to Highways England.
- On 5 September 2017 consultation was undertaken on revised arboricultural information, which was broadened to include a preliminary landscape strategy.

3.26 The consultation undertaken after 30 June and 1 July 2017 directed people to send comments to the Council.

3.27 Responses were received from statutory consultees including the Lead Local Flood Authority, the Environment Agency, Covingham Parish Council and other interested parties. Capital Land Property Group Ltd (a landowner of an area of land within the Masterplan site) objected on procedural matters<sup>60</sup>. The Wilts and Berks Canal Trust (WBCT) raised concerns about the lack of consultation and information<sup>61</sup>.

### **Proposals in the wider NEV<sup>62</sup>**

*Land north of the A420 at South Marston and Rowborough (ref S/OUT/13/1555)*

3.28 In 2013 an outline planning application was submitted for up to 2,380 dwellings together with mixed use local centres, community uses, sheltered/care accommodation, two primary schools, green infrastructure, changing and sports facilities, associated infrastructure and the formation of new accesses from the A420, Old Vicarage Lane and Thornhill Road. On 14 November 2017 the Council resolved to grant outline planning permission to an amended scheme, subject to the completion of a legal agreement to secure planning obligations<sup>63</sup>.

*Land to the south of A420 'The Hub' (ref S/OUT/14/0253)*

3.29 In June 2015 outline planning permission was granted for employment development including research and development, light industrial, general industrial and warehouse distribution and new junction to A420. Reserved matters applications have been approved and amendments to the scheme remain under consideration. This site lies to the north of the appeal sites and when constructed will provide the first phase of the western access road from A420<sup>64</sup>. Development has commenced<sup>65</sup>.

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<sup>60</sup> CD 4.9

<sup>61</sup> CD 4.10

<sup>62</sup> CD 4.2.4

<sup>63</sup> ID 15

<sup>64</sup> ASL 11 paragraphs 7.6 to 7.9

<sup>65</sup> ID 12 Minute of Covingham Parish Council liaison meeting 7 September 2017

*Redlands Airfield (ref S/OUT/16/0021)*

- 3.30 In December 2015 an outline planning application was submitted for up to 370 dwellings, a local convenience store/community facility, primary school, open space and access points to and from Wanborough Road. No decision had been made on the proposal at the time the inquiry closed<sup>66</sup>.

#### **4. PLANNING POLICY AND GUIDANCE**

##### **Development Plan**

- 4.1 The development plan for Swindon Borough comprises the Swindon Borough Local Plan 2026 adopted in March 2015<sup>67</sup> (the Local Plan) and the Wiltshire and Swindon Waste Core Strategy 2006-2026, adopted in July 2009.
- 4.2 The following Local Plan policies are agreed by the main parties to be relevant to the determination of the appeal<sup>68</sup>.
- 4.3 Policies SD1, SD2 and SD3 set out the approach to sustainable development in order to implement the Local Plan's strategic objectives. In summary these policies:
- establish sustainable development principles;
  - set out the amount and broad location of future development in the Borough;
  - set out how development will be managed, reflecting the presumption in favour of sustainable development.
- 4.4 The strategic sites allocated by Policy SD2 include the proposed New Eastern Villages. More particularly, Policy NC3 New Eastern Villages allocates land to the east of the A419 for a mixed use development in the form of new inter-connected distinct villages and an expanded South Marston village, defined by a network of green infrastructure corridors. The policy details what the development should provide in terms of land uses, infrastructure, transport and open spaces. Development has to ensure the landscape context is respected; the risk of flooding is minimised; biodiversity is protected, integrated and enhanced; and the historic environment, including the Scheduled Monument, is protected, acknowledged and enhanced. The route for the Wilts & Berks Canal will be safeguarded. An illustrative plan (Figure 11) indicates housing figures and delivery timeframes. Progress is anticipated broadly in a north to south direction but it is recognised that there will be opportunities for development to proceed in different periods depending on access arrangements and other policy requirements.
- 4.5 Policy DE1 sets out the design and place-making principles to secure the high quality design required of all development.
- 4.6 Policy HA1 requires housing development to be design-led and the approach to be followed regarding the density, mix and type of housing. Policy HA2 is

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<sup>66</sup> ASL 11 paragraph 7.10

<sup>67</sup> CD 8.3 and CD 8.4

<sup>68</sup> CD 3.18 paragraph 5.3

specific to affordable housing and has a target of 30% affordable homes on sites larger than 0.5 ha. Policy HA3 expects at least 2% of dwellings to be wheelchair accessible where proposals are for 50 dwellings or more to ensure a wide choice of housing is available.

- 4.7 Policy EC2 protects key employment areas primarily for Class B uses and sets out criteria for changes of use and proposals for office development. Policy EC3 focuses on the role of the defined hierarchy of centres and proposals for main town centre uses.
- 4.8 Policy TR1 sets out the means to help reduce the need to travel and to support and encourage the sustainable, safe and efficient movement of people and goods within the Borough. Policy TR2 sets out how sustainable transport networks will be achieved through development.
- 4.9 Policy IN1 aims to ensure infrastructure and services are provided to support new and existing communities and facilitate economic development. Policy IN2 is directed at future water supply and wastewater treatment facilities. Policy IN3 is concerned with the provision and design of information communication technology and telecommunication developments. Policy IN4 supports appropriate renewable and low carbon energy infrastructure.
- 4.10 Policy CM1 states how a range of education needs should be provided. Schools should be sited within the heart of their communities and be designed to provide safe walking and cycling access. Policy CM2 is concerned with enabling active healthy and safe lifestyles and promoting sporting participation and achievement. Policy CM3 supports increased local and integrated service delivery and ways of enabling long term health and social care and emergency service provision.
- 4.11 Policy EN1 requires development to protect and enhance green infrastructure and assets and their connection with existing green corridors. Policy EN2 requires development to contribute to the aims and objectives of the Great Western Community Forest (GWCF) in Swindon. Policy EN3 requires residential development to provide or contribute towards public open space in line with open space standards that are set out in Appendix 3. In accordance with Policy EN4 development should avoid negative impacts upon biodiversity and geodiversity sites. All development where appropriate shall protect and enhance biodiversity and provide local biodiversity gains or, when not achievable, mitigation and compensation measures shall be agreed. Policy EN5 sets out the criteria to ensure proposals take full account of landscape character and the historic landscape.
- 4.12 Flood risk is managed through Policy EN6. Conservation and enhancement of the historic environment and heritage assets is the focus of Policy EN10. Policy EN11 includes provisions to safeguard the alignment of the Wilts and Berks Canal with a view to its long term re-establishment as a navigable waterway.
- 4.13 In the Waste Core Strategy Policy WCS6 requires development proposals above stated thresholds to be accompanied by a waste audit and to design and provide facilities for the storage and recycling of waste<sup>69</sup>.

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<sup>69</sup> CD 8.5

### *Supplementary Planning Documents*

- 4.14 To guide development at the NEV the Council has adopted five supplementary planning documents (SPD) on planning obligations, framework travel plans, sustainable drainage systems (SuDS), green infrastructure and the Island Bridge Vision<sup>70</sup>.
- 4.15 The Planning Obligations SPD contains an Illustrative Masterplan<sup>71</sup> that broadly sets out the form of development, including an indicative road network, bridges across the floodplain, green infrastructure corridors, the safeguarded canal alignment and strategic rights of way. It is expected that the masterplan will evolve as development proposals are brought forward and detailed site investigations are undertaken<sup>72</sup>. The SPD also includes a suite of village proformas that identifies for each village the main land uses, anticipated phase of delivery and the local and strategic infrastructure requirements.
- 4.16 The Infrastructure Delivery Plan 2014 identifies the infrastructure required to support and deliver growth and regeneration in the Borough up to 2026 and the issues about deliverability<sup>73</sup>. It is not a SPD but was one of the key evidence base documents to support the Local Plan. The Affordable Housing Position Statement provides detailed guidance to underpin Policy HA2<sup>74</sup>.

### **National Policy and Guidance**

- 4.17 The National Planning Policy Framework (the Framework) is an important consideration. The Planning Practice Guidance will be referred to also.
- 4.18 Department for Transport Circular 02/2013 *The Strategic Road Network and the Delivery of Sustainable Development* includes policy aims and their application and principles for development management.
- 4.19 Historic England's Good Practice Guide on the Setting of Heritage Assets supports the implementation of national policy but in doing so acknowledges the primacy of the Framework and Planning Practice Guidance.

## **5. MATTERS OF COMMON GROUND AND DISPUTE**

- 5.1 Discussions during the inquiry between the appellant and the Council clarified the areas of agreement and dispute in respect of the scheme as determined and the amended scheme. This section sets out the common ground and indicates where disagreement remains. Planning obligations and conditions are dealt with further in a later section of the report.

### **General**

- 5.2 There is not an objection in principle to residential development of the land given its inclusion within the NEV allocation. The onus is on reaching agreement to bring the site forward.

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<sup>70</sup> CD 8.6, CD 8.8, CD 8.9, CD8.10, CD 8.11

<sup>71</sup> CD 8.7

<sup>72</sup> CD 8.6 paragraphs 2.27 to 2.29, CD 8.10 paragraph 2.4.5

<sup>73</sup> CD 8.28a

<sup>74</sup> CD 10.7

- 5.3 The Council currently cannot demonstrate an adequate five year housing land supply. In the most recent appeal decision, dated 13 July 2017, the Secretary of State concluded that the Council has a supply of less than 2.5 years<sup>75</sup>.

### **Masterplan site proposal<sup>76</sup>**

#### ***Education***

- 5.4 The permanent pupil yield arising from the proposals is agreed.

#### *Amended scheme*

- 5.5 The proposal of 2 no. 2 FE primary schools within the application site resolves refusal reason 2.

#### *Original scheme*

- 5.6 In dispute is whether the scheme, as determined, allows for a 3 FE primary school to come forward on a 2.9 ha site, the ability of the scheme to deliver a 3 FE school on a 2.9 ha site and whether this proposal would satisfy the education requirements in relation to the projected 'peak' demand. That being so, reasons for refusal 2 and 3 remain unresolved.

#### *Other matters*

- 5.7 In respect of the amended and the original scheme, nursery provision of 26 full time places will be provided as part of any primary school provision. Additional early years space would be made available to the open market within both local centres. Developer contributions towards the land purchase, build and fit out of the NEVs secondary school will be secured through a planning obligation. No contributions are necessary in relation to post 16 and special education needs provision.

#### ***Transport***

#### *Access to Education*

- 5.8 The principle is for primary education to be delivered on site and as such the route to Covingham is only intended to be temporary.
- 5.9 If the Masterplan appeal is determined on the basis of 2 No 2 FE schools being delivered on the site, the concerns regarding education in highway safety terms would fall away. If a single primary school (2 FE or 3 FE) is provided within the Masterplan site the issue would remain outstanding.
- 5.10 The proposed improvements along the route to Covingham would still need to be provided in accordance with the agreed details to provide sustainable access for commuters and other users of wider facilities.
- 5.11 Where access to secondary education falls within the site boundaries (Masterplan or Phase 1), the access routes would be delivered up to the boundary of the land in the appellant's control. The appropriate triggers and additional access provisions are included within the section 106 agreement.

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<sup>75</sup> CD 9.2 paragraph 16

<sup>76</sup> CD 3.18 and ID 10

### *Transport mitigation*

- 5.12 The payment of contributions to the NEV Planning Obligations SPD transport mitigation is appropriate for the full 2,600 home development. For the Masterplan scheme, the first payment will be triggered upon occupation of the 550<sup>th</sup> dwelling and be phased thereafter.

### *Wanborough Road traffic calming*

- 5.13 The proposals are agreed in principle and can be implemented for the scheme as determined or the amended scheme. Changes, as may be required, could be incorporated through the detailed design process and be secured through a planning condition.

### *Traffic calming for Wanborough and surrounding villages*

- 5.14 The NEV strategy requires area wide traffic calming in surrounding villages to discourage rat running through the more sensitive areas. The principle of a contribution to traffic calming in Wanborough as part of Phase 1 is accepted. The balance of the payment would be made as part of the Masterplan development.

### *Connectivity to the Southern Connector Road (SCR)*

- 5.15 It is agreed that a planning condition is able to address the Council's concerns with regards to the delivery of that part of the SCR that runs through the Phase 1 and Masterplan sites. The dispute is over the necessity to submit revised parameter plans and a revised illustrative masterplan and the wording of the condition.

### *Phasing of access points*

- 5.16 A second point of access would be required prior to the occupation of the 201<sup>st</sup> dwelling. A planning condition on phasing has been agreed that would confirm the hierarchy and timing for the delivery of roads.

### ***The Canal***

- 5.17 The route shown in the Masterplan proposals, either as determined or as amended, would not prejudice the delivery of the canal subject to:
- Bridge links being provided by the appellant/developer across the canal if the canal is in place at the time of the reserved matters applications on that part of the site; or
  - A financial contribution being secured for the Canal Trust or others to subsequently deliver those bridge links at a later date if the canal is not in place at the time of the delivery of reserved matters on that part of the site.
- 5.18 Accordingly reason for refusal 15 is no longer in dispute.

### ***Trees and Open Space***

- 5.19 The reason for refusal relating to trees is able to be resolved by planning condition. The precise wording of the condition is able to accommodate the scheme as determined or as amended.

5.20 The parties disagree whether the open space to be provided within the site would be acceptable. In the appellant's view an appropriate quantum and distribution of open space, including children's and teenagers' play, sports pitches and allotments, can be secured under the phasing condition agreed with the Council.

### ***Heritage***

5.21 Dispute remains in respect of the effect of the proposals on the significance of heritage assets, namely the SM and Lotmead Farmhouse.

5.22 Matters of agreement are:

- The assessment of the significance of Lotmead Farmhouse as a non-designated heritage asset<sup>77</sup>.
- The implementation of a Heritage Management Plan applicable to the landowner's Pick Your Own enterprise will be secured through a planning obligation and planning condition.
- The principle of an outline archaeological mitigation strategy.

### ***Other agreed matters***

5.23 Biodiversity. Following the submission of a Framework Landscape, Ecology and Arboriculture Management Plan (FLEAMP)<sup>78</sup>, the appropriate mitigation, enhancement, creation and management of habitats within the appeal site can be secured through an appropriately worded planning condition. Reason for refusal 17 is addressed.

5.24 Retail Impact Assessment. To resolve refusal reason 19, a suitably worded planning condition can be imposed to control the quantum and type of retail uses within the local centres.

5.25 B1 provision. The existing and sui generis uses at Lotmead Business Village (approximately 1,500 sq m of floor space) would be retained within the total amount of proposed floorspace. Reason for refusal 20 would be resolved by a planning condition restricting the quantum of new B1 floorspace to no more than 1,000 sq m.

5.26 Noise and vibration. Mitigation measures required during the construction and operational phases of development could be secured by planning condition and address reason for refusal 21.

5.27 Air quality. The required mitigation measures could be secured by planning condition to resolve reason for refusal 22<sup>79</sup>.

5.28 Wastewater infrastructure. The existing foul water network is acknowledged to have insufficient capacity to accommodate the NEV. Thames Water intends to provide a new terminal sewage pumping station within the NEV on land outside

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<sup>77</sup> CD 4.3.21 paragraph 4.46 and Appendix EDP 3

<sup>78</sup> CD 4.3.15

<sup>79</sup> CD 4.1 paragraphs 15.75 to 15.77 confirm that mitigation would be necessary during the construction phase only. The mitigation measures would be secured via a planning condition requiring a Construction Environmental Management Plan.

the appellant's control. The appellant has identified an interim foul water drainage system that could be implemented for the Phase 1 development in the event the programme for the delivery of the terminal pumping station experienced delay. A Grampian condition would overcome reason for refusal 13.

5.29 Drainage and flood risk. The Flood Risk Assessment Addendum<sup>80</sup> addresses the update to national guidance on climate change allowances. The Masterplan site surface water management strategy is agreed subject to planning conditions. Reason for refusal 14 is resolved.

5.30 Infrastructure delivery. A lack of agreement remains over whether certain planning obligations are CIL compliant.

### **Phase 1 site proposal** <sup>81</sup>

#### *Education (original and amended scheme)*

5.31 Reasons for refusal 3 and 4 are no longer in dispute provided that a site for a 2 FE primary school is available to transfer to the Council prior to the first occupation of new homes on Phase 1 and that the appellant is obligated to then provide access and servicing to that site prior to the commencement of construction of the school.

5.32 Early years provision would be accommodated within the primary school secured within the Masterplan site.

5.33 Until such time as the new NEV secondary school is operational, there is sufficient capacity at establishments west of the A419 to accommodate the secondary pupil needs. No contributions are necessary in relation to post 16 and special education needs provision.

5.34 Access to education is covered under the Masterplan scheme.

#### *Transport mitigation*

5.35 The Council is of the view that proportionate contributions to the NEV Planning Obligations SPD transport mitigation package should be payable for the Phase 1 scheme. The appellant's view is that these mitigation improvements are not necessary to mitigate the transport impacts of the 200 unit Phase 1 scheme and therefore payment would not be CIL compliant.

5.36 Both parties agree that it is nonsensical to undertake junction improvements as a result of Phase 1 which would then become redundant as the Masterplan and NEV strategic transport infrastructure is delivered.

5.37 The proposed public transport options put forward in the Transport Assessment are broadly acceptable to the Council to serve Phase 1 in the short term<sup>82</sup>.

#### *Access*

5.38 The proposed Wanborough Road access is broadly acceptable<sup>83</sup>, with minor changes to be secured by means of a planning condition.

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<sup>80</sup> CD 4.3.3

<sup>81</sup> CD 3.19 and ID 10

<sup>82</sup> CD 2.3.5 paragraphs 5.2.6 to 5.2.15 and reproduced in ASL 6 Appendix 2

- 5.39 Details of the alignment and design of the internal access road would be submitted at reserved matters stage. In respect of the scheme as determined, a planning condition has been agreed to provide clarity that the road would need to be realigned to the east of the existing business park access.

*Heritage, Open Space, Trees*

- 5.40 The same position has been reached as applies to the Masterplan site.

*Other matters*

- 5.41 As in the Masterplan scheme, issues regarding biodiversity, noise and vibration, air quality, waste water infrastructure, flood risk and drainage are able to be resolved by means of appropriately worded planning conditions.

### **Highways: capacity, accessibility and traffic impact**

- 5.42 A statement of common ground between the appellant and Highways England sets out the background and the relevant policy context to reasons for refusal 10 and 12 of the Masterplan scheme<sup>84</sup>. The following matters now are agreed.
- 5.43 Without mitigation at the A419 White Hart junction and the M4 junction 15, the Masterplan scheme would result in a severe residual impact on the SRN.
- 5.44 An improvement scheme has been developed by the Council in consultation with Highways England for the A419 White Hart junction<sup>85</sup>. An improvement scheme for the M4 junction 15 has been secured by section 106 agreement in relation to the Commonhead development. Each of the two schemes is of a scale and nature suitable for safely accommodating the cumulative traffic impact of the entire NEV strategic allocation, including the appeal site.
- 5.45 A mitigation threshold or development trigger has been agreed whereby no more than 795 dwellings can be occupied across the appeal site before implementation of the highway improvement schemes.
- 5.46 Associated with proposed off-site highway works related to Phase 1, improvements to bridge parapets on the Wanborough Road Bridge would be necessary to enhance safety for cyclists and ensure safe operation of the SRN<sup>86</sup>.
- 5.47 Highways England raises no objection to the proposed development subject to the imposition of planning conditions to secure these requirements and works.

## **6. THE CASE FOR SWINDON BOROUGH COUNCIL<sup>87</sup>**

- 6.1 The Local Plan vision for the NEV is to create sustainable well-designed places where people want to live, work and spend time<sup>88</sup>. Whilst the proposed housing development at Lotmead is an important part of the NEV, the schemes must create new places to live in.

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<sup>83</sup> CD 2.33 for the original scheme; or CD 4.11 for the amended scheme

<sup>84</sup> CD 3.13

<sup>85</sup> CD 3.13 Appendix E

<sup>86</sup> CD 3.13 page 13 and CD 3.14 paragraph 7.3

<sup>87</sup> The summary of the Council's case generally follows the structure in ID 34. Submissions on infrastructure contributions are reported below in Section 9 Planning Obligations.

<sup>88</sup> CD 8.3 paragraph 5.52

- 6.2 The proposals are as described in the application subject to compliance with the parameter plans and being in broad accordance with the illustrative masterplan. The ability to depart from those is limited - the parameters set the scope of the development and broad accordance with the masterplan is as much of a constraint as relaxation. The issue is not the principle of the scheme but the acceptability of the plans that have been put forward.
- 6.3 The acceptability of the June 2017 proposed amendments is governed by the *Wheatcroft* principle of a substantial change and whether in all the circumstances it would be fair to allow the change. This is a matter for the Secretary of State but the Council has been able to deal with the amendments.

### **Historic Environment**

#### *Scheduled Monument*<sup>89</sup>

- 6.4 The Roman Town SM is of national importance. Whilst the archaeological remains are buried the SM retains a presence in the landscape and has a setting where it is experienced. The topographical relationship of the scheduled settlement with its surroundings is part of its significance. This includes its position on Ermin Street and its proximity to the River Cole and Dorcan Stream<sup>90</sup>. The modern landscape has been influenced by the Roman town and the course of Wanborough Road follows that of Ermin Street with minor deviations. This is the position taken by Historic England and is also reflected in the Historic Environment Record and the appellant's ES<sup>91</sup>. This common ground is to be preferred to Ms Vallender's evidence.
- 6.5 Historic England advised that the surrounding field system and open green spaces are important in the contribution to the understanding and appreciation of the SM and to its setting and significance. The development of Swindon has removed the setting of the SM to the west and north. The landscape to the east and south is all that remains of the monument's setting. Development in these areas will remove more of that setting which will harm the significance of the SM. Ms Vallender accepted that the significance of the SM is harmed by activity within its setting, such as the noise from and the open aspect to the A419, and the 19<sup>th</sup> century field boundaries<sup>92</sup>. She erred in seeking to rely on the extent of the impact on the totality of the SM. Harm to part of a designated asset is still harm to that asset. Placing housing development close to the SM, in plot 14 at least, will cause harm to significance by interfering with the appreciation of the Roman town in its countryside context.
- 6.6 Great weight has to be given to the identified harm, enhanced as the asset is of the highest importance. In the balancing exercise under paragraph 134 of the Framework, less than substantial harm is not less than substantial objection to the applications and how substantial the harm is within that category does not matter in this case.
- 6.7 There are no public benefits which can justify the harm:

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<sup>89</sup> SBC 11 paragraphs 6.13 to 6.34 and Appendix 13; SBC 15 Appendix A and CD 2.43 tab 29

<sup>90</sup> CD 2.1 paragraph 16.118

<sup>91</sup> CD 2.3.14 paragraph 4.12 (Inspector's note: see also CD 4.1 paragraphs 16.59 to 16.76)

<sup>92</sup> ASL 1 paragraphs 6.42 to 6.44

- The vast majority of public benefits (about 2,560 homes and all the other uses) could be realised without causing harm to the SM.
- The 40 units or so which would have to be displaced could be accommodated elsewhere on the Masterplan site. The appellant does not suggest that cannot be done.
- It is no part of the appellant's case that excluding the units would make the development unviable.
- The offer of a management plan on some parts of the SM is a heritage benefit but the benefit could be realised on a scheme which does not cause harm to the historic environment.
- Consequently the harm is not necessary to achieve any public benefits.

6.8 The great weight to the harm to the SM is not outweighed by any public benefits. The proposals fail under paragraph 134 of the Framework and are contrary to development plan policy. Since paragraph 134 restricts development, the tilted balance in paragraph 14 of the Framework does not apply and permission must be refused for this reason.

6.9 The Planning Obligations SPD, which shows part of plot 14 for housing, does not prejudge the present exercise. The plan in the SPD was not changed in response to consultation because a decision as to whether to exclude development was for the planning application stage.

#### *Lotmead Farmhouse*<sup>93</sup>

6.10 Lotmead Farmhouse dates from the late 18<sup>th</sup> / early 19<sup>th</sup> century and the alterations to this significant building probably relate to the success of the dairy industry. It is comparable to nearby farms including the Grade 2 listed Marston Farmhouse. The present setting to the farmhouse is of farm buildings, the low level Victorian buildings (now in business uses) and the farmland to the south west towards the workers cottages. The experience of the approach through agricultural land leading up to the focus of the farm, the farmhouse and its delineated domestic area is a positive contribution<sup>94</sup>. That context, typical of a historic dairy farm, contributes to its significance.

6.11 Harm will be caused by the proximity of housing in plot 14, the high density of development concentrated near the farmhouse<sup>95</sup> and a potential marker building up to five stories in height. The harm weighs against the scheme in the balance under paragraph 135 of the Framework.

#### **Southern Connector Road**<sup>96</sup>

6.12 The SCR is an essential link to provide a second access to the A419 to ensure dispersal of traffic and facilitate access to the strategic road network<sup>97</sup>. The SCR

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<sup>93</sup> SBC 11 paragraphs 6.40 to 6.45 and CD 2.43 tab 40

<sup>94</sup> CD 2.43 tab 40 has the Council's conservation officer's assessment of the significance of the farmhouse and the extent and contribution of its setting.

<sup>95</sup> SBC 11 paragraphs 6.44 and 6.45 refer to a density of 40-55 dph in the original scheme and 40 to 85 dph in the amended scheme.

<sup>96</sup> SBC 5 paragraphs 5.37 to 5.44 and SBC 6 paragraphs 5.4 to 5.13 and paragraphs 5.90 to 5.98

is a significant and necessary access route for the entire NEV. The alignment of the SCR would penetrate the Lotmead masterplan site through Phase 1<sup>98</sup>.

- 6.13 The parameter plans show the SCR as a secondary route, which Mr Parkinson acknowledged to be a 'genuine mistake'. The vehicular link is shown to meet the access road to Wanborough Road at a T Junction and to have multiple side roads off it<sup>99</sup>, which belies its importance to the whole NEV allocation. Without designation as a primary access route or similar, and of sufficient specification, the proposals prejudice the delivery of the SCR and hence the wider access strategy serving the allocation. The NEV SPD Island Bridge Vision specifies the widths of relevant carriageways serving the extension of Lotmead Primary Routes<sup>100</sup>.
- 6.14 The appellant is only prepared to accept a condition detailing the alignment and design of the road, which would not involve moving the alignment or changing the general arrangement of the surrounding development from that shown on the submitted plans. The current alignment is inappropriate to the performance of the functions of the SCR, in particular providing a desirable route to the south that avoids the use of Wanborough Road. The downgrading of the route in the appellant's scheme meant its effect on the cohesion of the Phase 1 community was misunderstood. Any re-alignment would be badly constrained by the parameter plans and the masterplan. In addition, as part of the SCR, the route would result in significant severance throughout the Phase 1 community. The matter is unable to be resolved through the appellant's suggested condition.

### **Open Space<sup>101</sup>**

- 6.15 The open space strategy, as shown on the green infrastructure (GI) parameter plan and the illustrative masterplan, would not be to an acceptable standard or policy compliant. The appellant has focused on the quantity of provision and fails to address the qualitative aspect.
- 6.16 The location and distribution of play areas is illogical. They are clustered towards the northern part of Lower Lotmead village and the south eastern edges of the Phase 1 site, close to strategic vehicular links. As a result they could be positioned in unattractive environments and beyond acceptable walking distances for some residential areas. There could be conflict with SuDS features and ecological enhancement. Phasing of provision has not been indicated.
- 6.17 In the original scheme the illustrative masterplan shows playing pitches in four separate locations. There is no indication of access or ancillary facilities and the relationship to attenuation features is not clear. In the amended scheme playing pitches are shown spread around three locations. In two instances pitches are shown in flood zone 2, with a limited amount in flood zone 3<sup>102</sup>. They lack the scale and cohesion of facilities which would be provided in a

<sup>97</sup> CD 8.3 paragraph 5.79

<sup>98</sup> CD 8.6 Appendix A illustrates the alignment on the Masterplan

<sup>99</sup> CD 4.2.16

<sup>100</sup> CD 8.10 paragraph 5.2.2

<sup>101</sup> SBC 11 paragraphs 6.46 to 6.81, Appendices 14 to 17; SBC 12 paragraphs 6.51 to 6.66

<sup>102</sup> CD 4.2.6 Revised GI parameter plan

sports hub<sup>103</sup>. A hub, which is the approach favoured by Sport England<sup>104</sup>, allows for the provision to be effectively managed and maintained in a cost effective way. This consideration is critical, given the reliance on a management company to run the sports facilities and the large amount of open space.

- 6.18 The western and largest area of allotments is proposed on the site of the petting farm, yet the stated intention is to keep this facility as part of the pick your own enterprise.
- 6.19 In conclusion, the schemes have failed to demonstrate how the different types of public open space and GI would be acceptably provided within the appeal sites, taking account of the environmental constraints. As a result the schemes fail to provide for the health and wellbeing of the new community.

### **Education: Primary Schools**

- 6.20 The original application proposed a single 2 FE on a 2.2 ha site. It is common ground that a 2 FE school does not provide sufficient capacity and that off-site provision at Covingham School is not acceptable, except as a short term measure.
- 6.21 The unilateral undertakings refer to a 2.9 ha site, which is not in the Masterplan application given that the original illustrative masterplan shows a 2.2 ha site. Mr Holland put forward a new illustrative masterplan which shows an enlarged school site of 2.9 ha<sup>105</sup>. His scheme relied on a further ability to expand into the proposed playing pitch area in the spine between the two villages, which is not shown on the new masterplan.
- 6.22 A 3 FE school on 2.2 ha would be too small for the permanent pupil intake, let alone allowing provision for the temporary peak. The temporary peak is well established in Swindon's statistical reports and adopted policy<sup>106</sup>. It also accords with common sense. Mr Cheal explained in his oral evidence that experience in new housing areas in west and north Swindon showed a 50% peak on top of the permanent yield as a result of young families moving into the new residential estates. This led to pressure to deliver primary school places. The peak of 50% was independently tested and is kept under review. The Council now looks to build in flexibility in new school provision and to secure 2 FE schools in the NEV.

### **Land north of A420**

- 6.23 The Council's handling of the planning applications for land north of A420 and the Lotmead schemes shows care and consistency. The starting point for looking at the contributions for north of A420 was a proportionate share of the strategic infrastructure, the same as for Lotmead. Some of the contributions were reduced because of viability problems on the site.

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<sup>103</sup> CD 8.11 paragraph 4.5.5 states that each local sports hub facility should include as a minimum requirement a minimum of four adult size playing pitches with associated ancillary uses including a pavilion, changing facilities (including toilets) and an appropriate level of cycling and car parking provision.

<sup>104</sup> SBC 11 paragraph 6.63 and CD 2.43 tab 26

<sup>105</sup> ASL 4 paragraphs 4.2.4, 4.2.5 and Appendix C

<sup>106</sup> CD 7.1 paragraphs 5.12 to 5.17, paragraphs 12.1 to 12.5; CD 7.2 paragraphs 6.10 to 6.15

- 6.24 Any other comparisons with the site north of A420 would require consideration of the detail of the planning application. The inquiry does not have those details and does not need to do so. The Secretary of State has to decide Lotmead on the basis of local and national policy and its own merits.

### **Planning Balance**

- 6.25 The starting point is the presumption in favour of the development plan. Whilst the principle of the development is strongly supported by the Local Plan, the schemes fail to provide the sustainable transport links, playing pitches and open space required and to ensure the SM is protected, acknowledged and enhanced, as required by Policy NC3.
- 6.26 There is no five year housing land supply in the Council area. The presumption in favour of sustainable development in paragraph 14 of the Framework applies, with the focus on the 'out of date' limbs. However, specific policies in the Framework indicate development should be restricted given the impact on a designated heritage asset. Having failed under paragraph 134, both appeals should be refused.
- 6.27 Were the scheme to avoid that outcome, the tilted balance would apply. Considerable weight should be attached to NC3, which is the policy for delivering a substantial part of Swindon's housing requirement and doing so in a sustainable manner. There is no issue that the benefits could be achieved in a policy compliant scheme, rather than the current still flawed proposal. The harm which remains does outweigh the benefits and also leaves open the question whether the scheme as proposed is actually deliverable.

### **Way Forward**

- 6.28 All of the defects in the schemes as submitted and as amended could have been corrected during the course of the application. The more limited number of errors that remain can be resolved on a new application. The Secretary of State can be confident that if these appeals were dismissed a new scheme would be approved in a matter of months. Achieving the right result at Lotmead will not be at the expense of delivering much needed development.

## **7. THE CASE FOR AINSCOUGH STRATEGIC LAND LTD<sup>107</sup>**

### **The amendments**

- 7.1 The June 2017 amendments should be allowed. They improve the scheme, narrow down the matters in dispute and were the subject of extensive consultation and publicity<sup>108</sup>. The minimum requirements for advertising and consulting on 'additional information' were significantly exceeded.
- 7.2 Under *Wheatcroft* the issue is whether any interested party would be likely to be prejudiced by allowing the amendments. The Council's evidence, including the bundle of emails and notes, does not disclose any reasonable prospect of that at all. Mrs Corps' evidence shows the reverse in that she actively made interested

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<sup>107</sup> The summary of the appellant's case generally follows the structure in ID 35. Evidence on infrastructure contributions are reported below in Section 9 on planning obligations.

<sup>108</sup> ASL 11 paragraphs 2.4, 2.11-2.14, 2.17-2.28

parties aware of the changes. No party has suggested that they were unaware of the changes or did not understand them. In fact there is very little active public interest in the appeal application, in that there were seven objections to the original scheme<sup>109</sup>. The Canal Trust was notified and aware of the amendments and was able to provide additional representations<sup>110</sup>.

- 7.3 The changes are very modest and internal to the site save the enhancements to Wanborough Road, which are agreed to be of public benefit. The changes to the parameter plans and the masterplan are minor given the overall scale of the scheme proposed<sup>111</sup>. The biggest change is to introduce two x 2 FE primary schools but the Council does not suggest anybody could be prejudiced by that change. The changes are within the tolerances of the *Wheatcroft* principle and the consultation undertaken was done as a matter of good practice and to avoid the risk of prejudice<sup>112</sup>. It is inconceivable that anybody could be prejudiced by the amendments to the Masterplan and Phase 1 appeal schemes.

### **Five year housing land supply**

- 7.4 The Council has less than a 2.5 year housing land supply and is a 20% buffer authority, which suggests a significant backlog of unmet need due to persistent under delivery. The appeal sites form a pivotal part of the NEV allocation, an allocation that is fundamental to the delivery of the Council's sustainable development strategy, as set out in Local Plan Policy SD2. As matters stand there is every prospect of the Council not achieving its minimum Local Plan requirements on housing delivery<sup>113</sup>.

### **Education**

#### *Proposal*

- 7.5 A one x 3 FE primary school on a 2.9 ha site is not outwith the original Masterplan application. The original documents (ES, parameter plan and DAS) refer to a 2.2 ha site rather than a 2.9 ha site<sup>114</sup> and the Planning/Sustainability Statement<sup>115</sup> made reference to a one x 2 FE school. Other documents, such as the description of development as proposed, simply made reference to a school<sup>116</sup>. By December 2015 the Council knew a one x 3 FE entry school was on offer, a position that was noted in the officer delegated report<sup>117</sup>.
- 7.6 Not every single departure from an ES/application document takes a proposal outwith the terms of the original application, especially in the context of a very large proposal which contained a measure of ambiguity about the size of the

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<sup>109</sup> ASL 11 paragraph 2.23 where Mr Richards stated he was aware that 7 letters of objection were received for both the Phase 1 and the Masterplan application.

<sup>110</sup> ASL 11 paragraph 2.22

<sup>111</sup> ASL 11 Appendix JR2 provides comparison Masterplans for the wider Masterplan site and the Phase 1 site.

<sup>112</sup> ASL 11 paragraph 2.24. In his oral evidence at the inquiry Mr Richards confirmed that he considered no consultation was necessary.

<sup>113</sup> ASL 11 section 10 and paragraphs 12.9 to 12.15 consider in detail the position on the five year land supply and the policy implications.

<sup>114</sup> CD 2.1 paragraphs 4.2 and 4.20, CD 2.12, CD 2.18 page 56

<sup>115</sup> CD 2.19 paragraph 4.9

<sup>116</sup> CD 2.6, CD 2.23

<sup>117</sup> CD 2.22 paragraphs 77, 78

school in any event. A planning condition will require broad compliance with the illustrative masterplan. If at reserved matters stage a one x 3 FE school on a 2.9 ha site had been proposed it would not be credible to argue that it was outwith the outline permission. The Council has not suggested that the assessed environmental effects would materially change as a result of a 3 FE school being secured. In reality a minor change to the school site size is so insignificant it does not require formal amendment.

