



Appeal Decision

Hearing held on 21 & 22 June 2022

Site visit made on 26 July 2022

by Matthew Nunn BA BPI LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2022

Appeal Ref: APP/Y3940/W/22/3290305

Land to the north of Whychurch Farm and to the south of Filands, Malmesbury

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gleeson Strategic Land against Wiltshire Council.
 - The application PL/2021/08453, is dated 27 August 2021.
 - The development proposed was originally described as 'outline planning application (all matters reserved except means of access) for residential development, including the construction of dwellings, the creation of a new vehicular access with footways and cycle ways and ancillary road infrastructure, public open space, children's play area, allotments, landscape planting, surface water attenuation and associated infrastructure'.
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Decision

1. The appeal is allowed and outline planning permission granted (with all matters reserved except for means of access) for residential development, including the construction of up to 71 dwellings, the creation of a new vehicular access with footways and cycle ways and ancillary road infrastructure, public open space, children's play area, allotments, landscape planting, surface water attenuation and associated infrastructure on land to the north of Whychurch Farm and to the south of Filands, Malmesbury, dated 27 August 2021, subject to the conditions in the attached schedule.

Procedural Matters

2. The application is made in outline with all matters reserved for future determination except for means of access. An illustrative Masterplan was submitted but this is indicative only¹. With the agreement of the parties, I carried out my site visit unaccompanied.
3. The Council failed to determine the application within the prescribed period, but subsequently advised by email² that, had it determined the application, it would have refused permission for four reasons. In essence these related to: (i) the location of the proposal outside the settlement boundary for Malmesbury, and conflict with the development plan; (ii) the harmful urbanising effect on the character of the area; (iii) the effect on archaeological assets; and (iv) the failure to make provision for the following: affordable

¹ BMD.20.035.DR.005

² Dated 3 May 2022

housing, education, recreation, open space, drainage management / maintenance, waste and recycling, and public art.

4. The Council confirmed at the Hearing it was satisfied that the second putative ground relating to archaeology could be dealt with by condition. In respect of the fourth ground, the Statement of Common Ground (SoCG)³ confirmed that planning obligation heads of terms had been agreed in respect of all these outstanding matters, and that they complied with the Community Infrastructure Regulations (CIL)⁴. A planning obligation has now been completed. I deal with this in the body of my decision.
5. The appellant requested a formal ruling relating to its request that a document should be brought before the Hearing. This was the Council's delegated report which was confirmed to be unfinished, in draft form and unpublished. Having regard to the document's draft status, I ruled it was not necessary for it to be disclosed to the Hearing, especially as the Council's position, notwithstanding the failure to determine the application, had been set out clearly in its Statement of Case and putative refusal grounds. In reaching this view, I am satisfied that there has been no breach of natural justice, nor has any party been put at a disadvantage.
6. At the Hearing, I raised the issue of the description of the development which omitted the number of dwellings being sought. Submissions were made on this matter from the main parties, as well as Malmesbury Town Council. In the light of what I heard, I consider that in the interests of precision and clarity, and to accord with the terms of the planning application and planning obligation (including financial contributions), it would be appropriate to amend the description by inserting the words 'up to 71 dwellings'. I see no disadvantage to any party given the appellant's confirmation at the Hearing that it was not their intention to exceed that number.
7. Both the appellant and the Council have submitted recently issued appeal decisions in support of their respective cases⁵. I deal with these in the body of my decision where relevant.
8. An application for a full award of costs against Wiltshire Council has been made by Gleeson Strategic Land. This is subject of a separate decision.

Main Issues

9. Despite the volume of material submitted during the course of this appeal, the decision turns on the following main issues:
 - (i) Whether the site is in a suitable location for development having regard to development plan policy; and
 - (ii) the effect of the proposal on the character and appearance of the area.

