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## Appeal Decision

Inquiry Held on 26, 27 & 29 October & 2-4 November 2021

Site Visit made on 27 October 2021

**by Andrew Dawe BSc (Hons), MSc, MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 February 2022**

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### **Appeal Ref: APP/Y3940/W/21/3275352**

#### **Land South of Sandhole Lane, Westbury**

- 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 Gleeson Strategic Land against the decision of Wiltshire Council.
  - The application Ref 20/11515/OUT, dated 18 December 2020, was refused by notice dated 23 March 2021.
  - The development proposed is demolition of existing outbuildings and the development of up to 67 dwellings with associated access and highways works, drainage and attenuation, open space, play area, allotments and landscaping (access to be determined, all other matters reserved).
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### **Decision**

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and the development of up to 67 dwellings with associated access and highways works, drainage and attenuation, open space, play area, allotments and landscaping (access to be determined, all other matters reserved) at Land South of Sandhole Lane, Westbury in accordance with the terms of the application, Ref 20/11515/OUT, dated 18 December 2020, subject to the conditions in the attached Annex.

### **Preliminary Matters**

2. The appeal relates to an outline planning application with all matters reserved for future consideration other than access. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The Appellant has however submitted a parameter plan which shows, amongst other things, the proposed development area, including: residential area up to two storeys in height; amenity public open space (POS) and allotment area; natural POS areas; existing trees/woodland and hedgerows; existing hedgerow corridor proposed to be enhanced and a zone where proposed housing would back onto the hedgerow corridor; access to the site from Leighton Park Road; and indicative pedestrian and cycle links. Furthermore, an illustrative masterplan has been submitted to show how the proposed development could be achieved on the site.
3. Amendments to the parameters plan were submitted shortly before the Inquiry including a relatively small increase to the proposed development area relating to matters of drainage, and more flexibility for the proposed use of the green infrastructure on the southern side of the site having regard future ecological survey work. It is common ground between the Council and Appellant that the change to the proposed development area is a very minor change and that the

increased flexibility for the use of the green infrastructure referred to above does not change the overall proposals, and I have no substantive basis to disagree. Furthermore, a Flood Risk Assessment Addendum (FRA Addendum) has been submitted since the Council's decision, to address the Council's drainage objection and the illustrative masterplan has also been amended to reflect adjustments to accommodate the proposed drainage solution. As such, I do not consider those amended plans and FRA have prejudiced anyone, including interested parties, and so I have taken them into consideration. I have determined the appeal on that basis.

4. The reference in the above header to the Inquiry being held in part on 27 October 2021 relates solely to the site visit that was undertaken on that day.

## **Main Issues**

5. The Council has withdrawn its objection to the proposed development in relation to its third reason for refusal concerning highway safety, following the submissions of a Transport Statement Addendum (TSA), subject to appropriate conditions and financial contributions through a legal agreement. The position is clarified in the submitted Highways Statement of Common Ground (Highways SoCG). That is also the position in relation to the Council's fourth reason for refusal concerning drainage, as explained in the flood risk and drainage SoCG, and subject to appropriate conditions, following the submission of the FRA Addendum. The planning obligations contained in the submitted Unilateral Undertaking are intended to address the fifth of the Council's reasons for refusal, concerning provisions for securing necessary infrastructure, notwithstanding that there are differences between the Council and Appellant in respect of provision for public art which I shall address in the 'conditions and planning obligations' section below. In those circumstances I have not included those three matters as main issues, albeit acknowledging there to be concerns with them from interested parties which I shall still take into consideration.
6. Therefore, the main issues are:
  - i) the effect of the proposed development in terms of the Council's spatial strategy, having regard to local and national policy;
  - ii) the effect of the proposed development on the landscape character of the site and surrounding area, including the setting of Westbury Leigh;
  - iii) the current situation in respect of local housing land supply.

## **Reasons**

### *Spatial strategy*

7. Core Policy 1 (CP1) of the Wiltshire Core Strategy (WCS) sets out the settlement strategy, identifying the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. It sets out a hierarchy of settlements in relation to such development, whereby Westbury is included as a Market Town, defined as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment

opportunities. It goes on to highlight that Market Towns have the potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better levels of self-containment and viable sustainable communities.

8. Core Policy 2 (CP2) relates to the delivery strategy. It sets out that, in line with CP1, the strategy seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 178 hectares (ha) of new employment land and at least 42,000 homes distributed across three housing market areas (HMAs) and West of Swindon, and with a minimum housing requirement for each. That relating to the appeal site is North and West Wiltshire HMA (N&WW HMA). Within the limits of development, there is a presumption in favour of sustainable development at, amongst others, Market Towns. Outside of the defined limits of development, the policy states that other than in circumstances not relevant in this case, development will not be permitted.
9. Core Policy 60 (CP60) relates to sustainable transport, helping to reduce the need to travel particularly by private car, and supporting and encouraging the sustainable, safe and efficient movement of people and goods within and through Wiltshire including by, amongst other things, planning developments in accessible locations. CP61 goes on to state that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.
10. The proposed development, although contributing towards housing provision in Wiltshire, the N&WW HMA and the Westbury Community Area (WCA), in relating to a site outside of the defined limits of development within the open countryside, would therefore conflict with policies CP1 and CP2. However, having regard to policies CP60 and CP61, it would be located immediately on the edge of the settlement where there would be good access to local services and facilities such as shops, schools, health, recreation and leisure provision and places of worship, including within walking distance of bus stops. The proposed development would also make provision for measures relating to the need to promote sustainable transport through planning obligations including in relation to local public transport provision and walking and cycling facilities, which I shall address further under '*conditions and planning obligations*'. There is therefore no substantive basis to consider that prospective residents of the proposed development would be significantly less likely to use sustainable modes of transport than the existing local community.
11. Policy CP2 further sets out that development proposals should also be in general conformity with the Community Area Strategies. In this respect Core Policy 32 (CP32), notwithstanding its requirement for development to be in accordance with CP1 and CP2 and therefore resulting in the conflict referred to above, sets out that in the WCA, over the plan period, 18.5 ha of new employment land and approximately 1615 new homes will be provided, of which about 1500 should occur at Westbury.
12. The supporting text for CP32 highlights that Westbury has seen significant housing development in the past which has not been matched by an appropriate provision of services, facilities and new jobs. It goes on to state that recent growth in housing has not as yet been matched by employment

growth, albeit that there have been more recent market signals indicating the potential for some additional employment development. It says that the strategy for Westbury will deliver a reduction in housing growth compared to historic trends, with a focus on improving facilities, services and job creation and goes on to highlight that overall, the town should not seek to compete with the larger nearby centres, including Frome, but rather consolidate and enhance its existing role and improve linkages with neighbouring settlements. It also says that housing development will be at a reduced rate compared to the past with a focus on improving and consolidating the town's infrastructure and services. There is also reference to the important strategic role of employment provision in Westbury that will be maintained and expanded.