### *3 FE school and projected peak*<sup>118</sup>

- 7.7 A 3 FE primary school would be adequate to accommodate the permanent primary pupil yield from the development (600 pupil places)<sup>119</sup>. 3 FE entry schools are not unusual and have certain advantages, including financial and curriculum benefits<sup>120</sup>. These matters were accepted by Mr Cheal, who confirmed that two x 2 FE schools are a preference and are being sought primarily to address any demographic peak set at 50% of the standard yield figure.
- 7.8 The Council's approach, in the absence of any demographic peak, would build in excess capacity (840 places)<sup>121</sup>. A demographic peak, if it occurs, will only be temporary. The Local Plan seeks a temporary solution.<sup>122</sup> The size of the peak is also uncertain and is not justified by a robust evidential base. The Greater London Authority study suggests a figure of anywhere between 20% and 58%<sup>123</sup>. In Mr Holland's experience, he has not seen the peak argued elsewhere by local authorities and it is not a national policy requirement. One 3 FE entry school would provide some spare capacity (630 places) while offering the opportunity for the provision of temporary modular accommodation within a 2.9 ha site without prejudicing use of adjacent sports pitches<sup>124</sup>.
- 7.9 A study undertaken in 2017<sup>125</sup>, which the Council suggests shows a permanent pupil yield closer to the demographic peak, has not been subject to consultation or independent review and cautions the unreliability of the small data samples achieved<sup>126</sup>. It should have little or no weight for the purposes of the inquiry.

### **Highways: Southern Connector Road**<sup>127</sup>

- 7.10 The SCR is clearly shown on the NEV Planning Obligations SPD Masterplan to run through and alongside residential development, open space, a school within the Lotmead site and the Lotmead Local Centre. The standard of the route through the appeal sites should be consistent with that provided elsewhere on the NEV. It is understood that the design of the site is being progressed by the Council but details of the route and the exact dimensions are not publicly available. It also is accepted that the SCR should be a primary route and that

<sup>118</sup> ID 18 more particularly addresses this issue

<sup>119</sup> ASL 4 paragraph 3.6.6

<sup>120</sup> ASL 4 paragraphs 4.2.9 to 4.2.11

<sup>121</sup> ASL 4 paragraph 3.6.9

<sup>122</sup> CD 8.3 paragraph 5.72

<sup>123</sup> ASL 4 paragraphs 4.4.3 to 4.4.16

<sup>124</sup> ID 18 paragraphs 2.17 to 2.20

<sup>125</sup> SBC 1 Appendix 5

<sup>126</sup> ASL 5 paragraphs 2.1-2.8

<sup>127</sup> ID 17 section 2 and ID 19 paragraphs 1.11 to 1.15

the 'secondary' notation on the parameter plans was an error. Little turns on it. Mr Rossiter accepted that there would be space within the Phase 1 site, on the route indicatively shown, to provide for a road of a standard currently aspired to by the Council.

- 7.11 The Council's concerns amounted to nit-picking and are able to be readily addressed. A primary route, probably with a 30 mph speed limit and carrying some 2,000 vehicles in the peak hour, is not unusual in housing areas. Ensuring the use of Wanborough Road serves a maximum of 200 dwellings will be a matter for detailed design, as will the provision of access to houses from the SCR. The parameter plan is a high level indicative plan and there would be no problem serving houses without, or by only limited access off, the SCR.
- 7.12 There is no necessity to submit revised parameter plans and a revised masterplan to overcome concerns with regards to the delivery of that part of the SCR that runs through the appeal sites. An appropriately worded condition will secure the necessary design detail and alignment for the SCR.

### **Heritage<sup>128</sup>**

- 7.13 The Council did not provide direct specialist evidence on heritage issues at the inquiry, which was highly unsatisfactory.
- 7.14 There would be no direct physical impact on any designated heritage asset as a result of the proposals and a positive benefit would be the Heritage Management Plan. Any negative effects on heritage significance can only be as a result of changes within an asset's setting and only where the setting contributes to that significance<sup>129</sup>.

#### *Scheduled Ancient Monument*

- 7.15 Wanborough Roman Town SM survives only as below ground archaeological deposits within and adjacent to the proposed Lotmead Farm villages and it has no above ground presence of any form. The rarity of *Durocornovium* as one of a small number of Roman towns with evidence of early military activity on the same site adds to its archaeological value. The Council accepted that the SM appears to have been designated primarily for its archaeological interest that lies wholly below ground. The significance of the SM derives to a great extent from its buried archaeological remains, with a limited contribution made by its historic value<sup>130</sup>.
- 7.16 The landscape surrounding the SM does not contribute to the SM's significance<sup>131</sup>. This conclusion is justified because there is nothing that can be experienced from within the scheduled area itself, external to it or in observing it from the limited adjacent spaces that would allow an informed observer or lay person to understand or experience the remains of the Roman town, its former extent in the landscape or its significance. The ability to see the asset, in this

<sup>128</sup> ASL 1 and ASL 2

<sup>129</sup> ASL 3 paragraph S.5

<sup>130</sup> ASL 1 paragraphs 6.9 to 6.30 (Inspector's note: CD 4.3.23 the draft Heritage Management Plan paragraph 3.22 states the historic value makes no contribution to the significance of the monument.)

<sup>131</sup> Inspector's note: CD 4.3.22, the updated Heritage Setting Assessment, includes consideration of the relationship of the SM with Ermin Street and the watercourses. See also ASL 1 paragraphs 6.31 to 6.55

case as a series of 19<sup>th</sup> century enclosures, does not imbue the monument with any heritage significance. There needs to be something tangible in respect of the Roman period, either within the designated area or in its surroundings, for any experience to be gained today to give value to the buried remains of the Roman town. The assessments carried out to date in association with the appeal proposals have found nothing that would contribute to the significance of the SM in this regard<sup>132</sup>. Whilst the flat topography of the Roman period remains, the modern form of the landscape is radically different to that which would have been experienced through the Roman period. The 19<sup>th</sup> century field system divides the monument, is unrelated to its alignment and prevents the individual areas of the monument being read or experienced together. As such there is no ability to understand or experience the monument as a whole<sup>133</sup>.

- 7.17 The existing paddocks north of the SM will be replaced by housing (known as plots 10 and 14)<sup>134</sup>. The ability to stand within the scheduled area and observe these paddocks does not imbue them with significance. There is nothing within these views that contributes to the understanding or interpretation of the buried archaeological remains that give the monument its significance. Plots 10 and 14 make no contribution at all the significance or understanding of the SM. The development of the appeal sites will cause no harm to the significance of the SM. Furthermore, the SM as a whole will benefit from the provisions within the Heritage Management Plan.
- 7.18 The NEV SPD indicates housing in plots 10 and 14, in the full knowledge of Historic England advising against development there. In contradiction of the established position in the NEV SPD the Council now considers that housing on these parcels of land would have a harmful effect on the SM<sup>135</sup>.
- 7.19 Historic England's case has unexplained ambiguities, with no explanation as to which 40 units should be removed and how this would resolve their concerns<sup>136</sup>. Historic England's case also rests on a series of assertions regarding the appearance of the Roman rural landscape, a crossing of the Cole and Dorcan in the area and the coincidence of the line of Wanborough Road and Ermin Street. Ms Vallender explained plots 10 and 14, based on the archaeological evidence, are more consistent with an edge of settlement location. No evidence existed of a crossing of the Cole and Dorcan, a point agreed by Mrs Corps. Work that indicated coincidence of the line of Ermin Street and Wanborough Road in the immediate vicinity of the plots<sup>137</sup> predated the archaeological work carried out during the appeal process, which revealed no archaeological basis for such a conclusion. In short, Historic England's position lacks any evidential basis.
- 7.20 In conclusion, there will be no harm to the setting of the SM. However, if it is found that the harm is less than substantial, the public benefits of the proposal are substantial. In summary the benefits include:<sup>138</sup>

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<sup>132</sup> ASL 3 paragraph S.9

<sup>133</sup> ASL 1 paragraph 6.42

<sup>134</sup> ASL 1 paragraphs 6.56 to 6.61 consider the effect of the proposals on the asset's significance.

<sup>135</sup> ASL 1 paragraphs 4.10 to 4.33 provide details of the consultation on the SPD

<sup>136</sup> ID 35 paragraph 13 details the appellant's analysis

<sup>137</sup> CD 2.3.14 page 10 and plan EDP2

<sup>138</sup> ASL 11 paragraphs 11.126 to 11.128

- The delivery of housing in an area allocated for future development and in a District where there is a substantial shortfall in the five year supply;
- The delivery of much needed affordable housing;
- The delivery of a substantial quantum of public open space;
- Securing the ongoing implementation of a heritage management plan;
- The delivery of community infrastructure;
- Biodiversity gains; and
- A number of other significant economic benefits in Swindon.

7.21 The public benefits of both the Phase 1 Appeal and the Masterplan Appeal would substantially outweigh the less than substantial harm to the heritage asset.

#### *Lotmead Farmhouse*

7.22 Lotmead Farmhouse is a non-designated heritage asset. As a 19<sup>th</sup> century farmhouse within an enclosed landscape, the building is reflective of the functional character of the farming industry. The house has undergone significant physical adaptation since its construction. This change, together with the conversion of the former farm structures to business use, has diminished its traditional functional character<sup>139</sup>.

7.23 Lotmead Farmhouse has a well defined setting. The elements of the setting that contribute to its limited significance are its immediate garden and curtilage wall, the converted farm buildings to the north, the enclosed farmland and the tree belt to the immediate south of the farmhouse. All would be retained. The area to the south of the paddock and tree belt (plot 14) would be replaced with housing but this area does not form part of the setting of the farmhouse<sup>140</sup>. The change will have no effect on the limited historic significance of the non-designated heritage asset.

7.24 The replacement of the modern and large scale structures to the north and west of the farmhouse will allow for the redesign of this area, allowing a better appreciation of the relationship of the farmhouse to its former farm buildings to the north. The farmhouse, contained within its own boundaries, will form a focal point within the new development.

#### **Open Space**<sup>141</sup>

7.25 An extensive network of green infrastructure will be provided across both appeal sites. The overall quantum of open space is in excess of the Council's green space requirements<sup>142</sup> and all necessary categories of open space will be

<sup>139</sup> ASL 1 paragraphs 7.1 to 7.7. CD 4.1 paragraph 16.118 (the ES Addendum) states that any significance of the farmhouse is derived from its historic fabric.

<sup>140</sup> ID 35 paragraph 17 relies on ASL 3 paragraphs S.24 and S.25. ASL 1 paragraphs 7.10 and 7.11 state that Plot 14 is part of the wider setting for the farmhouse but that any views of the cottages from the farmhouse, or vice versa, makes no contribution to its significance.

<sup>141</sup> ASL 11 paragraphs 11.32 to 11.47, 11.148 to 11.151; ASL 12 paragraphs 3.1 to 3.14 and 4.1 to 4.19; ID 19 paragraphs 1.27 to 1.38

<sup>142</sup> ASL 12 section 7 and Tables JRSET1 and JRSET2

provided. The additional open space strategy plans demonstrate that an appropriate distribution of open space can be planned across the Masterplan site as a whole to ensure accessibility from all residential areas<sup>143</sup>. The majority of play spaces will be located within the heart of the village. Where they are located near the edge of the development, they will be overlooked and supervised from adjacent housing. This can be secured at the detailed design stage. Furthermore, the distribution and location of open spaces and areas of play show no conflict with the proposed drainage strategy. Some play space can be provided within the informal semi-natural green space in the form of a local landscaped area for play (LLAP). Overall there is ample opportunity and flexibility within the development to provide for the play requirements. The Council's criticisms were of a type that might be expected if the proposals were full applications.

- 7.26 The Council's concern over a lack of a hub for sports pitches was related to future maintenance, not the amount of provision in comparison to the standards. The maintenance issue is addressed in the section 106 agreement and has no basis. The proposed sports pitch proposals are clustered into groups for ease of maintenance and to maximise accessibility. The actual NEV Sports Hub indicated on the SPD masterplan falls outside the appeal site<sup>144</sup>.
- 7.27 The public open space criticisms by the Council are misguided and unsubstantiated and inconsistent with the approach taken on the application for the land north of A420. The appropriate quantum and distribution of all categories of open space within the development can be addressed by planning condition<sup>145</sup>.

#### *Allotments*

- 7.28 The Masterplan scheme makes provision for 2 ha of allotment space, above the 1.83 ha requirement set by local policy. The space was originally proposed as a single larger space within the western part of the site. As part of the amended scheme provision is split into two locations to improve accessibility to such facilities from Lotmead and Lower Lotmead villages.

#### *Trees*<sup>146</sup>

- 7.29 The original proposal was to widen the track leading to Lotmead Business Village to allow for its use as a vehicular access and bus route to the appeal sites. This proposal would have resulted in the removal of 20 TPO trees. In the amended scheme the internal road has been realigned to run alongside the existing avenue of trees to minimise the loss of protected trees. The existing access road would be a dedicated greenway to improve connectivity to open space and the local centre.
- 7.30 In the event the appeals are determined on the basis of the original schemes, an appropriately worded condition could be used to secure relocation of the

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<sup>143</sup> ASL 11 Appendix 8 and ASL 12 Appendix JRSE2

<sup>144</sup> CD 8.11: on the GI masterplan a sports hub is indicated to the north west of the site boundary, to the east of Upper Lotmead Village.

<sup>145</sup> ID 19 paragraph 1.35

<sup>146</sup> ASL 11 paragraphs 11.46, 11.47

vehicular access to the east of the line of protected trees. As such under either scenario trees can be suitably protected.

### **The Canal<sup>147</sup>**

- 7.31 Throughout the Local Plan and the SPDs the safeguarded canal alignment is indicative and illustrative and not fixed. Policy also allows that alternative alignments would be acceptable provided that the delivery of the canal is not prejudiced.
- 7.32 The Environment Agency and the Council as Lead Local Flood Authority have confirmed that they have no objection to the proposals subject to conditions. As the flood mitigation measures are not in dispute the post development flood extents should be used when assessing the impacts on the canal route and whether the delivery of the canal is compromised.
- 7.33 Both the Lotmead Alignment (original scheme) and the Revised Lotmead Alignment (amended scheme) are shown to be at lower overall flood risk through the site than the WBCT Alignment. Therefore they are preferable in accordance with the sequential approach advocated in national planning policy.
- 7.34 With regard to flood risk, the Lotmead Alignment and the Revised Lotmead Alignment are demonstrated not to be materially worse than the WBCT Alignment and in fact may have less onerous requirements and constraints.
- 7.35 In terms of navigation there are no material differences between the three alignments as regards viability. Therefore the future delivery of the canal is not prejudiced by more onerous engineering requirements.
- 7.36 The proposals do not compromise the delivery of the canal and are in accordance with Local Plan Policies EN11 and NC3.
- 7.37 In response to the matters raised by the WBCT, there is scope for coordinated works and hence the development will not prejudice the canal through increased construction costs. It is preferable to manage surface water as close as possible to where it falls and therefore a plot by plot approach is the most appropriate and the simplest solution. Each development must not increase flood risk to third parties and the claim by the WBCT of an aggregate detrimental effect is not accepted. Typically systems are designed to allow for freeboard and if there is any cumulative effect it would be positive, reducing flood risk. A management company will be established with responsibility for the maintenance and management of the SuDS.
- 7.38 Hydrodynamic modelling of the river network has been undertaken, using the Environment Agency's flood risk model. This work is detailed in the Flood Risk Assessment and has been used to design the floodplain restoration scheme to ensure the development will be safe and results in no increase in flood risk to third parties. The strategic flood management scheme advocated by the WBCT is not required by policy and would require land beyond the developer's control. Such a scheme is complex and significant work would be required to demonstrate that it would be effective.

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<sup>147</sup> ASL 10, ID 20 and CD 4.17

## **Land North of A420**

- 7.39 The Committee report for the site north of A420 is a material consideration because the proposed development is part of the NEV, subject to the same policy regimes and engages with similar issues and matters of principle. There is a need for consistency of approach in decision making. Attention is drawn to the approach to pupil yield in the report, which relies on the 2015 School Place Planning Study Update, not the 2017 study cited by Mr Cheal. In relation to the Great Western Community Forest the report accepts that the ambition of Policy EN2 may be met either on site or off-site or by commuted payment.

## **Other matters: response to objections**

- 7.40 The objections from third parties are very low<sup>148</sup>. Two public transport options have been proposed to provide a new regular bus service between the Phase 1 site and Swindon town centre<sup>149</sup>. Improvements along Wanborough Road will ensure safe access to Covingham Primary School, which is within the Department for Education's advised walking distances from the site<sup>150</sup>. A range of local facilities is located within a 30 minute walk area. The Masterplan scheme will secure improvements as part of the wider NEV strategic highway infrastructure. In terms of pressure on local services, appropriate contributions will be made through planning obligations.
- 7.41 The delivery of access junctions along the A420 is not within the control of the appellant because of land ownership. The delivery of homes will be subject to a Grampian condition to prevent an agreed level of homes being occupied until the junctions are completed. Also, because the Lotmead sites form part of the wider NEV allocation and are critical to Swindon's housing supply, there are different options to ensure the allocated land can come forward in a phased manner<sup>151</sup>.

## **Planning Balance and Conclusion**

- 7.42 The land is an allocated site under Policies SD2 and NC3. There can be no objection to the principle of development under either proposal. In terms of the Framework the absence of a five year housing land supply engages the tilted balance subject to the issue of heritage. The appellant's position is clear: there is no harm to the setting of the SM (or Lotmead Farmhouse). Even if harm is found to the SM, the harm is outweighed by the benefits. There is no question of adverse impacts "significantly and demonstrably" outweighing those benefits<sup>152</sup>. The Council's case turns on quibbles regarding open space and the SCR, which are resolvable and within the scope of the application.
- 7.43 The Council's way forward does not sit easily with the facts on the length of time taken to progress strategic planning applications. The north of A420 scheme was with the authority for some 4 years before the resolution to grant permission, Redlands was registered in 2015. Outstanding concerns on the

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<sup>148</sup> ASL 11 paragraphs 11.182 to 11.190

<sup>149</sup> ASL 6 paragraphs 4.3.5 to 4.3.9

<sup>150</sup> ASL 6 paragraphs 4.3.10, 4.3.11 and 4.4.2

<sup>151</sup> ASL 6 paragraphs 5.5.29, 5.5.30

<sup>152</sup> ASL 11 paragraphs 11.131 to 11.192 and Tables JRT3 and JRT4

current appeals are very limited and for the appeals to fail would be a mockery of the Government's commitment to boost housing land supply.

## 8. THE CASE FOR INTERESTED PARTIES

*The main points are:*

### **Councillor Sumner** (Ridgeway Ward)

- 8.1 Principal concerns are the unplanned nature of Phase 1 and the traffic impact on Wanborough and nearby villages<sup>153</sup>. 50% of traffic from Phase 1 would turn left towards Wanborough, the direction shown by a SATNAV to access the M4 to Oxford, Reading and Bristol. New residents also would be attracted to the facilities in the villages. Wanborough Road has a rural character with no footways or provision for cyclists. The verges and hedgerows are afforded protection along the Roman road. Village streets have pinch points and are narrow with tight bends, on street parking, no footways or street lighting. The physical constraints on the highway network are not capable of being improved. Plans have not been submitted or mitigation measures proposed which would minimise rat running via Wanborough.
- 8.2 The SCR will eventually become the route of choice for strategic journeys but the Phase 1 site has been brought forward, out of phase for the NEV. It will be an isolated development off a rural road. The problems within the villages will be made worse and conditions for all highway uses will be less safe on the network.

### **South Marston Parish Council**<sup>154</sup>

- 8.3 The parish boundary extends down to the River Cole. None of the proposed housing at Lotmead Farm is in the parish but the northern access is. Of concern is the orderly fashion of development. The Framework's definition of deliverability in a timely fashion is the basis of the Parish Council's objection.
- 8.4 The Masterplan scheme relies on infrastructure north of the River Cole and development on third party land. These factors raise the issue of risk to deliverability and whether there is a back-up plan in place. The development is dependent on the delivery of not only the junctions with the A420 but also the roads and bridges over the River Cole. The Great Stall East site would contain facilities essential to Lotmead Farm but providing the necessary road connections may not be a priority.
- 8.5 The provision of much information via the appeal process was not satisfactory. Nevertheless the Parish Council's objection stands despite what may be agreed on phasing through planning conditions.

### **Covingham Parish Council**

- 8.6 In its written objections to the planning applications<sup>155</sup>, the Parish Council considered that the NEV should be developed within the correct phasing to

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<sup>153</sup> IP 2 provides details and photographs of routes through Wanborough village and Wanborough Road. See also CD 2.18 which includes a townscape analysis of Wanborough.

<sup>154</sup> Oral evidence and see also CD 2.43 tab 69

<sup>155</sup> CD 2.43 tab 22 and tab 23

enable the necessary infrastructure to be put in place for construction traffic and increased traffic from the new homes. Particular concern was expressed about the dust and vibration if construction traffic used Merlin Way and about the safety of school children by use of Kingfisher Drive. The inclusion of the SCR within the plans was said to be vitally important. Schools in Wanborough and Covingham were stated to be at full capacity. There was concern about the additional traffic and parking safety implications from families transporting children to school in Covingham.

- 8.7 These objections were elaborated on in oral evidence at the inquiry. Mr Hawkes explained that traffic problems occur associated with parents dropping off their children at Covingham primary school. If a new primary school is not built at the outset the traffic would become worse as he did not believe parents would walk from Lotmead Farm to the primary school. Once parents have children at Covingham they probably would prefer to keep them there when the new school is built, resulting in residents of Covingham having to use the new school.
- 8.8 Regarding traffic, including construction for Phase 1, Mr Hawkes outlined the implications of the phasing of improvements to the White Hart junction and the delivery of the SCR for the community at Covingham. A no left turn restriction from the development at Wanborough Road would prevent rat running through Wanborough village but would have adverse effects by putting more pressure on the roads of Covingham.
- 8.9 Covingham suffers from flash flooding and there are at least 12 flood alerts per year. Flood risk would increase if flood water is not managed correctly and more water enters Dorcan Stream. A robust mechanism also would be required to ensure adequate maintenance and permanent effectiveness of proposed SuDS and swales. The early promises were of infrastructure before houses.
- 8.10 The Parish Council's written representation to the June 2017 amendments<sup>156</sup> expressed support for the retention of trees along the internal access road and the alignment of the canal away from the flood zones. The access road from Wanborough Road should be a 'bus only' route and not provide access to the Masterplan site in order to prevent rat running through Covingham. In relation to connectivity to open space, strong objection was made to any plans that would change the shape of the flood zones.

### **Capital Land Property Group Ltd.**

- 8.11 An oral update to the written statement dated October 2017<sup>157</sup> advised that an outline planning application for development of the Great Stall East site had been submitted to the Council. The expectation is that the first reserved matters application would be prepared as the outline application was negotiated and determined.
- 8.12 The proposed access north from the Masterplan site to the A420 is to be achieved over Capital Land's ownership through the Great Stall East site. Consequently the Masterplan development is premature and currently

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<sup>156</sup> CD 4.9

<sup>157</sup> IP 1

undeliverable. Any positive aspects in respect of meeting the five year housing land supply are null and void<sup>158</sup>.

- 8.13 In the written statement reference is made to the continuing modifications to the appeals proposals, including the submission of technical notes on highways and plans in relation to open space.

**Wilts & Berks Canal Trust<sup>159</sup>**

- 8.14 The goal of the WBCT is to restore a continuous navigable waterway linking the Kennet and Avon Canal near Melksham with the River Thames at Abingdon and the Thames and Severn Canal near Cricklade, a distance of some 70 miles.
- 8.15 In September 2016 the WBCT submitted a statement and three technical notes when first lodging objections against the appeals<sup>160</sup>. The technical notes described how the canal can be designed to aid drainage of the NEV and manage the impact of water arriving in the watercourses from the Downs to the south.
- 8.16 In the WBCT's view, the canal should not be regarded as a problem by potential developers but recognised as an essential key to solving the fundamental drainage and flooding issues that should otherwise preclude development in a flood plain. Construction of the canal contemporaneously with the green infrastructure of the NEV would reduce costs, avoid future disturbance by major earthworks and add a benefit for house buyers.
- 8.17 The WBCT explained that the original proposal, while indicating a line for the canal corridor, also uses the same space as part of the land drainage scheme for the development. The space is designated for the expansion of flood storage alongside the Liden Brook, which is critical to the design of the proposed SuDS scheme for Lotmead. This would make the canal scheme undeliverable.
- 8.18 In responding to the amended proposals the WBCT acknowledges that the Revised Lotmead Alignment is more acceptable but considers fundamental issues and objections remain. These focused on protecting the integrity of the canal alignment, prejudice to the delivery of the canal and the insufficient consideration given to the complex drainage and flood protection of the whole catchment area. Attention was drawn to flooding experienced in the NEV area. The proposed provision of independent SuDS by each developer was not considered to be reliable to provide adequate flood protection. An assessment of the aggregate effect of the drainage schemes of all developments in the NEV was required and the Council should undertake comprehensive flood modelling.
- 8.19 The WBCT expressed disquiet about the history of consultation on the scheme and the limited information made available to them in August 2017. A new Technical Note by the appellant in September 2017 and availability of Ms Hensler's proof of evidence in October prompted the WBCT to update its response and objection.

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<sup>158</sup> Mr Manley, in his questions to Mr Lewis, made reference to the use of the power of a compulsory purchase order to enable land to come forward.

<sup>159</sup> ID 22, ID 23 and ID 24 provide the details of the WBCT's updated response and objections.

<sup>160</sup> IP 3

## Wanborough Anti-Flood Group

- 8.20 The presentation to the inquiry<sup>161</sup> illustrated the constraints on watercourses and the consequences of flooding in the area. The route of the canal south of Lower Earls court Farm, as proposed by the WBCT, was considered to be flawed. The Group's proposal for an Acorn Bridge anti-flood scheme was outlined.

### Written representations

*The main points are:*

#### *Masterplan*

- 8.21 Wanborough Parish Council<sup>162</sup> was concerned about phasing and that all necessary infrastructure, including from the A420, should be in place before commencement of development at Lotmead. The SCR is seen as a vital piece of infrastructure to disperse traffic and avoid rat running through the village, yet it had been ignored in the proposals. Points were taken on the flood risk assessment, the adequacy of the proposals for water supply and the safeguarded canal route. The proposed reduced densities in the outer areas of the development site were welcomed and a restriction on dwelling height was important to protect the landscape character of the AONB.
- 8.22 Bourton Parish Council wished to be associated with all the points raised by Wanborough Parish Council.<sup>163</sup>
- 8.23 Bishopstone Parish Council objected because of the insufficient information on the road connection to the A420 and the SCR formed no part of the development<sup>164</sup>. As a result there was concern that the development would lead to unacceptable levels of traffic congestion on existing roads, which in turn would lead to increased traffic effects within the Bishopstone and Hinton Parva Parish. The application was premature pending implementation of the NEV infrastructure improvements. The Parish Council concurred with contents of the objection by Wanborough Parish Council.
- 8.24 Faringdon Town Council was concerned that large housing developments on the eastern side of Swindon would cause a large increase in traffic on the A420, with a knock on effect on traffic wishing to access the A420 from Faringdon<sup>165</sup>. The Town Council was of the view that traffic lights should be installed at the Great Coxwell/A420 roundabout.
- 8.25 Liddington Parish Council's main issue was that the road infrastructure should be planned and approved before any development was considered<sup>166</sup>.
- 8.26 Network Rail objected because the development would significantly increase pedestrian use of the footpath crossings at Marston East and Marston West level crossings. Mitigation may be required to reduce any safety concerns<sup>167</sup>. In July

<sup>161</sup> ID 21

<sup>162</sup> CD 2.43 tab 18

<sup>163</sup> CD 2.43 tab 16

<sup>164</sup> CD 2.43 tab 66

<sup>165</sup> CD 2.43 tab 9. The representation refers to the Masterplan and the Phase 1 developments.

<sup>166</sup> CD 2.43 tab 20

<sup>167</sup> CD 2.43 tab 6

2017 Network Rail advised that a proposal for a footbridge to replace both level crossings was under consideration and an application was being prepared to divert the public footpaths<sup>168</sup>.

- 8.27 Wiltshire Wildlife Trust felt unable to support the application because it did not sufficiently (a) take into account wildlife and habitats in accordance with national and local policy, and (b) provide for education and visitor facilities for local access and interpretation of the natural environment. The provision of extensive green infrastructure and enhancements for biodiversity needed to be ambitious, visionary and integrated across the whole of the NEV<sup>169</sup>. It was not clear how the Green Infrastructure SPD has been taken into account in the Lotmead proposals. Concern was expressed over the protected species surveys for the farm buildings and the northern access routes<sup>170</sup>.
- 8.28 Swindon Bicycle User's Group supported the proposal's aspirations in providing for cycling and cyclists. The Group made a number of more detailed comments on the proposals, including provision on Wanborough Road<sup>171</sup>.
- 8.29 Swindon College supported the proposals<sup>172</sup> because there would be opportunities to develop an emerging workforce that is highly skilled and able to respond to market demand. The development would make it easier for the town's employers to attract the calibre of professionals that they need but currently chose to live elsewhere.
- 8.30 Seven representations were received from residents in the area. Concerns were raised about increased volumes of traffic, rat running, air quality and need for adequate supporting infrastructure.
- 8.31 A summary of consultation responses, including those from adjacent Councils and statutory consultees, is appended to the officer report on the planning application<sup>173</sup>.

#### *Phase 1*

- 8.32 Wanborough Parish Council<sup>174</sup> lodged a strong objection because bringing forward the proposal would result in an isolated housing development with no community and no facilities and without the required infrastructure. No access should be taken from Wanborough Road because of its rural character and the increase in rat running through the village. Inadequate provision was made for walking and cycling. The SCR should be included within the plans. Concern was expressed about the unsuitability of routes for construction traffic.
- 8.33 Bourton Parish Council objected to the development for the same reasons as expressed by Wanborough Parish Council.<sup>175</sup>

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<sup>168</sup> CD 4.9

<sup>169</sup> CD 2.43 tab 7

<sup>170</sup> CD 4.9

<sup>171</sup> CD 2.43 tab 65

<sup>172</sup> Both the Masterplan and Phase 1 proposals

<sup>173</sup> CD 2.22. See also CD 2.43 for copies of all representations

<sup>174</sup> CD 2.43 tab 19

<sup>175</sup> CD 2.43 tab 16

- 8.34 Bishopstone Parish Council objected on the grounds that the proposal would lead to unacceptable traffic impacts within Wanborough village which in turn would lead to increased traffic effects in the parish. The Parish Council concurred with contents of the objection by Wanborough Parish Council. The likely traffic effects described in the ES, including during the construction period, were not considered to be a robust assessment. The Phase 1 scheme was considered premature pending the implementation of the required NEV infrastructure improvements. The isolated residential development would not be sustainable because no improvements are proposed to transport infrastructure and community facilities<sup>176</sup>.
- 8.35 Ramblers Swindon & NE Wiltshire Group considered an uncontrolled pedestrian crossing on Wanborough Road to be unacceptable.
- 8.36 Two objections were received from residents, one about the design of the proposed junction with Wanborough Road and the second about the proposed uncontrolled pedestrian crossing on Wanborough Road. There were another 7 objections, raising similar points to the Parish Councils about phasing, lack of facilities and the need for infrastructure to be in place first. Additional concerns were the pressure on existing health services and schools, the impact of traffic, lack of public transport, routes for construction vehicles, loss of countryside and views.
- 8.37 A summary of consultation responses, including those from adjacent Councils and statutory consultees, is appended to the officer report on the planning application<sup>177</sup>.

## 9. PLANNING OBLIGATIONS AND PLANNING CONDITIONS

### Planning obligations

- 9.1 At the inquiry there was a less formal session to establish where outstanding points of difference remained between the Council and the Appellant and to enable each party to explain their respective positions. The discussion was structured around a Council prepared document 'Section 106 Agreement Justification and CIL Compliance Statement'.<sup>178</sup> This document has since been updated to reflect the final position of the main parties<sup>179</sup>. The document also sets out the planning policy context, the current position on the adopted CIL charging schedule and confirms that to date planning obligations have only been secured in association with the NEV Hub employment site.
- 9.2 The Council's draft CIL Charging Schedule was subject to examination in 2014/2015. The Inspector specifically considered whether Swindon's urban extensions or 'New Communities' should be seen as bespoke cases which continue to rely on the existing section 106 funding route. He found that subject to a modification the Schedule provided an appropriate basis for the collection of the levy in the area<sup>180</sup>. The current adopted CIL Charging Schedule as applied

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<sup>176</sup> CD 2.43 tab 67

<sup>177</sup> CD 2.41; see also CD 2.43 for copies of all representations

<sup>178</sup> ID 33

<sup>179</sup> INF 1

<sup>180</sup> CD 8.26 paragraphs 17 to 24 consider New Communities infrastructure funding.

to the NEV sets a CIL rate per sq m of £0 for residential and for retail development<sup>181</sup>.

- 9.3 The Council and the appellant agreed that where appropriate, infrastructure that can be provided in kind should be controlled by planning condition and that transport contributions are to be secured by means of an agreement under section 278 of the Highways Act 1980.
- 9.4 The matter in dispute is the relevance of certain obligations when assessed against the Regulation 122(2) tests. A planning obligation may only constitute a reason for granting planning permission for a development if the obligation is (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development<sup>182</sup>. The Council submitted that the same approach should be taken as a matter of planning judgement in respect of the relevance of a section 278 agreement<sup>183</sup>. The appellant concurred with this view.

*Masterplan site: planning obligations through a section 106 agreement*<sup>184</sup>

- 9.5 There is no dispute over the obligations on education provision, affordable housing, open space, public art, Bridge Vision works, bus service provision and park and ride, travel plan contributions, Wanborough traffic calming, traffic regulation order contribution, provision of canal footbridges, public roads and public access areas and the Heritage Management Plan<sup>185</sup>. An affordable housing scheme is required to be submitted and agreed by the Council before commencement of development. The scheme shall provide that 30% of dwellings to be constructed on site shall be affordable housing, of which 70% shall be affordable rented units and 30% shall be intermediate units. The number of affordable housing units, the tenure and the mix is open to change through a viability appraisal<sup>186</sup>.
- 9.6 The obligations that the appellant considers are not CIL compliant are in respect of contributions towards adult social care and a healthcare facility, community forest planting, archaeology (storage and display of archaeological finds), a leisure facility (a four lane swimming pool), a library facility, a nature park visitor centre and waste kerbside collection provision<sup>187</sup>.

*Masterplan site: planning obligations through a unilateral undertaking*<sup>188</sup>

- 9.7 In effect this Deed will apply if the Secretary of State grants planning permission for the scheme as determined by the Council and accepts this scheme includes a 3 FE primary school<sup>189</sup>. The Deed contains provisions for the transfer of a 2.9 ha site to the Council for development of a 3 FE school and the

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<sup>181</sup> ID 5 page 6

<sup>182</sup> The Community Infrastructure Levy Regulations 2010 SI 2010/948

<sup>183</sup> ID 34 paragraphs 29 and 30. This point was agreed orally by Mr Manley in his closing submissions.

<sup>184</sup> INF 15

<sup>185</sup> INF 15 Schedule 1 Part A

<sup>186</sup> INF 15 Schedule 3

<sup>187</sup> INF 15 Schedule 1 Part B

<sup>188</sup> INF 16

<sup>189</sup> INF 16 Recitals (E) and (F)

payment of contributions towards the construction of the school, the final payment being made prior to the occupation of the 800<sup>th</sup> dwelling<sup>190</sup>.

*Masterplan site: section 278 highways agreement*<sup>191</sup>

- 9.8 This agreement secures contributions towards improvement works to the A420 and the White Hart junction, express bus network works, the Great Stall Bridge works<sup>192</sup>, junction improvements west of A419 and SCR works. The scope of these works is defined in the agreement<sup>193</sup>.

*Phase 1 site: planning obligations through a section 106 agreement*<sup>194</sup>

- 9.9 There is no dispute over the obligations on education provision, affordable housing, financial contributions towards allotments, outdoor sports, travel plan, Wanborough traffic calming, public art, bus service provision, community facility<sup>195</sup>, the submission of an open space strategy, compliance with a Heritage Management Plan and construction of public roads and public access areas. An affordable housing scheme is required to be submitted and agreed by the Council before commencement of development. The scheme, subject to a viability appraisal, shall provide that 30% of dwellings to be constructed on site shall be affordable housing, of which 70% shall be affordable rented units and 30% shall be intermediate units.<sup>196</sup>
- 9.10 The obligations that the appellant considers are not CIL compliant are in respect of contributions towards adult social care and a healthcare facility, community forest planting, archaeology (storage and display of archaeological finds), a leisure facility (a four lane swimming pool), a library facility, a nature park visitor centre and waste kerbside collection provision, bridge vision works and park and ride<sup>197</sup>.

*Phase 1 site: planning obligations through a unilateral undertaking*<sup>198</sup>

- 9.11 This Deed contains similar provisions to the undertaking for the Masterplan site, with the financial contribution adjusted to reflect the smaller number of dwellings in the Phase 1 scheme.

*Phase 1 site: section 278 highways agreement*<sup>199</sup>

- 9.12 The Owner covenants to pay to the Council prior to the occupation of the 190<sup>th</sup> dwelling (or 90% of the dwellings if the reserved matters approval is less than 200 dwellings) contributions towards highway works and improvements. These are improvement works to the A420, the White Hart junction, the junction west

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<sup>190</sup> INF 16 Schedule 1 details the obligations

<sup>191</sup> INF 17

<sup>192</sup> The provision of a new bridge over the A419 would connect the NEV to the existing road network west of the A419 and south of the White Hart junction.