13. It is disputed as to the extent to which Westbury is or is not comparable to other market towns in the District in terms of the level of self-containment achieved, and also the extent to which account should be taken of commuting to and from the Wiltshire Trading Estate (the WTE) on the edge of the built up area of Westbury and within Ethandune. The range of the dispute is between 32-37% level of self-containment. The bottom of that range does not take any account of trips to the WTE and the top end assumes all employment trips from the built up area of Westbury to Ethandune would be to that estate.
14. Whilst I do not have any substantive evidence of the proportion of trips to all employment destinations within Ethandune, it is therefore likely that the actual level of Westbury's self-containment, taking account of that employment destination, is somewhere within the above range rather than at either end. Nevertheless, it would still lie close to or at the bottom of the range of levels relating to the principal settlements and market towns in Wiltshire. Furthermore, there are other similarly sized market towns to Westbury such as Devizes and Warminster with noticeably higher levels of self-containment (53.8% and 51.7% respectively). However, others such as Calne (35.4%), Royal Wootton Bassett (35.9%), Corsham (40.7%) and Melksham (41.1%) are not at substantially different levels to that of Westbury albeit that the latter two, at least, are performing better in this respect.
15. Notwithstanding those relative levels of self-containment in Wiltshire, policy CP32 does not explicitly rule out, or provide a clear threshold for, new housing in WCA. Policy CP2 states that the delivery strategy will be delivered in a sustainable pattern in a way that prioritises the release of employment land and the re-use of previously developed land to deliver regeneration opportunities and to limit the need for development on Greenfield sites. I also acknowledge the role policy CP2 plays in controlling self-containment. However, notwithstanding the site's location outside of the defined limits of development, and hence policy conflict, that policy also does not explicitly restrict new housing until a certain amount of employment land has been developed or other types of development have been provided, or that additional housing in the WCA should be resisted, having regard to the matter of self-containment.
16. I acknowledge that the Wiltshire Housing Site Allocations Plan (the WHSAP) has been adopted relatively recently in February 2020 without the inclusion of the appeal site within the settlement boundary. However, it was found sound by the examining Inspector in the context of an expected early review of the existing spatial strategy, due at that time to be adopted in 2021. That Inspector highlighted that the review provides the Council with the opportunity

to consider the need for additional sites, as well as assessing the scale of development required in the light of current national policy and its distribution across the County. Early adoption of such a review, in the form of the draft Wiltshire Council Local Plan: Emerging Spatial Strategy has not occurred, this now being unlikely until 2023, and is a factor that I shall consider further in the planning balance. Due to it not being at an advanced stage towards adoption I have afforded little weight to that emerging spatial strategy.

17. For the above reasons, I conclude on this issue that the proposed development would conflict with the Council's spatial strategy as set out in WCS policies CP1 and CP2 in terms of its location outside of the defined limits of development, and for this reason would also be in conflict with policy CP32. However, the proposed development, with its location on the edge of the settlement, would have a good level of accessibility to services and facilities, in accordance with policies CP60 and CP61. Furthermore, notwithstanding the above conflict and the housing numbers and amount of employment land set out in policy CP32, there is no cap on new housing, including in advance of new employment development or improvements to facilities, services and infrastructure. Additionally, I have found that, even with the level of self-containment for Westbury being at the lower end or bottom of the range compared with other market towns and principal settlements in the District, the differences would not be large in comparison to some similarly sized market towns. These are factors, amongst others, that I will further consider in the planning balance.

#### *Landscape character*

18. Core Policy 51 (CP51) of the WCS states, amongst other things, that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. It goes on to say that proposals should be informed by and be sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessment(s) and any other relevant assessments and studies. It then sets out various aspects of landscape character. Policy CP57 then relates to ensuring high quality design and place shaping.
19. In considering this issue, amongst other evidence, I have had regard to that of the Appellant relating to Landscape and Visual Appraisal and Policy Compliance and the corresponding analysis and visualisations by the Council.
20. The proposed development would be immediately adjacent to existing dwellings partially along two sides of the site. In that respect, the proposed southern line of the development, consisting of dwellings and associated roads, would approximately follow on from that existing housing to the east of the site. Whilst the existing settlement edge extends alongside the northern site boundary for a significant length, the western end encompasses a larger building set in more spacious grounds than the dwellings to its east, before staggering north-westwards. The proposed development, in projecting beyond the immediate settlement edge to the north of the site, and more so in relation to those dwellings closest to the site, would therefore noticeably extend that part of the settlement edge westwards.
21. Public views outwards across the site from the existing settlement would therefore inevitably change with the introduction of the proposed development.



However, the nature of the topography and existing tree presence is such that those views, including from Sandhole Lane and Leighton Park Road are largely very localised and relating to the immediate open setting to the settlement, albeit with some varying scope for longer distant views of the higher ground comprising the chalk escarpment beyond. Such wider public views in the immediate vicinity of the site are currently more substantially derived from the footpath running alongside the southern site boundary towards the gently rolling land to the south and escarpment to the south-east. Those views would therefore remain unimpeded by the proposed development.

22. The proposed open space would extend southwards beyond that line of the existing settlement edge to the east of the site and would be of a clearly different nature to the existing fields. The proposed peripheral planting would itself represent a change to the largely open site boundaries on the southern and part western boundaries. Nevertheless, the soft landscaped nature of the proposed open space would provide a buffer and transition from the proposed built form to the open countryside beyond. Furthermore, the presence of trees on the edge of the settlement is already a feature in this vicinity, albeit to varying degrees, such that the proposed new planting would not appear unusual in that context.
23. The extent of wider views from that footpath alongside the southern site boundary and another further south to the east of Dilton Farm, towards the lower land on the fringes of Westbury and beyond to the north would, to varying degrees, be blocked or reduced. However, those views are already restricted to varying degrees by existing woodland and other trees in the vicinity of the site. In relation to the path immediately to the south of the site, it is also likely that a strong sense of openness would still be maintained with open fields remaining to the south and the expansive views in that southerly direction, together with the likely softening effect of the proposed site planting.
24. In terms of the effect of the proposed development on the wider landscape, the built form would generally be contained on the upward sloping land rising southwards from the existing settlement to the north, albeit a gentle slope at that point, which then immediately levels out to a shallow ridgeline. The level of containment of the proposed development within that topography would therefore be significantly less than for those dwellings particularly to the north, albeit not unusual in the context of those to the east on the southern side of Leighton Park Road. Nevertheless, the proposed cutting into the slope would reduce the extent to which the proposed dwellings would project above that level.
25. From wider public vantage points, at varying distances from the site and broadly from south-westerly around to easterly locations, the proposed development would be seen to varying degrees depending on the extent of intervening topography and vegetation. From the closer, mid-distance vantage points, the proposed dwellings, due to the siting referred to above and with existing buildings to the north being lower down the valley side, would have the potential to be seen as a prominent addition to the landscape. However, that would be to varying degrees, including in the context of the existing presence of dwellings to the immediate east of the site, albeit that they are initially only single storey bungalows and have varying degrees of softening and screening by boundary vegetation. Such screening or softening is however likely to be less effective in winter months without the same extent of leaf

cover as other times of the year. Nevertheless, with the degree of intended lowering of the site levels and new tree planting, the proposed dwellings themselves would also be unlikely to be dominant features within those views.

26. From more distant views on higher ground, the proposed development, whilst visible to different degrees, would be seen to varying extents in the context of the existing settlement of Westbury and softened by the proposed tree planting. As such, whilst it would be seen from those vantage points as an addition to the existing settlement, and an encroachment into the countryside, it would be unlikely to be a dominant or obtrusive feature of the wider landscape.
27. The proposed cutting into the slope would alter the characteristic naturally uniform profile of the site as it relates to the relevant published landscape character assessments (LCAs), in particular those relating to Wiltshire and West Wiltshire. The former has the site located within character type LCT 6 comprising Greensand Terrace and character area 6A: Warminster Terrace. For the West Wiltshire LCA, the site is within character type LCT G: Greensand and Chalk Terrace, and character area G6: Westbury Greensand and Chalk Terrace. Inevitably the site would lose its function and appearance as what is classified as best and most versatile agricultural land (BMVAL), and the associated extent of openness. However, that and the altered site profile, in the context of the wider countryside, would represent a relatively small change and amount of BMVAL lost, particularly in the close context of the location immediately adjacent to the existing settlement. The visual effect of that cutting would also be likely to be very localised in the context of the proposed planting, albeit itself drawing attention to the altered appearance of the site.
28. For the above reasons, I conclude on this issue that the proposed development would inevitably have an adverse effect on the intrinsic character and beauty of the countryside and cause some harm to the landscape character of the site and surrounding area, including the setting of Westbury Leigh. As such, in respect of this issue, it would be in conflict with policies CP51 and CP57 of the WCS; and with section 15 of the National Planning Policy Framework (the Framework) which, amongst other things, states in paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. However, also for the reasons set out above, the extent of that harm would be limited, which I shall consider further in the planning balance.

#### *Housing land supply*

29. For the purposes of this appeal, it is agreed by the parties that, with the base date as April 2019, this being the best available data, the Council can currently demonstrate a five year supply of deliverable housing sites (5 year HLS) within the range of 4.30 to 4.56 years' worth. This is a difference of between 9055 and 9605 dwellings, with the corresponding shortfalls of between 1478 and 928 dwellings. It is also agreed by the parties that within the N&WW HMSA, the deliverable HLS range is between 4.05 and 4.29 years' worth, representing shortfalls of between 1315 and 980 dwellings.
30. With regard to the 5 year HLS for Wiltshire, even were I to consider the supply to be 4.56 years, this would still be clearly less than the 5 year requirement, albeit not substantial. Furthermore, the difference of 0.26 years is not so large as to cause me to apply significantly different weight to any figures within that

range. The same applies in respect of the range relating to consideration at the N&WW HMA level. As such, whilst I have had regard to the relevant evidence, I have not dealt with the above matter of dispute relating to deliverability of the sites concerned in any further detail.

31. I have had regard to the likelihood of the shortfall in housing being met in relation to the Plan period, looking beyond the current 5 year HLS to 2026. It is not disputed that WCA itself will be likely to exceed its minimum housing requirement, taking account of commitments to 2026, albeit that there is no guarantee that they will all be implemented. However, even taking the Council's figure of an exceedance of the indicative requirement by 20%, there is not a cap on the amount of housing at that local level.
32. It is disputed as to whether it is likely that the housing requirement for the N&WW HMA will be met by the end of the WCS plan period in 2026 beyond the current 5 year HLS period. In this respect, the Council has highlighted housing development coming forward between 2024 and 2026, adding that the appeal proposal, if allowed would be unlikely to have completions before the end of the current 5 year period of 2019 to 2024 at which point it is claimed there would be considerable supply. This would be taking account of both commitments and uncommitted windfall sites.
33. Even if I were to accept the Council's position on future supply to 2026 addressing the HMA requirement, the levels of actual implementation and completions cannot be guaranteed. Nevertheless, the less than substantial shortfall in the current Wiltshire 5 year HLS, even at the lower end of the agreed range, combined with that potential future provision, carries some weight, although the requirement could have changed by 2024 with the potential adoption of the reviewed spatial strategy in 2023. Whilst there is no certainty as to whether or not the appeal site would be needed in order to achieve such a strategy, neither is there certainty as to housing requirements following the adoption of the review. I shall consider these matters further in the planning balance.