<sup>193</sup> CD 2.3.5 Figure 3.1 identifies the location of the works.

<sup>194</sup> INF 18

<sup>195</sup> ASL 11 paragraph 3.33 indicates that before the inquiry the appellant considered this contribution would not be CIL compliant.

<sup>196</sup> INF 18 recital (F)

<sup>197</sup> INF 18 recital (G) and Part B of Schedule 1

<sup>198</sup> INF 19

<sup>199</sup> INF 20

of A419, the construction of the SCR, the Great Stall Bridge works and the establishment of the express bus network.

- 9.13 The Deed makes clear that the Owner and the developer do not consider that the obligations meet the Regulation 122(2) tests but that they will comply with those obligations that are considered to meet the tests by the Secretary of State in determining the appeal.<sup>200</sup>

### ***The Council's case***

*The main points are:*

- 9.14 Lotmead is part of the NEV. To function the development requires strategic infrastructure which serves the whole of the NEV, including transport improvements and social infrastructure such as a swimming pool and health centre. The appellant's principal argument on infrastructure, that it does not need to add to community facilities beyond its boundaries, ignores the detail and principle underpinning the policy.

### ***Planning obligations Masterplan site***

- 9.15 Adult social care. It is important to ensure housing is delivered to meet the needs of a range of population by age. The Council is a provider of care and plans to build a 50 bed extra care home because the market is not delivering the kind of facility the Council needs at affordable prices. The required sum of £5,058,625 is a proportionate contribution, based on 2,600 homes, towards the estimated total scheme cost.
- 9.16 Healthcare facility. The purpose is to support funding a new healthcare facility of 3,330 sq m because insufficient capacities exist at surrounding surgeries to manage the scale of long term demand. There is no guaranteed funding stream to deliver new GP provision. The use of existing Clinical Commissioning Group (CCG) and NHS allocations would divert funding from existing services.
- 9.17 Community forest. Given the objective in the Great Western Community Forest Plan to 2027 the starting point for new sites is to see a minimum 30% tree coverage or where this is not possible to invest in the creation of new or the acquisition of private woodland elsewhere to increase tree coverage and make it more publicly accessible as a recreational resource. A NEV specific assessment of the Community Forest objectives has fed into the adopted GI strategy and generated a costing model, taking account of existing tree and hedgerow coverage within the wider allocation<sup>201</sup>. The sum in the planning obligation (£1,387,302) has been derived from the developable area and cost per hectare of woodland, with allowance for a reduction of £20,730 for every hectare of woodland planting within the site.
- 9.18 Archaeology. The NEV area is in the most archeologically rich areas of the borough and the aim is to centrally manage and to promote the display of finds as a community resource. In view of the proximity of the SM and archaeological trench digging to date there is a strong likelihood of finds on the site as a result

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<sup>200</sup> INF 20 recital 6

<sup>201</sup> CD 8.23

of excavations prior to development. A contribution is necessary in order to fund the cost of storage and display.

- 9.19 Nature park and visitor centre. Large swathes of green infrastructure will form nature park river meadows areas. These will interconnect with similar environments aligned with watercourses within the NEV allocation. The proposed location for a visitor centre is outside the appeal site but the centre will be a centralised educational and recreational resource for the residents of the NEV. The scale of the contribution required for the visitor centre takes into account nature reserve works in kind on site as part of the green infrastructure provision.
- 9.20 Library facility. A new library is proposed for delivery at the Local Centre, which will be a key community asset for the NEV allocation.
- 9.21 Leisure swimming pool. The Sport England Sports Facility Calculator is the evidence source to justify this facility that would be a new strategic leisure facility to serve the needs of the development and ensure a satisfactory level of provision across the Borough.
- 9.22 Waste - kerbside collection. The contribution would be for the initial provision of kerbside waste recycling services including wheelie bins, recycling boxes and the creation of new routes and vehicles to support collection services. There is no other funding source to support the initial set up of such infrastructure without which the development would not be environmentally sustainable.
- 9.23 The Council considers all the required contributions are necessary, directly related to the development to be permitted and fair in scale and kind.

#### *Planning obligations Phase 1 site*

- 9.24 The Council submitted that Phase 1 is not a standalone scheme but the first phase of a larger Lotmead scheme. The development must therefore contribute proportionately to the requirements of the NEV.
- 9.25 The justifications for individual projects and facilities are similar to those put forward for the Masterplan. In relation to the additional matters in dispute:
- 9.26 Bridge Vision works. The delivery of the bridges that are located within the appeal site are necessary to support sustainable transport options. They would provide sustainable highway links over the floodplain and watercourses to connect the scheme to the wider NEV facilities and surrounding highway network. In the event the bridges are not delivered by the developer, the Council is seeking a proportionate share of the cost of delivery.
- 9.27 Park and ride. Without a NEV park and ride, vehicle trips will not be able to access a functional transport network. NEV vehicle trips would displace other trips off the road network. Residents wishing to travel outside the NEV will have no restriction on using the A420 route. A proportionate contribution is sought from the 200 units.

#### *Section 278 Highways Agreement*

- 9.28 As with the planning obligations, Phase 1 is not a standalone scheme but the first phase of a larger Lotmead scheme. The development must therefore contribute proportionately to the requirements of the NEV.

- 9.29 The appellant has accepted in the statement of common ground that the Phase 1 development would lead to over-capacity at junctions and that the correct approach is to secure junctions improvements through the delivery of the NEV strategic transport infrastructure<sup>202</sup>.

### ***The Appellant's case***

*The main points are:*

#### *Planning obligations Masterplan site*

- 9.30 Adult social care. The delivery of a 50 bed extra care scheme is not necessary to make the development acceptable in planning terms. Need, where it arises, can be met suitably by private providers. There is no evidence how the contribution has been calculated. The north of A420 scheme (2,380 homes) is requested to make a contribution of £44,108, compared to the £5,058,625 sought from the Lotmead site.
- 9.31 Healthcare facility. Direct funding from the NEV development is not required because a number of funding streams are available for the delivery of new health care provision and future funding to any new GP surgeries will be provided on a per patient basis. There are no clear proposals for the actual delivery of the healthcare facility and no evidence how the contribution has been calculated. The north of A420 scheme is requested to make a much lower contribution, which raises the issue as to whether the scale of contribution sought for Lotmead is reasonably related in scale and kind to the development.
- 9.32 Community forest. The scheme accords with all the policy requirements of Local Plan Policy EN2 and a financial contribution is not necessary. The contribution is of such a scale that the scheme would have to provide approximately 67 ha of woodland planting on site to reach a point of nil contribution, which is unreasonable.
- 9.33 Archaeology. A charge is already payable to the museum for the receipt of finds and it would be up to the museum to decide whether or not any finds will be worth displaying. An agreed Heritage Management Plan and Archaeological Mitigation Strategy will set out how any finds are recorded and stored.
- 9.34 Nature park and visitor centre. In light of the extensive provision of green infrastructure as part of the development, an additional financial contribution for off-site provision is not necessary to make the development acceptable in planning terms. The vast majority of visitors to any future centre would be expected to be from the wider area and not the NEV communities. No evidence has been provided to show how the contribution has been calculated. The north of A420 scheme is requested to make a much lower contribution.
- 9.35 Library facility. The Planning Obligations SPD provides no narrative as to why a library is a scheme requirement and no indication as to how the money will be spent. Furthermore, the SPD refers to mobile library services whereas the Council is now seeking a contribution to permanent provision. New residents will pay Council tax, a proportion of which is spent on library services. There is no

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<sup>202</sup> ID 10 paragraph 4.7

evidence on how the contribution has been calculated and the north of A420 scheme is requested to make a much lower contribution.

9.36 Leisure swimming pool. A swimming pool is listed as an infrastructure requirement in the NEV Planning Obligations SPD. However, there is no specific justification or assessment of the ability of existing facilities to meet the needs arising from the Lotmead development, which is delivering a significant level of on-site sports provision. There is no evidence on how the contribution has been calculated and the north of A420 scheme is requested to make a much lower contribution.

9.37 Waste - kerbside collection. Waste collection and disposal is covered by monies received through Council tax receipts.

*Planning obligations: Phase 1*

9.38 The appellant's position on individual projects and facilities is similar to the Masterplan site. Regarding the additional matters in dispute:

- Bridge Vision works: no bridges are required to facilitate the delivery of Phase 1.
- Park and ride: The need to deliver a park and ride is not necessary to mitigate the transport impacts of the 200 unit Phase 1 scheme. The agreed section 106 for the Masterplan scheme requires first payment towards park and ride on occupation of the 750<sup>th</sup> dwelling, which confirms the Council accepts the need for such mitigation is not triggered until well beyond occupation of homes in Phase 1.

*Section 278 highways agreement*

9.39 The Phase 1 scheme does not create a need for major highway infrastructure requirements. A development for 200 dwellings would not result in a severe traffic impact and the additional traffic could be accommodated within the capacity of the highway network. The contributions sought should only be triggered on occupation of the 550<sup>th</sup> unit, as required by the Masterplan section 278 agreement.

**Planning conditions**

9.40 Draft lists of conditions were discussed at the inquiry on a without prejudice basis. Following the inquiry session amended schedules of conditions were submitted<sup>203</sup>. There are a number of conditions where the Council and the appellant disagree and have suggested alternative wording.

*Masterplan site*<sup>204</sup>

9.41 Approved plans. The Council considers only the red line plan and the flood risk assessment should be approved and does not accept the parameter plans represent an acceptable scheme. The appellant is seeking approval of the site plan, the parameter plans and the plan of the Wanborough Road junction.

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<sup>203</sup> PL 1, PL 2, PL 3, PL 4.

<sup>204</sup> PL 1, PL 2

- 9.42 Design Codes. The Council has put forward conditions requiring a strategic design code and a character area design code in order to ensure a holistic approach and high quality design. The appellant considers conditions on a phasing programme plan, requiring broad compliance with the masterplan and a character area design code would achieve consistency across the site.
- 9.43 Open space. The Council does not consider reliance on the planning obligation is adequate because the open space strategy is not precluded from reflecting the GI parameters plan or the illustrative masterplan. The appellant considers a condition is unnecessary because a planning obligation specifies the minimum amounts of open space to be delivered.
- 9.44 Landscape Ecology and Arboriculture. The Council has proposed conditions requiring approval of a Framework Landscape Ecology and Arboriculture Management Plan (FLEAMP) and the reserved matters to be in accordance with the FLEAMP. Protection of species receptor sites would be subject to a separate condition. The appellant has proposed a single condition which is considered to cover all the Council's requirements.
- 9.45 SCR. In dispute is whether revised parameter plans and illustrative masterplan should be submitted and whether design standards for the route should be specified.
- 9.46 Highway provision. The Council wants to ensure all roads, including private roads, are constructed to a satisfactory standard. The appellant requests deletion of the proposed condition on the construction of access roads because the matter is covered by a planning obligation.
- 9.47 Archaeology: Management Plan. The Council's condition would apply to the site as a whole. The appellant's condition is specific to each phase of development on the basis that management of areas of archaeological importance would not be known until the detailed design stage.
- 9.48 Fire-fighting provision. The Council is looking for details of a water supply network and/or hydrants at pre-commencement and at reserved matters stages<sup>205</sup>. The appellant has suggested outline details initially with full details with each phase.
- 9.49 Public art. The Council relied on the condition requiring a strategic design code, which would include identifying locations for public art. The appellant put forward a specific condition requiring an approved public art strategy to be in place before the approval of the first reserved matter. The strategy is expected to set out a scheme for the delivery of the public realm and public art within the site.

*Phase 1*<sup>206</sup>

- 9.50 The Council and the appellant raised similar points to those on the Masterplan site conditions regarding approved plans, landscape ecology and arboriculture, the SCR, an archaeology management plan and public art.

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<sup>205</sup> SBC 9 paragraphs 6.8.7.1 to 6.8.7.3 provide the justification for the planning condition

<sup>206</sup> PL 3, PL 4

### ***Recommended planning conditions***

- 9.51 The wording of the conditions in the final draft lists still suffers from repetition, duplication, inaccuracies and a lack of precision and reference points to assist in enforcement. I have substantially amended the wording with a view to ensuring that the conditions meet the 6 tests set out in the Planning Practice Guidance - necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The reason for each condition is set out in the Schedules.

#### *Masterplan site (original and amended schemes)*

- 9.52 I deal first with the alternative conditions suggested by the Council and the appellant. The outline planning permission should relate to the submitted plans for which approval is being sought. Therefore the appellant's conditions on approved plans and the SCR are appropriate.
- 9.53 Local Plan Policy SD3 expects that detailed design submissions including reserved matters applications should be guided by an overarching design approach that is set out in design codes and/or framework plans or appropriate alternative mechanism. Consequently a strategic design code and a character area design code are necessary to achieve high quality design. The phasing programme would have a different purpose. I have reworded the suggested conditions to avoid overlap with reserved matters and requirements of other conditions.
- 9.54 No open space condition is necessary because a planning obligation would secure an approved open space strategy before commencement of development.
- 9.55 The draft Outline Landscape, Ecological and Arboricultural Management Plan provides an overview of the Masterplan site and was intended to be finalised and agreed by way of a planning condition. Such a framework document is necessary for the phased development. The wording of the recommended condition reflects the draft document that formed the basis of common ground between the Council and the appellant. An additional single condition on landscape, ecology and arboriculture is able to cover all relevant matters with the reserved matters applications for each phase of development.
- 9.56 A condition on highway provision, incorporating amended wording, is necessary because the planning obligation refers only to publicly adopted highways.
- 9.57 On archaeology, a detailed management plan is more appropriately related to the detailed design stage of the phases of development.
- 9.58 Provision of a water supply network and/or fire hydrants for fire fighting is covered by other legislation. However the proposed condition is directed towards planning requirements and is maintained in the final recommended schedule with a revised form of wording.
- 9.59 The provision of a public art strategy should be the subject of a separate condition, partly along the lines suggested by the appellant, in order that it is precise and enforceable. Broadening the scope of the condition to require a 'scheme for the delivery of the public realm' is not necessary given the range of proposed conditions.

- 9.60 In terms of the additional more significant changes incorporated into the recommended conditions, I have reworded the time limits to better reflect the provisions of the 1990 Act. The condition on the scale of development is reworded to avoid repetition with conditions controlling retail provision and employment uses.
- 9.61 The proposed Masterplan/Phase 1 condition seeks to address the possibility that an outline permission for the Phase 1 site is progressed in advance of an outline permission for the Masterplan site<sup>207</sup>. Some problems on enforceability are resolved, but the condition is not precisely worded ("any other additional relevant conditions"). Also, potential inconsistencies could arise if changes to proposals and parameter plans are approved under a Phase 1 outline permission, a situation which is not able to be covered by the wording in the proposed condition. Therefore the unsatisfactory wording of the condition indicates Phase 1 should not be brought forward independent of the Masterplan site application, a matter which I consider further in my conclusions on the planning merits of the appeals. The appellant's wording is adopted in the recommended schedule on the basis that a permission for Phase 1 is forthcoming and no other solution has been identified.
- 9.62 The Environment Agency condition on landscape/rivers is not necessary because landscape, habitat and management would be covered by landscape and layout reserved matters and other conditions, including those on a LEAMP and ecology. The condition is omitted.
- 9.63 Despite the fact that the Wanborough Road access is the only matter where detail approval was sought, the submission of a final detailed design is necessary that takes into account safety audits.
- 9.64 The condition on petrol and oil interceptors is omitted because this matter is covered by separate legislation.

*Phase 1 site (original and amended schemes)*

- 9.65 Similar observations to those on the Masterplan site conditions apply. Therefore the appellant's version of conditions on approved plans and the SCR (with amended wording) are appropriate. A single condition is able to cover all relevant matters of landscape, ecology and arboriculture. I prefer the Council's condition on archaeology in view of the much smaller site area. A condition with revised wording on fire fighting infrastructure is included.
- 9.66 I have substantially revised the detailed wording of the conditions. The amendments include rewording of the design code condition to avoid overlap with reserved matters and requirements of other conditions. The Environment Agency condition on landscape/rivers has been deleted because landscape, habitat and management would be covered by reserved matters on landscape and layout and other conditions, including those on a LEAMP and ecology. The condition on petrol and oil interceptors is omitted because this matter is covered by separate legislation.

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<sup>207</sup> PL 1 condition 6, PL 2 condition 7

## 10. INSPECTOR'S CONCLUSIONS

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

### Preliminary matters

#### *The amendments*

- 10.1 The Planning Practice Guidance advises that before making any appeal, the party seeking permission should first consider re-engaging with the local planning authority to discuss whether any changes to the proposal would make it more acceptable and likely to gain permission<sup>208</sup>.
- 10.2 The Planning Inspectorate's Procedural Guide Planning Appeals England has no statutory status but the expectation is that all parties will follow the general principles with a view to ensuring no-one is disadvantaged and the appeal can be processed efficiently. When making an appeal the appellant should provide a full statement of case and supporting evidence. The guidance states that there is no opportunity to add to the statement during the process so the appellant should only make their appeal when they are certain that they have finalised their case<sup>209</sup>.
- 10.3 The Procedural Guide also advises that if an appeal is made the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority and on which interested people's views were sought. Where, exceptionally, amendments are proposed during the appeal process, the Inspector will take account of the *Wheatcroft* principles when deciding whether the proposals can be formally amended<sup>210</sup>.
- 10.4 This guidance was brought to the attention of the appellant at the Pre-Inquiry Meeting and reiterated in a pre-inquiry note dated 5 July 2017, which was amended on 28 July 2017 in response to a judicial review pre-action protocol letter. In terms of the way forward, the 28 July note confirmed that the inquiry would hear evidence on the schemes refused by the Council and also the amended schemes. [1.4]
- 10.5 In coming to my conclusions on the matter now I have taken full account of all the most recent relevant information, consultation and submissions since 30 June 2017. The appellant and the Council agreed that the original scheme is that determined by the Council, with all subsequent amendments and information (essentially everything submitted post 30 June 2017) resulting in the amended scheme. [3.17]
- 10.6 The appellant described the amendments as 'minor' and 'very modest'. It is the case that the only change to the description of the Masterplan development is to the school. The description of the Phase 1 development remains the same. However, on 30 June all parameter plans and the illustrative masterplans were amended. The revised plans reflected a number of changes that covered access,

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<sup>208</sup> Planning Practice Guidance – Appeals Ref ID: 16-001-20140306

<sup>209</sup> The Planning Inspectorate's Procedural Guide Planning Appeals England Annexe H paragraph H.2.1 and see also paragraphs F.3.5 and G.3.3

<sup>210</sup> Op. cit. Annexe M paragraphs M.2.1, M.2.2

open space provision and retention of protected trees, alignment of the Canal and the location and number of primary schools. The amendments were to address issues identified in the reasons for refusal and to respond to new information. They were important. The ES also was substantially reviewed, with six of the topic chapters being superseded. The review was in part necessitated to ensure the legislative, policy and information base was up to date but it also responded to concerns expressed by consultees on the original assessment. The making of each amendment, in isolation, may have been acceptable but a relevant consideration is how the combination of the amendments has changed the schemes. [3.1, 3.9, 3.10, 3.12, 3.14, 7.3]

- 10.7 The amendments and additional information were not confined to those made in June. Proposals for access, surface water management, trees and landscaping were formally submitted and consulted upon. The terms of planning obligations were firmed up during the course of the inquiry and have a very relevant bearing on the proposals. The evolution of the proposals results in an overall very considerable change to the schemes and to the quality of the supporting information. [3.15, 3.16, 3.17]
- 10.8 Engagement between the parties with a view to exploring if a proposal may be made acceptable is encouraged by the Planning Practice Guidance but this should take place before an appeal is made. The schemes are not the schemes determined by the local planning authority in June 2016 and on which interested people's views were sought. The amended schemes have evolved during the latter part of the appeal process. The statements of case of the Council and the appellant were revised in August 2017. Statements of common ground were updated in September 2017 and again during the inquiry. The narrowing of the areas in dispute was of assistance to the efficient running of the inquiry but was carried out very late in the day. The approach adopted by the appellant during the course of the appeals has not been in accordance with procedural guidance. [1.3, 1.6, 3.1-3.24]
- 10.9 I have no doubt that the changes to the proposals in the Masterplan and the Phase 1 appeals are sufficiently material that consultation on the amendments would be essential. I disagree with the view expressed by the appellant on this point. Under the *Wheatcroft* principle the indication is that the amendments should not be considered. There are no exceptional circumstances as to why they should be accepted<sup>211</sup>. The need to boost housing supply and to progress a strategic housing scheme in my view do not fall within that description. [6.3, 7.3]
- 10.10 The appellant, as a matter of good practice, carried out several rounds of consultation, in various forms, after the 30 June 2017. Reasonable endeavours were made to alert statutory consultees and interested parties of the amendments to the schemes and the ES Addendum and to provide them with the opportunity to make comments and representations. Where errors were identified, either in the length of the stated period to respond or in the plans included in documents, people were notified and allowed further time to respond. [3.25, 7.1]

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<sup>211</sup> No consideration was given to exceptional circumstances in the appellant's planning submissions but the matter is addressed in the appellant's response to the Council's costs application (C2 paragraph 44).

- 10.11 In terms of any firm indication that prejudice has occurred, the Wilts & Berks Canal Trust presented its case at the inquiry and was familiar with the amended scheme. The concerns expressed in August and September appear to be directed at a lack of meaningful contact and dialogue by the appellant more generally. Capital Land Property Group commented on a failure by the appellant to follow procedural guidance and on the lack of public consultation on aspects of the proposals and technical notes. However, the interested party did not claim any prejudice to the ability to present a case at the inquiry or to make known its views on the appeal schemes. South Marston Parish Council, while expressing dissatisfaction about the level of information coming in the appeal process, did not identify any prejudice. [3.27, 7.2, 8.5, 8.13, 8.19]
- 10.12 The Council, through Mrs Corps' written evidence, referred to confusion and prejudice to interested parties but in the end did not pursue this matter. The bundle of emails and meeting notes produced at the inquiry suggests some people were unclear initially about the process but the documents do not identify prejudice to any consultee or interested party. No submissions were made at the inquiry to suggest anyone was unable to comment in an informed way about the amendments. [6.3, 7.2]
- 10.13 At planning application stage the level of representation, although not high, was higher than indicated by the appellant, particularly when account is taken of Parish Councils' interest. Everyone's opinion is important and has to be considered. The number of objections is not a good yardstick to decide whether the changes are within the tolerance of the *Wheatcroft* principle. [7.2, 8.21-8.37]
- 10.14 In conclusion, the amended schemes are very significantly different to those determined by the Council and have evolved considerably during the course of the appeals. To use the appeal process in this way is contrary to Procedural Guidance and does not sit comfortably with the *Wheatcroft* principle. There are no exceptional circumstances to justify this approach. No specific case of prejudice has been highlighted but compliance with the Procedural Guidance is the best way to ensure no-one is disadvantaged through the appeal process. [7.3]
- 10.15 I conclude that the appeals should be determined on the basis of the original proposals. Nevertheless, I will assess the planning merits of and come to conclusions on both the original and amended schemes in order that the Secretary of State's discretion on the matter is not limited in any way.

### ***Outline proposals***

- 10.16 The two planning applications were made in outline. The detail of the access to Wanborough Road is the only element of reserved matters for which approval is sought. The Masterplan proposal seeks to establish the capacity of the site to accommodate up to 2,600 dwellings and the stated amounts of floorspace for a mix of business, retail and community uses. The Phase 1 proposal is confined to establishing an acceptable level of residential development of up to 200 dwellings. [3.2, 3.3, 3.18, 3.19]
- 10.17 A recurring theme at issue between the main parties is whether alternative proposals to those shown on the parameter plans can be secured through planning conditions, whether new plans are required or whether the scheme should be refused. My starting point is that the parameters identified on the

plans form an integral part of each proposal because they are the basis for the EIA. Planning Practice Guidance on EIA, citing case law, advises that an outline planning permission should be subject to conditions which 'tie' the scheme to what has been assessed. [6.2]

### ***NEV allocation***

- 10.18 The lands at Lotmead Farm are not of the quality of the best and most versatile agricultural land and are included within the allocated strategic site at the proposed NEV. Policy SD2 of the Local Plan confirms that this is one of the locations where future development in the Borough will be concentrated and that the NEV is important to delivering the housing numbers required by 2026. More specifically, Policy NC3(a) allocates land to the east of the A419 for a mixed use development, in the form of a series of new interconnected distinct villages defined by a network of green infrastructure corridors. [2.2, 4.3, 4.4, 7.4]
- 10.19 Therefore the loss of agricultural land and the dairy enterprise to a residential-led development at Lotmead Farm is in accordance with these development plan policies. The focus in these appeals is on whether the proposals would enable the vision for the NEV to be achieved. [2.2, 5.2, 6.1, 7.4]

### **Main considerations**

- 10.20 The following main considerations are applicable to the Masterplan original and amended schemes and the Phase 1 original and amended schemes. The exception is the consideration in relation to the Canal, which is relevant only to the Masterplan original and amended schemes.
- 10.21 Heritage:
- The effect of the development on the significance of the Scheduled Monument, having particular regard to any contribution made by the setting to its significance.
  - The effect of the development on the significance of the non-designated heritage asset Lotmead Farmhouse, having particular regard to any contribution made by the setting to its significance.
- 10.22 Education: Whether the educational requirements generated by the proposal would be adequately met, having regard to the location, capacity and accessibility of existing and proposed schools and the funding and delivery of new schools.
- 10.23 Open space and natural environment:
- Whether the proposal would deliver high quality open spaces and opportunities for sport, recreation and children's play in accordance with the Council's adopted standards.
  - The effect of the proposal on existing protected trees.
- 10.24 Transport and accessibility: Whether the proposal would achieve good connectivity within the development and to the surrounding area, including services and community facilities, by:

- sustainable means of transport (walking, cycling and public transport), and
- the provision of highway infrastructure to the required standard and in accordance with an acceptable strategy and programme.

10.25 Canal: The effect of the development on the safeguarded route for the Wilts and Berks Canal and the future delivery of the project.

10.26 Infrastructure: Whether the proposal makes adequate provision towards (i) mitigating any resultant adverse impact on the environment and on the social and physical infrastructure of the surrounding area, and (ii) ensuring the necessary social and recreational infrastructure and services for the new community.

10.27 Sustainable development: Whether the proposal would secure a better balance between housing demand and supply and create a high quality, sustainable, mixed and inclusive community.

10.28 In addressing these considerations I will concentrate on the remaining narrowly defined matters in dispute between the Council and the appellant and also the objections of interested parties. As regards infrastructure, the focus will be on the planning obligations and highways agreements.

10.29 My conclusions take full account of the ES and all other environmental information on the likely significant effects of the development, including the potential cumulative effects.

## **Heritage**

### ***Scheduled Ancient Monument***

10.30 The fact that the Roman town is a SM means that the designated heritage asset is of national importance. As a matter of national policy great weight should be given to its conservation and the Framework places scheduled monuments within a group of designated heritage assets of the highest significance. Referring to the development plan, Local Plan Policy NC3 requires the development to ensure the SM is protected, acknowledged and enhanced. Policy EN10 requires the historic environment to be sustained and enhanced. [4.4, 4.12, 6.4]

10.31 The A419 cuts through the SM and to the west housing extends up to the scheduled area. To the north and east is farmed countryside. The appeal sites form part of the modern landscape surrounding the SM. For the purposes of these proposals attention has focused on the areas of the SM that lie to the east of Wanborough Road within and adjacent to the Masterplan site. Development on plots 10 and 14 is capable of affecting the contribution of the asset's setting to its significance or the appreciation of its significance and therefore this part of the proposed development site is within the setting of the SM. [2.5]

10.32 The studies carried out to date show that the significance of the SM is derived primarily from its buried archaeological remains. However, experience of a heritage asset has a broad meaning that is capable of extending beyond the purely visual. The Good Practice Guide advises that while the form of survival of an asset may influence the degree to which its setting contributes to its significance and the weight placed on it, it does not necessarily follow that the

contribution is nullified if the asset is obscured or not readily visible. Planning Practice Guidance confirms that assessment of the impact on setting needs to take into account the degree to which proposed changes enhance or detract from the significance of the asset and the ability to appreciate it. The way in which we experience an asset in its setting is influenced by environmental factors such as noise and other land uses in the vicinity and the understanding of the historic relationship between places. These considerations are important in respect of the SM and are reflected in the evidence of Historic England. [4.19, 6.4, 7.15, 7.16]

10.33 In the main the physical surroundings now appear as a series of small hedged 19<sup>th</sup> century enclosures, laid to grass or within the pick your own area. Dorcan Stream and Wanborough Road form boundaries to the scheduled area. Traffic noise and glimpses of modern housing are reminders of the proximity to the urban area. An uninformed observer would not know that the archaeological remains of a Roman town exist below the ground surface. To that extent the open land within the field enclosures makes no contribution to the significance of the SM. [7.16]

10.34 Expert opinion differs on the contribution of historic street or boundary patterns, the surrounding topography and continuity in land use. The appellant considered absence of any above ground elements of the Roman town prevents any possible relationship with landscape features. The expert evidence on behalf of the appellant presented at the inquiry supported the view that the historical alignments of the Dorcan Stream and the River Cole were different to the current alignment and that very recent investigations provided no archaeological evidence of a Roman Road adjacent to the site. Marshland characterised the surroundings. However, I consider very relevant earlier archaeological investigations that indicated a concentration of buildings fronting Ermin Street, which is shown to be in a similar position to modern day Wanborough Road. Historic England's comments are consistent with that description. [6.4, 6.5, 7.19]

10.35 The probability is that the site of the Roman town was influenced by the nearby watercourses, including Dorcan Stream and also by the historic route of Ermin Street, now reflected in the alignment of Wanborough Road. These features assist in the understanding of the SM and why the buried remains are present.

10.36 The lands to the east of Wanborough Road have retained a rural landscape, development largely confined to farmsteads and scattered dwellings. The lack of development is a marked contrast to the built up area to the west of the SM. The Roman town would have been established in a rural location, whether it was a farmed landscape or marshland. The open aspect and limited activity assists in the experience of the asset and the ability to appreciate the SM. [6.5, 7.16]

10.37 Therefore there are attributes of the setting that contribute to the significance of the asset, both in terms of the physical surroundings and experience. The contribution is small but it cannot be discounted. I prefer the Council's case on this point rather than the analysis for the appellant. On this and the following conclusions, I have taken full account of the appellant's submissions about the absence of a specialist witness at the inquiry for the Council. [7.13]

- 10.38 The proposed development would not involve encroachment into the designated area through operational development and would have no direct physical impact of the SM. Nevertheless, housing within plots 10 and 14 would replace the 19<sup>th</sup> century fields. In view of the outline nature of the proposals, an assessment of their effect on the SM's setting is directed primarily to location and siting, land use and permanence. In short, a fundamental difference in the expert evidence that needs to be explored is Historic England's wish to keep at least some of the rural setting. [7.14, 7.17]
- 10.39 To achieve development of the Masterplan site inevitably would involve the permanent loss of much of the remaining rural setting to the SM. Residential and associated development is in accordance with Local Plan Policies SD2 and NC3. The approach supported by Historic England is to minimise harm to the significance by allowing some elements of the rural setting to be retained. More particularly, Historic England considers green space on plots 10 and 14 close to the SM would enable glimpses of open fields when approaching from the south and in respect of plot 14 to conserve the link between the SM and Dorcan Stream and its crossing. [6.5]
- 10.40 I do not find this argument convincing, bearing in mind the proposals for improved access, bus route and the SCR and the existing frontage development. Views would not be of open fields and a rural setting but a 'gateway' into the scheme. Significantly, the Council did not strongly argue for removal of development from plot 10. Residential development of this land, plus part of plot 14, is indicated on the Masterplan in the SPD. The physical relationship between the SM and Wanborough Road and Dorcan Stream would remain unaltered. Green space would remain in the vicinity of the western and north western boundary of the site and through to the valley of the River Cole. [6.5, 6.9, 7.18]
- 10.41 It does not necessarily follow, though, that all the land in the paddocks should be lost to housing. Having found that it is possible to experience the SM from within the paddocks, a very relevant matter is the proximity of residential development to the SM. The proposals allow for buffer zones to the north of the SM but the primary reason for doing so is to protect the buried archaeology. No such buffer is allowed along the Dorcan Stream boundary to the SM because no archaeological deposits exist in this location. The illustrative masterplan indicates that the dwellings would be set back behind a hedgerow. The buffer zones would soften the transition between the housing and the SM to a limited extent but would not be adequate to acknowledge and enhance the SM. My concern is that the proximity of residential development to the SM would have an undue urbanising effect on the SM and therefore adversely affect the experience of the asset. This impact would be harmful in respect of development on plot 14 and to a lesser extent on the southernmost area of plot 10. Consequently the development would have an adverse effect on the significance of the SM by reason of harming the contribution to that significance made by the setting. [3.8, 6.5]
- 10.42 A proposed heritage management plan, if secured and implemented, is intended not only to provide for improvements to the management of the monument within the Masterplan site but also better public awareness and appreciation of the asset. This prospect adds support to ensuring the SM is able to be properly experienced from its setting. [3.13, 7.17]

- 10.43 The identified harm to the SM has considerable importance and weight. In the terms of the Framework, the proposal would lead to less than substantial harm to the significance of the SM and, as required by paragraph 134, this harm should be weighed against the public benefits of the proposal. [6.6]
- 10.44 Undoubtedly the development of the Masterplan site would result in new housing, including affordable homes, in an area where there is considerably less than a 5 year housing supply. Economic benefits and employment would be generated through the construction period, from the development of business, service and community uses and as a result of the increase in population. There is the probability that biodiversity gains would be secured. As explained later in the Report, a heritage management plan to preserve and enhance the SM is not certain to be secured. Community infrastructure, open space and sports facilities and transport improvements would to a large extent be necessary as part of the place-making associated with the development and there would be benefits to the wider community. However, the Council's case is strong in that the vast majority of public benefits could be realised without harm to the SM, given the very small number of housing units affected and the potential for relocating them elsewhere within the wider site. There is nothing to suggest that a heritage management plan requires development on plots 10 and 14 for viability or other reasons. [6.7, 7.20, 7.21]
- 10.45 My conclusion is that the less than substantial harm to the significance of the SM is not outweighed by the public benefits of the proposal, whether the original or the amended scheme is considered. There is a failure to comply with criterion b of Policy EN10. The Masterplan proposals would not sustain and enhance the SM, a nationally important element of Swindon's historic environment and hence there is non-compliance with criterion (a) of Policy EN10 and criterion (c) of Policy NC3.
- 10.46 In terms of the development of the Phase 1 site the public benefits would be on a much smaller scale. The ability to re-site the dwellings as part of the Phase 1 scheme would be constrained by the small site area but the Masterplan site provides the opportunity to do so. My conclusion is that the less than substantial harm to the significance of the SM is not outweighed by the public benefits of the proposal whether the original or the amended scheme. Policy EN 10 criterion (b) is not met. The Phase 1 proposals conflict with criterion (a) of Policy EN10 and criterion (c) of Policy NC3 because they do not ensure that a nationally important SM would be sustained and enhanced. [6.7, 7.20, 7.21]

### ***Lotmead Farmhouse***

- 10.47 The significance of Lotmead Farmhouse, a non-designated heritage asset, is derived from its historic fabric and presence and its function as part of a dairy farm. There is no doubt that the enclosed domestic garden, the land to the immediate south bordered by the tree belt and the courtyard to the north all form part of the setting. The surroundings in which the asset is experienced also extend down to the cottages near Wanborough Road and include the farmland and the approach to the principal building along the tree lined access track. [5.22, 6.10, 7.22, 7.23]
- 10.48 The farmhouse would be retained but the functional relationship with a working dairy farm would cease, land would be lost to non-agricultural uses and in the original schemes (Masterplan and Phase 1) the approach along the track

would fundamentally change in character. Harm would be caused to the significance of the non-designated heritage asset by development within its setting. [7.23]

10.49 The scale of the harm would be much reduced by retention of adjacent grounds and the converted courtyard buildings. The land immediately to the south would be open space (and in the original scheme flood attenuation use) and the tree belt conserved. Low density housing on plot 14 would have little adverse effect on the inter-visibility of the area between the farmhouse and cottages because the principal elevation of the farmhouse faces north and the tree belt would provide additional screening. In contrast to these positive aspects, in the original schemes (Masterplan and Phase 1) the development of the tree lined avenue would be harmful to the rural approach to the farmhouse. The proposed use of the avenue as a greenway in the amended schemes suitably resolves the issue. [3.12, 3.22, 6.11, 7.23, 7.29]

10.50 In the Masterplan proposals (original and amended schemes) a suitably designed relationship between the farmhouse, the housing and local centre would be down to the detail in the reserved matters applications. At this outline stage confirming the principle of a potential marker building of up to five storeys, as shown on the building height parameter plans, should be avoided. A building of this height would be unlikely to respect the scale and implied importance that contribute strongly to the significance of Lotmead Farmhouse. It would negate the retention of the single storey converted courtyard buildings and their positive relationship with the farmhouse. [6.11, 7.24]

### *Conclusions*

10.51 The Masterplan proposals (original scheme) would not ensure that the historic environment is protected, acknowledged and enhanced. There is conflict with Policy NC3 criterion (c). The proposals would not conserve the setting and the significance of the heritage asset would be harmed without justification. There is conflict with a requirement of Policy EN10 criterion (b) and as a result, criterion (a) of Policy EN10.

10.52 The Masterplan proposals (amended scheme) also would not ensure that the historic environment is protected, acknowledged and enhanced, although the potential harm would be much less than in the original scheme. There remains a conflict with Policy NC3 criterion (c). Similarly the potential harm to the setting and the significance of the heritage asset has not been justified, leading to conflict with criteria (a) and (b) of Policy EN10.

10.53 The Phase 1 proposals in the original scheme would not conserve the setting to Lotmead Farmhouse and would adversely affect the significance of this non-designated heritage asset. The requirements of Policy NC3 criterion (c) and Policy EN10 criteria (a) and (b) are not met.

10.54 The Phase 1 proposals in the amended scheme would sufficiently conserve the setting to Lotmead Farmhouse so that the significance of the Farmhouse would not be materially harmed, all matters considered. The requirements of Policy NC3 criterion (c) and Policy EN10 criteria (a) and (b) are met.

10.55 In accordance with the Framework the indirect effect on the significance of the non-designated heritage asset has to be weighed in the balance taking account

of the scale of the harm and the significance of the asset. I attach between small and moderate weight to the harm in the Masterplan and Phase 1 appeal original schemes and a small degree of weight in respect of the Masterplan amended scheme. [6.11]

## Education

### *Proposal*

- 10.56 The school is described as “a primary school (2.2ha)” on the planning application form (repeated on the appeal form) and simply a school (2.2 ha) on the land use parameter plan. The description on the application form is set out in the ES, which when describing the local centres and assessing employment more specifically refers to a site of 2.2 ha for a 2 FE primary school. The particular description in the planning statement also is a 2 FE school on a 2.2 ha site. [3.9, 7.5]
- 10.57 The planning officer’s report made reference to a single 3 FE school (expandable to 4.29 FE) on a 4.4 ha site but assessed the proposed school site on the basis of an area of 2.2 ha. The fact that the decision notice omits the size of the site is immaterial, bearing in mind that the notice has an informative that confirms the refusal is in respect of the original application documents. [7.5]
- 10.58 Therefore the original documents do not show any ambiguity about the size of the proposed primary school site or the size of the school. A reasonable and plain reading of the documents is that the proposal is for a 2 FE school on a 2.2 ha site. I note that the September 2017 statement of common ground uses a description of 1 no. 2 FE primary school on a site of 2.2 ha and the appellant recognised the original application was submitted with a masterplan showing 1 x 2 FE at 2.2 ha.<sup>212</sup> [3.4, 3.12, 6.20, 7.6].
- 10.59 Notwithstanding discussions with the Council, no formal request was made by the appellant to amend the proposal to a 3 FE entry school on a 2.9 ha site prior to its determination. The amendment that was made in June 2017 was for two 2 FE schools on sites of 2.2 ha. Mr Holland’s proof of evidence introduced for formal consideration a 3 FE school on a 2.9 ha site. The fact that the planning merits of a 3 FE entry school on a 2.9 ha site were examined in evidence at the inquiry indicates the change is significant. [3.9, 3.12, 6.21, 7.6]
- 10.60 I conclude that a 3 FE entry school on a 2.9 ha site is outwith the original masterplan application and therefore should not be considered. However, the Secretary of State may come to a different conclusion and so I will address the matters raised.

### *Single 3 FE school on 2.9 ha site*

- 10.61 The Local Plan expects that the new primary schools in the NEV will be at the heart of each village and that each primary school will be capable of expanding to temporarily accommodate an additional form of entry to manage the projected peak in pupil numbers. The SPD Masterplan shows two primary

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<sup>212</sup> CD 3.18 paragraphs 3.2 and 3.5; ASL 4 paragraph 4.2.4

schools for the Lotmead development, in similar locations to those in the amended scheme. [4.10]

10.62 A permanent primary pupil yield from the development of 600 pupil places is the appropriate figure to base an assessment of primary school provision. The estimates in the 2017 study, which were derived from a small sample size, are not sufficiently robust to support a higher figure. In addition, the Council has justification for seeking to accommodate a peak in pupil numbers up to 50% based on local past experience in Swindon and the available evidence on the type and mix of the proposed housing. [5.4, 6.22, 7.7-7.9]

10.63 A 3 FE entry school would have sufficient capacity to accommodate the permanent yield but additional temporary provision would be necessary to address the probable peak. A temporary solution in conjunction with a 3 FE school would offer flexibility and avoid potential over-capacity. The Council's preferred site size for a 3 FE school, allowing for the peak, is generous when compared against national guidelines. However, the outline and illustrative plans for a 3 FE school on what is said to be a 2.9 ha site does not demonstrate the possibilities for temporary expansion. More particularly it is not clear how the additional buildings, associated circulation, access and parking areas and a range of outdoor spaces would ensure high quality design compatible with the character areas or how they would be provided without encroaching onto the adjacent playing pitches. [6.21, 7.7, 7.8]

10.64 On a separate matter to capacity, a single 3 FE school located centrally within the site, rather than at the heart of each village, would not be as well suited to the currently proposed phasing strategies in terms of accessibility and promoting healthy communities. [5.8, 5.9]

10.65 In conclusion, a 3 FE entry school on a 2.9 ha site is not in accordance with Local Plan Policies CM1 (criteria (a) and (e)) and NC3 (criterion (b) on educational requirements) and SPD for the NEV. The factors in support of the single school proposal are not sufficient to outweigh this conflict. This conclusion applies to the Masterplan original scheme and indirectly to the Phase 1 original scheme. Development of two 2 FE primary schools, which would be provided through the amended Masterplan scheme, is the acceptable solution and accords with Policies CM1 and NC3 in so far as they relate to primary school provision.

### **Open Space**

10.66 Open spaces and opportunities for sport, recreation and children's play form elements of a network of green infrastructure. Their value and positive contribution to health, well-being and quality of life is emphasised in the Local Plan, SPDs and the Framework.

10.67 Appendix 3 of the Local Plan does not require sports facilities and playing pitches to be in a sports hub. Nevertheless the quality standards for outdoor sports facilities references Sport England guidance, which supports sports hubs. As regards the NEV, the Planning Obligations SPD identifies a sports hub as a main land use for Lotmead Village. The GI SPD also looks to the delivery of outdoor sports facilities by means of a number of sports hubs, one of which is identified to the east of Upper Lotmead Village. There is nothing to suggest whether or not this indicative location took into account the planning application

site boundary. The GI SPD advises that locally equipped areas of play should be avoided at or on the edge of a village boundary. [6.15, 6.17, 7.26]

10.68 The open space proposals are shown on the GI parameter plans and illustrative masterplans for the original and amended Masterplan and Phase 1 schemes. The DAS provides further information on the open space hierarchy as part of the landscape framework. Additional information on play and open space strategies and accessibility form part of Mr Richards' evidence. My attention will focus on provision for children's play and sports pitches in light of the evidence examined at the inquiry, with reference also to allotment provision.

10.69 In view of their outline nature, at this stage the schemes should demonstrate and provide confidence that the quantity and quality of open space sought by the open space standards would be achievable within the proposed parameters and environmental constraints of the site. A relevant consideration is that approval is being sought for the parameter plans. [3.2, 3.19, 6.15, 7.25, 7.27]

#### *Original schemes*

10.70 The appellant maintains that the total play provision for the Masterplan scheme is 2.1 ha. The DAS provides the clearest information on potential play locations, not the GI parameter plan. The cluster of locations near the Phase 1 site would be on the edge of the development and appear to be also related to development outside the Lotmead site. There could be conflict with a route for the SCR in terms of access, safety and amenity. Elsewhere, the locations in the central green corridor and eastern parkland, close to attenuation basins, raise concerns about safety and a lack of surveillance. The two play areas shown within residential development are in close proximity. Overall, the location and distribution of play areas is not well planned and may give rise to problems of delivery to serve early phases of development. The potential locations do not meet the SPD guidance. [6.16, 7.25]

10.71 There is little to suggest that the potential sports pitch locations would be developed as sports hubs. No associated facilities are indicated. Sports provision and community open space, as shown on the GI parameter plan, potentially would conflict with measures to attenuate surface water discharge and areas of ecological enhancement. This conflict is most clearly shown in the north eastern area of the Phase 1 site. No area of land is clearly identified for allotments. [6.17, 7.26, 7.28]

10.72 The appellant's proposed planning conditions for the Masterplan site would require a phasing programme and plan, to include strategic landscaping, recreation and open space, to be approved before commencement of development. Also, a character area design code would be expected to provide full details and guidance in respect of green infrastructure, landscape, open space areas, play areas and street furniture. A planning obligation would require an open space strategy to be approved before commencement of development. The conditions and obligation offer a means of overriding the GI parameter plan and illustrative masterplan. However, it would be unreasonable to do so, taking into account the details of the wording of the terms used in the obligation. I also have concern that repeated and overlapping requirements would increase a risk of a lack of consistency and clarity over proposed provision and cause enforcement difficulties. [7.27, 9.5]

10.73 Similar considerations apply to the Phase 1 site, although relevant planning conditions would be fewer in number (no phasing programme and plan required). Open space provision also highlights that bringing forward the Phase 1 development outside the framework of an outline planning permission for the Masterplan site would reduce the ability to ensure coordinated proposals across the development sites, particularly if there was not an agreed set of GI parameters to work within. [7.27, 9.9]

10.74 My conclusion is that the Masterplan and Phase 1 proposals, as they stood when the Council determined the applications, do not demonstrate the quantity and quality of open space sought by the open space standards would be achievable within the proposed parameters and environmental constraints of the site. The GI parameter plans are not of a standard to be approved. To leave all matters to be resolved through planning condition(s) and/or a planning obligation would not be reasonable taking into account the inadequacy of the GI parameter plans. The original Masterplan and Phase 1 proposals fail to comply with Policy EN3.

*Amended schemes*

10.75 The GI parameter plan for the Masterplan site includes more information and enables a somewhat better understanding of the proposals. The amendments have addressed some of the failings of the original scheme and in so doing confirm, in my view, that the original parameters are unacceptable.

10.76 The distribution of children and teenagers' play facilities is improved in that additional provision is included within the housing areas, although the same peripheral locations are maintained in and near the Phase 1 site. The deficiency of provision within the western area of development remains. The additional information prepared for the inquiry, which identifies types of play areas, goes some way to addressing this matter. In so doing, the inclusion of a LLAP (west of the central green corridor) is inconsistent with the GI parameter plan and introduces a possible conflict with ecological features. [6.16, 7.25]

10.77 There is no stated commitment to provide a sports hub as part of the development. On the GI parameter plan sports pitch provision is shown in three locations (notated on the illustrative masterplan as playing fields with changing/parking facilities). Additional areas are notated on the GI parameter plan as potential sports pitch location. Areas of informal parkland are stated to incorporate sports pitches and semi-natural green space. Consequently there is a lack of clarity in the proposed outdoor sports facilities, which should provide for a wider range of activities than formally laid out areas for organised sports. Provision also follows a somewhat dispersed pattern, which would work against the flexibility envisaged at sports hubs and effective and cost efficient management and maintenance in the long term. Designing in potential problems in the future should be avoided. Reliance on a planning obligation requiring an open space strategy or planning conditions on phasing and a design code would not necessarily provide a solution that is sustainable when the development of a public open space strategy would be constrained by an approved GI parameter plan. [5.20, 6.17, 7.25, 7.26]

10.78 Two allotment areas are identified. The location in the south west part of the site is not entirely consistent with the stated retention of the petting farm and the pick your own facility. The allotment area in the north east part of the site

appears to be located in a high risk flood zone, which would be likely to reduce its attractiveness to residents. [6.18, 7.28]

- 10.79 In conclusion, the amended Masterplan scheme fails to sufficiently take account of the SPD guidance in respect of children and teenagers' play facilities and pitch provision. I am not satisfied that the proposal would deliver high quality open spaces and opportunities for sport, recreation and children's play in accordance with the Council's adopted standards. The proposals fail to adequately comply with Policy EN3(a).
- 10.80 The amended Phase 1 scheme reflects the amended Masterplan scheme. By reason of the much smaller scale of development no indication is given of sports facilities, a contribution being secured through a planning obligation. The larger scale GI parameter plan highlights a play area straddling the boundary of the site, which raises questions about phasing and timing of provision to serve residents. The failure to consider the route of the SCR also leaves unresolved how the indicated play areas would relate to that route. Bringing forward the Phase 1 site outside of an outline masterplan planning permission would result in the unsatisfactory possibility of the open space strategy required by the planning obligation having to be approved in advance of and in isolation of a strategy for the Masterplan site.
- 10.81 In conclusion, the amended Phase 1 scheme fails to sufficiently take account of the SPD guidance in respect of children and teenagers' play facilities. The proposals are inadequate at this outline stage to demonstrate that high quality open spaces and children's play would be secured on site in accordance with the Council's adopted standards. The proposals fail to adequately comply with Policy EN3(a). A planning obligation requires the approval of an open space strategy before commencement of development, which could overcome the deficiencies that have been highlighted. However, as with the Masterplan scheme, reliance on this obligation is not compatible with approving the GI parameter plan.

### **Trees**

- 10.82 The road leading from Wanborough Road to Lotmead Farmhouse and Lotmead Business Village is lined by trees to create a rural avenue of amenity value. [2.4]
- 10.83 The original Masterplan and Phase 1 schemes proposed the removal of protected trees on the western side of the internal road in order to widen the access route to serve the development site. The amended scheme has shown that the loss of the trees would not be necessary and in fact their retention would enhance a proposed pedestrian and cycle greenway. [3.12, 3.22, 7.29]
- 10.84 The appellant has proposed that in the original schemes the matter is able to be resolved through the use of a planning condition requiring an alternative alignment of the internal access road. However, the widening and use of the existing road is reflected in the GI, land use and movement parameter plans and the illustrative masterplans. It is an important element of the proposals. To approve the parameter plans and to require broad compliance with the illustrative masterplans would be inconsistent and fail the test of reasonableness. The wording of the proposed condition for the Masterplan and

the Phase 1 original schemes (which refers only to the illustrative masterplan and not the parameter plans) confirms this conclusion<sup>213</sup>. [5.19, 5.39, 7.30]

10.85 Therefore the Masterplan and Phase 1 schemes, as determined by the Council are not in accordance with a requirement of Policy EN1 criterion (a). The amended Masterplan and Phase 1 schemes comply with Policy EN1(a).

## **Transport and Accessibility**

### ***Southern Connector Road***

10.86 The provision of the SCR is a requirement of Policy NC3 in order to offer a second access from the NEV to the A419 as a means of dispersing traffic from the development. The Masterplan in the SPD shows the northern part of the route running through the Lotmead Farm sites. The SCR was identified by Parish Councils as being essential to safeguard local villages from excessive traffic and rat running. Therefore securing appropriate provision for the SCR in the current proposals is important to achieving the safe and efficient movement of people and goods and a high quality public realm in accordance with Policies TR1 and DE1. [6.12, 7.10, 8.21, 8.22, 8.23, 8.32, 8.33, 8.34]

10.87 The submitted plans do not identify a route for the SCR. The single primary street runs through the site as a link between the indicative access corridors to the A420. The route southwest through to Wanborough Road and the link to adjacent development land to the south east are clearly shown as secondary routes in the movement hierarchy. The appellant accepted that this was a mistake and submitted that little turned on it. I disagree. The description as a secondary route occurs not just on the plans but throughout consideration of the guiding principles, structuring elements, movement framework and neighbourhood design principles in the DAS. [6.13, 7.10]

10.88 The DAS shows that the movement framework is informed and integrated with the layout, disposition of land uses and green infrastructure. The Council highlighted specific design features that are shown on the plans that would be incompatible with the function of a primary route. They could be addressed but the currently stated design principles and their translation into the scheme parameters are strongly and correctly influenced by the function and standard of the proposed highway infrastructure, which omits the SCR. For example, the character of Phase 1 focuses on the use of the link to Wanborough Road as a Rural Avenue forming the approach to the village green and centre. The parameter plans and illustrative masterplan in all probability would impose major constraints to achieving the optimum design solution that incorporates the SCR as a primary route. [3.7, 3.23, 6.14, 7.11]

10.89 The submitted proposals are unacceptable, not least because the SCR, which is a vital piece of infrastructure, is not identified in any way. The appellant's solution is to rely on a planning condition that would require the approval of plans detailing the alignment and design of the SCR through the site before the submission of the first reserved matters application. I consider that this approach would not be reasonable alongside approval of the submitted parameter plans and a condition requiring all reserved matters to be in broad

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<sup>213</sup> PL2 condition 5, PL4 condition 5

accordance with the illustrative masterplan. The Council's suggested condition in effect requires the submission and approval of a revised set of parameter plans and illustrative masterplan. Given the purpose of these plans as an integral part of the application and a base for the EIA, the condition would not be consistent with an outline planning permission and would fail the test of reasonableness. [6.14, 7.12, 9.44, 9.48]

10.90 I conclude that, by reason of the SCR alone, the proposals would not achieve good connectivity within the development and to the surrounding area and not provide highway infrastructure in accordance with an acceptable strategy. The original and the amended Masterplan and Phase 1 proposals conflict with Policies TR1(a), DE1 and NC3(b).

### ***Other highway infrastructure***

10.91 Parish Councils and interested parties were concerned about the development of Lotmead Farm in advance of highway infrastructure, including connections between the site and the A420. A planning condition is proposed for the Masterplan schemes that would require approval of a phasing programme and plan that would include details of a phased access strategy, the timing of provision and opening of access points into the site and junction capacity assessments. In addition Highways England agreed to planning conditions which would limit the number of dwellings that could be occupied in advance of improvements to the White Hart junction and, to the south, junction 15 to the M4. In view of the information now available I consider the use of planning conditions would be an acceptable way forward as a means of bringing forward the Masterplan lands as part of the NEV development. [4.4, 5.42-5.47, 7.40, 7.41, 8.3, 8.4, 8.6, 8.12, 8.21-8.25, 8.30]

10.92 The phasing programme also would include details of alterations to public transport routes to accommodate the defined phases of development. The Council, in oral evidence, was confident that suitable provision would be delivered. [5.37, 7.40]

10.93 The additional and amended information included off-site highway improvements and traffic calming measures along Wanborough Road. These proposals demonstrate that the standard of the route between the Phase 1 site and Covingham could be improved to offer a safer and better quality route for pedestrians and cyclists. In my view the distance between the housing and local facilities is quite a walk, especially from the heart of the site. The observations of Covingham Parish Council are pertinent on this matter. The reliance on the route for more than a minimum temporary period to get to Covingham primary school would not encourage pedestrian accessibility but rather would increase use of the private car. [3.14, 5.10, 5.13, 7.40, 8.7]

10.94 Wanborough and nearby villages are likely to experience an increase in traffic as a result of development. The historic urban form places physical constraints on vehicle movement and footways are not uniform. Traffic calming is acknowledged to be necessary by the Council and the appellant, in conjunction with development at Redlands. A planning obligation would secure contributions to a scheme in instalments, although a detailed scheme has not been produced. In the short/medium term the probability is that there would be an adverse effect on nearby villages until the completion of the strategic infrastructure. [5.14, 8.1, 8.32-8.34, 9.5, 9.9]

## **The Canal**

- 10.95 The Local Plan supports the long term ambition of linking the Wilts and Berks Canal to the River Thames by safeguarding a route between Commonhead and Acorn Bridge. The Local Plan acknowledges that the indicative route shown on the NEV indicative Masterplan would be subject to further definition as a result of work undertaken in partnership with stakeholders. [4.4, 4.12, 7.31, 8.14]
- 10.96 The proposed alignment of the canal in the original Masterplan scheme reflected the alignment indicated in the Local Plan. The Lotmead alignment was not supported by any detailed explanation and the FRA did not address how the surface water drainage proposals took account of the canal alignment. In particular the proposed restoration scheme for the Liden Brook was silent on the matter. [8.17]
- 10.97 The original Lotmead alignment was updated following agreement by all parties that the canal should be realigned away from the developable areas. The FRA Addendum recognised that the canal alignment should be set away from the flood restoration area to reduce the extent of the floodplain displacement from delivery of the canal. The entry point into the site would be similar but the exit point would be further to the south. [3.12, 8.18]
- 10.98 The appellant's position evolved through the submission of a technical note and evidence prepared for the inquiry. The evidence demonstrates that the original proposal would result in less area and volume being lost in comparison to the Canal Trust alignment. No significant implications were found in respect of navigation or viability. No evidence has been produced to the contrary by either the Council or the WBCT. [7.33-7.35]
- 10.99 In conclusion, the original proposal complies with Policies NC3 and EN11 in so far as it safeguards the canal alignment shown indicatively on the Policies Map. This alignment has been superseded by further studies, with the up to date alignment being incorporated into the SPD Masterplans. To this extent the original Lotmead alignment may adversely affect the coordination and hence delivery of the project, notwithstanding the new information has demonstrated acceptability from the points of view of flood risk, navigation and viability. [5.17, 5.18, 7.36]
- 10.100 In the amended scheme the revised Lotmead alignment is similar to the alignment promoted by the WBCT shown on the SPD Masterplans. The difference is that the appeal proposal runs approximately 30 m to the north to avoid the floodplain. The WBCT has no fundamental objection and matters raised are such that they could be resolved through detailed design. The revised Lotmead alignment complies with Policies NC3 and EN11 and the relevant SPDs for the NEV. [7.36, 8.18]
- 10.101 The amended scheme has demonstrated the ability to secure acceptable proposals for the management of surface water. Neither the Lead Local Flood Authority nor the Environment Agency has required the strategy to utilise the proposed canal as an integral element of the scheme. There is merit in the appellant's proposal to manage surface water as close as possible to the source. Not least it would avoid the potential complexity of a strategic drainage solution across the NEV as advocated by the WBCT. Implementation is achievable, with no reliance on third party land. The use of SuDS for the proposed major

development is promoted by the NEV SPD in accordance with Policy EN6 and is consistent with the Framework. There would be the opportunity to improve biodiversity. Future maintenance and management would be essential to ensure effectiveness but appropriate mechanisms would be required and enforced through a planning condition. The representations of the WBCT are not a factor that weighs significantly against the proposals. [7.32, 7.37, 7.38, 8.9, 8.16, 8.18]

## **Infrastructure and Mitigation**

### ***Planning obligations and highways agreements***

- 10.102 The infrastructure funding mechanism for the NEV is primarily through a section 106 planning obligation funding route, rather than by means of a CIL tariff based approach. The suitability of this approach was considered in detail in the examination of the draft Swindon CIL Charging Schedule and was endorsed by the Inspector. That being so, the approach followed in the appeal schemes is acceptable. The Council now has in place a Planning Obligations SPD for the NEV to support Local Plan Policies IN1, SD3 and NC3. In view of the scale of the allocation, critical infrastructure will be required to mitigate the impact of development but also to support the new community and enable land to be brought forward for development. A holistic approach is required to the securing and provision of necessary shared infrastructure. [4.4, 4.9, 4.14, 9.2]
- 10.103 In accordance with Regulation 122(2) a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The proposal is chargeable development and therefore it is necessary to conclude against the Regulation 122(2) tests. In addition, as a matter of policy the Framework states that planning obligations should only be sought where they meet the same 3 tests. [9.4]
- 10.104 I agree with the main parties that the same approach and tests should be applied to deciding on the relevance of a section 278 agreement. [9.4]
- 10.105 Planning Practice Guidance expects applicants should submit evidence on scheme viability where obligations are under consideration. This approach has not been followed in this case, therefore limiting the scope of the assessment. The indication is that viability was able to be taken into account for the scheme on land north of the A420. That being so, comparisons with the contributions being sought in association with that scheme are of little assistance in deciding whether the contributions sought for the appeal schemes are CIL compliant. [1.6, 6.23, 7.39]
- 10.106 The question arises as to whether the agreements apply to the original and to the amended Masterplan and Phase 1 schemes given that the documents were progressed and finalised post June 2017. In my view the construction of the documents is such that the relevant documents could apply to either the original or the amended schemes. Of particular note in this respect are the definitions of Development, Planning Application and Planning Permission in the Deeds. I will proceed on the basis that the Deeds apply to the original and the amended schemes for the purposes of considering the sustainability of the development and in my overall conclusions.

*Masterplan site section 106 agreement planning obligations*

10.107 Having considered the relevant Local Plan policies, the SPD guidance and the detailed information in the CIL Compliance statement I consider that the planning obligations listed below are CIL compliant. [5.7, 9.5]

- Education: early years provision within each local centre; the arrangements for land transfer and contributions for the delivery of two no. 2 FE primary schools; and the arrangements for securing contributions towards secondary education.
- Affordable housing;
- Bus service strategy contribution;
- Park and ride contributions;
- Wanborough Traffic Calming, Travel Plan and Traffic Regulation Order contributions;
- Public roads and public access areas in order to ensure their construction to the required standard, adoption and availability for use;
- Bridge vision works in order to ensure the provision of the necessary highway links and access;
- Canal footbridges;
- Open space.

10.108 In terms of the Heritage Management Plan there is nothing in the wording of the obligation that sets a timescale or benchmark for its approval and implementation. Also the obligation requires the development to be carried out in accordance with the provisions of the Heritage Management Plan but this would have little effect given that no development is proposed on the designated SM. Therefore whilst the obligation is CIL compliant it has little weight. [9.5]

10.109 The public art contribution would be for the Council to use towards the provision of public art in the event that a public art strategy has not been delivered as part of the development by the occupation of the 2,000<sup>th</sup> dwelling. The intention is that a public art strategy would be approved in compliance with a planning condition. Powers exist under the 1990 Act to enable the local planning authority to enforce against non-compliance with a planning condition. The view could be taken that the obligation is not necessary and therefore not CIL compliant. In the alternative, the obligation is for the actual provision of public art and therefore is not directly comparable to the terms of the condition. On that basis I conclude the obligation is necessary.

10.110 The disputed planning obligations in Part B of Schedule 1 to the section 106 agreement are now considered in more detail. [9.6, 9.14]

Adult social care [9.15, 9.30]

10.111 The policy support is derived in general from Policies IN1 and CM3 of the Local Plan, although such a facility is not specifically included in Policy NC3. The Planning Obligations SPD identifies this type of health facility as being essential

to address increased demand from the NEV and to enable people to live independently and stay within their communities longer. A contribution to this shared infrastructure need is included in the Lotmead Village Proforma. Therefore the requirement is backed up by development plan and SPD guidance.

10.112 There is information to support a need for a 50 bed day care centre and the Council is a provider of care. The Lotmead development is directed at a mix of Class 3 dwellings and makes no provision for residential accommodation and care (Class C2). Therefore an important sector of the community would not be catered for unless alternative provision is made.

10.113 The sum required is proportionate to the numbers of dwellings proposed and reasonable allowance is made for payment in instalments. However, there is no evidence as to how the total project cost was established. No details are available of a site location or likely timescale. The planning obligation in the section 106 agreement states provision will be within the NEV allocation, although the Planning Obligations SPD indicates an off-site location.

10.114 Balancing the various considerations, there is insufficient evidence to conclude that the contribution is reasonably related in scale to the development and hence that it is CIL compliant.

Healthcare facility [3.3, 9.16, 9.31]

10.115 Policy NC3 has identified a requirement for a health care facility with GP, dentist and pharmacy at the district centre, adding specificity to Policy CM3. The Planning Obligations SPD identifies a health facility as being essential to serve the new community at the NEV, based on evidence from the Clinical Commissioning Group (CCG) and NHS England. A contribution to this shared community infrastructure need is included in the Lotmead Village Proforma. For these reasons there is full support from development plan and SPD guidance.

10.116 The ES Addendum expected the proposal to generate about 6,162 residents, creating a need for a new GP practice as part of the NEV allocation. The significance is said to be slight adverse and the impact is described as adverse, permanent, direct, long term and local. On-site provision on the NEV would overcome the impact. Linked to the Planning Obligations SPD information good justification exists for a health care facility on the NEV. It would be necessary and directly related to the development at Lotmead Farm.

10.117 There is no evidence submitted to demonstrate how a total cost of £7,789,000 is derived. Apart from a location at the district centre there are no details of how the facility would be delivered. Conflicting views on sources of funding have been expressed by the Council and the appellant. Therefore I rely on the Planning Obligations SPD, which identifies the CCG for funding arrangements.

10.118 It is not possible to conclude that the contribution is fair and reasonable and consequently the contribution is not CIL compliant.

Community forest [9.17, 9.32]

10.119 The Framework recognises that community forests offer valuable opportunities for improving the environment around towns, by upgrading the

landscape and providing for recreation and wildlife. Swindon is one of a small number of places with a Forest Plan area. Local Plan Policy EN2 sets out how development will contribute towards the aims and objectives of the GWCF. The Planning Obligations SPD identifies a requirement to provide an extensive green infrastructure network as part of the NEV, with the Lotmead Proformas seeking on-site planting schemes and contributions to off-site NEV related planting schemes. A strong policy justification exists for the obligation.

10.120 The GI parameter plan (amended) indicates areas of woodland planting but in total the area would fall short of the objective in the Forest Plan. In all probability off-site planting would be required, which also would contribute to the mitigation identified in the ES. The contribution sought is supported by an evidence base specific to the NEV and allowance is made for woodland planting on site.

10.121 These considerations demonstrate the contribution is necessary and directly related to the development and fairly and reasonably related in scale and kind to the development. The planning obligation is CIL compliant.

Archaeology: storage and display of finds [9.18, 9.33]

10.122 There is no provision in Local Plan Policy EN10 regarding a development's contribution to storage and display of archaeological finds. Policy NC3 is specific to the protection and enhancement of the SM. The Planning Obligations SPD refers to potential storage as a project. The Lotmead Proformas identify contributions towards heritage display and storage solutions as a shared strategic infrastructure need. The Masterplan in the GI SPD identifies a visitor centre in the river meadows area to the north of the appeal site, with the text indicating its use to showcase local archaeological finds and to help the community engage with the natural and historic environment. The policy and SPD justification is moderately strong.

10.123 The Council in its evidence proposes to centrally manage finds in an archaeology collections centre but the proposal is lacking in any detail and there is little information on how the cost of the facility has been obtained. That being so it is not possible to conclude that the contribution sought is fair and reasonable. There also is inconsistency with the idea of using an on-site visitor centre to facilitate learning about heritage assets and the display of art. Planning conditions would secure comprehensive identification, preservation and management of the archaeological resource associated with site development. I conclude that the planning obligation is not CIL compliant.

Visitor centre [8.27, 9.19, 9.34]

10.124 Local Plan Policies EN4 and NC3 are directed to protecting and enhancing biodiversity. SPD guidance is primarily in the GI SPD, where a visitor centre is seen as an educational opportunity providing interpretative facilities as part of its function. In the Lotmead Proformas a contribution towards a visitor centre is not included in the list on green infrastructure, leisure and heritage. Policy justification is limited and SPD guidance is pitched at an aspirational level. The Wiltshire Wildlife Trust identified a visitor centre as an important learning resource.

10.125 The intention expressed in the GI SPD is that the visitor centre will become a new leisure destination in its own right that will not only be a resource for the NEV but for wider areas of Swindon too. The cost of a visitor centre is stated to be £4,000,000 but no details are provided on the type of building proposed and how this cost has been calculated. Given these factors it is not possible to conclude that the contribution sought is fair and reasonable or that a visitor centre is necessary and directly related to the Lotmead development. All matters considered the contribution is not CIL compliant.

Library facility [9.20, 9.35]

10.126 Policy NC3 looks for the provision of flexible multi-purpose buildings for use by the community by means of safeguarded land and/or developer contributions, which is consistent with Policy CM3. Policy CM4 supports enhancement of community facilities. The Planning Obligations SPD indicates that library services at the NEV will be by a mobile library and related services – there is no reference to evidence on the cost source. The Lotmead Proformas include contributions to the provision of library services as an element of community facilities.

10.127 The Council's evidence to the inquiry considers that there is a specific policy requirement for a library at the NEV and anticipates delivery of a permanent facility at the district centre. It is unclear what the identified total cost is for – whether for building construction, fitting out or other costs (stock and so on). There is no analysis of how the on-site library would complement existing library services. In view of the inconsistency and a lack of clarity over the type of facility it is not possible to conclude that the contribution sought is fair and reasonable or necessary. That being so, the contribution is not CIL compliant.

Swimming pool [9.21, 9.36]

10.128 Policy CM2 encourages active and healthy lifestyles and Policy NC3 identifies a 25 m swimming pool among the sports and leisure facilities to be provided at the NEV. The Planning Obligations SPD envisages that a swimming pool would be included within a leisure centre, be locally and strategically shared and funded commercially. The Lotmead Proformas identify a need for contributions towards such a sports and leisure facility. There is a good policy basis for swimming pool provision at the NEV.

10.129 At a more detailed level, the contribution sought is proportionate to the number of dwellings on site, whereas the facility is acknowledged to be for a wider area than the NEV. Therefore even if the total calculated cost is reasonable the amount sought is not fairly related to the development to be permitted. As such it is not CIL compliant.

Waste: kerbside collection [9.22, 9.37]

10.130 Waste Core Strategy Policy WCS6 is the overarching policy consideration. More particularly the Planning Obligations SPD, including the Lotmead Proformas, refers to design solutions for the appropriate storage of domestic wheelie bins and recycling bins.

10.131 The Council has explained that the contribution sought is for the initial setting up of a kerbside waste recycling service, which does not exactly

correspond to the SPD description. No evidence is provided on how the total capital cost has been estimated. Therefore there is a lack of clarity over the contribution sought. On the evidence available the contribution is not CIL compliant.

*Masterplan site unilateral undertaking*

10.132 The undertaking would not apply in the event the Secretary of State grants planning permission for the amended Masterplan proposals with two 2 FE primary schools.

10.133 In the alternative, the planning obligations in the undertaking meet the Regulation 122(2) criteria and may be taken into account in considering education provision to serve the Masterplan development. However, the primary school proposed through the obligation is a 3 FE school on a 2.9 ha site. I have concluded that this size of school and site are outwith the original Masterplan application. Therefore for the planning obligations to be relevant is reliant on the Secretary of State accepting the appellant's case on the matter. [6.21, 7.5, 7.6, 9.7]

*Masterplan site section 278 highways agreement*

10.134 It is common ground that improvement work to the A419 White Hart junction is necessary to ensure the development does not have a severe residual impact on the SRN. The construction of the SCR is necessary in order to disperse traffic from the development. Junction improvements on the A420 and improvements to junctions on the local road network to the west of A419 are necessary to increase capacity and contribute to highway safety. The Great Stall Bridge Works will improve connectivity, capacity and offer a transport link to the wider highway network for all highway users. The express bus network has been identified by the Planning Obligations SPD as being crucial to achieving modal shift at the NEV. The highway works are supported by Local Plan policies TR1, TR2 and NC3, with more detailed support through the Planning Obligations SPD. [5.12, 9.8]

10.135 The works are directly related to the Masterplan site because the infrastructure would serve the residential and other uses proposed as part of the development. The scale of the contributions is derived from a standard formula that takes account of the numbers of dwellings proposed on the site.

10.136 In conclusion, the contributions meet the appropriate tests. The provisions within the agreement are able to be taken into account in the assessment of the scheme.

*Conclusion on Masterplan schemes*

10.137 Certain planning obligations have been found not to be CIL compliant and are unable to be a reason for granting planning permission for the development. Bearing in mind the reasons for these findings, the inability to consider the facilities and infrastructure in question should not count against the schemes. The schemes comply with Policy IN1.

10.138 The proposals, by means of the legal agreements, make suitable provision towards (i) mitigating any resultant adverse impact on the environment and on the social and physical infrastructure of the surrounding

area, and (ii) ensuring the necessary social and recreational infrastructure and services for the new community.

*Phase 1 section 106 agreement planning obligations*

10.139 I consider that the planning obligations listed below are CIL compliant, having taken account of the relevant Local Plan policies, the SPD guidance, the detailed information in the CIL Compliance statement and the reasoning on the Masterplan site obligations. [5.33, 9.9]

- Education: the arrangements for land transfer and contribution for the delivery of a 2 FE primary school;
- Allotments contribution because no land is proposed within the Phase 1 site for this use;
- Outdoor sports contribution towards the provision of a mix of winter and summer sports facilities at Lotmead or Lower Lotmead;
- Community forest planting;
- Travel plan contribution;
- Wanborough Road traffic calming contribution;
- Bus service strategy contribution;
- Affordable housing;
- Open space strategy;
- Public roads and public access areas in order to ensure their construction to the required standard, adoption and availability for use.
- Public art contribution.

10.140 The wording of the obligation in respect of the Heritage Management Plan suffers from the same defects as noted in relation to the Masterplan obligation. In addition, no part of the heritage asset is within the Phase 1 site and therefore the definition in the Deed as to what constitutes the Heritage Management Plan is inaccurate. In view of these concerns, I consider that the obligation on the Heritage Management Plan has no effect and therefore is not able to be taken into account.