#### *Appropriate Assessment under the Habitats Regulations*

34. The site lies within a Bath and Bradford-on-Avon Bats Special Area of Conservation (the BBB SAC) Consultation Zone. The SAC is designated primarily for its greater horseshoe bat (GHB) and Bechstein's bat hibernation roosts. The Consultation Zone within which the appeal site is located relates to and is centred on a GHB roost at Westbury Leigh approximately 300 metres to the west of the site.
35. The proposed development has been supported by an Ecological Impact Assessment, Lighting Impact Assessment and Shadow Habitats Regulations Assessment (HRA) Report together with an Addendum to that Report. Survey work that has been conducted identified the presence of GHBs, potentially associated with the Westbury Leigh roost, shortly after sunset. This is indicative of use of the site for commuting to foraging sites further away with activity highest on the site's western boundary where there is more vegetation and less existing lighting. The pasture land at the western side of the site would also have the potential to support opportunistic GHB foraging for prey in the form of Cockchafer Larvae. Whilst activity has been recorded on the northern and eastern site boundaries, this is to a lesser extent due to provision of little shelter and poor navigation features, together with the negative effects,



to varying degrees, of existing street and residential lighting along those boundaries.

36. In light of the above GHB activity, the proposed development would have the potential to cause habitat loss or fragmentation and degradation of retained habitat through artificial lighting. As such the proposed development, without any mitigation, would be likely to have a significant effect on GHBs relating to the BBB SAC.
37. The proposals would involve the retention of existing woodland on the western side of the site, together with enhanced planting along that western boundary and a dark buffer before the built-up part of the proposals. The enhanced planting and associated buffer on the southern boundary would also have the potential to increase the use of that boundary as a GHB commuting corridor along with potential increased foraging potential as the vegetation matures. There would also be an enhanced green corridor along the northern boundary, including surface water drainage feature(s), and enhanced hedgerow planting on the eastern boundary to improve those routes for GHBs.
38. The proposed development would also set aside an area for habitat and green infrastructure provision, with flexibility to allow for the detailed design of bat mitigation features and planting schemes which could also be secured by condition. That flexibility includes the potential to locate the proposed allotments away from the existing area of pasture should it transpire that that land supports significant numbers of cockchafer. Appropriate conditions to ensure that appropriate mitigation measures would be secured, managed and monitored are referred to in the *conditions and planning obligations* section below. The conditions would include provision for a Cockchafer Larvae Survey to inform the design of the proposed future green infrastructure area at the reserved matters stage and proposals for ongoing management of the area; a Landscape and Ecological Management Plan (LEMP); a Construction Environmental Management Plan (CEMP); and detailed proposals for external lighting including types, heights, positions, illumination levels and light spillage levels. With the latter, where there would be any development potentially affecting dark corridors and wildlife habitat, lux plots would need to be submitted for approval. The proposals would also involve the planting of a significant number of new trees on the site.
39. The Appellant's shadow HRA Assessment and associated Addendum concludes that with the above proposed mitigation there would be no adverse effect on the integrity of the BBB SAC alone or in combination with other proposals or projects. Furthermore, Natural England (NE) has advised that providing these measures are secured, the proposal would have no adverse effect on the integrity of the BBB SAC.
40. In concluding in respect of GHBs, the proposed ecological mitigation measures, secured through conditions, would address concerns relating to GHB habitat loss/fragmentation and degradation of retained habitat through artificial lighting. They would result in the avoidance of the likely significant effects that would otherwise be caused by the proposed development in this respect. As such, the proposed development would not have an adverse effect on the integrity of the BBB SAC, alone or in combination with other proposals or projects.

41. Other European designated sites within 10 kilometres of the site boundary relate to the Salisbury Plain SAC and Special Protection Area (SPA) and River Avon SAC. In relation to the Salisbury Plain SPA, this relates to supporting populations of wintering hen harrier, breeding stone curlew, and breeding populations of quail and hobby. The Salisbury Plain SAC includes habitats comprising *Juniperus communis* formations on heaths or calcareous grasslands; and semi-natural dry grasslands and scrubland facies on calcareous substrates; together with the Marsh fritillary butterfly species. The River Avon SAC includes habitat comprising water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation and species comprising Desmoulin's whorl snail, Sea lamprey, Brook lamprey, Atlantic salmon and Bullhead.
42. In relation to the SPA, the proposed development would be approximately 1.6 kilometres from this at its nearest point and therefore giving the potential for additional recreational pressures, in particular relating to the sensitivity of stone curlew to disturbance by dog walkers. As such the proposed development, without any mitigation, would be likely to have a significant effect on this feature relating to the SPA. Mitigation would therefore be needed in the form of funding annual stone curlew monitoring and management advice to landowners by the RSPB, and visitor monitoring. In this respect a financial contribution towards mitigation would be made to the Council via the Community Infrastructure Levy in line with the Council's Strategy for the SPA relating to residential pressure for residential development. On that basis the proposed development would not have an adverse effect on the integrity of the SPA alone or in combination with other proposals or projects.
43. In relation to the Salisbury Plain SAC, the threats or pressures to this are non-development related. Furthermore, in relation to the River Avon SAC, the site lies outside of its catchment having regard to foul and surface water drainage from the site or water abstraction effects. As such in these two cases, the proposed development would not have a likely significant effect in respect of the features concerned either alone or in combination with other proposals or projects.
44. In relation to these other European sites, they were also considered in the Appellant's shadow HRA which NE were consulted upon. NE has not raised any comments or reached any conclusions different to those referred to above.

#### *Other Matters*

45. Having regard to highway matters, I have taken account of the submitted TSA which addresses matters of concern, dealing with issues of trip generation and traffic impact relating to the proposed development, and provides further details of the accesses, off-site accessibility and proposed safety improvements, and public transport improvements. This includes further speed surveys undertaken during the pandemic on Laverton Road when there were likely to have been less cars on the road with the resulting propensity for higher vehicle speeds; thereby assessing traffic impact and junction visibility under worse-case scenario conditions in this respect, together with the use of pre-Covid19 traffic data. On that basis visibility splays at the Leighton Park North and Rothe Rise junctions set out on submitted drawing 20-081/011 rev A are found in the TSA to be appropriate and I have no substantive basis to consider differently.

46. I note the concerns of local residents relating to the available width of the estate roads between the site and Laverton Road, including in respect of existing levels of on-street parking, concerns about the steepness of estate roads and junction safety. Whilst I note that the road widths are still disputed by local residents, I have no substantive basis to consider that the additional traffic generated and associated trip rates would be such as to exceed the capacity of those existing roads and junctions, nor that existing on-street parking would be likely to unacceptably impede such additional traffic, including emergency vehicles. This would be subject to the proposed widening of the section of Leighton Park North leading up to Laverton Road and associated junction improvements and extended parking restrictions. I also have no substantive basis to consider that the steep sections of the estate roads, in particular on that section of Leighton Park North leading up to Laverton Road, and to a lesser degree along Rothe Rise, would not be able to accommodate the additional level of traffic.
47. Concerns regarding accessibility for large vehicles, including refuse vehicles, would therefore be addressed with the proposed road widening and junction improvements. Furthermore, construction traffic could be appropriately controlled through a Construction Management Statement secured by condition.
48. In terms of provision for pedestrians and cyclists in the vicinity, as referred to below the proposed planning obligations submitted under the Unilateral Undertaking would include a financial contribution for appropriate levels of improvements to the existing local infrastructure. I note concern that existing footpaths running northwards from Sandhole Lane have variable degrees of accessibility. Nevertheless, even without such paths, there remains a good degree of pedestrian and cycle access to the wider area from the site, with scope to improve this by way of mitigation for the inevitable increased use generated by the proposed development.
49. The proposed access to the site at 5.5m wide, albeit narrowing to 5.4m on the existing section between the site and Leighton Park West, has also been found to be acceptable by the Highway Authority and I have no substantive basis to consider differently. In terms of parking provision relating to the proposed development, I have no substantive basis to consider that the proposed development would exacerbate any existing on-street parking problems in the vicinity. In any case appropriate on-site parking would be a detailed matter for consideration at the reserved matters stage.
50. I am therefore satisfied that the proposed development would be unlikely to pose a risk to highway safety. Furthermore, the additional information has caused the Highway Authority to withdraw its previous objections subject to appropriate conditions and planning obligations.
51. To address concerns over potentially harmful surface water drainage of the site as a result of the proposed development, the Appellant has undertaken further investigation of the site. The suitability of the soil on the site for the use of soakaways to dispose of surface water has enabled an acceptable solution to be found that would not result in flooding for up to a 1 in 100 year plus 40% storm event. This would involve infiltration with the use of a combination of soakaways, basins and permeable paving. An alternative solution involving the restriction of discharge rate, through the use of a balancing pond and swales,

to a level that could be accommodated by the existing surface water sewer would also be available subject to detailed design. As such, it would be unlikely that the proposed development would cause local flooding or exacerbate any existing drainage problems on adjacent roads.

52. In terms of other ecological issues, survey work undertaken by the Appellant recorded low populations of grass snake and slow worm along the northern and eastern site boundaries. In respect of the reptile survey work undertaken, the Appellant has confirmed that some of the survey tiles were either damaged or destroyed through agricultural management works. However, it is also confirmed that this occurred prior to the survey being undertaken and that the tiles were replaced and then appropriately surveyed. I have no substantive basis to consider differently.
53. Furthermore, it was found that some notable bird species such as Bullfinch and Song Thrush possibly breed on the site with others using it for forage. No evidence was found on the site of Great Crested Newts, dormouse, or badger setts. I have no substantive basis to dispute these findings or that the survey work undertaken was inadequate. Importantly, the proposals would include retention of existing woodland habitat at the western end of the site and hedgerows and trees on other boundaries of the site which would also be enhanced by significant additional planting. Furthermore, those planning conditions referred to in the Appropriate Assessment would also apply to the ecology of the site generally, including through the LEMP and CEMP, so as to ensure that there would not be unacceptable harm caused in respect of the ecological value of the site.
54. Concerning any archaeological value of the site, I have noted that historic OS mapping records originally showed there to have been a covered reservoir on part of the site, later shown to be removed. The latter is supported by geophysical survey work undertaken in relation to the proposed development identifying no particular features relating to the location of the former reservoir. Nevertheless, as there could still be features of archaeological interest on the site generally, a written programme of archaeological investigation could also be secured by a condition.
55. In terms of the amenities of surrounding existing residents, I have had regard to potential overlooking and loss of privacy to, and outlook from, existing properties adjacent to the site. The current outline application does not seek approval of the detailed layout albeit that an indicative layout has been submitted. Nevertheless, the submitted parameters plan shows how, along the northern side of the site, the proposed dwellings would be separated from Sandhole Lane by a green corridor resulting in a significant degree of separation to existing houses on the northern side of that road. Furthermore, the same plan shows that houses along the eastern side of the site would back onto an enhanced hedgerow corridor. Although outlook from existing surrounding properties would inevitably change, I therefore have no substantive basis to consider that the proposed development could not be designed at the reserved matters stage to avoid unacceptable loss of privacy to and outlook from existing neighbouring properties.
56. In terms of the amenities of local residents during the proposed construction of development, this could be appropriately mitigated through the requirement for adherence to a Construction Management Statement that would firstly need to

be approved by the Council. Furthermore, I have no substantive evidence to indicate that the proposed development, including in relation to associated vehicle emissions, either in the construction phase or when occupied would give rise to unacceptable loss of air quality.

57. Whilst the proposed development would inevitably increase the noise and lighting levels associated with the site, it would be in the context of the prevailing existing residential use in the immediate vicinity. The levels concerned would therefore be unlikely to be unacceptably harmful in that context. Furthermore, the nature and levels of lighting could be secured and controlled by condition.
58. Having regard to concerns relating to additional crime and anti-social behaviour as a result of the proposed development, there is no substantive evidence to support such concerns subject to appropriate design measures that would need to be dealt with at the reserved matters stage.
59. The proposed planning obligations referred to below would, amongst other things, ensure provision of the on-site public open space (POS), mitigation relating to local early years education and public transport. With such mitigation in place, I have no substantive evidence to demonstrate that the residents of the proposed development would cause unacceptable additional pressure on that or any other existing infrastructure relating to local services and facilities. Furthermore, rather than the proposed development reducing the access to existing external recreation space for local residents, the proposed POS would if anything increase the amount and variety of such space in the locality.