10.141 The obligations in relation to the following matters are not CIL compliant: adult social care, a healthcare facility, archaeology (storage and display of archaeological finds), a leisure facility (a four lane swimming pool), a library facility, a nature park visitor centre and waste kerbside collection provision. This conclusion is for similar reasons as set out in relation to the Masterplan site. [9.10, 9.24, 9.25]

Bridge vision works [9.26, 9.38]

10.142 Local Plan Policies TR1, TR2 and NC3 provide the policy basis for securing infrastructure to encourage sustainable means of travel. Within the NEV allocation the development of a series of interconnected villages on higher ground within the floodplain has led to a vision for achieving connectivity

between the development islands. The Planning Obligations SPD confirms the essential nature of the infrastructure. The Lotmead Proformas include contributions toward the highway links between development islands within the strategic infrastructure needs. Detailed guidance is provided in the Island Bridge Vision SPD, which identifies indicative link locations for a hierarchy of routes. Therefore the need for bridge links is firmly established and this infrastructure would assist all residents of the NEV development. Against this background, the particular wording of the obligation is a key consideration.

- 10.143 The Phase 1 planning obligation requires no more than 190 dwellings (or 90% if less than 200 dwellings are approved) to be occupied until either the owner has carried out the Bridge Vision Works or has paid the Bridge Vision Works contribution to the Council. I consider that this is unreasonable and not directly related to the development to be permitted because it appears no bridge links are within the Phase 1 site. Furthermore, the Masterplan section 106 has a similar obligation, tied to the occupation of the 200<sup>th</sup> dwelling. There is no allowance for any reduction of the contribution if an amount is paid in association with Phase 1. In conclusion, the Phase 1 obligation is not CIL compliant.

Park and ride [9.27, 9.38]

- 10.144 Consistent with the objectives of Local Plan Policies TR1 and TR2 and the Swindon Transport Strategy, Policy NC3 requires the NEV development to provide a park and ride site to help reduce the volume of traffic entering Swindon. The Planning Obligations SPD describes this facility as being crucial to achieve modal shift at the NEV. The Lotmead Proformas include contributions towards a park and ride site within the strategic infrastructure needs as a sustainable transport solution. The policy basis provides strong support for this infrastructure.

- 10.145 The purposes of the park and ride are not only to mitigate the transport impact of development on the highway network but are firmly based on encouraging greater use of sustainable means of transport which have wider environmental aims. A planning permission for Phase 1 would be independent from an outline permission for the larger site. A contribution is not necessarily tied to a trigger of 750 dwellings, as provided for in the Masterplan Deed.

- 10.146 The Phase 1 obligation only requires payment of the park and ride land contribution provided that land has been identified and arrangements are in place for its purchase. Payment of the park and ride contribution is subject to the land having been purchased and the letting of a contract to carry out the works. These provisos ensure the obligation is directly related to the development and distinguish it from certain other obligations found not to be CIL compliant. The amounts required are proportionate to the number of homes on the Phase 1 site. The park and ride obligation is CIL compliant.

Community facility [9.9]

- 10.147 Policy NC3 identifies a requirement for community facilities by means of safeguarded land and/or developer contributions. The Planning Obligations SPD identifies a community hub at Lotmead (capital cost £561,000). The Masterplan site proposals include two local centres and provision for community uses. No

community facility contribution is required through the section 106 agreement for the Masterplan site.

- 10.148 The contribution required through the Phase 1 section 106 agreement is a proportion of the sum of £561,000. The sum is to be used by the Council towards the provision of a community facility at Lotmead Village local centre. However, the justification is weak as to why this contribution is sought and how it relates to the funding and delivery of local centre/community use proposals in the Masterplan development. The appellant did not sustain concerns about this contribution but there is not the evidence to show that it is necessary or reasonable. On that basis it is not CIL compliant.

*Phase 1 section 278 agreement*

- 10.149 The scale of the Phase 1 development at a maximum of 200 dwellings is substantially less than the scale of development proposed in the Masterplan scheme. The Phase 1 section 278 agreement requires payment of contributions prior to the occupation of the 190<sup>th</sup> dwelling, whereas the Masterplan site agreement requires payments in instalments commencing with the 500<sup>th</sup> dwelling. In view of the different trigger points, the essential point at issue is whether the contributions are justified for the smaller number of dwellings. [5.35, 9.12, 9.13]
- 10.150 The Phase 1 scheme is being pursued through a separate planning application, albeit currently the development is expected eventually to form part of the Masterplan site. There is no mechanism to link the implementation of a permission for Phase 1 that may be granted through the appeal with the wider area and to ensure development follows on the Masterplan site in a timely way through an outline permission granted as result of the appeal (if a permission is in fact forthcoming). Consequently there is good justification for seeking contributions for infrastructure that would serve the Phase 1 development. [9.28]
- 10.151 The Great Stall Bridge is a new link across the A419 which would facilitate public transport, walking and cycling. The express bus network is to provide a sustainable transport link. They are not purely capacity related. In view of the wider purposes of the proposed infrastructure, the works are necessary and directly related to the development. A proportionate contribution linked to the numbers of dwellings is fair and reasonable.
- 10.152 The improvement works to the A420, the White Hart junction, junction improvements west of A419 and the SCR works are all capacity related. They also would have environmental benefits for existing communities, such as easing rat running and relieving pressure on local roads. Improvements to footways, cycleways and crossing facilities also would be delivered. It is common ground that some junction improvements are necessary for Phase 1, although they would become redundant as later phases of the NEV are delivered. These considerations, linked to bringing forward Phase 1 through a separate outline application, justify payment of proportionate contributions, as are secured through the section 278 agreement. [9.29, 9.39]
- 10.153 Therefore the contributions that would be secured through Schedule 2 of the section 278 agreement meet the appropriate tests. The provisions within

the agreement are able to be taken into account in the assessment of the scheme.

*Phase 1 unilateral undertaking*

- 10.154 This Deed would apply in the event the Secretary of State considers the planning merits of a 3 FE primary school and grants planning permission for the Masterplan scheme as determined by the Council. The planning obligations meet the Regulation 122(2) criteria and hence may be taken into account in considering education provision to serve the Phase 1 development. [9.11]

*Conclusions: Phase 1 schemes*

- 10.155 Certain planning obligations have been found not to be CIL compliant and are unable to be a reason for granting planning permission for the development. Bearing in mind the reasons for these findings, the inability to consider the facilities and infrastructure in question should not count against the schemes. The schemes comply with Policy IN1.
- 10.156 The proposals by means of the legal agreements make suitable provision towards (i) mitigating any resultant adverse impact on the environment and on the social and physical infrastructure of the surrounding area, and (ii) ensuring the necessary social and recreational infrastructure and services for the new community.

**Infrastructure and mitigation**

***Other matters***

- 10.157 Part of the Masterplan site has a high probability of river flooding and evidence was produced by the Wanborough Anti Flood Group, Covingham Parish Council and the WBCT of flooding incidents in the area. The Environment Agency raised no objections to the proposed surface water management strategy and the concerns of the Lead Local Flood Authority were resolved through amendments. On the information now available, planning conditions are the appropriate way of securing an acceptable strategy, a detailed scheme for each development phase and confirmation of management and maintenance responsibilities in order to ensure compliance with Policy EN6. [2.6, 2.7, 3.16, 5.29, 7.32, 8.9, 8.18, 8.20]
- 10.158 Further information has clarified the position regarding foul water drainage. A new terminal sewage pumping station within the NEV allocation is proposed to provide a permanent solution to the current capacity constraint. Planning conditions have been agreed to ensure development would be served by adequate infrastructure and comply with Policy IN2. [5.28]
- 10.159 In terms of biodiversity and species protection, the ES Addendum has been informed by the amendments to the GI parameter plan, includes consideration of updated survey information and has specific proposals for the creation of priority habitat on the Masterplan and Phase 1 sites. An outline of achieving net biodiversity gain is provided in a draft FLEAMP. The quality of the assessment has improved compared to the original submission. A position has now been reached where necessary surveys on the northern A420 access routes, appropriate mitigation and enhancement is able to be achieved through compliance with planning conditions. [5.23, 8.27]

10.160 Referring to the ES Addendum, air quality for future residents of the development has been predicted to meet air quality objectives and no mitigation would be required. Effects of development traffic are judged to be not significant. During the construction phases suitable mitigation, primarily to control dust emissions, would be secured through planning conditions requiring a construction environmental management plan(s) as per normal practice. [5.27]

10.161 The supplemental assessment on noise impact more particularly addresses the effect on the cottages sited at the corner of Wanborough Road, the noise from Redlands Airfield and the revised traffic studies. The conclusion remains that with mitigation secured through planning conditions the adverse effects would be contained during the construction period and operational impacts are likely to be of negligible significance. The additional information has addressed the Council's original concerns, as identified by the Environmental Health officer. I have no reason to conclude differently. However, as demonstrated on the site visit, the proposed works to the junction with Wanborough Road would take a substantial part of the garden of the corner cottage. Traffic and pedestrian/cycle movement would be in close proximity to the dwelling. Overall the residential amenity of the occupiers of the cottages would be much reduced. In the event planning permission is granted amenity should be addressed in the further detailed design of the junction and in proposals for landscaping, boundary treatment and surface materials in response to Policy DE1 criterion (c). [5.26]

### **Sustainable development**

10.162 Policy SD3 of the Local Plan responds to the requirements of paragraph 14 of the Framework and sets out what the presumption in favour of sustainable development means in the Swindon context. The appeals sites are part of the strategic NEV allocation and development of the land would be compatible with the sustainable development strategy set out in Local Plan Policy SD2. A critical consideration is whether the development proposals comply with the sustainable development principles identified by Policy SD1 and the requirements for the NEV set out in Policy NC3. [6.25, 7.42]

### ***Masterplan site: scheme determined by the Council***

10.163 The form of the development is consistent with the design concept of a series of inter-connected distinct villages established by Policy NC3. There is the ability to develop a variety of area characters, a range of urban forms and a high quality public realm. Development would be more concentrated around the local centres with lower densities towards the rural edge. The residential development would be an important contribution towards meeting Swindon's long term housing demand and need. Subject to viability, affordable homes would be delivered in accordance with Policy HA2. Although residential-led the scheme includes mixed use development that would retain employment opportunities at Lotmead Business Village and contribute to the growth of the local economy. The small scale retail and employment use, controlled by planning condition, would complement employment allocations at the NEV and protect the role of the Town Centre, thereby complying with Policies EC2 and EC3. New residents would increase spending in the local economy and during the construction phase additional economic benefits would occur, including those linked to the creation of direct and indirect employment opportunities.

- 10.164 The proposals fail to conserve the historic environment, namely the significance of the nationally important SM and the non-designated heritage asset Lotmead Farmhouse. There is conflict with Policies NC3 and EN10.
- 10.165 Primary school provision would not be in the heart of the community and would not deliver sufficient places to manage the demographic peak, contrary to Policies CM1 and NC3. By reason of inadequacies in open spaces and recreation facilities, the proposals would not promote healthy and inclusive communities, contrary to Policy EN3. The loss of trees of amenity value conflicts with a requirement of Policy EN1 in that the proposals do not sufficiently respect the natural environment.
- 10.166 The scheme falls short in providing sustainable transport links by failing to consider a route for the SCR and its inclusion on the parameter plans. There is conflict with Policies TR1, DE1 and NC3. No walking and cycling network improvements are proposed to provide good connectivity to the surrounding area, including Covingham primary school, albeit this matter has since been shown to be capable of being resolved through a planning condition.
- 10.167 The scheme is not supported by an up to date EIA and additional information. Insufficient allowance has been made for climate change in proposals for a surface water management strategy. The assessments on ecology, air quality and noise have not demonstrated the proposals would be acceptable. There is conflict with Policies NC3(c), DE1, EN4 and EN6.
- 10.168 The submitted studies did not demonstrate that the proposed surface water management strategy would safeguard the delivery of the Wilts and Berks Canal, contrary to Policy EN11.
- 10.169 Planning obligations are in place to provide or contribute towards the infrastructure necessary to support the development and the new community. To this extent Policy IN1 is met.
- 10.170 This review shows that the development of the site is in accordance with the sustainable development strategy of Policy SD2 and would secure a better balance between housing demand and supply. However, the proposals do not meet a range of principles in Policy SD1 to ensure the creation of a high quality and sustainable community. The scheme is not sustainable development and is not supported by Policy SD3.

***Masterplan site: amended scheme***

- 10.171 The scheme is supported by an up to date EIA and adequate additional information.
- 10.172 Similar conclusions to those for the original scheme apply as regards the form of the development established for the NEV in Policy NC3. The new housing would be an important contribution towards meeting Swindon's long term housing demand and need. Subject to viability, affordable homes would be delivered in accordance with Policy HA2. The mixed use development would retain employment opportunities at Lotmead Business Village and contribute to the growth of the local economy. The small scale retail and employment use would complement employment allocations at the NEV and protect the role of the Town Centre, thereby complying with Policies EC2 and EC3. Economic

benefits would be derived from the increased population and during the construction project.

- 10.173 The proposed two x 2 FE primary schools would be in the heart of the community and would deliver sufficient places to manage the demographic peak, in accordance with Policies CM1 and NC3. The realignment of the internal access road would protect trees of amenity value in response to Policy EN1. All in all there is sufficient evidence to indicate that subject to compliance with conditions the scheme would sufficiently respect the natural environment and provide biodiversity gain as required by Policy EN4.
- 10.174 Consideration of a surface water management strategy makes appropriate allowance for climate change. Provided that mitigation is put in place, the effects on air quality would be acceptable and the amenity of existing and future residents would be safeguarded from undue noise. A net gain in biodiversity may be delivered and wildlife protected. There is no evident conflict with Policies NC3(c), DE1, EN4 and EN6.
- 10.175 The amended alignment of the Wilts and Berks Canal complies with Policies NC3 and EN11.
- 10.176 Planning obligations are in place to provide or contribute towards the infrastructure necessary to support the development and the new community. To this extent Policy IN1 is met.
- 10.177 On the negative side, the proposals fail to conserve the historic environment, namely the significance of the nationally important SM and to a lesser degree the non-designated heritage asset Lotmead Farmhouse. There is conflict with Policies NC3 and EN10.
- 10.178 By reason of inadequacies in open spaces and recreation facilities, the proposals would not do enough to promote healthy and inclusive communities, contrary to Policy EN3.
- 10.179 Walking and cycling network improvements are proposed to provide good connectivity to the surrounding area, including Covingham primary school. However, the scheme falls short in providing sustainable transport links by failing to consider a route for the SCR on the parameter plans. There remains conflict with Policies TR1, DE1 and NC3.
- 10.180 In conclusion, the amended scheme has strengthened the economic, social and environmental contributions of the development. Even so the proposal does not perform sufficiently well against principles in Policy SD1 and requirements of Policy NC3. The proposals would not deliver a sustainable form of development and the scheme is not supported by Policy SD3.

### ***Phase 1 site***

- 10.181 Bringing forward the Phase 1 site by means of a discrete outline permission would allow early progression and delivery of homes, including affordable homes (subject to viability). Nevertheless, this would be at the expense of coordinated frameworks for development of the Masterplan site across a range of planning considerations including phasing, ecology, open spaces, design, management of surface water and drainage. These are all

matters that are proposed to be subject to a Grampian form of planning condition should outline permission be granted for the larger site. [3.18]

10.182 The Phase 1 section 106 agreement and unilateral undertaking obligations on education rely on a grant of outline planning permission for the Masterplan site. Also, there is a lack of clarity on primary school provision, in part due to the uncertainty over the alternative and amended proposals in the Masterplan schemes. The prolonged use of Covingham primary school would not be satisfactory from the point of view of accessibility, safety and developing a sense of community.

10.183 Interested parties, including Wanborough Parish Council, also make a very valid point that early development of the Phase 1 site would result in an isolated community divorced from local facilities and services. The probability is that the development of the local centre and facilities on the Masterplan site would have a longer timescale than if Phase 1 took place as part of a scheme permitted for the Masterplan site. [7.40, 8.2, 8.6, 8.32, 8.33, 8.34, 8.36]

10.184 I raised two additional matters with the appellant. First, the somewhat contrived site boundary along the north eastern edge, in order to meet a limitation of 200 dwellings, imposes an unnecessary constraint on the layout and achieving high quality design. Secondly, a separate outline permission for Phase 1 has implications for enforcement of conditions on a Masterplan permission. The appellant's proposed planning condition is not totally satisfactory, as explained earlier in the Report. [3.20]

10.185 All these matters weigh against the sustainability credentials of the appellant's approach to development of the Lotmead land.

*Phase 1 scheme determined by the Council*

10.186 Within this overall context, the original scheme would not conserve the natural and historic environments by reason of the identified harm to the SM and Lotmead Farmhouse and the loss of trees of amenity value. There is conflict with Policies EN10, EN1 and NC3.

10.187 The green infrastructure parameters and open space proposals fail to comply with Policy EN3 because the required quantity and quality of open space are not shown to be achievable. The lack of consideration of the SCR conflicts with Policies TR1, DE1 and NC3.

10.188 The Phase 1 section 106 and section 278 agreements provide proportionate and necessary infrastructure contributions in accordance with Policy IN1. Nevertheless securing contributions would not overcome the potential isolation of the site in advance of development on the wider NEV.

10.189 The scheme would contribute to job creation and the local economy during the construction phase. In the longer term economic gains would come from the increased population and their support and input to the local economy. The economic role of the development is acknowledged by the appellant to have limited weight, which is a fair assessment.

10.190 In conclusion, balancing social, economic and environmental factors, the original Phase 1 scheme would not deliver a sustainable form of development and is not in accordance with Policies SD1 and SD3.

### *Phase 1 amended scheme*

- 10.191 The amended scheme has a similar context in that the potential early delivery of new housing would be outside the framework of the Masterplan development and be poorly located for community facilities and primary school places, at least in the short term. The layout and design of the northern area of the site would be artificially constrained by the site boundary.
- 10.192 Trees of amenity value would be retained. This respect for the natural environment is in compliance with Policy EN1. However, the inadequate buffer areas to the SM means the proposals do not conserve the historic environment, which is contrary to Policies EN10 and NC3.
- 10.193 Despite some clarification on open space provision on-site, I have found that the scheme fails to sufficiently take account of the SPD guidance in respect of children and teenagers' play facilities. The failure to adequately comply with Policy EN3 would detract from the encouragement of healthy lifestyles.
- 10.194 Similar to the original scheme, the lack of consideration of the SCR conflicts with Policies TR1, DE1 and NC3. The Phase 1 section 106 and section 278 agreements provide proportionate and necessary infrastructure contributions in accordance with Policy IN1. Securing contributions would not overcome the potential isolation of the site in advance of development on the wider NEV. The contribution to job creation and the local economy would be positive but of limited weight.
- 10.195 In conclusion, weighing in the balance social, economic and environmental factors, the amended Phase 1 scheme would not deliver a sustainable form of development. The proposals are not in accordance with Policy SD1 and the scheme is not supported by Policy SD3.

### **Planning Balance and the Framework**

- 10.196 The conclusions on the main considerations show that the Masterplan schemes and the Phase 1 schemes are not in accordance with the development plan when read as a whole.
- 10.197 Paragraph 14 of the Framework sets out the meaning of a presumption in favour of sustainable development. Currently there is no five year housing land supply in Swindon Borough. However, I have concluded that the public benefits do not outweigh the less than substantial harm to the SM for each of the schemes under consideration. Therefore the tilted balance is not engaged. [6.8, 6.26, 7.42]
- 10.198 The relevant policies in the Local Plan are generally consistent with the Framework in relation to the main considerations at issue. Policies in the Framework do not suggest different conclusions on the sustainability of the proposed developments.
- 10.199 The inadequacies of the proposals and the potential harm are not able to be resolved by planning conditions because of the number of policy conflicts and the need to tie an outline planning permission to the EIA and submitted parameter plans.
- 10.200 Meaningful comparisons with the approach taken by the Council on land north of the A420 would need to be based on a detailed consideration of the

scheme, which is not the purpose of the appeals. The focus is on the planning merits of the Lotmead proposals. A final matter raised by the main parties concerning the progress on other planning applications for the NEV adds very little and in my view has no weight. [3.28 -3.30, 6.24, 6.28, 7.39, 7.43]

### **Conclusions**

- 10.201 Masterplan scheme as determined by the Council: The development plan directs that planning permission should not be granted. There are no material considerations that indicate otherwise and accordingly the scheme is unacceptable.
- 10.202 Masterplan scheme as amended: The development plan directs that planning permission should not be granted. Material considerations do not indicate otherwise. The scheme should not be approved.
- 10.203 Phase 1 scheme as determined by the Council: The development plan directs that planning permission should not be granted and material considerations do not indicate otherwise. The scheme is unacceptable.
- 10.204 Phase 1 scheme as amended: The development plan directs that planning permission should not be granted and material considerations do not indicate otherwise. Accordingly the proposed development is not acceptable.

### **Planning conditions**

- 10.205 Appendix 2 sets out the planning conditions that would be appropriate if the appeals are to be allowed. If that position is reached on any of the schemes then it follows that the appellant's case has been preferred. The recommended conditions reflect that, even though I disagree with the appellant on the use of conditions to overcome inadequacies in the proposals and supporting information and to enable the early development of the Phase 1 site.

## **11. RECOMMENDATIONS**

- 11.1 I recommend that:
- 11.2 The appeals are determined on the basis of the original proposals for the Masterplan site, which do not provide for a 3 FE primary school on a 2.9 ha site and the original proposals for the Phase 1 site.
- 11.3 The Masterplan site appeal ref. APP/U3935/W/16/3154437 be dismissed, whether the original or the amended scheme is determined.
- 11.4 The Phase 1 site appeal ref. APP/U3935/W/16/3154441 be dismissed, whether the original or the amended scheme is determined.

*Diane Lewis*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Richard Harwood QC	Instructed by the Solicitor to Swindon Borough Council
He called Gareth Cheal	Commissioner for Education Place Planning and Admissions, Swindon Borough Council
Robert Rossiter BSc (Hons)	Transport Planner and Highway Engineer, Swindon Borough Council
Kimberly Corps BSc(Hons) MA MRTPI	Principal Planner, Swindon Borough Council

### FOR THE APPELLANT:

David Manley QC	Instructed by Mr Richards, Turley
He called Michael Parkinson BSc(Hons) MICE MIHT MIRSO	Partner, Peter Brett Associates LLP
David Holland LLB (Hons)	Director, TLP Consulting
Jo Vallender MA MCIfA	Associate, The Environmental Dimension Partnership Ltd
Amy Hensler BEng(Hons) MSc C.WEM MCIWEM CEnv	Director of Flood Risk, Peter Brett Associates LLP
Jeffrey Richards BA (Hons) MTP MRTPI	Office Director, Turley

### INTERESTED PERSONS:

Adye Goodenough	Wanborough Anti-Flood Group
Rod Bluh,	Chairman, Wilts & Berks Canal Trust
Francis Budge FICE FCIWEM	Senior Water Engineer, Wilts & Berks Canal Trust
Sylvia Brown	Vice Chair South Marston Parish Council
Gareth Hawkes	Covingham Parish Council and Chair of Covingham Flood Group
Jamie Lewis MRTPI	Partner, Hunter Page Planning on behalf of Capital Land EDA
Gary Sumner	Councillor, Ridgeway Ward Swindon Borough Council

Contributors to the discussion on planning obligations included Lisa Tye, Partner Shoosmiths LLP for the appellant and Sarah Screen BA(Hons) MSc MRTPI, Planning Obligations and CIL Project Manager for the Council.

## **APPENDIX 2: SCHEDULES OF PLANNING CONDITIONS**

### **SCHEDULE 1: MASTERPLAN SITE SCHEME AS DETERMINED BY THE COUNCIL**

#### **Outline Planning Permission**

- 1) No development shall commence on each phase or sub phase until details of the layout, scale, appearance, access (other than the access from Wanborough Road) and landscaping (hereinafter called “the reserved matters” for that phase or sub phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.

Reason: The planning permission granted is in outline and to accord with section 92 of the Town and Country Planning Act 1990.

- 2) Application for approval of the reserved matters for the first phase of development shall be made to the local planning authority not later than 3 years from the date of this permission. Reserved matters for all other phases shall be submitted to the local planning authority no later than 15 years from the date of this permission.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 3) The development hereby permitted shall commence no later than 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- Masterplan red line plan PL 1461-AB-009-02<sup>214</sup>
- Masterplan land use parameter plan PL 1461-AB-001-07
- Masterplan green infrastructure parameter plan PL 1461-AB-003-07
- Masterplan movement parameter plan PL 1461-AB-002-06
- Masterplan building height parameter plan PL 1461-AB-004-07
- Masterplan density parameter plan PL 1461-AB-005-07
- Access plan 27970/003 Rev H.

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<sup>214</sup> The plan number cited is that referred to in CD 2.8, not the plan number stated in PL 2 condition 4

Reason: To define the scope of the development and to ensure the development is within the parameters that were subject to an environmental impact assessment.

- 5) Notwithstanding the alignment of the internal access road from Wanborough Road as shown on the submitted illustrative masterplan (ref PL 1461-AB-024-03) the reserved matters applications for Phase 1 (as shown in the Design and Access Statement submitted 8 May 2015) shall show an alternative alignment to the east of the existing Lotmead Business Park access.

Reason: To minimise the loss of protected trees.

- 6) Further to condition 4 above, the development hereby permitted also shall comply with the following development parameters:
- The residential content of the development shall not exceed 2,600 dwellings.
  - There shall be a minimum of 340 sq m of gross internal floorspace in each of the two community centres (which excludes land in use as a primary school) for uses within Class D1 (non residential institution) and Class D2 (assembly and leisure) as defined in Part D of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).
  - A site, being a minimum of 2.2 ha, shall be provided for the development of a primary school. The floorspace provided in the school shall not be included in the community centre use floorspace detailed above.

Reason: To define the scope of the development and to ensure the development is within the parameters that were subject to an environmental impact assessment.

- 7) Within the development site, the total gross internal retail floorspace falling within Class A1 of Part A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) shall not exceed 600 sq m and the gross internal floor space falling within Classes A3 and A4 of the aforementioned Part A in the Schedule to the Order shall not exceed a cumulative total of 500 sq m. After first development, the floor areas shall be retained in the approved Use Class notwithstanding any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification).

Reason: To define the mix of uses and the scope of the permission in order to secure an appropriate mix of uses for the local centres and to protect the retail function of Swindon Town Centre and the hierarchy of centres.

- 8) Within the development site, the total gross internal floorspace falling within Class B1 of Part B in the Schedule to the Town and Country Planning (Use

Classes) Order 1987 (as amended) shall not exceed 2,500 sq m. After first development, the floor areas shall be retained in the approved Class B1 use, notwithstanding any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification).

Reason: To define the mix of uses to ensure the employment provision complements the allocated employment site within the NEV and the role of the Town Centre.

- 9) In the event that the first phase of the development is implemented under outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754), the planning conditions numbered 1, 2, 3, 11, 12, 13, 14, 15, 16, 24, 27, 28, 38, 39, 40, 42, 43, 44, 47, 48, 49, 50, 55, 58, 59, 63, and any other relevant conditions of this permission, shall only apply to works or other operations on land to commence and implement this permission to develop the land outside of the red line boundary of outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754).

Reason: To ensure that the conditions of this planning permission and outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754) are precise and enforceable.

- 10) All reserved matters shall be in broad accordance with the Illustrative Masterplan ref. PL 1461-AB-024-03, except for the alignment of the internal access road from Wanborough Road which is subject to condition 5 above.

Reason: In the interest of the proper planning of the area and to provide a high standard of design.

### **Phasing, Design Codes and Public Art**

- 11) Prior to the submission of the first reserved matters application, a phasing programme and plan shall be submitted to and approved in writing by the local planning authority to show how the development shall be implemented in phases or sub phases. The phasing programme shall include the following elements:

- a) The development parcels.
- b) Major distributor roads/routes within the site, including a defined hierarchy of the road network, the timing of provision and opening of access points into the site.
- c) Phased access strategy delivery and associated phased housing delivery.
- d) Phased and permanent junction capacity assessments (inclusive of New Eastern Villages' trip generation) for junctions onto the external network and internal junctions accommodating the primary road network.
- e) Pedestrian / cycle connectivity and public transport to committed and emerging parcels of development within the New Eastern Villages.

- f) Alterations to public transport routes to accommodate the defined phases of development within the site.
- g) Local centres and community facilities.
- h) The safeguarded route for the canal.
- i) Strategic foul and surface water features and sustainable drainage systems.
- j) Strategic landscaping, recreation and open space.

The development shall be carried out in accordance with the approved phasing and timetable.

Reason: To ensure the coordination and delivery of infrastructure provision for the new community.

- 12) Before the submission of the first reserved matters a Strategic Design Code shall have been submitted to and approved in writing by the local planning authority. The Strategic Design Code shall:
- Identify the neighbourhood areas and character areas across the site;
  - Develop the vision, design concept, principles and frameworks described in the Design and Access Statement May 2015;
  - Explain how the design principles for the neighbourhoods and local centres will be applied and co-ordinated across the site, taking into account measures for meeting the challenge of climate change;
  - Establish the design approach and measures to develop a local area identity, enhance the public realm and integrate the development into the surrounding landscape; and
  - Set out principles to ensure the use of sustainable drainage systems will make a positive contribution to the public realm, biodiversity gain, the green infrastructure and movement network, the amenity of residential areas and the reduction of pollution.

Thereafter the reserved matters submissions for each phase shall demonstrate how the development shall accord with the approved Strategic Design Code.

Reason: A Strategic Design Code is required at the beginning of the development process to ensure a holistic approach to coordination of high quality design and continuity of the treatment of the public realm throughout the delivery of the development in accordance with Policies SD3, DE1 and NC3 of the Swindon Borough Local Plan 2026.

- 13) A Design Code relating to each Character Area, as defined in the Strategic Design Code, shall be submitted to and be approved in writing by the local planning authority prior to the submission of the first reserved matters application within the Character Area. Each Design Code shall be in accordance with the Strategic Design Code approved pursuant to condition 12 above and shall include detailed guidance for the Character Area in respect of:
- The overall vision, mix of uses and character of the parcel of development;

- How the character and identity of the development parcel will be established and strengthened through consideration of the public realm, streets and open spaces, green infrastructure, retained and proposed planting, open spaces and play areas;
- The form of the character area, with reference to densities, block types, building types, building heights, ground levels, the palette of materials, recycling and waste management, street furniture, principles of inclusive design and Secure by Design;
- The hierarchy, typology and treatments of all elements of the movement network;
- Principles of traffic management, parking provision and servicing to all properties;
- The means of achieving direct, safe and accessible connectivity to the rest of the NEV development and in particular to the facilities and services of existing and proposed local and district centres; and
- Noise attenuation measures.

Each reserved matters application shall be accompanied by a checklist to demonstrate how the development accords with the relevant approved Character Area Design Code.

Reason: To ensure a holistic approach to co-ordinate and deliver high quality design in accordance with Policy DE1 and Policy NC3 of the Swindon Borough Local Plan 2026.

- 14) No development shall commence until a public art strategy shall have been submitted to and approved in writing by the local planning authority. The strategy shall identify how public art will contribute to the enhancement of the public realm and set out a scheme for the delivery of public art within the site. The scheme shall include design specification(s) and provision mechanisms, details of a programme and timing of delivery, and mechanisms for long term maintenance. The provision of the public art shall be carried out and maintained in accordance with the approved strategy.

Reason: To secure a high quality public realm and the timely provision of public art.

### **Ecology, Trees and Landscaping**

- 15) No development shall take place on the phases of development which contain or adjoin the River Cole, Dorcan Stream and Liden Brook until a scheme for the provision and management of a 10 metre wide buffer zone alongside these watercourses shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:

- Plans showing the extent and layout of the buffer zone;
- Details of any proposed planting scheme;
- Details of any proposed footpaths, fencing and lighting.

Reason: To prevent development having an adverse impact on ecology and biodiversity.

- 16) Before the submission of the first reserved matters application a Framework Landscape, Ecology and Arboricultural Management Plan (FLEAMP) shall have been submitted to and approved in writing by the local planning authority. The FLEAMP shall provide an overarching management plan for the development at Lotmead Farm. The FLEAMP shall identify the feature specific objectives to achieve the overarching aim and include the outline measures to create new priority habitat and the areas to be managed specifically for biodiversity, identify the additional green infrastructure that will be created, set out the management plan context, responsibilities and rationale and provide an outline programme and measures for monitoring and review.

Reason: To ensure biodiversity, green infrastructure and assets are protected, integrated with the development and enhanced in accordance with Policies SD3, EN1 and NC3 of the Swindon Borough Local Plan 2026. The FLEAMP shall also ensure the development provides access to nature to promote human well-being and afford educational opportunities.

- 17) Reserved matters applications for each phase of development shall be accompanied by a Landscape, Ecology and Arboricultural Management Plan (LEAMP). The LEAMP shall be informed by the FLEAMP approved under condition 16 and updated Phase 2 surveys where the last Phase 2 surveys undertaken for the site are more than 2 years old. The LEAMP shall include details of the retention of any species receptor sites identified by the Phase 2 surveys for the site. The LEAMP shall also include details of long term objectives, extent and type of new planting, details of any new habitat created on site, management responsibilities and maintenance schedules for all landscaped and habitat areas (except privately owned domestic gardens). No development on each phase shall commence until the LEAMP for that phase has been approved in writing by the local planning authority. Thereafter development on each phase shall be progressed in accordance with the approved LEAMP. No development, works or other activities to the identified receptor sites shall be progressed other than in accordance with the works for ecological enhancement and management as set out in the approved LEAMP. The approved management and maintenance schedules shall be adhered to at all times.

Reason: To protect wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 18) Prior to the submission of any reserved matters application that requires access from the A420, Phase 2 surveys of the areas identified and labelled as "Areas where there is uncertainty over habitats present (desk based assessment only)" on Plan EDP 12.4 Extended Phase 1 survey Results – Masterplan Application Site (ES Figure 12.4) shall be undertaken by a suitably qualified ecologist. Once undertaken, and prior to the commencement of any

development within a phase containing the surveyed areas, the results (i) shall be submitted to and approved in writing by the local planning authority, and (ii) the results and proposed measures for mitigation shall be incorporated into a Landscape, Ecology and Arboricultural Management Plan (LEAMP) for submission and approval in writing by the local planning authority in accordance with condition 17 above. All works shall be carried in accordance with the measures for mitigation and management contained within the approved LEAMP.

Reason: To ensure that updated surveys are provided to inform the protection of wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 19) Prior to the submission of any reserved matters application that requires access from the A420, an Arboricultural Impact Assessment shall have been submitted to and approved in writing by the local planning authority. The Arboricultural Impact Assessment shall include: the location, species, girth or stem diameter, accurately planned crown spread and reference number of all trees on and adjoining the site with a stem diameter of 100 mm or greater; a tree condition schedule with proposals for surgery or other arboricultural works, where applicable; existing levels including where appropriate sufficient detail to enable consideration of existing tree protection; details of existing hedgerows, hedges and other significant areas of vegetation and a timetable of works.

Within a period of five years of commencement of development pursuant to approval of any reserved matters involving access from the A420, any tree identified for retention within the Arboricultural Impact Assessment which is removed, dies or becomes seriously damaged or diseased, shall be replaced before the end of the next available planting season with a species, details of which shall first have been submitted to and approved in writing by the local planning authority.

Reason: To protect trees and hedgerows of amenity value.

- 20) No buildings shall be demolished or partially demolished or works undertaken to existing buildings and no trees on the site shall be felled or reduced before a survey has been undertaken to confirm whether or not bats or bat roosts are present within the building(s) to be demolished or trees to be felled. If bats or their roosts are found to be present bat mitigation measures shall be submitted to and approved in writing by the local planning authority. Such mitigation measures shall be carried out in accordance with the approved details prior to the demolition, partial demolition or tree works.

Reason: To protect bats and their supporting habitat.

- 21) Reserved matters applications shall accord with the details of trees and hedgerows contained within the following reports and plans<sup>215</sup>:
- Lotmead Farm Villages Arboricultural Impact Assessment (report ref EDP1879\_09a March 2015)
  - Tree retention and removal plan (sheet 1 of 4) EDP 1879/43a March 2015
  - Tree retention and removal plan (sheet 2 of 4) EDP 1879/44a March 2015
  - Tree retention and removal plan (sheet 3 of 4) EDP 1879/45a March 2015.

Notwithstanding the Tree retention and removal plan (sheet 4 of 4) EDP 1879/46a March 2015, an updated Tree retention and removal plan shall be submitted to and approved in writing by the local planning authority. The works pursuant to any phase of the development hereby permitted shall comply with the requirements of the above information. Any tree or group of trees or other vegetation, which is shown to be retained in the above details, that is removed, dies or becomes seriously diseased or damaged shall be replaced in the first available planting season with a species, details of which shall first be submitted to and approved in writing by the local planning authority. Any replacement trees and hedgerows shall thereafter be maintained. Notwithstanding the provisions of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fence or other means of enclosure shall be erected within or closer to any existing hedgerow or tree other than as shown on the plans within the reserved matters approved pursuant to this outline planning permission.

Reason: To ensure the protection of trees and hedgerows on the land.

- 22) All trees indicated to be retained on the plans listed in condition 21 above shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations". No development shall commence within any phase of development unless and until (i) details of temporary protective fences to safeguard the trees, hedges or other vegetation to be retained on the site within that phase shall have been submitted to and approved in writing by the local planning authority, and (ii) the approved fencing shall have been erected in accordance with BS 5837:2012 and the approved details. The approved protection shall be maintained to the required standard throughout the development or until the

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<sup>215</sup> The wording of condition 21 set out in PL 2 has been corrected in respect of the name of the report and the plan numbers of the Tree retention and removal plans (the numbers in PL2 refer to the Tree Constraint plans).

local planning authority has confirmed in writing that the fencing can be removed.

Reason: To ensure adequate protection is afforded to the trees and /or hedges on the site which are to be retained.

- 23) Within each phase or sub phase all landscaping shall be carried out in accordance with the scheme and details approved under the reserved matters. Any planting carried out in accordance with the approved details that within a period of 5 years from the date of planting dies, is removed or becomes seriously diseased or damaged shall be replaced with planting of similar size and species within the first available planting season.

Reason: To safeguard all features of landscape value in the interests of maintaining biodiversity and aesthetic value.

### **Strategic Highway Infrastructure and Wanborough Road**

- 24) Prior to the submission of the first reserved matters application pursuant to this outline planning permission, plans shall have been submitted to and approved in writing by the local planning authority detailing the alignment and design of the Southern Connector Road through the site.

Reason: To ensure appropriate highway provision is made to connect to and accommodate the Southern Connector Road within the development hereby approved in accordance with Policies NC3, TR1 and TR2 of the Swindon Borough Local Plan 2026.

- 25) No more than 200 occupied dwellings or no more than 200 commenced dwelling constructions on the site shall have vehicular access from Wanborough Road. Prior to the commencement of development of the 201<sup>st</sup> dwelling, the details of the means to restrict vehicular access from Wanborough Road to no more than 200 dwellings shall have been submitted to and approved in writing by the local planning authority and carried out in full accordance with the approved details. The means to restrict access shall be maintained in the approved form thereafter.

Reason: To prioritise access to the A Class Road and the strategic road network to restrict rat running through the adjacent villages and the eastern side of Swindon.

- 26) Notwithstanding condition 4 (requiring that the development is carried out in accordance with the approved plans) no development shall take place until design details of the access junction at Wanborough Road have been subject to a stage 1/2 road safety audit and have been submitted to and approved in writing by the local planning authority. The details shall specify surface material treatment across Wanborough Road, visibility splays, vehicle tracking, signing and lining. Development shall be carried out in full accordance with the approved details prior to first occupation of any dwelling on the site and shall be retained as such thereafter.

Reason: To provide an aesthetic gateway feature to the development, reduce vehicle speeds and improve highway safety and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 27) No development shall commence until a scheme of traffic calming and management, including pedestrian / cyclist connectivity, for Wanborough Road and which shall encompass the access to the site, including visibility splays, and the highway leading to and including the junction with Kingfisher Drive, shall have been subject to a stage 1/2 road safety audit and shall have been submitted to and approved in writing by the local planning authority (hereinafter referred to as 'the scheme'). The scheme shall incorporate carriageway narrowing, provision of a 3 metre footway/cycleway, surface material treatment of the carriageway, drainage, gateway features, signing and lining and a scheme for street lighting. Pedestrian / cyclist connectivity shall be carried out in accordance with the approved details prior to the first occupation of the development. All other elements of the scheme shall be carried out in accordance with the approved details prior to the first occupation of the 100<sup>th</sup> dwelling.

Reason: To increase safety for all highway users, to reduce the attractiveness of the route for rat running, reduce vehicle speeds and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 28) No dwelling shall be occupied unless and until the bridge parapets on the Wanborough Road Bridge over the A419 have been raised to a height of no less than 1.4 m in accordance with DMRB TD19/06: Requirement for Road Restraint Systems (or the relevant equivalent standard at the time the work is carried out). Details of the works first shall have been submitted to and approved in writing by the local planning authority. Once installed in accordance with the approved details the raised bridge parapets shall be retained in the approved form without modification.

Reason: To enhance safety for cyclists and in the interest of safety on the strategic road network.

- 29) No more than 795 dwellings hereby permitted on the site shall be occupied unless and until an improvement scheme for the M4 junction 15 is complete and open to traffic. The junction improvement scheme shall be in accordance with the proposals shown on the WSP/Parsons Brinckerhoff drawings dated 5 December 2016 (ref M4J15-WSP-HGN-0000-DR-HE-00001 Rev P1; M4J15-WSP-HGN-0000-DR-HE-00002 Rev P1; and M4J15-WSP-HGN-0000-DR-HE-00003 Rev P1) or an alternative improvement scheme which provides the same or greater level of benefit in terms of offsetting the unacceptable impacts of development and which shall have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe and efficient operation of the strategic road network.

- 30) No more than 795 dwellings hereby permitted on the site shall be occupied unless and until an improvement scheme for the A419 White Hart junction is complete and open to traffic. The junction improvement scheme shall be in accordance with the proposals shown on the Swindon Borough Council drawing ref T098819-7000-01 or an alternative improvement scheme which provides the same or greater level of benefit in terms of offsetting the unacceptable impacts of development and which shall have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe and efficient operation of the strategic road network.

### **Access to schools**

- 31) Concurrently with the submission of the reserved matters application(s) for each phase or sub phase of the development details shall be submitted to the local planning authority of measures to facilitate a safe pedestrian and cycle route to schools on and off site. No development shall take on each phase or sub phase until the measures have been approved in writing by the local planning authority. The approved measures shall be carried out prior to the first occupation of a dwelling in the phase or sub phase and shall be retained thereafter.

Reason: In the interests of sustainable transport and highway safety.

### **Highway provision and construction**

- 32) No building shall be first occupied until that part of the service road, including turning spaces and all other areas that serve a highway purpose, which provides access to the building, shall have been constructed in accordance with the approved plans. The service road as constructed shall be retained thereafter.

Reason: To ensure that the development is served by an adequate means of access to the public highway in the interests of highway convenience and safety.

- 33) Within each phase of development the construction of all proposed estate roads and footways and associated utilities, services and street furniture shall not commence unless and until details of their design and construction have been submitted to and approved in writing by the local planning authority. The submitted details, accompanied by plans and sections where appropriate, shall include gradients, levels, retaining walls, visibility splays, materials, methods of construction and a timetable for implementation. Development shall be carried out as approved.

Reason: To ensure all roads, including those not offered for adoption, are laid and constructed to an approved standard before buildings are brought into use.

### **Parking and servicing**

- 34) No dwelling shall be first occupied unless and until space for car parking, together with the associated manoeuvring and turning space for that dwelling, has been laid out and made available for use in accordance with the reserved matter details approved pursuant to condition 1. The parking space, including garage space where provided, shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and residential amenity.

- 35) No non-residential building shall be first occupied unless and until space has been laid out in accordance with the details approved pursuant to condition 1 for cars to be parked, for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the premises in forward gear. Once provided that space shall thereafter be kept available at all times for those purposes.

Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and to minimise disruption to residential properties and other non-residential premises.

- 36) No dwelling shall be first occupied or non-residential building brought into use until bicycle and motor cycle parking has been provided and made available for use in accordance with details that first have been submitted to and approved in writing by the local planning authority. Once provided the parking facilities shall thereafter be retained in the approved form and kept available at all times for those purposes.

Reason: To ensure suitable bicycle and motor cycle parking is provided in accordance with the Council's adopted standards for occupiers of the dwellings and users of the non-residential buildings.

- 37) Concurrently with the submission of the reserved matters application(s) for each phase or sub phase of the development details shall be submitted to the local planning authority of electric vehicle charging points. Provision shall be made for the charging points to accommodate 60% of all dwelling units and additional charging points for non-residential and communal usage. No development shall take place within each phase or sub phase until the location and form of the charging points and a timetable for their provision have been approved in writing by the local planning authority. Provision shall be made in

accordance with the approved details and timetable and shall be retained at all times thereafter.

Reason: To ensure adequate facilities are provided to enable the use of electric cars and to improve air quality.

### **Construction period**

38) No development shall take place, including any works of demolition or site clearance, until a Framework Construction Method Statement has been submitted to and approved in writing by the local planning authority. Prior to the commencement of each phase of development a site specific Construction Method Statement, based on the principles established in the approved Framework Construction Method Statement, shall have been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- a traffic management plan, which shall include construction vehicle routes to and from the site, arrangements for recording construction vehicle movements to and from the site and making available those records for inspection, details of temporary access points and parking areas for construction vehicles, site operatives and visitors, a construction workers travel plan;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- a scheme for the on-site maintenance and repair of plant, equipment and machinery;
- details of a procedure for wheel washing and vehicle wash down of all construction site traffic leaving the site;
- details of a procedure for removing debris from the highway at all times;
- temporary buildings, enclosures and staff facilities;
- details for the erection and maintenance of security and acoustic hoarding(s);
- measures to control the emission of dust, smoke, fumes and debris;
- a method statement for the control of noise and vibrations, including pile driving;
- contact details for the site manager and a procedure for liaison with the local community.

The approved site specific Construction Method Statement shall be adhered to throughout the construction period for that phase of development.

Reason: To reduce the potential impact on the public highway and residential amenity during the site preparation and construction phases of development.

39) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall describe and set out measures

and good practice to avoid or minimise ecological effects occurring to habitats and faunal species during the construction stage and shall be in accordance with the general approach outlined in the Environmental Statement Chapter 12 Ecology and Conservation paragraph 12.96 and the feature specific measures in paragraphs 12.97 to 12.102. Development shall be carried out in accordance with the approved CEMP method statement.

Reason: To ensure the protection of wildlife and supporting habitat.

- 40) No development shall take place in each phase of development until a waste audit shall have been submitted to and approved in writing by the local planning authority. The waste audit shall include:
- an assessment of the type and volume of waste that the development process will generate (the development process comprises the construction process and any other operation necessary to bring the development into use);
  - the steps to be taken in the development process to reduce, re-use and recycle waste, reduce the production of hazardous wastes, minimise the use of raw materials, and minimise the pollution potential of unavoidable waste;
  - the steps to be taken to dispose of unavoidable waste in an environmentally acceptable manner;
  - the steps to be taken to ensure maximum waste recovery once the development is completed and occupied; and
  - proposals for the transport of waste created during the development process and subsequent use of the site.

Development shall be carried out in accordance with the approved waste audit.

Reason: To ensure compliance with Policy WSC6 of the Wiltshire and Swindon Waste Core Strategy.

- 41) No work, including the waiting of vehicles undertaking deliveries and collections during the construction phases, shall take place outside the following hours:
- 0730 to 1830 Monday to Friday
  - 0830 to 1300 Saturdays; and
  - Not at all on Sundays, Bank Holidays and Public Holidays.

In addition there shall be no deliveries and collections during the construction phases between 0800 and 0900 hours and between 1700 to 1800 hours on weekdays (Monday to Friday excluding public holidays).

Reason: To protect residential amenity and highway safety.

### **Archaeology**

- 42) No development shall take place within the application site area unless and until an outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority.

Reason: To enable the recording of any features of archaeological interest in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

- 43) After approval of the outline archaeological mitigation strategy pursuant to condition 42 above and before any development commences:
- A written programme of archaeological investigation, which shall be in general accordance with the approved outline archaeological mitigation strategy, shall have been submitted to and approved in writing by the local planning authority. The programme of investigation shall include on-site work and off-site work, provision for analysis, publication and archiving of the results and a timetable for implementation.
  - The programme of archaeological investigation has been carried out in accordance with the approved details.

Reason: The area is known to be of archaeological importance and to ensure that any matters of archaeological interest are investigated and recorded in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

- 44) No development take place until the areas of archaeological importance (non-designated) that will be preserved in situ have been identified and details have been submitted to and approved in writing by the local planning authority. Within each phase of development no development shall take place until (i) a method statement for carrying out works of development, and (ii) a management plan to show how the surviving archaeological remains which are to remain in situ are to be preserved, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure areas of known archaeological importance are preserved in situ and appropriately managed in the long term in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

### **Flood Risk Mitigation, Floodplain Restoration**

- 45) The development hereby approved shall be carried out in accordance with the Flood Risk Assessment PBA ref 27970\_016\_001 rev A dated March 2015 (the FRA) and the following mitigation measures detailed within the FRA:
- No built development shall be located within the 0.1% annual exceedance probability (AEP) flood extent;
  - Finished floor levels shall be set no lower than 300 mm above the 1% AEP, including an appropriate allowance for climate change, flood level.

The mitigation measures shall be fully implemented before first occupation and subsequently in accordance with phasing/timing arrangements that have been submitted to and approved in writing by the local planning authority.

Reason: In order to protect people and property from flooding.

- 46) No development hereby approved which is located within the existing 0.1% annual exceedance probability (AEP) flood extent shall take place unless and until such time as a scheme for the restoration of the floodplain to the Liden Brook, in accordance with Flood Risk Assessment PBA ref 27970\_016\_001 rev A dated March 2015 has been submitted to and approved in writing by the local planning authority and the approved restoration scheme has been implemented in full. The approved scheme shall thereafter be maintained and retained.

Reason: To reduce flood risk at the site, to ensure that no development will be located within the existing 0.1% AEP flood extent and in order to protect people and property from flooding.

### **Surface Water, Drainage and Water Supply**

- 47) Prior to the submission of the first reserved matter application(s) a surface water management strategy and drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include, but not be limited to:
- The method to be employed to delay and control the surface water flows discharged from the site in order that the flows shall be restricted to 4.44 l/s/ha for all events up to and including the 1% annual exceedance probability plus climate change;
  - A drainage plan showing the location of the proposed SuDS and drainage network, with exceedance flow routes clearly identified;
  - Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage and maintain water quality in accordance with best practice guidance;
  - Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime;
  - Details of how water quality shall be maintained during and after construction;
  - Details of how the scheme shall be maintained and managed after completion;
  - The submission of evidence relating to accepted outfalls from the site, particularly from any third party network owners; and
  - A timetable for implementation.

The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere or reduce water quality, in accordance with Policy EN6 of the Swindon Borough Local Plan 2026.

- 48) No development within each phase shall commence until a detailed surface water drainage scheme for that phase has been submitted to and

approved in writing by the local planning authority. The scheme shall be in accordance with the surface water management strategy and drainage scheme approved in compliance with condition 47 and shall include a timetable for implementation. The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere in accordance Policy EN6 of the Swindon Borough Local Plan 2026.

- 49) No development shall commence until a drainage strategy detailing any on site and/or off site drainage works has been submitted to and approved in writing by the local planning authority. No foul or surface water from the site shall be discharged into the public system until the approved drainage works have been carried out in accordance with the approved drainage strategy. The works shall be retained in the approved form thereafter.

Reason: To ensure that sufficient capacity is made available to cope with the new development in order to avoid sewage flooding and adverse impact upon the community.

- 50) No development shall commence until the following details and scheme have been submitted to and approved in writing by the local planning authority:

- details of a study to show the impact of the development on the existing water supply infrastructure (which shall determine the magnitude of any new additional capacity that will be required in the system and a suitable connection point); and
- a scheme of works to provide the capacity shown to be required.

Works shall be carried in accordance with the approved scheme prior to the first occupation of any dwelling or non-residential building on the site and shall be retained thereafter in the approved form.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

### **Noise and ventilation mitigation**

- 51) Within each phase of development which includes the provision of residential units no development shall commence until a scheme for protecting the proposed the noise-sensitive development from noise shall have been submitted to and approved in writing by the local planning authority. The scheme shall include measures to ensure indoor ambient noise levels comply with the noise levels contained in BS 8233:2014, namely: resting 35 dB LAeq, 16 hour; dining 40 dB LAeq, 16 hour; sleeping 30 dB LAeq, 8 hour; 45 dB LAF, max; and 50 dB LAeq, 16 hour in external amenity spaces. The scheme shall also include details of any measures for mechanical ventilation where the specified internal noise levels in bedrooms and living rooms can only be achieved with windows shut. No residential units shall be occupied in that phase until all works which form part of the approved scheme

have been completed, a pre-occupation validation noise survey has been undertaken to demonstrate the effectiveness of the measures in reducing external noise to an acceptable level and a certificate of compliance has been submitted to the local planning authority. All works which form part of the approved scheme shall be retained in the approved form thereafter.

Reason: To mitigate harm from nearby noise sources and to ensure the development provides an acceptable living environment for residents.

- 52) Within each phase of development no development of a non-residential building shall commence until a BS 4142:2014 noise assessment on the impact of operational noise on residential premises has been undertaken. Where the assessment shows that the rating level of any noise source exceeds 5 dB below the background level (LA90) a scheme of noise mitigation shall be submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be carried out in accordance with the approved details before the first use of the non-residential premises and shall be retained in the approved form without modification thereafter.

Reason: In the interests of residential amenity.

- 53) Within each phase of development no development of a non-residential building shall commence unless and until details of all proposed extraction and ventilation systems shall have been submitted to and approved in writing by the local planning authority. The standard achieved shall be nil odour at the nearest residential property. Before the commencement of the first use of the non-residential premises the mitigation measures shall be installed in accordance with the approved details. Mitigation shall be retained in the approved form to achieve the stated standard without modification thereafter.

Reason: In the interests of amenity.

### **Building Research Establishment Environmental Assessment Method (BREEAM)**

- 54) No development of a non-residential building shall take place until a pre-assessment BREEAM report shall have been issued to the local planning authority. The report shall be prepared by an accredited BREEAM Assessor and shall be based upon an approved BREEAM plan for provision of non-residential buildings, indicating that the development is capable of achieving the applicable 'excellent' rating as a minimum. No non-residential building shall be occupied until a Final BREEAM Certificate has been issued for it by an approved BREEAM Assessor and produced to the local planning authority certifying that BREEAM Level of excellent has been achieved. In the event that such a rating is replaced by a comparable national measure of sustainability for building design, the equivalent level of measure shall be applicable to the proposed development.

Reason: To ensure that the development is carried out in accordance with sustainable construction standards.

### **Contaminated Land**

55) Prior to each phase of development approved by this planning permission no development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority:

- i. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, potentially unacceptable risks arising from contamination at the site.
- ii. A site investigation scheme based on (i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including all those off site.
- iii. The results of the site investigation and detailed assessment of the risk referred to in (ii) above, and based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) above are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: Previous activities at the site may have resulted in contamination.

56) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall have been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action as identified in the verification plan. The long term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that contamination at the site is remediated such that the site does not pose a risk to controlled waters.

57) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and

submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

Reason: To ensure any unexpected contamination encountered during development is suitably assessed and dealt with such that it does not pose an unacceptable risk to ground or surface water.

### **Slab levels and Materials**

- 58) No development shall take place on each phase until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads, bridges and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the finished levels are acceptable in the interests of visual amenity.

- 59) No development shall commence on each phase of development until details of all external facing materials shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance of the development is in harmony with its context.

### **Wheelchair accessible housing**

- 60) The reserved matters for each phase or sub phase shall identify on a site layout plan not less than 2% of the total residential development for that phase or sub phase as wheelchair accessible housing. Details of the design features of each unit shall be submitted to and approved in writing by the local planning authority and shall include provision of ramped access with flush thresholds into all doorways, adequate doorway widths for a wheelchair to pass through, space for internal circulation and for through the floor lift circulation (where appropriate), entry level bathroom and toilet facilities and a kitchen designed for wheelchair user occupiers. Development shall be carried out in accordance with the approved details and shall be retained for so long as the buildings remain in use as dwelling houses.

Reason: In the interests of equality and to ensure all housing needs are met.

### **Utilities and waste infrastructure**

- 61) No dwelling or building in non-residential use shall be occupied until broadband has been provided on site and made available to each dwelling or building in non-residential use.

Reason: To ensure access to appropriate broadband infrastructure in accordance with Policy IN3 of the Swindon Borough Local Plan 2026.

- 62) The reserved matters for each phase shall include details of waste storage/collection areas which allow for the convenient storage of waste and unrestricted access at all times. The waste storage/collection areas shall be provided in accordance with the approved details prior to the occupation of each unit and shall be retained thereafter at all times.

Reason: In the interest of amenity.

- 63) No development shall commence until outline details of the provision of a water supply network and /or hydrants to meet the fire fighting needs of the development have been submitted to and approved in writing by the local planning authority. No development shall commence on each phase or sub phase until a scheme and specification for the provision and location of fire hydrants to include installation arrangements and the timing of installation, shall have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.

Reason: To reduce the risk from fire in the interests of public safety and local resilience and to enhance the public realm.

#### **Canal Route**

- 64) No works shall be carried out within phases or sub phases that include the safeguarded canal corridor, as defined by the details approved under Condition 11 (Phasing Programme), until details have been submitted to and approved in writing by the local planning authority to demonstrate how the canal route will be safeguarded. The safeguarded alignment shall be in broad accordance with the alignment on the illustrative masterplan (PL 1461-AB-024-03).

Reason: To ensure the safeguarding of the canal corridor in accordance with Policies EN11 and NC3 of the Swindon Borough Local Plan 2026.

## **SCHEDULE 2: MASTERPLAN SITE SCHEME AS AMENDED**

### **Outline planning permission**

- 1) No development shall commence on each phase or sub phase until details of the layout, scale, appearance, access (other than the access from Wanborough Road) and landscaping (hereinafter called "the reserved matters" for that phase or sub phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.

Reason: The planning permission granted is in outline and to accord with section 92 of the Town and Country Planning Act 1990.

- 2) Application for approval of the reserved matters for the first phase of development shall be made to the local planning authority not later than 3 years from the date of this permission. Reserved matters for all other phases shall be submitted to the local planning authority no later than 15 years from the date of this permission.

Reason: To enable the local planning authority to review the suitability of the development and in accordance with section 92 of the Town and Country Planning Act 1990.

- 3) The development hereby permitted shall commence no later than 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the local planning authority to review the suitability of the development and in accordance with section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- Masterplan red line plan PL 1461-AB-009
- Masterplan land use parameter plan PL 1461-AB-001
- Masterplan green infrastructure parameter plan PL 1461-AB-003
- Masterplan movement parameter plan PL 1461-AB-002
- Masterplan building height parameter plan PL 1461-AB-004
- Masterplan density parameter plan PL 1461-AB-005
- Access plan 27970/003 Rev J.

Reason: To define the scope of the development and to ensure the development is within the parameters that were subject to an environmental impact assessment.

- 5) Further to condition 4 above, the development hereby permitted also shall comply with the following development parameters:

- The residential content of the development shall not exceed 2,600 dwellings.
- There shall be a minimum of 340 sq m of gross internal floorspace in each of the two community centres (which excludes land in use as a primary school) for uses within Class D1 (non residential institution) and Class D2 (assembly and leisure) as defined in Part D in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Two sites, each site being a minimum of 2.2 ha, shall be provided for the development of two, 2 form entry primary schools. The floorspace

provided in these schools shall not be included in the community centre use floorspace detailed above.

Reason: To define the scope of the development and to ensure the development is within the parameters that were subject to an environmental impact assessment.

- 6) Within the development site, the total gross internal retail floorspace falling within Class A1 of Part A in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) shall not exceed 600 sq m and the gross internal floor space falling within Classes A3 and A4 of the aforementioned Part A in the Schedule to the Order shall not exceed a cumulative total of 500 sq m. After first development, the floor areas shall be retained in the approved Use Class notwithstanding any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification).

Reason: To define the mix of uses and the scope of the permission in order to secure an appropriate mix of uses for the local centres and to protect the retail function of Swindon Town Centre and the hierarchy of centres.

- 7) Within the development site, the total gross internal floorspace falling within Class B1 in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) shall not exceed 2,500 sq m. After first development, the floor areas shall be retained in the approved Class B1 use, notwithstanding any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification).

Reason: To define the mix of uses to ensure the employment provision complements the allocated employment site within the NEV and the role of the Town Centre.

- 8) In the event that the first phase of the development is implemented under outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754), the planning conditions numbered 1, 2, 3, 10, 11, 12, 13, 14, 15, 23, 26, 27, 37, 38, 39, 41, 42, 43, 46, 47, 48, 49, 54, 57, 58, 62, and any other relevant conditions of this permission, shall only apply to works or other operations on land to commence and implement this permission to develop the land outside of the red line boundary of outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754).

Reason: To ensure that the conditions of this planning permission and outline planning permission granted on appeal under ref APP/ U3935/W/16/3154441 (planning application ref S/OUT/15/0754) are precise and enforceable.

- 9) All reserved matters shall be in broad accordance with the Illustrative Masterplan ref. PL 1461-AB-024.

Reason: In the interest of the proper planning of the area and to provide a high standard of design.

### **Phasing, Design Codes and Public Art**

- 10) Prior to the submission of the first reserved matters application, a phasing programme and plan shall be submitted to and approved in writing by the local planning authority to show how the development shall be implemented in phases or sub phases. The phasing programme shall include the following elements:

- a) The development parcels.
- b) Major distributor roads/routes within the site, including a defined hierarchy of the road network, the timing of provision and opening of access points into the site.
- c) Phased access strategy delivery and associated phased housing delivery.
- d) Phased and permanent junction capacity assessments (inclusive of New Eastern Villages' trip generation) for junctions onto the external network and internal junctions accommodating the primary road network.
- e) Pedestrian / cycle connectivity and public transport to committed and emerging parcels of development within the New Eastern Villages.
- f) Alterations to public transport routes to accommodate the defined phases of development within the site.
- g) Local centres and community facilities.
- h) The safeguarded route for the canal.
- i) Strategic foul and surface water features and sustainable drainage systems.
- j) Strategic landscaping, recreation and open space.

The development shall be carried out in accordance with the approved phasing and timetable.

Reason: To ensure the coordination and delivery of infrastructure provision for the new community.

- 11) Before the submission of the first reserved matters a Strategic Design Code shall have been submitted to and approved in writing by the local planning authority. The Strategic Design Code shall:
- Identify the neighbourhood areas and character areas across the site;
  - Develop the vision, design concept, principles and frameworks described in the Design and Access Statement as revised by the Addendum June 2017;
  - Explain how design principles for the neighbourhoods and local centres will be applied and co-ordinated across the site, taking into account measures for meeting the challenge of climate change;

- Establish the design approach and measures to develop a local area identity, enhance the public realm and integrate the development into the surrounding landscape; and
- Set out principles to ensure the use of sustainable drainage systems will make a positive contribution to the public realm, biodiversity gain, the green infrastructure and movement network, the amenity of residential areas and the reduction of pollution.

Thereafter the reserved matters submissions for each phase shall demonstrate how the development shall accord with the approved Strategic Design Code.

Reason: A Strategic Design Code is required at the beginning of the development process to ensure a holistic approach to coordination of high quality design and continuity of the treatment of the public realm throughout the delivery of the development in accordance with Policies SD3, DE1 and NC3 of the Swindon Borough Local Plan 2026.

- 12) A Design Code relating to each Character Area, as defined in the Strategic Design Code, shall be submitted to and be approved in writing by the local planning authority prior to the submission of the first reserved matters application within the Character Area. Each Design Code shall be in accordance with the Strategic Design Code approved pursuant to condition 11 above and shall include detailed guidance for the Character Area in respect of:
- The overall vision, mix of uses and character of the parcel of development;
  - How the character and identity of the development parcel will be established and strengthened through consideration of the public realm, streets and open spaces, green infrastructure, retained and proposed planting, open spaces and play areas;
  - The form of the character area, with reference to densities, block types, building types, building heights, ground levels, the palette of materials, recycling and waste management, street furniture, principles of inclusive design and Secure by Design;
  - The hierarchy, typology and treatments of all elements of the movement network;
  - Design principles for traffic management, parking provision and servicing to all properties;
  - The means of achieving direct, safe and accessible connectivity to the rest of the NEV development and in particular to the facilities and services of existing and proposed local and district centres; and
  - Noise attenuation measures.

Each reserved matters application shall be accompanied by a checklist to demonstrate how the development accords with the relevant approved Character Area Design Code.

Reason: To ensure a holistic approach to co-ordinate and deliver high quality design in accordance with Policies SD3, DE1 and NC3 of the Swindon Borough Local Plan 2026.

- 13) No development shall commence until a public art strategy shall have been submitted to and approved in writing by the local planning authority. The strategy shall identify how public art will contribute to the enhancement of the public realm and set out a scheme for the delivery of public art within the site. The scheme shall include design specification(s) and provision mechanisms, details of a programme and timing of delivery, and mechanisms for long term maintenance. The provision of the public art shall be carried out and maintained in accordance with the approved strategy.

Reason: To secure a high quality public realm and the timely provision of public art.

### **Ecology Trees and Landscaping**

- 14) No development shall take place on the phases of development which contain or adjoin the River Cole, Dorcan Stream and Liden Brook until a scheme for the provision and management of a 10 metre wide buffer zone alongside these watercourses shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:

- Plans showing the extent and layout of the buffer zone;
- Details of any proposed planting scheme;
- Details of any proposed footpaths, fencing and lighting.

Reason: To prevent development having an adverse impact on ecology and biodiversity.

- 15) Before the submission of the first reserved matters application a Framework Landscape, Ecology and Arboricultural Management Plan (FLEAMP) shall have been submitted to and approved in writing by the local planning authority. The FLEAMP shall provide an overarching management plan for the development at Lotmead Farm. The FLEAMP shall identify the feature specific objectives to achieve the overarching aim and include the outline measures to create new priority habitat and the areas to be managed specifically for biodiversity, identify the additional green infrastructure that will be created, set out the management plan context and rationale and an outline programme and measures for monitoring and review.

Reason: To ensure biodiversity, green infrastructure and assets are protected, integrated with the development and enhanced in accordance with Policies SD3, EN1 and NC3 of the Swindon Borough Local Plan 2026. The FLEAMP shall also ensure the development provides access to nature to promote human well-being and afford educational opportunities.

- 16) Reserved matters applications for each phase of development shall be accompanied by a Landscape, Ecology and Arboricultural Management Plan (LEAMP). The LEAMP shall be informed by the FLEAMP approved under condition 15 above and by updated Phase 2 surveys where the last Phase 2 surveys undertaken for the site are more than 2 years old. The LEAMP shall include details of the retention of any species receptor sites identified by the Phase 2 surveys for the site. The LEAMP shall also include details of long term objectives, extent and type of new planting, details of any new habitat created on site, management responsibilities and maintenance schedules for all landscaped and habitat areas (except privately owned domestic gardens). No development on each phase shall commence until the LEAMP for that phase has been approved in writing by the local planning authority. Thereafter development of each phase shall be progressed in accordance with the approved LEAMP. No development, works or other activities to the identified receptor sites shall be progressed other than in accordance with the works for ecological enhancement and management as set out in the approved LEAMP. The approved management and maintenance schedules shall be adhered to at all times.
- Reason: To protect wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 17) Prior to the submission of any reserved matters application that requires access from the A420, Phase 2 surveys of the areas identified and labelled as "Areas where there is uncertainty over habitats present (desk based assessment only)" on Plan EDP 12.4 Extended Phase 1 survey Results – Masterplan Application Site (ES Addendum Figure 12.3) shall be undertaken by a suitably qualified ecologist. Once undertaken, and prior to the commencement of any development within a phase containing the surveyed areas, the results (i) shall be submitted to and approved in writing by the local planning authority, and (ii) the results and proposed measures for mitigation shall be incorporated into a Landscape, Ecology and Arboricultural Management Plan (LEAMP) for submission and approval in writing by the local planning authority in accordance with condition 16 above. All works shall be carried in accordance with the measures for mitigation and management contained within the approved LEAMP.
- Reason: To ensure that updated surveys are provided to inform the protection of wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 18) Prior to the submission of any reserved matters application that requires access from the A420, an Arboricultural Impact Assessment shall have been submitted to and approved in writing by the local planning authority. The Arboricultural Impact Assessment shall include: the location, species, girth or stem diameter, accurately planned crown spread and reference number of all trees on and adjoining the site with a stem diameter of 100 mm or greater; a

tree condition schedule with proposals for surgery or other arboricultural works, where applicable; existing levels including where appropriate sufficient detail to enable consideration of existing tree protection; details of existing hedgerows, hedges and other significant areas of vegetation and a timetable of works.

Within a period of five years of commencement of development pursuant to approval of any reserved matters involving access from the A420, any tree identified for retention within the Arboricultural Impact Assessment which is removed, dies or becomes seriously damaged or diseased, shall be replaced before the end of the next available planting season with a species, details of which shall first have been submitted to and approved in writing by the local planning authority.

Reason: To protect trees and hedgerows of amenity value.

- 19) No buildings shall be demolished or partially demolished or works undertaken to existing buildings and no trees on the site shall be felled or reduced before a survey has been undertaken to confirm whether or not bats or bat roosts are present within the building(s) to be demolished or trees to be felled. If bats or their roosts are found to be present bat mitigation measures shall be submitted to and approved in writing by the local planning authority. Such mitigation measures shall be carried out in accordance with the approved details prior to the demolition, partial demolition or tree works.

Reason: To protect bats and their supporting habitat.

- 20) Reserved matters applications shall accord with the details on trees and hedgerows contained within the following reports and plans:

- Lotmead Farm Villages Arboricultural Impact Assessment T\_EDP 1879\_15\_260617
- Tree retention and removal plan (sheet 1 of 4) EDP1879/43d dated 23 June 2017
- Tree retention and removal plan (sheet 2 of 4) EDP1879/44d dated 23 June 2017
- Tree retention and removal plan (sheet 3 of 4) EDP1879/45d dated 23 June 2017
- Tree retention and removal plan (sheet 4 of 4) EDP1879/46e dated 21 August 2017
- Proposed Avenue planting plan EDP1879/68a dated 28 February 2017.

The works pursuant to any phase of the development hereby permitted shall comply with the requirements of the above information. Any tree or group of trees or other vegetation shown to be retained in the above details that is removed, dies or becomes seriously diseased or damaged shall be replaced in the first available planting season with a species, details of which shall first be submitted to and approved in writing by the local planning authority. Any replacement trees and hedgerows shall thereafter be maintained.

Notwithstanding the provisions of Part 2 of Schedule 2 to the Town and

Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fence or other means of enclosure shall be erected within or closer to any existing hedgerow or tree other than as shown on the plans within the reserved matters approved pursuant to this outline planning permission.

Reason: To ensure the protection of trees and hedgerows on the land.

- 21) All trees indicated to be retained on the plans listed in condition 20 above shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations". No development shall commence within any phase of development unless and until (i) details of temporary protective fences to safeguard the trees, hedges or other vegetation to be retained on the site within that phase shall have been submitted to and approved in writing by the local planning authority, and (ii) the approved fencing shall have been erected in accordance with BS 5837:2012 and the approved details. The approved protection shall be maintained to the required standard throughout the development or until the local planning authority has confirmed in writing that the fencing can be removed.

Reason: To ensure adequate protection is afforded to the trees and /or hedges on the site which are to be retained.

- 22) Within each phase or sub phase all landscaping shall be carried out in accordance with the scheme and details approved under the reserved matters. Any planting carried out in accordance with the approved details that within a period of 5 years from the date of planting dies, is removed or becomes seriously diseased or damaged shall be replaced with planting of similar size and species within the first available planting season.

Reason: To safeguard all features of landscape value in the interests of maintaining biodiversity and aesthetic value.

### **Strategic Highway Infrastructure and Wanborough Road**

- 23) Prior to the submission of the first reserved matters application pursuant to this outline planning permission, plans shall have been submitted to and approved in writing by the local planning authority detailing the alignment and design of the Southern Connector Road through the site.

Reason: To ensure appropriate highway provision is made to connect to and accommodate the Southern Connector Road within the development hereby approved in accordance with Policies NC3, TR1 and TR2 of the Swindon Borough Local Plan 2026.

- 24) No more than 200 occupied dwellings or no more than 200 commenced dwelling constructions on the site shall have vehicular access from Wanborough Road. Prior to the commencement of development of the 201<sup>st</sup> dwelling, the details of the means to restrict vehicular access from

Wanborough Road to no more than 200 dwellings shall have been submitted to and approved in writing by the local planning authority and carried out in full accordance with the approved details. The means to restrict access shall be maintained in the approved form thereafter.

Reason: To prioritise access to the A Class Road and the strategic road network to restrict rat running through the adjacent villages and the eastern side of Swindon.

- 25) Notwithstanding condition 4 (requiring that the development is carried out in accordance with the approved plans) no development shall take place until design details of the access junction at Wanbrough Road have been subject to a stage 1/2 road safety audit and have been submitted to and approved in writing by the local planning authority. The details shall specify surface material treatment across Wanborough Road, visibility splays, vehicle tracking, signing and lining. Development shall be carried out in full accordance with the approved details prior to first occupation of any dwelling on the site and shall be retained as such thereafter.

Reason: To provide an aesthetic gateway feature to the development, reduce vehicle speeds and improve highway safety and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 26) No development shall commence until a scheme of traffic calming and management, including pedestrian / cyclist connectivity, for Wanborough Road and which shall encompass the access to the site, including visibility splays, and the highway leading to and including the junction with Kingfisher Drive, shall have been subject to a stage 1/2 road safety audit and shall have been submitted to and approved in writing by the local planning authority (hereinafter referred to as 'the scheme'). The scheme shall incorporate carriageway narrowing, provision of a 3 metre footway/cycleway, surface material treatment of the carriageway, drainage, gateway features, signing and lining and a scheme for street lighting. Pedestrian / cyclist connectivity shall be carried out in accordance with the approved details prior to the first occupation of the development. All other elements of the scheme shall be carried out in accordance with the approved details prior to the first occupation of the 100<sup>th</sup> dwelling.