#### *Conditions and planning obligations*

60. Planning Obligations have been submitted within a Unilateral Undertaking (UU) under Section 106 Agreement of the Act, making provision for the following:
- 30% of the proposed dwellings shall be affordable housing, in accordance with WCS policy CP43 concerning the provision of affordable homes, the Council's Planning Obligations Supplementary Planning Document (SPD) and paragraph 65 of the Framework.
  - Details, implementation and management of the proposed on-site open space and play area, with the submission of a Landscape Plan and Management Scheme for the area concerned. This would be in accordance with WCS policy CP3 concerning place-shaping infrastructure requirements and policy CP52 concerning provision for green infrastructure, together with the Council's Supplementary Planning Guidance - Open Space Provision in New Housing Developments: A Guide.
  - Appropriate financial contribution towards early years education, in particular relating to provision of infrastructure at Cygnets Preschool, Westbury. This would be to mitigate the likely additional demand for local school places resulting from the proposed development in accordance with policy CP3 of the WCS under the category of essential infrastructure, the Planning Obligations SPD, and with paragraph 95 of the Framework which states amongst other things that it is important



that a sufficient choice of school places is available to meet the needs of existing and new communities.

- Appropriate financial contribution towards the provision of waste and recycling equipment for each of the proposed dwellings. This would be in accordance with policy CP3 of the WCS, again under the category of essential infrastructure, and the Planning Obligations SPD.
- Appropriate financial contributions towards local public transport, in particular a replacement bus shelter at Chalford on the northbound A350 and bus stop improvements on Westbury Leigh or Laverton Road; walking/cycling facilities, in particular on Sandhole Lane or to other improvements to walking and cycling facilities in the local vicinity; and a Traffic Regulation Order (TRO) for the extension of parking restrictions on Leighton Park North/Laverton Road junction. These relate to the need to promote sustainable transport as set out in section 9 of the Framework, WCS policies CP61 and CP62 relating to transport and new development and development impacts on the transport network, and the Planning Obligations SPD, and in the case of the TRO, for highway safety reasons.

61. I have also had regard to the obligation relating to the financial contribution entitled 'Public Art Contribution'. This would comprise a financial contribution towards the provision of public art within the proposed development. The Council states that this would be required in order to engage an experienced professional public art specialist to devise, manage and deliver public art for the site. This relates to policy CP3 of the WCS which includes reference to the provision of public art as being place-shaping infrastructure. Policy CP57, relating to ensuring high quality design and place shaping, also seeks to ensure the use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm. The Planning Obligations SPD also refers to art and design in the public realm which in turn refers to a Guidance Note for Art and Design in the Public Realm. I also note that saved policy I2 of the West Wiltshire District Plan relating to the Arts states that where appropriate, a percentage of the overall cost of development will be sought through negotiation to further an artistic objective in a practical manner.
62. Despite only being at the outline planning stage, other than the principle of engaging an appropriate public art specialist and highlighting potential ways of implementing such a contribution, no particular project or artistic objective has been identified as being likely to be delivered and necessary to contribute towards creating high quality design and place-shaping. Furthermore, notwithstanding a note provided by the Council to explain why a figure of £300 per dwelling would be sought and the policy and SPD references referred to above, no published documents concerning this have been submitted that provide a clear justification for the specific figure concerned.
63. Therefore, whilst I acknowledge the policy basis for seeking such a contribution in principle, for the above reasons I cannot be sufficiently certain that the contribution would meet the tests set out in Reg 122(2) of the CIL Regulations of being necessary to make the development acceptable in planning terms and fairly and reasonably related in scale and kind to the development. I have

therefore not taken that planning obligation relating to public art into consideration and have afforded it no weight in determining the appeal.

64. The Council has submitted a statement of compliance of the planning obligations with Regulation 122 of the CIL Regulations. Based on that evidence, the relevant aspects of the Framework, and development plan policy and the Council's Planning Obligations SPD, I am satisfied that the provisions in the UU, other than in relation to the public art contribution, would meet the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the CIL Regulations. Furthermore, in respect of the proposed provision for affordable housing, this would represent a benefit of the development, weighing in its favour.
65. The Council has submitted 22 suggested conditions were I minded to allow the appeal. These are generally agreed by the Appellant. I have considered these in the light of advice in the National Planning Practice Guidance (the PPG) and have, in the interests of clarity and precision, omitted one and amended some of the wording. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes.
66. The standard conditions (1, 2 and 3) would be necessary relating to the timescale for commencement of development, to ensure the submission of details relating to the reserved matters, and the timescale for the latter. For certainty, a condition requiring the development to be carried out in accordance with the approved plans would also be necessary (4).
67. In the interests of highway safety, conditions would be necessary to secure the following: widening works and amended waiting restrictions to the Leighton Park North/Laverton Road junction in accordance with, respectively, full technical details and a plan to be approved (5) and (6); provision of the proposed new site junction and scheme of cycle/pedestrian crossing points in accordance with full technical details to be approved (7); submission of and adherence to a Construction Management Statement, also in the interests of local residential and general amenities and protection of the natural environment (9).
68. In order to encourage sustainable modes of travel, conditions to secure pedestrian and cycle links on the site boundaries connecting to the footway links (8) and the implementation of a Residential Travel Plan (12) would be necessary. Furthermore, in the interests of public health, environmental quality and amenity, a condition would be necessary to secure a scheme of Ultra Low Energy Vehicle infrastructure (19). Conditions to ensure the satisfactory layout of roads on the site, together with associated features, and to ensure adequate means of access to each dwelling upon first occupation would also be necessary (10 and 11).
69. To ensure adequate drainage from the site, conditions would be necessary to secure details and the implementation of appropriate surface water discharge and sewerage disposal measures (13 and 14).
70. As referred to previously in relation to ensuring no adverse effect on the Bath and Bradford-on-Avon Bats SAC, a condition would be necessary to secure a Cockchafer Larvae survey of the relevant part of the site so as to inform the design of the proposed green infrastructure on the site (15). Also in the interests of the ecology of the site, conditions would be necessary to secure the

submission and implementation of a LEMP and CEMP (16 and 17) and details of external lighting, also in the interests of the amenities of the area (18).

71. In the interests of the character and appearance of the site and surrounding area, a condition would be necessary to secure the implementation of landscaping details approved at the reserved matters stage (20). Furthermore, as there could be features of archaeological interest on the site, it would be necessary to secure the submission and implementation of a programme of archaeological work prior to commencement of development (21).
72. The Council has also suggested a condition relating to proposed car parking provision at the reserved matters stage being in accordance with the Wiltshire Car Parking Standards. However, as that is a detailed matter that would need to be appropriately considered at the reserved matters stage, it is unnecessary to include it as a condition at this stage.

### *Planning balance*

73. I have found that the proposed development would conflict with the Council's spatial strategy as set out in policies CP1 and CP2 in terms of its location outside of the defined limits of development, and for this reason would also be in conflict with policy CP32. However, I have also found that the proposed development would have a good level of accessibility to services and facilities, which itself provides some weight in its favour. Furthermore, notwithstanding the housing numbers and amount of employment land set out in policy CP32, having regard to the principles of self-containment, there is no cap on new housing, including in advance of new employment development or improvements to facilities, services and infrastructure. Additionally, I have found that, even with the level of self-containment for Westbury being at the lower end or bottom of the range compared with other market towns and principal settlements in the District, the differences would not be large in comparison to some similarly sized market towns.
74. I have also found that the proposed development would inevitably have an adverse effect on the intrinsic character and beauty of the countryside and cause some harm to the landscape character of the site and surrounding area, including the setting of Westbury Leigh. However, for the reasons set out, the extent of that harm would be limited.
75. It is not disputed that the Council is not able to demonstrate a 5 year HLS. As such, having regard to paragraph 11(d) of the Framework, the most important policies for determining the appeal are out-of-date and the tilted balance is engaged. In relation to policies CP1, CP2 and CP32, particularly given the healthy level of provision and future commitments in the WCA, and that there is evidence showing the potential for the N&WW HMA housing requirement figures being met through developable commitments and uncommitted windfall sites, some weight can still be afforded to the conflict with them, including in their role as a means of controlling self-containment. I have also taken account of the less than substantial Council wide deficit in terms of the Wiltshire 5 year HLS and the potential time lag for completions on the appeal site beyond the current 5 year HLS period.
76. However, in considering that potential future development beyond the 5 year HLS period, I have also taken account of the delay in adopting the emerging spatial strategy following the adoption of the WHSAP. As such, with the

potential adoption of the emerging strategy in 2023, which at its current stage affords little weight, the housing requirements, including the need for additional sites and the scale and distribution of development, could therefore have changed before the end of the current plan period. That degree of uncertainty, together with no guarantee that all of the commitments will be implemented, lessens the degree of weight afforded to the conflict with policies CP1, CP2 and CP32.

77. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have the benefit of contributing up to 67 dwellings towards the supply of housing in the District. Of those dwellings, the proposed 30% contribution to the local supply of affordable housing would be an added benefit, particularly due to the clear need for such housing locally and regardless of being a policy compliant figure. Those combined benefits alone would therefore attract significant weight. This is particularly in the scenario whereby, despite my findings above on the extent of the deficit, the Council is nevertheless currently not able to demonstrate a 5 year HLS, with that being potentially more of a deficit in terms of years' worth at HMA level; and in light of the uncertainty over future requirements, also referred to above, having regard to the anticipated adoption of the reviewed spatial strategy next year.
78. There would also be likely significant economic benefits relating to the provision of construction related jobs during the construction phase, albeit on a temporary basis for the duration of that phase; and then in terms of local spending by prospective residents of the proposed development, such as in shops and on other services. Furthermore, there are aspects of the proposed development, in particular the proposed public open space/recreation area, and financial contributions towards local bus shelter improvements and improvements to local walking and cycling facilities which, although required in respect of the proposed development would also be likely to benefit existing local people. The proposals would also have the potential benefit of delivering significantly in excess of 10% biodiversity net gain for both area and linear habitats.
79. Notwithstanding my findings in relation to the main issues, I have found there to be no other matters that would cause unacceptable harm, subject to appropriate conditions and planning obligations where applicable; and that there would be no adverse or likely significant effects on designated European sites.
80. The Council has identified another appeal, Ref APP/Y3940/W/18/3202551, for a proposed housing development at land at Purton Road, Swindon which was dismissed and where the 5 year HLS range, not dissimilar to that in this case, was considered by that Inspector to be a relatively modest shortfall. The Inspector also afforded significant weight to the conflict with WCS policies CP1, CP2 and CP19 in that case, albeit that the latter of those specifically relates to the Royal Wootton Bassett and Cricklade Community Area, as well as moderate weight to the conflict with Local Plan policy H4. However, that decision in April 2020 was not made in the same context as the current appeal, where there was not the factor of a delayed adoption of the spatial strategy review; it was proposed on a site described by my colleague as being some distance from the built-up area of Purton; and also where a 3 year HLS was exceeded in the context of a made Neighbourhood Plan (NP), such that conflict with the NP

weighed heavily against the proposed development. All of those factors differ from the circumstances relating to this appeal which I have determined on its own merits.

81. Taking all of the above into account, in applying paragraph 11(d)(ii) of the Framework, the extent to which there would be adverse impacts of granting planning permission relating to the first and second main issues, would not significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.

### **Conclusion**

82. For the reasons given above I conclude that the appeal should be allowed.

*Andrew Dawe*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT:**

John Litton QC, Landmark Chambers

Instructed by the Appellant

He called:

Jonathan Orton

Managing Director, Origin3

Charles Mylchreest (for round table discussion on landscape character matters)

Director, EDP

Also appearing to answer questions from interested parties on day 1 of the Inquiry relating to highways and drainage matters respectively:

Richard Harrison

Associate Director, Odyssey

Kevin Lang

Director, Lanmor Consulting Ltd

### **FOR THE LOCAL PLANNING AUTHORITY:**

Gary Grant, Barrister Kings Chambers

Instructed by Vicky Roberts, Council Solicitor

He called:

Mike Wilmott

Head of Development Management, Wiltshire Council

Peter Radmall (for round table discussion (RTD) on landscape character matters)

On behalf of Wiltshire Council

Chris Roe (for RTD on housing land supply)

Spatial Planning Manager for Monitoring & Evidence, Wiltshire Council

### **INTERESTED PARTIES:**

Ian White

Local resident

Ben Gordon

Local resident

Angela Gardner

Local resident

Daphne Steel

Local resident

Stephen Smith

Local resident

Richard Hunter

Local resident

Cllr Gordon King

Ward Councillor

Simon Blake

Local resident

## **INQUIRY DOCUMENTS (IDs):**

1. Opening Statement on behalf of the Appellant.
2. Opening Statement on behalf the Council.
3. Statement made by Ian White.
4. Statement made by Richard Hunter.
5. Statement made by Cllr Gordon King.
6. Copy of up to date Scott Schedule dated 27 October 2021
7. Revision to Appellant's Planning Proof of Evidence.
8. Copy of letter dated 27 October 2021 from EAD Ecology.
9. Schedule of Points of Clarification from the Appellant relating to Day 1 of the Inquiry.
10. Copy of email from Mike Wilmott of the Council clarifying status of the Council's challenge to appeal decision relating to Core Document 7.05.
11. Summary of planning obligations.
12. Note from Mike Wilmott of the Council relating to Public Art Contributions.
13. Closing Submissions on behalf of the Council.
14. Closing Submissions on behalf of the Appellant.