Reason: To increase safety for all highway users, to reduce the attractiveness of the route for rat running, reduce vehicle speeds and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 27) No dwelling shall be occupied unless and until the bridge parapets on the Wanborough Road Bridge over the A419 have been raised to a height of no less than 1.4 m in accordance with DMRB TD19/06: Requirement for Road Restraint Systems (or the relevant equivalent standard at the time the work is

carried out). Details of the works first shall have been submitted to and approved in writing by the local planning authority. Once installed in accordance with the approved details the raised bridge parapets shall be retained in the approved form without modification.

Reason: To enhance safety for cyclists and in the interest of safety on the strategic road network.

- 28) No more than 795 dwellings hereby permitted on the site shall be occupied unless and until an improvement scheme for the M4 junction 15 is complete and open to traffic. The junction improvement scheme shall be in accordance with the proposals shown on the WSP/Parsons Brinckerhoff drawings dated 5 December 2016 (ref M4J15-WSP-HGN-0000-DR-HE-00001 Rev P1; M4J15-WSP-HGN-0000-DR-HE-00002 Rev P1; and M4J15-WSP-HGN-0000-DR-HE-00003 Rev P1) or an alternative improvement scheme which provides the same or greater level of benefit in terms of offsetting the unacceptable impacts of development and which shall have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe and efficient operation of the strategic road network.

- 29) No more than 795 dwellings hereby permitted on the site shall be occupied unless and until an improvement scheme for the A419 White Hart junction is complete and open to traffic. The junction improvement scheme shall be in accordance with the proposals shown on the Swindon Borough Council drawing ref T098819-7000-01 or an alternative improvement scheme which provides the same or greater level of benefit in terms of offsetting the unacceptable impacts of development and which shall have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the safe and efficient operation of the strategic road network.

### **Access to schools**

- 30) Concurrent with the submission of the reserved matters application(s) for each phase or sub phase of the development details shall be submitted to the local planning authority of measures to facilitate a safe pedestrian and cycle route to schools on and off site. No development shall take on each phase or sub phase until the measures have been approved in writing by the local planning authority. The approved measures shall be carried out prior to the first occupation of a dwelling on the phase or sub phase and shall be retained thereafter.

Reason: In the interests of sustainable transport and highway safety.

### **Highway provision and construction**

- 31) No building shall be first occupied until that part of the service road, including turning spaces and all other areas that serve a highway purpose,

which provides access to the building, shall have been constructed in accordance with the approved plans. The service road as constructed shall be retained thereafter.

Reason: To ensure that the development is served by an adequate means of access to the public highway in the interests of highway convenience and safety.

- 32) Within each phase of development the construction of all proposed estate roads and footways and associated utilities, services and street furniture shall not commence unless and until details of their design and construction have been submitted to and approved in writing by the local planning authority. The submitted details, accompanied by plans and sections where appropriate, shall include gradients, levels, retaining walls, visibility splays, materials, methods of construction and a timetable for implementation. Development shall be carried out as approved.

Reason: To ensure all roads, including those not offered for adoption, are laid and constructed to an approved standard before buildings are brought into use.

#### **Parking and servicing**

- 33) No dwelling shall be first occupied unless and until space for car parking, together with the associated manoeuvring and turning space for that dwelling, has been laid out and made available for use in accordance with the details approved pursuant to condition 1. The parking space, including garage space where provided, shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and residential amenity.

- 34) No non-residential building shall be first occupied unless and until space has been laid out in accordance with the details approved pursuant to condition 1 for cars to be parked, for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the premises in forward gear. Once provided that space shall thereafter be kept available at all times for those purposes.

Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and to minimise disruption to residential properties and other non-residential premises.

- 35) No dwelling shall be first occupied or non-residential building brought into use until bicycle and motor cycle parking has been provided and made available for use in accordance with the details that first shall have been

submitted to and approved in writing by the local planning authority. Once provided the parking facilities shall thereafter be retained in the approved form and kept available at all times for those purposes.

Reason: To ensure suitable bicycle and motor cycle parking is provided in accordance with the Council's adopted standards for occupiers of the dwellings and users of the non-residential buildings.

- 36) Concurrently with the submission of the reserved matters application(s) for each phase or sub phase of the development details shall be submitted to the local planning authority of electric vehicle charging points. Provision shall be made for the charging points to accommodate 60% of all dwelling units and additional charging points for non-residential and communal usage. No development shall take place within each phase until the location and form of the charging points and a timetable for their provision have been approved in writing by the local planning authority. Provision shall be made in accordance with the approved details and timetable and shall be retained at all times thereafter.

Reason: To ensure adequate facilities are provided to enable the use of electric cars and to improve air quality.

### **Construction period**

- 37) No development shall take place, including any works of demolition or site clearance, until a Framework Construction Method Statement has been submitted to and approved in writing by the local planning authority. Prior to the commencement of each phase of development a site specific Construction Method Statement, based on the principles established in the approved Framework Construction Method Statement, shall have been submitted to and approved in writing by the local planning authority. The Framework and the site specific Construction Method Statements shall take into account the construction mitigation measures identified in the Environmental Statement (ES) May 2015 and the June 2017 ES Addendum. Each site specific Statement shall provide for:

- a traffic management plan, which shall include construction vehicle routes to and from the site, arrangements for recording construction vehicle movements to and from the site and making those records available for inspection, details of temporary access points and parking areas for construction vehicles, site operatives and visitors, a construction workers travel plan;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- a scheme for the on-site maintenance and repair of plant, equipment and machinery;
- details of a procedure for wheel washing and vehicle wash down of all construction site traffic leaving the site;

- details of a procedure for removing debris from the highway at all times;
- temporary buildings, enclosures and staff facilities;
- details for the erection and maintenance of security and acoustic hoarding(s);
- measures to control the emission of dust, smoke, fumes and debris;
- a method statement for the control of noise and vibrations, including pile driving;
- contact details for the site manager and a procedure for liaison with the local community.

The approved site specific Construction Method Statement shall be adhered to throughout the construction period for that phase of development.

Reason: To reduce the potential impact on the public highway and residential amenity during the site preparation and construction phases of development.

- 38) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall describe and set out measures and good practice to avoid or minimise construction stage ecological effects occurring to habitats and faunal species and shall be in accordance with the approach outlined in the Environmental Statement Addendum June 2017 Chapter 12 Ecology and Conservation under the heading Mitigation. Development shall be carried out in accordance with the approved CEMP method statement.

Reason: To ensure the protection of wildlife and supporting habitat.

- 39) No development shall take place in each phase of development until a waste audit shall have been submitted to and approved in writing by the local planning authority. The waste audit shall include:
- an assessment of the type and volume of waste that the development process will generate (the development process comprises the construction process and any other operation necessary to bring the development into use);
  - the steps to be taken in the development process to reduce, re-use and recycle waste, reduce the production of hazardous wastes, minimise the use of raw materials, and minimise the pollution potential of unavoidable waste;
  - the steps to be taken to dispose of unavoidable waste in an environmentally acceptable manner;
  - the steps to be taken to ensure maximum waste recovery once the development is completed and occupied; and
  - proposals for the transport of waste created during the development process and subsequent use of the site.

Development shall be carried out in accordance with the approved waste audit.

Reason: To ensure compliance with Policy WSC6 of the Wiltshire and Swindon Waste Core Strategy.

- 40) No work, including the waiting of vehicles undertaking deliveries and collections during the construction phases, shall take place outside the following hours:

- 0730 to 1830 Monday to Friday
- 0830 to 1300 Saturdays; and
- Not at all on Sundays, Bank Holidays and Public Holidays.

In addition there shall be no deliveries and collections during the construction phases between 0800 and 0900 hours and between 1700 to 1800 hours on weekdays (Monday to Friday excluding public holidays).

Reason: To protect residential amenity and highway safety.

### **Archaeology**

- 41) No development shall take place within the application site area unless and until an outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority.

Reason: To enable the recording of any features of archaeological interest in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

- 42) After approval of the outline archaeological mitigation strategy pursuant to condition 41 above and before any development commences:

- A programme of archaeological investigation, which shall be in general accordance with the approved outline archaeological mitigation strategy, shall have been submitted to and approved in writing by the local planning authority. The programme of investigation shall include on-site work and off-site work, provision for analysis, publication and archiving of the results and a timetable for implementation.
- The programme of archaeological investigation has been carried out in accordance with the approved details.

Reason: The area is known to be of archaeological importance and to ensure that any matters of archaeological interest are investigated and recorded in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

- 43) No development take place until the areas of archaeological importance (non-designated) that will be preserved in situ have been identified and details have been submitted to and approved in writing by the local planning authority. No development within each phase of development shall take place until (i) a method statement for carrying out works of development, and (ii) a management plan to show how the surviving archaeological remains which are to remain in situ are to be preserved, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure areas of known archaeological importance are preserved in situ and appropriately managed in the long term in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

### **Flood Risk Mitigation, Floodplain Restoration**

- 44) The development hereby approved shall be carried out in accordance with Flood Risk Assessment PBA ref 27970\_016\_001 rev D dated April 2016 (the FRA) and the following mitigation measures detailed within the FRA:
- No built development shall be located within the 0.1% annual exceedance probability (AEP) flood extent;
  - Finished floor levels shall be set no lower than 300 mm above the 1% AEP, including an appropriate allowance for climate change, flood level.

The mitigation measures shall be fully implemented before first occupation and subsequently in accordance with phasing/timing arrangements submitted to and approved in writing by the local planning authority.

Reason: In order to protect people and property from flooding.

- 45) No development hereby approved which is located within the existing 0.1% annual exceedance probability (AEP) flood extent shall take place unless and until such time as a scheme for the restoration of the floodplain to the Liden Brook, based on Flood Risk Assessment PBA ref 27970\_016\_001 rev D dated April 2016<sup>216</sup>, has been submitted to and approved in writing by the local planning authority and the approved restoration scheme has been implemented in full. The approved scheme shall thereafter be maintained and retained.

Reason: To reduce flood risk at the site, to ensure that no development will be located within the existing 0.1% AEP flood extent and in order to protect people and property from flooding.

### **Surface Water, Drainage and Water Supply**

- 46) Prior to the submission of the first reserved matter application(s) a surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the Surface Water Management Strategy ref 27970/015/003 Rev D and shall include, but not be limited to:
- The method to be employed to delay and control the surface water flows discharged from the site in order that the flows shall be restricted to 4.44 l/s/ha for all events up to and including the 1% annual exceedance probability plus climate change;
  - A drainage plan showing the location of the proposed SuDS and drainage network, with exceedance flow routes clearly identified;

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<sup>216</sup> PL 1 condition 49 cites the March 2015 Flood Risk Assessment

- Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage and maintain water quality in accordance with best practice guidance;
- Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime;
- Details of how water quality shall be maintained during and after construction;
- Details of how the scheme shall be maintained and managed after completion;
- The submission of evidence relating to accepted outfalls from the site, particularly from any third party network owners; and
- A timetable for implementation.

The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere or reduce water quality and in accordance with Policy EN6 of the Swindon Borough Local Plan 2026.

- 47) No development within each phase shall commence until a detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the Surface Water Management Strategy ref 27970/015/003 Rev D and the surface water drainage scheme approved in compliance with condition 46 and shall include a timetable for implementation. The scheme shall be implemented in accordance with the approved details and timetable.  
Reason: To ensure development does not increase the risk of flooding elsewhere in accordance with Policy EN6 of the Swindon Borough Local Plan 2026.

- 48) No development shall commence until a drainage strategy detailing any on site and/or off site drainage works has been submitted to and approved in writing by the local planning authority. No foul or surface water from the site shall be discharged into the public system until the approved drainage works have been carried out in accordance with the approved drainage strategy. The works shall be retained in the approved form thereafter.

Reason: To ensure that sufficient capacity is made available to cope with the new development in order to avoid sewage flooding and adverse impact upon the community.

- 49) No development shall commence until the following details and scheme have been submitted to and approved in writing by the local planning authority:

- details of a study to show the impact of the development on the existing water supply infrastructure (which shall determine the magnitude of any new additional capacity that will be required in the system and a suitable connection point); and
- a scheme of works to provide the capacity shown to be required.

Works shall be carried in accordance with the approved scheme prior to the first occupation of any dwelling or non-residential building on the site and shall be retained thereafter in the approved form.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

### **Noise and Ventilation Mitigation**

- 50) Within each phase of development that includes the provision of residential units no development shall commence until a scheme for protecting the proposed the noise-sensitive development from noise shall have been submitted to and approved in writing by the local planning authority. The scheme shall include measures to ensure indoor ambient noise levels comply with the noise levels contained in BS 8233:2014, namely: resting 35 dB LAeq, 16 hour; dining 40 dB LAeq, 16 hour; sleeping 30 dB LAeq, 8 hour; 45 dB LAF, max; and 50 dB LAeq, 16 hour in external amenity spaces. The scheme shall also include details of any measures for mechanical ventilation where the specified internal noise levels in bedrooms and living rooms can only be achieved with windows shut. No residential units shall be occupied in that phase until all works which form part of the approved scheme have been completed, a pre-occupation validation noise survey has been undertaken to demonstrate the effectiveness of the measures in reducing external noise to an acceptable level and a certificate of compliance has been submitted to the local planning authority. All works which form part of the approved scheme shall be retained in the approved form thereafter.

Reason: To mitigate harm from nearby noise sources and to ensure the development provides an acceptable living environment for residents.

- 51) Within each phase of development no development of a non-residential building shall commence until a BS 4142:2014 noise assessment on the impact of operational noise on residential premises has been undertaken. Where the assessment shows that the rating level of any noise source exceeds 5 dB below the background level (LA90) a scheme of noise mitigation shall be submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be carried out in accordance with the approved details before the first use of the non-residential premises and shall be retained in the approved form without modification thereafter.

Reason: In the interests of residential amenity.

- 52) Within each phase of development no development of a non-residential building shall commence unless and until details of all proposed extraction and

ventilation systems shall have been submitted to and approved in writing by the local planning authority. The standard achieved shall be nil odour at the nearest residential property. Before the commencement of the first use of the non-residential premises the mitigation measures shall be installed in accordance with the approved details. Mitigation shall be retained in the approved form to achieve the stated standard without modification thereafter.  
Reason: In the interests of amenity.

### **Building Research Establishment Environmental Assessment Method (BREEAM)**

- 53) No development of a non-residential building shall take place until a pre-assessment BREEAM report shall have been issued to the local planning authority. The report shall be prepared by an accredited BREEAM Assessor and shall be based upon an approved BREEAM plan for provision of non-residential buildings, indicating that the building is capable of achieving the applicable 'excellent' rating as a minimum. No building shall be occupied until a Final BREEAM Certificate has been issued by an approved BREEAM Assessor for it and produced to the local planning authority certifying that BREEAM Level of excellent has been achieved. In the event that such a rating is replaced by a comparable national measure of sustainability for building design, the equivalent level of measure shall be applicable to the proposed development.

Reason: To ensure that the development is carried out in accordance with sustainable construction standards.

### **Contaminated Land**

- 54) Prior to each phase of development approved by this planning permission no development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority:
- i. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, potentially unacceptable risks arising from contamination at the site.
  - ii. A site investigation scheme based on (i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including all those off site.
  - iii. The results of the site investigation and detailed assessment of the risk referred to in (ii) above, and based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - iv. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) above are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: Previous activities at the site may have resulted in contamination.

- 55) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action as identified in the verification plan. The long term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that contamination at the site is remediated such that the site does not pose a risk to controlled waters.

- 56) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

Reason: To ensure any unexpected contamination encountered during development is suitably assessed and dealt with such that it does not pose an unacceptable risk to ground or surface water.

### **Slab levels and Materials**

- 57) No development shall take place on each phase until full details of the proposed site levels (above ordnance datum), together with the finished floor slab levels of the proposed buildings and structures (including roads, bridges and footpaths), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the finished levels are acceptable in the interests of visual amenity.

- 58) No development shall commence on each phase of development until details of all external facing materials shall have been submitted to and

approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance of the development is in harmony with its context.

### **Wheelchair accessible housing**

- 59) The reserved matters for each phase or sub phase shall identify on a site layout plan not less than 2% of the total residential development for that phase or sub phase as wheelchair accessible housing. Details of the design features of each unit shall be submitted to and approved in writing by the local planning authority and shall include provision of ramped access with flush thresholds into all doorways, adequate doorway widths for a wheelchair to pass through, space for internal circulation and for through the floor lift circulation (where appropriate), entry level bathroom and toilet facilities and a kitchen designed for wheelchair user occupiers. Development shall be carried out in accordance with the approved details and shall be retained for so long as the buildings remain in use as dwelling houses.

Reason: In the interests of equality and to ensure all housing needs are met.

### **Utilities and Waste Infrastructure**

- 60) No dwelling or building in non-residential use shall be occupied until broadband has been provided on site and made available to each dwelling or building in non-residential use.

Reason: To ensure access to appropriate broadband infrastructure in accordance with Policy IN3 of the Swindon Borough Local Plan 2026.

- 61) The reserved matters application(s) for each phase shall include details of waste storage/collection areas which allow for the convenient storage of waste and unrestricted access at all times. The waste storage/collection areas shall be provided in accordance with the approved details prior to the occupation of each unit and shall be retained thereafter at all times.

Reason: In the interest of amenity.

- 62) No development shall commence until outline details of the provision of a water supply network and /or hydrants to meet the fire fighting needs of the development have been submitted to and approved in writing by the local planning authority. No development shall commence on each phase or sub phase until a scheme and specification for the provision and location of fire hydrants, to include installation arrangements and the timing of installation, shall have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.

Reason: To reduce the risk from fire in the interest of public safety and local resilience and to enhance the public realm.

**63) Canal Route**

No works shall be carried out within phases or sub phases that include the safeguarded canal corridor, as defined by the details approved under Condition 10 (Phasing Programme), until details have been submitted to and approved in writing by the local planning authority to demonstrate how the canal route will be safeguarded. The safeguarded alignment shall be in broad accordance with the alignment on the illustrative masterplan (PL 1461-AB-024)

Reason: To ensure the safeguarding of the canal corridor in accordance with Policies EN11 and NC3 of the Swindon Borough Local Plan 2026.

**SCHEDULE 3: PHASE 1 SITE SCHEME AS DETERMINED BY THE COUNCIL**

**Outline Planning Permission**

- 1) No development shall commence until details of the layout, scale, appearance, access (other than the access from Wanborough Road) and landscaping (hereinafter called "the reserved matters") have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.

Reason: The planning permission granted is in outline and to accord with section 92 of the Town and Country Planning Act 1990.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 3) The development hereby permitted shall commence no later than 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- Phase 1 red line plan PL 1461-AB-006-04
- Phase 1 land use parameter plan PL 1461-AB-028-02
- Phase 1 movement parameter plan PL 1461-AB-026-01
- Phase 1 green infrastructure parameter plan PL 1461-AB-025-01

- Phase 1 building height parameter plan PL 1461-AB-029-02
- Phase 1 density parameter plan PL 1461-AB-027-01
- Access plan 27970/003 Rev H.

Reason: To define the scope of the development hereby permitted, in accordance with section 72 of the Town and Country Planning Act 1990.

- 5) Notwithstanding the alignment of the internal access road from Wanborough Road, as shown on the Phase 1 Illustrative Masterplan ref PL 1461-AB-042-00, the reserved matters applications shall show an alternative alignment to the east of the existing Lotmead Business Park access. No development shall commence until details of the timing for its provision shall have been submitted to and approved in writing by the local planning authority.

Reason: To minimise the loss of protected trees.

- 6) All reserved matters shall be in broad accordance with the Phase 1 Illustrative Masterplan ref. PL 1461-AB-042-00 except as required by condition 5 above.

Reason: In the interest of the proper planning of the area and to achieve a high standard of design.

### **Design Code and Public Art**

- 7) Before the submission of the first reserved matters application a Design Code shall have been submitted to and approved in writing by the local planning authority. The Design Code shall include:
- The overall vision and character of the development;
  - The design principles for the enhancement of the public realm, conservation of the scheduled ancient monument and the integration of the development into the surrounding landscape;
  - The form of the development with reference to densities, block types, movement framework, building types, building heights, ground levels and the palette of materials;
  - Consideration of how the use of sustainable drainage systems will enhance the development and conserve habitats and wildlife;
  - The means of achieving direct, safe and accessible connectivity to the rest of the NEV development.

The reserved matters applications shall demonstrate how the development proposals accord with the approved Design Code.

Reason: To maintain a high standard of design and to ensure a high quality and consistent approach to development of the site in accordance with Policies SD3, DE1 and NC3 of the Swindon Borough Local Plan 2026.

- 8) No development shall commence until a public art strategy shall have been submitted to and approved in writing by the local planning authority. The strategy shall identify how public art will contribute to the enhancement of the public realm and set out a scheme for the delivery of public art within the site. The scheme shall include design specification(s) and provision mechanisms,

details of a programme and timing of delivery, and mechanisms for long term maintenance. The provision of the public art shall be carried out and maintained in accordance with the approved strategy.

Reason: To secure a high quality public realm and the timely provision of public art.

### **Ecology Trees and Landscaping**

- 9) No development shall take place until a scheme for the provision and management of a 10 metre wide buffer zone alongside Dorcan Stream shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:
- Plans showing the extent and layout of the buffer zone;
  - Details of any proposed planting scheme; and
  - Details of any proposed footpaths, fencing and lighting.

Reason: To prevent development having an adverse impact on ecology and biodiversity.

- 10) Reserved matters applications shall be accompanied by a Landscape, Ecology and Arboricultural Management Plan (LEAMP). The LEAMP shall be informed by updated Phase 2 surveys where the last Phase 2 surveys undertaken for the site are more than 2 years old. The LEAMP shall include details of the retention of any species receptor sites identified by the Phase 2 surveys for the site. The LEAMP shall also include details of long term design objectives, extent and type of new planting, details of any new habitat created on site, management responsibilities and maintenance schedules for all landscaped and habitat areas (except privately owned domestic gardens). No development shall commence until the LEAMP has been approved in writing by the local planning authority.
- Development shall be progressed in accordance with the approved LEAMP. No development, works or other activities to the identified receptor sites shall be progressed other than in accordance with the works for ecological enhancement and management as set out in the approved LEAMP. The approved management and maintenance schedules shall be adhered to at all times.

Reason: To protect wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 11) No development shall take place until a tree retention and removal plan shall have been submitted to and approved in writing by the local planning authority. Development shall comply with the approved details. Any tree or group of trees or other vegetation shown to be retained in the approved details that is removed, dies or becomes seriously diseased or damaged shall be replaced before the end of the next available planting season. Details of the species of the replacement tree or vegetation shall first be submitted to

and approved in writing by the local planning authority. Any replacement trees and hedgerows shall thereafter be maintained. Notwithstanding the provisions of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fence or other means of enclosure shall be erected within or closer to any existing hedgerow or tree other than as shown on the plans within the reserved matters approved pursuant to this outline planning permission.

Reason: To ensure the protection of trees and hedgerows on the land.

- 12) All trees indicated to be retained on the plan(s) approved in compliance with condition 11 above shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations". No development shall commence unless and until (i) details of temporary protective fences to safeguard the trees, hedges or other vegetation to be retained on the site shall have been submitted to and approved in writing by the local planning authority, and (ii) the approved fencing shall have been erected in accordance with BS 5837:2012 and the approved details. The approved protection shall be maintained to the required standard throughout the development or until the local planning authority has confirmed in writing that the fencing can be removed.

Reason: To ensure adequate protection is afforded to the trees and/or hedgerows on the site which are to be retained.

- 13) Within each phase or sub phase all landscaping shall be carried out in accordance with the scheme and details approved under the reserved matters. Any planting carried out in accordance with the approved details that within a period of 5 years from the date of planting dies, is removed or becomes seriously diseased or damaged shall be replaced with planting of similar size and species within the first available planting season.

Reason: To safeguard all features of landscape value in the interests of maintaining biodiversity and aesthetic value.

### **Wanborough Road**

- 14) Notwithstanding condition 4 requiring that the development is carried out in accordance with the approved plans no development shall take place until details of the access junction at Wanbrough Road have been subject to a stage 1/2 road safety audit and details of the access junction have been submitted to and approved in writing by the local planning authority. The details shall specify surface material treatment across Wanborough Road, visibility splays, vehicle tracking, signing and lining. Development shall be carried out in full accordance with the approved details prior to first occupation of any dwelling on the site and shall be retained as such thereafter.

Reason: To provide an aesthetic gateway feature to the development, reduce vehicle speeds and improve highway safety and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 15) No development shall commence until a scheme of traffic calming and management, including pedestrian / cyclist connectivity, for Wanborough Road and which shall encompass the access to the site, including visibility splays, and the highway leading to and including the junction with Kingfisher Drive, shall have been subject to a stage 1/2 road safety audit and shall have been submitted to and approved in writing by the local planning authority (hereinafter referred to as 'the scheme'). The scheme shall incorporate carriageway narrowing, provision of a 3 metre footway/cycleway, surface material treatment of the carriageway, drainage, gateway features, signing and lining and a scheme for street lighting. Pedestrian / cyclist connectivity shall be carried out in accordance with the approved details prior to the first occupation of the development. All other elements of the scheme shall be carried out in accordance with the approved details prior to the first occupation of the 100<sup>th</sup> dwelling.

Reason: To increase safety for all highway users, to reduce the attractiveness of the route for rat running, reduce vehicle speeds and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 16) No dwelling shall be occupied unless and until the bridge parapets on the Wanborough Road Bridge over the A419 have been raised to a height of no less than 1.4 m in accordance with DMRB TD19/06: Requirement for Road Restraint Systems (or the relevant equivalent standard at the time the work is carried out). Details of the works first shall have been submitted to and approved in writing by the local planning authority. Once installed in accordance with the approved details the raised bridge parapets shall be retained in the approved form without modification.

Reason: To enhance safety for cyclists and in the interest of safety of the strategic road network.

### **Southern Connector Road**

- 17) Prior to the submission of the first reserved matters application pursuant to this outline planning permission, plans detailing the alignment and design of the Southern Connector Road through the site shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure satisfactory road provision is provided as part of the development to deliver and connect to the Southern Connector Road in accordance with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

### **Highway provision and construction**

- 18) No dwelling shall be first occupied until that part of the service road which provides access to it, including turning and manoeuvring spaces, shall have been constructed in accordance with the approved plans. The service road as constructed shall be retained thereafter.  
Reason: To ensure each dwelling unit is served by a fully functional highway and adequate means of access in the interests of highway safety and residential amenity.
- 19) The construction of proposed estate roads and footways and associated utilities, services and street furniture shall not commence unless and until details of their design and construction have been submitted to and approved in writing by the local planning authority. The submitted details, accompanied by plans and sections where appropriate, shall include gradients, levels, retaining walls, visibility splays, materials, methods of construction and a timetable for implementation. Development shall be carried out as approved.  
Reason: To ensure all roads, including those not offered for adoption, are laid and constructed to an approved standard before dwellings are brought into use.

### **Parking**

- 20) No dwelling shall be first occupied unless and until space for car parking, together with the associated manoeuvring and turning space for that dwelling, has been laid out and made available for use in accordance with the details approved pursuant to condition 1. The parking space, including garage space where provided, shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.  
Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and residential amenity.
- 21) No dwelling shall be first occupied until the related bicycle and motor cycle parking has been provided and made available for use in accordance with the details that first have been submitted to and approved in writing by the local planning authority. Once provided the parking facilities shall thereafter be retained in the approved form and be kept available at all times for those purposes.  
Reason: To ensure suitable bicycle and motor cycle parking is provided in accordance with the Council's adopted standards for occupiers of the dwellings.
- 22) No development shall commence unless and until details of electric vehicle charging points, which shall include their location and form and a timetable for their provision, shall have been submitted to and approved in

writing by the local planning authority. Provision shall be made for the charging points to accommodate 60% of all dwelling units and additional charging points for non-residential and communal usage. Provision shall be made in accordance with the approved details and timetable and shall be retained as approved at all times thereafter.

Reason: To ensure adequate facilities are provided to enable the use of electric cars and to improve air quality.

### **Construction phase, waste audit**

23) No development shall take place, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- A traffic management plan, which shall include construction vehicle routes to and from the site, arrangements for recording construction vehicle movements to and from the site and making available those records for inspection, details of temporary access point(s) and parking areas for construction vehicles, site operatives and visitors, a construction workers travel plan;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- A scheme for the on-site maintenance and repair of plant, equipment and machinery;
- Details for wheel washing and vehicle wash down of all construction site traffic leaving the site;
- Details for removing debris from the highway at all times;
- Temporary buildings, enclosures and staff facilities;
- Details for the erection and maintenance of security and acoustic hoardings;
- Measures to control the emission of dust, smoke, fumes and debris;
- A method statement for the control of noise and vibration, including pile driving;
- Contact details for the site manager and a procedure for communication and liaison with the local community.

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: To ensure the mitigation identified in the Environmental Statement for the construction phase is put in place in order to reduce the potential impact on the public highway and residential amenity during site preparation and construction phases of development.

24) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall describe and set out measures and good practice to avoid or minimise construction stage ecological effects

occurring to habitats and faunal species and shall be in accordance with the approach outlined in the Environmental Statement Chapter 12 Ecology and Conservation under the heading Mitigation and in particular paragraphs 12.96 and 12.102. Development shall be carried out in accordance with the approved CEMP method statement.

Reason: To ensure the protection of wildlife and supporting habitat.

- 25) No development shall take place unless and until a waste audit shall have been submitted to and approved in writing by the local planning authority. The waste audit shall include:
- an assessment of the type and volume of waste that the development process will generate (the development process comprises the construction process and any other operation necessary to bring the development into use);
  - the steps to be taken in the development process to reduce, re-use and recycle waste, reduce the production of hazardous wastes, minimise the use of raw materials, and minimise the pollution potential of unavoidable waste;
  - the steps to be taken to dispose of unavoidable waste in an environmentally acceptable manner;
  - the steps to be taken to ensure maximum waste recovery once the development is completed and occupied; and
  - proposals for the transport of waste created during the development process and subsequent use of the site.

Development shall be carried out in accordance with the approved waste audit.

Reason: To ensure compliance with Policy WSC6 of the Wiltshire and Swindon Waste Core Strategy.

- 26) No work, including the waiting of vehicles undertaking deliveries and collections during the construction phases, shall take place outside the following hours:
- 0730 to 1830 Monday to Friday
  - 0830 to 1300 Saturdays; and
  - Not at all on Sundays, Bank Holidays and Public Holidays.

In addition there shall be no deliveries and collections during the construction phases between 0800 and 0900 hours and between 1700 to 1800 hours on weekdays (Monday to Friday excluding public holidays).

Reason: To protect residential amenity and highway safety.

### **Archaeology**

- 27) No development shall take place within the application site area unless and until an outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority.

Reason: To enable the recording of any features of archaeological interest in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

28) After approval of the outline archaeological mitigation strategy pursuant to condition 27 above and before any development commences:

- A programme of archaeological investigation, which shall be in general accordance with the approved outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority. The programme of investigation shall include on-site work and off-site work, provision for analysis, publication and archiving of the results and a timetable for implementation.
- The programme of archaeological investigation has been carried out in accordance with the approved details.

Reason: The area is known to be of archaeological importance and to ensure that any matters of archaeological interest are investigated and recorded in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

29) No development shall take place until the areas of archaeological importance (non-designated) that will be preserved in situ have been identified and a management plan to ensure their preservation in situ has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure areas of known archaeological importance are preserved in situ and appropriately managed in the long term in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

### **Flood risk mitigation**

30) The development hereby approved shall be carried out in accordance with the Flood Risk Assessment (PBA ref 27970-016-001 rev A dated March 2015) (the FRA) and the following mitigation measures detailed within the FRA:

- No built development shall be located within the 0.1% annual exceedance probability (AEP) flood extent; and
- Finished floor levels shall be set no lower than 300 mm above the 1% AEP, including an allowance for climate change, flood level.

The mitigation measures shall be fully implemented before first occupation and subsequently in accordance with phasing and timing arrangements that have first been submitted to and approved in writing by the local planning authority.

Reason: In order to protect people and property from flooding.

### **Surface Water, Drainage and Water Supply**

31) No development shall commence until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:

- The method to be employed to delay and control the surface water flows discharged from the site to 4.44 l/s/ha for all events up to and including the 1% annual exceedance probability plus climate change;
- A drainage plan showing the location of the proposed SuDS and drainage network, with exceedance flow routes clearly identified;
- Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime;
- Details of the measures taken to prevent pollution of the receiving groundwater and/or surface waters and how water quality shall be maintained during and after construction;
- Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage and maintain water quality in accordance with best practice guidance;
- Details of how the scheme shall be maintained and managed after completion;
- The submission of evidence relating to accepted outfalls from the site, particularly from any third party network owners; and
- A time table for implementation.

The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere or reduce water quality and to accord with Policy EN6 of the Swindon Borough Local Plan 2026.

- 32) No development shall commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing by the local planning authority. No foul or surface water from the site shall be discharged into the public system until the approved drainage works have been carried out in accordance with the approved drainage strategy. The works shall be retained in the approved form thereafter.

Reason: To ensure that sufficient capacity is made available to cope with the new development in order to avoid sewage flooding and adverse impact upon the community.

- 33) No development shall commence until the following matters have been submitted to and approved in writing by the local planning authority:
- Details of a study to show the impact of development on the existing water supply infrastructure, which shall determine the magnitude of any additional capacity that will be required in the system and a suitable connection point; and
  - A scheme of works to provide the capacity shown to be required.

Works shall be carried out in accordance with the approved scheme prior to the first occupation of any dwelling on the site and shall be retained thereafter in the approved form.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

### **Noise mitigation**

- 34) No development shall commence until a scheme for protecting the proposed dwellings from noise shall have been submitted to and approved in writing by the local planning authority. The scheme shall include measures to ensure indoor ambient noise levels comply with the noise levels contained in BS 8233:2014, namely: resting 35 dB LAeq, 16 hour; dining 40 dB LAeq, 16 hour; sleeping 30 dB LAeq, 8 hour; 45 dB LAF, max; and 50 dB LAeq, 16 hour in external amenity spaces. The scheme shall also include details of any measures for mechanical ventilation where the specified internal noise levels in bedrooms and living rooms can only be achieved with windows shut. No dwelling shall be occupied until all works which form part of the approved scheme have been completed, a pre-occupation validation noise survey has been undertaken to demonstrate the effectiveness of the measures in reducing external noise to an acceptable level and a certificate of compliance has been submitted to the local planning authority. All works which form part of the approved scheme shall be retained in the approved form thereafter.

Reason: To mitigate harm from nearby noise sources and to ensure the development provides an acceptable living environment for residents.

### **Contaminated land**

- 35) No development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority
- i. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site;
  - ii. A site investigation scheme based on (i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including all those off site;
  - iii. The results of the site investigation and detailed assessment of the risk referred to in (ii) above, and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
  - iv. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) above are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: Previous activities at the site may have resulted in contamination.

- 36) No occupation of the development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action as identified in the verification plan. The long term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that contamination at the site is remediated such that the site does not pose a risk to controlled waters.

- 37) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure any unexpected contamination encountered during development is suitably assessed and dealt with such that it does not pose an unacceptable risk to ground or surface water.

#### **Slab levels, Materials**

- 38) No development shall take place until full details of the proposed finished site levels (above ordnance datum) and finished floor slab levels of the proposed buildings and structures (including roads, bridges and footpaths) in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the finished levels are acceptable in the interests of visual amenity.

- 39) No development shall commence until details of all external facing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance of the development is in harmony with its context.

### **Wheelchair accessible housing**

- 40) Not less than 2% of the total residential development shall be wheelchair accessible housing and no development shall commence until each of the units shall have been identified on a site layout plan. Details of the design features of each unit shall be submitted to and approved in writing by the local planning authority and shall include provision of ramped access with flush thresholds into all doorways, adequate doorway widths for a wheelchair to pass through, space for internal circulation and for through the floor lift circulation (where appropriate), entry level bathroom and toilet facilities and a kitchen designed for wheelchair user occupiers. Development shall be carried out in accordance with the approved details and shall be retained for so long as the buildings remain in use as dwelling houses.

Reasons: In the interests of equality and to ensure all housing needs are met.

### **Utilities, Street Furniture, Refuse storage**

- 41) No development shall commence until a scheme for street lighting and street furniture has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design specification and details of the appearance of street lighting and other furniture, together with a specification and timetable for installation. Development shall be carried out in accordance with the approved details.

Reason: In the interests of amenity and highway safety and to ensure a high quality and consistent design for common structures throughout the NEV.

- 42) No development shall commence until details of the provision of a water supply network and /or hydrants to meet the fire fighting needs of the development have been submitted to and approved in writing by the local planning authority. The submitted details shall provide a scheme and specification for the provision and location of fire hydrants to include installation arrangements and the timing of installation. Development shall take place in accordance with the approved scheme and details.

Reason: To reduce the risk of fire in the interests of public safety and local resilience and to enhance the public realm.

- 43) No dwelling shall be first occupied until broadband has been provided on site and made available to each dwelling.

Reason: To ensure access to appropriate broadband infrastructure in accordance with Policy IN3 of the Swindon Borough Local Plan 2026.

- 44) The reserved matters application(s) shall include details of waste storage/collection areas which allow for the convenient storage of waste and unrestricted access at all time. The waste storage/collection areas shall be

provided in accordance with the approved details prior to the occupation of each unit and shall be retained thereafter at all times.

Reason: In the interest of amenity.

#### **SCHEDULE 4: PHASE 1 SITE AMENDED SCHEME**

##### **Outline planning permission**

- 1) No development shall commence until details of the layout, scale, appearance, access (other than the access from Wanborough Road) and landscaping (hereinafter called "the reserved matters") have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.

Reason: The planning permission granted is in outline and to accord with section 92 of the Town and Country Planning Act 1990.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 3) The development hereby permitted shall commence no later than 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the local planning authority to review the suitability of the development and to accord with section 92 of the Town and Country Planning Act 1990.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- Phase 1 red line plan PL 1461-AB-057 00
- Phase 1 land use parameter plan PL 1461-AB-051 02
- Phase 1 green infrastructure parameter plan PL 1461-AB-053 01
- Phase 1 movement parameter plan PL 1461-AB-052 02
- Phase 1 building height parameter plan PL 1461-AB-054 02
- Phase 1 density parameter plan PL 1461-AB-055 02
- Access plan 27970/003 Rev J.

Reason: To define the scope of the development hereby permitted, in accordance with section 72 of the Town and Country Planning Act 1990.

- 5) All reserved matters shall be in broad accordance with the Phase 1 Illustrative Masterplan ref. PL 1461-AB-056 02.

Reason: In the interest of the proper planning of the area and to provide a high standard of design.

### **Design Code and Public Art**

- 6) Before the submission of the first reserved matters application a Design Code shall have been submitted to and approved in writing by the local planning authority. The Design Code shall include:
- The overall vision and character of the development;
  - The design principles for the enhancement of the public realm, conservation of the scheduled ancient monument and the integration of the development into the surrounding landscape;
  - The form of the development with reference to densities, block types, movement framework, building types, building heights, ground levels and the palette of materials;
  - Establish principles for circulation, servicing and parking provision, community safety, inclusive design, recycling, external lighting and use and design of street furniture;
  - Consideration of how the use of sustainable drainage systems will enhance the development and conserve habitats and wildlife;
  - The means of achieving direct, safe and accessible connectivity to the rest of the NEV development.

The reserved matters applications shall demonstrate how the development proposals accord with the approved Design Code.

Reason: To maintain a high standard of design and a consistent and co-ordinated approach to development of the site in accordance with Policies SD3, DE1 and NC3 of the Swindon Borough Local Plan 2026.

- 7) No development shall commence until a public art strategy shall have been submitted to and approved in writing by the local planning authority. The strategy shall identify how public art will contribute to the enhancement of the public realm and set out a scheme for the delivery of public art within the site. The scheme shall include design specification(s) and provision mechanisms, details of a programme and timing of delivery, and mechanisms for long term maintenance. The provision of the public art shall be carried out and maintained in accordance with the approved strategy.

Reason: To secure a high quality public realm and the timely provision of public art.

### **Ecology, Trees and Landscaping**

- 8) No development shall take place until a scheme for the provision and management of a 10 metre wide buffer zone alongside Dorcan Stream shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:
- Plans showing the extent and layout of the buffer zone;

- Details of any proposed planting scheme; and
- Details of any proposed footpaths, fencing and lighting.

Reason: To prevent development having an adverse impact on ecology and biodiversity.

- 9) Reserved matters applications shall be accompanied by a Landscape, Ecology and Arboricultural Management Plan (LEAMP). The LEAMP shall be informed by updated Phase 2 surveys where the last Phase 2 surveys undertaken for the site are more than 2 years old. The LEAMP shall include details of the retention of any species receptor sites identified by the Phase 2 surveys for the site. The LEAMP shall also include details of long term design objectives, extent and type of new planting, details of any new habitat created on site, management responsibilities and maintenance schedules for all landscaped and habitat areas (except privately owned domestic gardens). No development shall commence until the LEAMP has been approved in writing by the local planning authority.

Development shall be progressed in accordance with the approved LEAMP. No development, works or other activities to the identified receptor sites shall be progressed other than in accordance with the works for ecological enhancement and management as set out in the approved LEAMP. The approved management and maintenance schedules shall be adhered to at all times.

Reason: To protect wildlife and supporting habitats and to secure opportunities for biodiversity enhancement.

- 10) No development shall take place until a tree retention and removal plan shall have been submitted to and approved in writing by the local planning authority. Development shall comply with the approved details. Any tree or group of trees or other vegetation shown to be retained in the approved details which is removed, dies or becomes seriously diseased or damaged shall be replaced before the end of the next available planting season. Details of the species of the replacement tree or vegetation shall first be submitted to and approved in writing by the local planning authority. Any replacement trees and hedgerows shall thereafter be maintained. Notwithstanding the provisions of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fence or other means of enclosure shall be erected within or closer to any existing hedgerow or tree other than as shown on the plans within the reserved matters approved pursuant to this outline planning permission.

Reason: To ensure the protection of trees and hedgerows on the land.

- 11) All trees indicated to be retained on the plan(s) approved in compliance with condition 10 above shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations".

No development shall commence unless and until (i) details of temporary protective fences to safeguard the trees, hedges or other vegetation to be retained on the site shall have been submitted to and approved in writing by the local planning authority, and (ii) the approved fencing shall have been erected in accordance with BS 5837:2012 and the approved details. The approved protection shall be maintained to the required standard throughout the development or until the local planning authority has confirmed in writing that the fencing can be removed.

Reason: To ensure adequate protection is afforded to the trees and /or hedges on the site which are to be retained.

- 12) Within each phase or sub phase all landscaping shall be carried out in accordance with the scheme and details approved under the reserved matters. Any planting carried out in accordance with the approved details that within a period of 5 years from the date of planting dies, is removed or becomes seriously diseased or damaged shall be replaced with planting of similar size and species within the first available planting season.

Reason: To safeguard all features of landscape value in the interests of maintaining biodiversity and aesthetic value.

### **Wanborough Road**

- 13) Notwithstanding condition 4 requiring that the development is carried out in accordance with the approved plans no development shall take place until details of the access junction at Wanborough Road have been subject to a stage 1/2 road safety audit and details of the access junction have been submitted to and approved in writing by the local planning authority. The details shall specify surface material treatment across Wanborough Road, visibility splays, vehicle tracking, signing and lining. Development shall be carried out in full accordance with the approved details prior to first occupation of any dwelling on the site and shall be retained as such thereafter.

Reason: To provide an aesthetic gateway feature to the development, reduce vehicle speeds and improve highway safety and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 14) No development shall commence until a scheme of traffic calming and management, including pedestrian / cyclist connectivity, for Wanborough Road and which shall encompass the access to the site, including visibility splays, and the highway leading to and including the junction with Kingfisher Drive, shall have been subject to a stage 1/2 road safety audit and shall have been submitted to and approved in writing by the local planning authority (hereinafter referred to as 'the scheme'). The scheme shall incorporate carriageway narrowing, provision of a 3 m footway/cycleway, surface material treatment of the carriageway, drainage, gateway features, signing and lining

and a scheme for street lighting. Pedestrian / cyclist connectivity shall be carried out in accordance with the approved details prior to the first occupation of the development. All other elements of the scheme shall be carried out in accordance with the approved details prior to the first occupation of the 100<sup>th</sup> dwelling.

Reason: To increase safety for all highway users, to reduce the attractiveness of the route for rat running, reduce vehicle speeds and to ensure development complies with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

- 15) No dwellings shall be occupied unless and until the bridge parapets on the Wanborough Road Bridge over the A419 have been raised to a height of no less than 1.4 m in accordance with DMRB TD19/06: Requirement for Road Restraint Systems (or the relevant equivalent standard at the time the work is carried out). Details of the works first shall have been submitted to and approved in writing by the local planning authority. Once installed in accordance with the approved details the raised bridge parapets shall be retained in the approved form without modification.

Reason: To enhance safety for cyclists and in the interest of safety of the strategic road network.

#### **Southern Connector Road**

- 16) Prior to the submission of the first reserved matters application pursuant to this outline planning permission, plans detailing the alignment and design of the Southern Connector Road through the site shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure satisfactory road provision is provided as part of the development to deliver and connect to the Southern Connector Road in accordance with Policies TR1, TR2 and NC3 of the Swindon Borough Local Plan 2026.

#### **On-site highway provision and construction**

- 17) No dwelling shall be first occupied until that part of the service road which provides access to it, including turning and manoeuvring space, shall have been constructed in accordance with the approved plans. The service road as constructed shall be retained thereafter.

Reason: To ensure each dwelling unit is served by a fully functional highway and adequate means of access in the interests of highway safety and residential amenity.

- 18) The construction of proposed estate roads and footways and associated utilities, services and street furniture shall not commence unless and until details of their design and construction have been submitted to and approved in writing by the local planning authority. The submitted details, accompanied by plans and sections where appropriate, shall include gradients, levels,

retaining walls, visibility splays, materials, methods of construction and a timetable for implementation. Development shall be carried out as approved.  
Reason: To ensure all roads, including those not offered for adoption, are laid and constructed to an approved standard before buildings are brought into use.

### **Parking**

- 19) No dwelling shall be first occupied unless and until space for car parking, together with the associated manoeuvring and turning space for that dwelling, has been laid out and made available for use in accordance with the details approved pursuant to condition 1. The parking space, including garage space where provided, shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

Reason: To ensure vehicle parking provision is made in accordance with the Council's adopted standards and is available for use for that purpose in the interests of highway safety and residential amenity.

- 20) No dwelling shall be first occupied until the related bicycle and motor cycle parking has been provided and made available for use in accordance with the details that first have been submitted to and approved in writing by the local planning authority. Once provided the parking facilities shall thereafter be retained and kept available at all times for those purposes.

Reason: To ensure suitable bicycle and motor cycle parking is provided in accordance with the Council's adopted standards for occupiers of the dwellings.

- 21) No development shall commence unless and until details of electric vehicle charging points, which shall include their location and form and a timetable for their provision, shall have been submitted to and approved in writing by the local planning authority. Provision shall be made for the charging points to accommodate 60% of all dwelling units and additional charging points for non-residential and communal usage. Provision shall be made in accordance with the approved details and timetable and shall be retained at all times thereafter.

Reason: To ensure adequate facilities are provided to enable the use of electric cars and to improve air quality.

### **Construction phase and waste audit**

- 22) No development shall take place, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- a traffic management plan, which shall include construction vehicle routes to and from the site, arrangements for recording construction

vehicle movements to and from the site and making available those records for inspection, details of temporary access points and parking areas for construction vehicles, site operatives and visitors, and a construction workers travel plan;

- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- a scheme for the on-site maintenance and repair of plant, equipment and machinery;
- details of a procedure for wheel washing and vehicle wash down of all construction site traffic leaving the site;
- details of a procedure for removing debris from the highway at all times;
- temporary buildings enclosures and staff facilities;
- details for the erection and maintenance of security and acoustic hoarding(s);
- measures to control the emission of dust, smoke, fumes and debris;
- a method statement for the control of noise and vibrations, including pile driving;
- contact details for the site manager and a liaison procedure with the local community.

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: To reduce the potential impact on the public highway and residential amenity during the site preparation and construction phases of development.

- 23) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall describe and set out measures and good practice to avoid or minimise construction stage ecological effects occurring to habitats and faunal species and shall be in accordance with the approach outlined in the Environmental Statement Addendum June 2017 Chapter 12 Ecology and Conservation under the heading Mitigation. Development shall be carried out in accordance with the approved CEMP method statement.

Reason: To ensure the protection of wildlife and supporting habitat.

- 24) No development shall take place unless and until a waste audit shall have been submitted to and approved in writing by the local planning authority. The waste audit shall include:
- an assessment of the type and volume of waste that the development process will generate (the development process comprises the construction process and any other operation necessary to bring the development into use);

- the steps to be taken in the development process to reduce, re-use and recycle waste, reduce the production of hazardous wastes, minimise the use of raw materials, and minimise the pollution potential of unavoidable waste;
- the steps to be taken to dispose of unavoidable waste in an environmentally acceptable manner;
- the steps to be taken to ensure maximum waste recovery once the development is completed and occupied; and
- proposals for the transport of waste created during the development process and subsequent use of the site.

Development shall be carried out in accordance with the approved waste audit.

Reason: To ensure compliance with Policy WSC6 of the Wiltshire and Swindon Waste Core Strategy.

25) No work, including the waiting of vehicles undertaking deliveries and collections during the construction phases, shall take place outside the following hours:

- 0730 to 1830 Monday to Friday
- 0830 to 1300 Saturdays; and
- Not at all on Sundays, Bank Holidays and Public Holidays.

In addition there shall be no deliveries and collections during the construction phases between 0800 and 0900 hours and between 1700 to 1800 hours on weekdays (Monday to Friday excluding public holidays).

Reason: To protect residential amenity and highway safety.

### **Archaeology**

26) No development shall take place within the application site area unless and until an outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority.

Reason: To enable the recording of any features of archaeological interest in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

27) After approval of the outline archaeological mitigation strategy pursuant to condition 26 above and before any development commences:

- A programme of archaeological investigation, which shall be in general accordance with the approved outline archaeological mitigation strategy shall have been submitted to and approved in writing by the local planning authority. The programme of investigation shall include on-site work and off-site work, provision for analysis, publication and archiving of the results and a timetable for implementation.
- The programme of archaeological investigation shall have been carried out in accordance with the approved details.

Reason: The area is known to be of archaeological importance and to ensure that any matters of archaeological interest are investigated and recorded in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

- 28) No development shall take place until the areas of archaeological importance (non-designated) that will be preserved in situ have been identified and a management plan to ensure their preservation in situ has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- Reason: To ensure areas of known archaeological importance are preserved in situ and appropriately managed in the long term in accordance with Policy EN10 of the Swindon Borough Local Plan 2026.

### **Flood risk mitigation**

- 29) The development hereby approved shall be carried out in accordance with the Flood Risk Assessment (PBA ref 27970\_016\_001 rev D dated April 2016) and the following mitigation measures detailed within the FRA:
- No built development shall be located within the 0.1% annual exceedance probability (AEP) flood extent;
  - Finished floor levels shall be set no lower than 300 mm above the 1% AEP, including an appropriate allowance for climate change, flood level.

The mitigation measures shall be fully implemented before first occupation and subsequently in accordance with phasing/timing arrangements submitted to and approved in writing by the local planning authority.

Reason: In order to protect people and property from flooding.

### **Surface Water, Drainage and Water Supply**

- 30) No development shall commence until a detailed surface water drainage scheme for the site shall have been submitted to and approved in writing by the local planning authority. The scheme shall be based on the Surface Water Management Strategy 27970/015/005 Rev A, be designed to incorporate SuDS techniques and shall include, but not be limited, to:
- The method to be employed to delay and control the surface water flows discharged from the site to 4.44 l/s/ha for all events up to and including the 1% annual exceedance probability plus climate change;
  - A drainage plan showing the location of the proposed SuDS and drainage network, with exceedance flow routes clearly identified;
  - Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime;
  - Details of the measures taken to prevent pollution of the receiving groundwater and/or surface waters and how water quality shall be maintained during and after construction;

- Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage and maintain water quality in accordance with best practice guidance;
- Details of how the scheme shall be maintained and managed after completion;
- The submission of evidence relating to accepted outfalls from the site, particularly from any third party network owners; and
- A timetable for implementation.

The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere or reduce water quality and shall be in accordance with Policy EN6 of the Swindon Borough Local Plan 2026.

- 31) No development shall commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing by the local planning authority. No foul or surface water from the site shall be discharged into the public system until the approved drainage works have been carried out in accordance with the approved drainage strategy. The works shall be retained in the approved form thereafter.

Reason: To ensure that sufficient capacity is made available to cope with the new development in order to avoid sewage flooding and adverse impact upon the community.

- 32) No development shall commence until the following matters have been submitted to and approved in writing by the local planning authority:

- details of a study to show the impact of the development on the existing water supply infrastructure, which shall determine the magnitude of any new additional capacity that will be required in the system and a suitable connection point; and
- a scheme of works to provide the capacity shown to be required.

Works shall be carried in accordance with the approved scheme prior to the first occupation of any dwelling on the site and shall be retained thereafter in approved form.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

### **Noise Mitigation**

- 33) No development shall commence until a scheme for protecting the proposed dwellings from noise shall have been submitted to and approved in writing by the local planning authority. The scheme shall include measures to ensure indoor ambient noise levels comply with the noise levels contained in BS 8233:2014, namely: resting 35 dB LAeq, 16 hour; dining 40 dB LAeq, 16 hour; sleeping 30 dB LAeq, 8 hour; 45 dB LAF, max; and 50 dB LAeq, 16 hour

in external amenity spaces. The scheme shall also include details of any measures for mechanical ventilation where the specified internal noise levels in bedrooms and living rooms can only be achieved with windows shut. No dwelling shall be occupied until all works which form part of the approved scheme have been completed, a pre-occupation validation noise survey has been undertaken to demonstrate the effectiveness of the measures in reducing external noise to an acceptable level and a certificate of compliance has been submitted to the local planning authority. All works which form part of the approved scheme shall be retained in the approved form thereafter.

Reason: To mitigate harm from nearby noise sources and to ensure the development provides an acceptable living environment for residents.

### **Contaminated Land**

34) No development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority:

- i. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site.
- ii. A site investigation scheme based on (i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including all those off site.
- iii. The results of the site investigation and detailed assessment of the risk referred to in (ii) above, and based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) above are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: Previous activities at the site may have resulted in contamination.

35) No occupation of the development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria

have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action as identified in the verification plan. The long term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that contamination at the site is remediated such that the site does not pose a risk to controlled waters.

- 36) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure any unexpected contamination encountered during development is suitably assessed and dealt with such that it does not pose an unacceptable risk to ground or surface water.

#### **Slab levels and Materials**

- 37) No development shall take place until full details of the proposed finished site levels (above ordnance datum) and finished floor slab levels of the proposed buildings and structures (including roads, bridges and footpaths) in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the finished levels are acceptable in the interests of visual amenity.

- 38) No development shall commence until details of all external facing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance of the development is in harmony with its context.

#### **Wheelchair accessible housing**

- 39) Not less than 2% of the total residential development shall be wheelchair accessible housing and no development shall commence until each of the units shall have been identified on a site layout plan. Details of the design features of each unit shall be submitted to and approved in writing by the local planning authority and shall include provision of ramped access with flush thresholds into all doorways, adequate doorway widths for a wheelchair

to pass through, space for internal circulation and for through the floor lift circulation (where appropriate), entry level bathroom and toilet facilities and a kitchen designed for wheelchair user occupiers. Development shall be carried out in accordance with the approved details and shall be retained for so long as the buildings remain in use as dwelling houses.

Reason: In the interests of equality and to ensure all housing needs are met.

### **Street furniture, Utilities and Refuse storage**

- 40) No development shall commence until a scheme for street lighting and street furniture has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design specification and details of the appearance of street lighting and other furniture, together with a specification and timetable for installation. Development shall be carried out in accordance with the approved details.

Reason: In the interests of amenity and highway safety and to ensure a high quality and consistent design for common structures throughout the NEV.

- 41) No development shall commence until details of the provision of a water supply network and /or hydrants to meet the fire fighting needs of the development have been submitted to and approved in writing by the local planning authority. The submitted details shall provide a scheme and specification for the provision and location of fire hydrants to include installation arrangements and the timing of installation. Development shall take place in accordance with the approved scheme.

Reason: To reduce the risk of fire in the interests of public safety and local resilience.

- 42) No dwelling shall be first occupied until broadband has been provided on site and made available to each dwelling.

Reason: To ensure access to appropriate broadband infrastructure in accordance with Policy IN3 of the Swindon Borough Local Plan 2026.

- 43) The reserved matters application(s) shall include details of waste storage/collection areas which allow for the convenient storage of waste and unrestricted access at all time. The waste storage/collection areas shall be provided in accordance with the approved details prior to the occupation of each unit and shall be retained thereafter at all times.

Reason: In the interests of amenity.

### **End of schedules**

## APPENDIX 3: LOTMEAD FARM DOCUMENT LIST

### Core Documents

A shortened version of the 37 page long Core Document (CD) list is reproduced below.

Folder No	CD No	Pre Application Documents
1	1.1	Request for scoping opinion
1	1.2	EA scoping report
1	1.3	Swindon Borough Council scoping response
		<b>2015 Original Planning Application Documents and Plans</b>
1	2.1	Environmental Statement Volume 1: Main Report
2	2.2	Environmental Statement Volume 2: Figures
2	2.2.1 to 2.2.21 2.2.22 to 2.2.53	Figures 1.1 to 10.2  Figures 12.1 to 16.3
3	2.3	Environmental Statement Volume 3: Technical Appendices
3 to 8	2.3.1 to 2.3.17	Appendix 7.1 to Appendix 16.4
8	2.4	Environmental Statement Volume 1: Non-Technical Summary
		<b><i>Masterplan Documentation S/OUT/15/0753</i></b>
8	2.5	Application covering letter
8	2.6	Application form
8	2.7	Certificate B notices
8	2.8	Red line plan (PL 1461-AB-009-02)
8	2.9	Indicative masterplan (PL 1461-AB-024-03)
8	2.10	Green infrastructure (PL 1461-AB-003-07)
8	2.11	Access proposals (27970/003 H)
8	2.12	Land use parameters (PL 1461-AB-001-07)
8	2.13	Movement parameters (PL 1461-AB-002-06)
8	2.14	Density parameters (PL 1461-AB-005-07)
8	2.15	Building height parameters (PL 1461-AB-004-07)
8	2.16	Sustainability statement
8	2.17	Utilities statement
8	2.18	Design and Access Statement
8	2.19	Planning statement
8	2.20	Energy statement
8	2.21	Statement of community involvement
8	2.22	Delegated report
8	2.23	Decision notice S/OUT/15/0753
		<b><i>Phase 1 Documentation S/OUT/15/0754</i></b>
8	2.24	Application covering letter
8	2.25	Application form
8	2.26	Certificate B notices
8	2.27	Red line plan (PL 1461-AB-006-04)
8	2.28	Phase 1 Indicative masterplan (PL 1461-AB-042-00)
8	2.29	Phase 1 Green infrastructure (PL 1461-AB-025-01)
8	2.30	Phase 1 Land use parameters (PL 1461-AB-028-02)
8	2.31	Phase 1 Movement parameters (PL 1461-AB-026-01)

8	2.32	Phase 1 Density parameters (PL 1461-AB-027-01)
8	2.33	Phase 1 Access plan (27970/003 H)
8	2.34	Phase 1 Building height parameters (PL 1461-AB-029-02)
		Sustainability statement: see CD 2.16
		Utilities statement: see CD 2.17
		Design and Access Statement: see CD 2.18
		Planning statement: see CD 2.19
		Energy statement: see CD 2.20
		Statement of community involvement: see CD 2.21
9	2.41	Delegated report
9	2.42	Decision notice S/OUT/15/0754
Separate file	2.43	<b>Consultation comments S/OUT/15/0753 &amp; S/OUT/15/0754</b>
9	2.44	Tree Preservation Order Phase 1
		<b>Appeal and other documents</b>
9	3.1	Appellant statement of common ground
9	3.2	Appeal form – Masterplan
9	3.3	Appeal form Phase 1
9	3.4a	LPA Questionnaire - Masterplan
9	3.4b	LPA Questionnaire - Phase 1
9	3.5	Appellant statement of case - Masterplan
9	3.6	Appellant statement of case – Phase 1
9	3.7	Council statement of case and Appendix - Masterplan
9	3.8	Council statement of case and Appendix – Phase 1
9	3.9	Highways England statement of case
9	3.10	Interested parties' appeal responses
9	3.11	Inspector's Note of Pre-Inquiry meeting
9	3.12	Inspector's Note on proposed amendments (as amended)
9	3.13	Statement of common ground with Highways England (Revision A)
9	3.14	Revised Appellant statement of case - Masterplan
9	3.15	Revised Appellant statement of case - Phase 1
10	3.16	Revised Council statement of case - Masterplan
10	3.17	Revised Council statement of case - Phase 1
10	3.18	Masterplan statement of common ground (Sept 2017)
10	3.19	Phase 1 statement of common ground (Sept 2017)
10	3.20	Direction of Secretary of State on recovery of appeals
10	3.21	Draft section 106 justification and CIL compliance statement
		<b>2017 Amended Planning Application Documents</b>
10	4.1	Environmental Statement Addendum Volume 1: Main Report (June 2017)
	4.2	Environmental Statement Addendum Volume 2: Figures (June 2017)
10, 11	4.2.1 to 4.2.18	Figures 1.1 to 9.2
	4.2.24 to 4.2.47	Figures 11.6 to 14.15
	4.2.49 to 4.2.51	Figures 16.1 to 16.3
12 to 17	4.3	Environmental Statement Volume 3: Technical Appendices

		(June 2017)
	4.3.1 to 4.3.24	Appendix 4.1 to Appendix 16.4
17	4.4	Environmental Statement Addendum Volume 1: Non-Technical Summary (June 2017)
		<b>Consultation Documents</b>
17	4.5	Consultee notification list
17	4.6	Consultee notification letter
17	4.7	Public and site notices
17	4.8	Consultation on correct tree plans
17	4.9	Consultee comments provided by the Planning Inspectorate
17	4.10	Canal Trust comments dated 29 August and 4 September 2017
		<b>Supplemental information and correct plans</b>
17	4.11	Access plan (27970/003 J)
17	4.12	Surface water management plan (27970/015/005A)
17	4.13	Tree retention/loss plan (EDP1879/43d)
17	4.14	Tree retention/removal plan Phase 1 (EDP1879/69)
17	4.15	Landscape strategy Phase 1 (EDP1879/68a)
17	4.16	Transport technical note
17	4.17	Canal technical note
Separate file	4.18	Phase II Ecological Survey report November 2017
		<b>Heritage Documents</b>
17	5.1	Historic England 2015: The Setting of Heritage Assets. Historic Environment Good Practice Advice in Planning 3
17	5.2	Paper summarising DAS
17	5.3	English Heritage 2013: Scheduling Selection Guide Settlement Sites to 1500
		<b>Highways Documents</b>
17	6.1	Extract Swindon Local Transport Plan 3 2011-2026
17	6.2	Swindon Eastern Villages Transport Study
18	6.3	Swindon Eastern Villages Transport Study -Update
18	6.4	Swindon Rapid Transport Proposal New Eastern Villages
18	6.5	New Eastern Villages mitigation works west of A419 and apportionment of impact
		<b>Education Documents</b>
18	7.1	School Place Planning Study: Future Demand to 2026
18	7.2	Swindon School Place Planning Study Update Nov 2015
18	7.3	Area Guidelines for Mainstream Schools (Building Bulletin 103)
		<b>Relevant Planning Policy Documents</b>
18	8.1	National Planning Policy Framework
18	8.2	National Planning Practice Guidance (extracts)
		<b>Development Plan documents</b>
18	8.3	Swindon Borough Local Plan 2026
19	8.4	Extract from Swindon Borough Local Plan 2026 Policies Map: Map 13 - East Swindon
19	8.5	Policy WCS6 – Wiltshire and Swindon Waste Core Strategy 2006-2026
		<b>SPD/SPG/other Guidance</b>
19	8.6	New Eastern Villages Planning Obligations SPD

19	8.7	New Eastern Villages Planning Illustrative Masterplan
19	8.8	New Eastern Villages Framework Travel Plan SPD
19	8.9	Sustainable Drainage Systems (SuDS) Vision for New Eastern Villages SPD
19	8.10	New Eastern Villages Island Bridge Vision SPD
19	8.11	New Eastern Villages Green Infrastructure SPD
19	8.12	Guidelines for Providing Journeys on Foot (2000)
19	8.13	Archaeology SPG
19	8.14	Buildings of Significant Local Interest SPG
19	8.15	Historic Environment Topic Paper Swindon Borough Council
20	8.16	Guidance for Outdoor Sport and Play and extracts from Planning and Design for Outdoor Sport and Play
20	8.17	Extracts from Strategic Housing Market Assessment
		<b>Local Plan evidence base</b>
20	8.18	Report on the Examination into the Swindon Borough Local Plan dated 5 February 2015
20	8.19	Swindon Transport Strategy
20	8.20	New Eastern Villages Southern Connector Road Feasibility Study
20	8.21	Technical Note Triangle site park and ride concept design
20	8.22	Swindon Eastern Development Area Preferred Canal Route
20	8.23	New Eastern Villages Community Forest Requirements
20	8.24	Strategy for Major Sports Facilities Provision 2009 -2026
20	8.25	Swindon Retail Capacity Update 2009
20	8.26	Report on the Examination of the Draft Swindon Community Infrastructure Levy Charging Schedule dated 5 February 2015
20	8.27	Swindon Principal Urban Area study
21	8.28	Swindon Joint Study
	8.28a	Swindon Infrastructure Delivery Plan March 2014
		<b>Other non-policy documents</b>
21	8.29	Technical Note: Flood Protection of New Eastern Villages
		<b>Relevant Appeal Decisions and Judgements</b>
21	9.1	Land at Berkeley Farm, Wroughton January 2016 (APP/U3935/W/15/3035660)
21	9.2	Land at the east of Marlborough Road, Wroughton, July 2017 (APP/U3935/W/16/3147902)
21	9.3	<i>Forest of Dean v Secretary of State for Communities and Local Government</i> [2016] EWHC 421 Admin
21	9.4	Javelin Park Appeal Decision (APP/T1600/A/13/2200210)
21	9.5	100 Avenue Road Appeal Decision (APP/X5210/W/14/3001616)
21	9.6	<i>Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council</i> [2017] UKSC 37
21	9.7	<i>Phides Estates (Overseas) Limited v Secretary of State for Communities and Local Government</i> [2015] EWHC 827 Admin
	9.8	University of Bath Campus, Bath 27 January 2017 ref APP/F0114/W/15/3138529
		<b>Viability Documents</b>
23	10.7	Swindon Borough Council Affordable Housing Position Statement

		All other viability documents were withdrawn

	<b>EVIDENCE</b>
	<b>Ainscough Strategic Land Ltd</b>
	Jo Vallender: Heritage
ASL 1	Proof of evidence
ASL 2	Appendices JV01 to JV18 and Plan JV01
ASL 3	Summary proof of evidence
	David Holland: Education
ASL 4	Proof of evidence and Appendices A to D
ASL 5	Rebuttal proof of evidence
	Michael Parkinson: Transport
ASL 6	Proof of evidence and Appendices 1 to 18
ASL 7	Timeline Appendices: Volume 1 (T1 to T16), Volume 2 (T17 to T32) Volume 3 (T33 to T51)
ASL 8	Rebuttal to SBC proof on Transport - Masterplan site
ASL 9	Rebuttal to SBC proof on Transport - Phase 1 site
	Amy Hensler: Canal
ASL 10	Proof of evidence and Appendices A to F
	Jeffrey Richards: Planning
ASL 11	Proof of evidence and Appendices 1 to 8
ASL 12	Rebuttal proof of evidence
	Proof of evidence by Mr Matthew Splisbury on viability was withdrawn
	<b>Swindon Borough Council</b>
	Gareth Cheal: Education
SBC 1	Masterplan site: Proof of evidence and Appendices 1 to 5
SBC 2	Phase 1 site: Proof of evidence and Appendices 1 to 5
SBC 3	Summary Masterplan site
SBC 4	Summary Phase 1 site
	Robert Rossiter: Transport
SBC 5	Masterplan site: Proof of evidence
SBC 6	Phase 1 site: Proof of evidence
SBC 7	Rebuttal Masterplan site
SBC 8	Rebuttal Phase 1 site
	Sarah Screen: Infrastructure
SBC 9	Masterplan site Appeal: Proof of evidence, Appendices 1 to 8 and Summary
SBC 10	Phase 1 site Appeal: Proof of evidence, Appendices 1 to 6 and Summary
	Kimberly Corps: Planning
SBC 11	Masterplan site Appeal: Proof of evidence and Appendices 1 to 17
SBC 12	Phase 1 Appeal: Proof of evidence and Appendices 1 to 16
SBC 13	Summary Masterplan site
SBC 14	Summary Phase 1 site
SBC 15	Rebuttal to proof of evidence of Ms Vallender on Heritage Matters

	Rebuttal by Mr Christopher White in respect of viability matters was withdrawn
	<b>Interested parties</b>
IP 1	Statement on behalf of Capital Land EDA
IP 2	Statement by Councillor G Sumner
IP 3	Bundle of representations on the appeals September 2016
	<b>Inquiry Documents</b>
ID 1	Draft planning conditions Masterplan site (scheme determined by the Council)
ID 2	Draft planning conditions Masterplan site (amended scheme)
ID 3	Draft planning conditions Phase 1 site (scheme determined by the Council)
ID 4	Draft planning conditions Phase 1 site (amended scheme)
ID 5	Community Infrastructure Levy Charging Schedule 2015
ID 6	Community Infrastructure Levy Regulation 123 Infrastructure List
ID 7	Draft Section 106 agreement Masterplan site (as at 7 November 2017)
ID 8	Draft Section 106 agreement Phase 1 site (as at 7 November 2017)
ID 9	The Council of the Borough of Swindon Tree Preservation Order (No. 2) 2015 (Land at Eastern Villages)
ID 10	Additional statement of common ground (Masterplan and Phase 1 appeals) 13.11.17
ID 11	Opening submissions on behalf of the Council
ID 12	Bundle of emails and meeting notes
ID 13	Appellant response to Inspector's Inquiry Note 9 November
ID 14	Appendix JR5 to Mr Richards's proof
ID 15	Committee report on outline planning application for NEV Land north of A420, South Marston and Rowborough (S/OUT/13/1555)
ID 16	Planning Committee Agenda 14 November 2017
ID 17	Speaker Notes Transport
ID 18	Speaker Notes Education
ID 19	Speaker Notes of Mr Richards
ID 20	Response by Ms Hensler to Canal Trust Document
ID 21	Presentation on behalf of Wanborough Anti-Flood Group
ID 22	Revised Submission by Wilts & Berks Canal Trust
ID 22a	Lotmead Development Canal Profile (typical cross sections) (WBCT)
ID 23	Statement by Mr R Bluh Chairperson of Wilts & Berks Canal Trust
ID 24	Statement by Mr F Budge Chartered Water Engineer Wilts & Berks Canal Trust
ID 25	Paper on Sustainable Drainage Systems New Civil Engineer submitted by Wilts & Berks Canal Trust
ID 26	Speaker Notes Gareth Hawkes Covingham Parish Council
ID 27	Draft Section 106 Agreement Masterplan site (16.11.17)
ID 28	Draft Unilateral Undertaking Masterplan site (16.11.17)
ID 29	Draft Section 278 Highways Agreement Masterplan site (16.11.17)
ID 30	Draft Section 106 Agreement Phase 1 site (16.11.17 version)
ID 31	Draft Unilateral Undertaking Phase 1 site (16.11.17 version)
ID 32	Draft Section 278 Highways Agreement Phase 1 site (16.11.17)
ID 33	Draft Section 106 Justification and CIL Compliance Statement
ID 34	Closing submissions on behalf of the Council
ID 35	Appellant's Closing Notes

	<b>AGREEMENTS for PROVISION of INFRASTRUCTURE</b>
INF 1	Section 106 justification and CIL compliance statement
INF 2	Masterplan site: Section 106 agreement (final draft)
INF 3	Masterplan site: Unilateral undertaking (final draft)
INF 4	Masterplan site: Section 278 highways agreement (final draft)
INF 5	Masterplan site: Section 106 agreement (tracked changes)
INF 6	Masterplan site: Unilateral undertaking (tracked changes)
INF 7	Masterplan site: Section 278 highways agreement (tracked changes)
INF 8	Phase 1 site: Section 106 agreement (final draft)
INF 9	Phase 1 site: Unilateral undertaking (final draft)
INF 10	Phase 1 site: Section 278 highways agreement (final draft)
INF 11	Phase 1 site: Section 106 agreement (tracked changes)
INF 12	Phase 1 site: Unilateral undertaking (tracked changes)
INF 13	Phase 1 site: Section 278 highways agreement (tracked changes)
INF 14	Bundle of plans for agreements
INF 15	Masterplan site: Section 106 agreement dated 29 November 2017
INF 16	Masterplan site: Unilateral undertaking dated 29 November 2017
INF 17	Masterplan site: Section 278 highways agreement dated 29 November 2017
INF 18	Phase 1 site: Section 106 agreement dated 29 November 2017
INF 19	Phase 1 site: Unilateral undertaking dated 29 November 2017
INF 20	Phase 1 site: Section 278 highways agreement dated 29 November 2017
	<b>PLANNING CONDITIONS</b>
PL 1	Masterplan site: Final draft conditions for amended scheme
PL 2	Masterplan site: Final draft conditions for scheme as determined by the Council
PL 3	Phase 1 site: Final draft conditions for amended scheme
PL 4	Phase 1 site: Final draft conditions for scheme as determined by the Council
	<b>APPLICATION FOR COSTS</b>
C1	Application for Costs by the Council
C2	Response by the appellant, including Appendices 1 to 4
C3	Final response by the Council including Appendices 1 to 10.



# Ministry of Housing, Communities & Local Government

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## 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.