An additional document submitted on Day 1 of the Inquiry was an annotated map showing suggested site visit locations/itinerary for the Inquiry site visit, as agreed by the Council and Appellant.

## **ANNEX - Conditions**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority: (a) the scale of the development; (b) the layout of the development; (c) the external appearance of the development; and (d) the landscaping of the site. The development shall be carried out in accordance with the approved details.
3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan scale 1:1250 dwg no. 202; Parameter Plan dwg no. 600 rev D; Proposed access onto Leighton Park Road/Leighton Road West scale 1:250 dwg no. 20-081/003 rev B.
5. No part of the development hereby permitted shall be commenced until full technical details of the junction widening improvements to Leighton Park North/ Laverton Road as detailed on Drawing No 20-081/011 rev A, have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the development shall not be commenced until junction works have been completed in accordance with the details shown on the approved plans.
6. Prior to commencement of the development a plan showing the amendment to the waiting restrictions on Leighton Park North / Laverton Road junction shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the development shall not be commenced until the waiting restrictions concerned have been implemented in accordance with the details shown on the approved plan.
7. No development shall commence on site until full technical details of the new site junction with Leighton Park Road and the scheme of cycle/pedestrian crossing points, as detailed on drawings 20-081/003B and 20-081/010A, have been submitted to and approved in writing by the Local Planning Authority. The new junction and cycle/pedestrian crossing points shall be provided in accordance with the approved details prior to any part of the development being commenced, or to any alternative timetable which shall have firstly been submitted to and approved in writing by Local Planning Authority, and it shall be maintained as such thereafter. No part of the development shall be first occupied until the visibility splays (2.4m x 43m) shown on the site access general arrangement, drawing 20-081/003B, have been provided with no obstruction to visibility at or above a height of 0.6m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

8. At planning reserved matters stage, as part of the scheme layout, a scheme of pedestrian/cycle links on the north-west, north-east and south-east boundaries fully connecting with the footway links, in line with the submitted Parameter Plan and Illustrative Masterplan, together with an implementation timetable, shall be submitted to and approved in writing by the Local Planning Authority. The pedestrian/cycle links shall be implemented in accordance with the approved scheme and timetable.
9. No development shall commence on site (including any works of demolition), until a Construction Management Statement (CMS), together with a site plan, has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include the following:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- measures for the protection of the natural environment;
- hours of construction, including deliveries;
- pre-condition photo survey;
- Vehicle Routing Plan – feasibility of the route via Old Dilton Road to be fully investigated;
- Traffic Management Plan (including signage drawing(s));
- number (daily / weekly) and size of delivery vehicles to ensure appropriately size vehicles are being used for the highway network;
- number of staff vehicle movements;
- details of temporary / permanent Traffic Regulation Orders.

The approved CMS shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved CMS without the prior written permission of the Local Planning Authority.

10. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, road sewers, road drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, swept paths, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and laid out in accordance with the approved details.
11. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before occupation, each dwelling has been provided with a properly



consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

- 12.No development shall commence until a Residential Travel Plan (RTP) has been submitted to and approved in writing by the Local Planning Authority. The approved RTP shall be implemented prior to first occupation of the development.
- 13.No development shall commence on site until a scheme for the discharge of surface water from the site, including sustainable drainage systems and all third-party approvals, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved surface water discharge scheme has been fully implemented in accordance with the approved details.
- 14.No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage disposal measures have been fully implemented in accordance with the approved details.
- 15.Before development is commenced, details shall be submitted to and approved in writing by the local planning authority of a Cockchafer Larvae Survey of the area identified by Natural England in the Phase 1 habitat plan dated 13/09/2021 included as Figure 3 in the Shadow HRA Addendum prepared by Ead ecology and dated 24.9.2021. The results of this survey shall inform the design of the future green infrastructure area submitted as part of the reserved matters and proposals for the ongoing management of the area.
- 16.A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority before commencement of the development. The content of the LEMP shall include, but not necessarily be limited to, the following information:
  - a) Description and evaluation of features to be managed;
  - b) Landscape and ecological trends and constraints on site that might influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
  - g) Details of the body or organisation responsible for implementation of the plan;
  - h) Ongoing monitoring and remedial measures;
  - i) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery. The plan

shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. The LEMP shall be implemented in full in accordance with the approved details.

17. No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'biodiversity protection zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. A report prepared by a competent person(s), certifying that the required mitigation and/or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner.

18. No external lighting shall be installed on site until detailed plans showing the type of external light appliances, the height and position of the fittings, the illumination levels and light spillage levels in accordance with the appropriate Environmental Zone standards as set out by the Institute of Lighting Engineers in their publication 'Guidance Note 1 for the Reduction of Obtrusive Light 2021', have been submitted to and approved in writing by the Local Planning Authority. Where development would potentially affect dark corridors and wildlife habitat, the submitted details shall include lux plots. All external lighting shall be installed and be maintained in accordance with the approved details.

19. No development shall commence on site until a scheme, including details of the timing of its implementation, of Ultra Low Energy Vehicle infrastructure has been submitted to and approved in writing by the Local Planning Authority. The scheme concerned shall be implemented in accordance with the approved details and thereafter be permanently retained as such.

20. All soft landscaping comprised in the details of landscaping approved under condition 2 shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
21. No development shall commence on site until: a) a written programme of archaeological investigation, which shall include on-site work and offsite work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority, and b) the approved programme of archaeological work has been carried out in accordance with the approved details.