³ Signed and dated 15 June 2022

⁴ Paragraph 5.19

⁵ APP/Y3940/W/21/3289757 & 3286853 and APP/Y3940/W/22/3295577

Reasons

Location having regard to development plan policy

10. The development plan comprises the Wiltshire Core Strategy (CS) adopted in 2015, the saved policies from the North Wiltshire Local Plan (LP) adopted in 2011 and the Wiltshire Housing Site Allocations Plan (SAP) adopted in 2020. The development plan also includes the Malmesbury Neighbourhood Plan, made in 2015. The Neighbourhood Plan is currently being reviewed and updated, with a consultation exercise having recently been undertaken⁶. Bearing in mind the early stage of review, this emerging Neighbourhood Plan cannot be given any significant weight in this appeal having regard to the National Planning Policy Framework (the Framework)⁷.
11. Policy CP1 of the CS establishes a settlement strategy and hierarchy where sustainable development will take place. Malmesbury is defined as a 'Market Town' – the second highest in the hierarchy of settlements⁸ which are considered to have the potential for significant development. CP2 of the CS sets out the County-wide housing requirement and states that development will not be permitted outside the 'limits of development' (or settlement boundary), as defined on the policies map, other than in certain circumstances, which do not apply here. CP13 relates to the Malmesbury Community Area and requires that development should be in accordance with the settlement strategy set out in CP1. It also sets an indicative housing figure and states that growth in the Malmesbury Community Area may consist of a range of sites in accordance with CP1 and CP2. Policy H4 of the LP also restricts new dwellings in the countryside, except in specific situations including for agricultural or forestry need, or for replacement dwellings, which are not applicable here.
12. The appeal site lies on the northern edge of Malmesbury. It is outside, but adjacent to the defined settlement boundary, and is not allocated for development. In terms of Policy CP1, the proposal would arguably be generally consistent with the overall strategy of focussing development on Market Towns which are identified as having the ability to support sustainable patterns of living. However, given the site's location outside the settlement boundary, and not on an allocated site, the appeal proposal would be in clear breach of CS Policies CP2, CP13 and Policy H4 of the LP.
13. In terms of the Neighbourhood Plan, this allocates specific sites for housing outside the settlement boundary but does not explicitly restrict other housing development outside the boundary. It does not include any specific policy against which proposals for development on unallocated sites might be assessed. Malmesbury Town Council argues that the Plan does not need to identify how further applications are to be considered beyond the allocations because none are supported. Nonetheless, the Council states that the Neighbourhood Plan does not expressly prohibit residential development on the appeal site⁹. This being so, and notwithstanding the submissions of Malmesbury Town Council, it cannot be concluded the scheme would be expressly contrary to the Neighbourhood Plan. This position has been supported in other recent appeals¹⁰.

⁶ Regulation 14 (Consultation Stage) of the Neighbourhood Planning (General) Regulations 2012.

⁷ Paragraph 48

⁸ Top of the hierarchy are 'Principal Settlements' which comprise Chippenham, Trowbridge and Salisbury

⁹ Wiltshire Council's Statement of Case, Paragraph 4.87

¹⁰ APP/Y3940/W/21/3289757 & 3288653

14. The Council mentions that the development strategy of the CS defines Community Areas to disaggregate development requirements across the wider Wiltshire area, and that the disaggregated requirement for Malmesbury has already been met and significantly exceeded. On this basis, it is argued, there is no further pressing need for housing at this location. However, the principle of exceeding housing requirements for particular Community Areas cannot be contrary to the development plan, especially given the absence of an adequate overall five-year supply. I note that a similar approach has been taken in other appeal decisions¹¹.
15. Of considerable significance in this appeal is that the adjacent site, known as 'Land South of Filands' to the north-west already has outline permission for up to 71 dwellings, granted by the Council in September 2020¹². Further to the immediate west, another site known as 'Filands View' was granted following an appeal in March 2013¹³ for residential development comprising some 180 homes and a primary school. The residential element is now built and occupied. In January 2022, an appeal was allowed for further residential development and a nursery on the area originally intended for a primary school¹⁴. Therefore, the principle of residential development has been firmly established in the immediate locality. This proposal would, in effect, consolidate the area of already established residential development. This appeal must be considered in that context, notwithstanding any conflict with CS Policies CP2, CP13 and LP Policy H4.

Character and Appearance

16. The appeal site is not within a designated landscape, nor is it a 'valued landscape' as referred to within the Framework¹⁵. It comprises a relatively featureless area of gently undulating pastureland with boundary hedgerows and occasional mature hedgerow trees. The site's western boundary follows the alignment of a Public Footpath. The planning application was supported by a Landscape and Visual Impact Assessment (LVIA). In relation to virtually all the assessed receptors, the impact after mitigation was assessed as 'minor adverse' to 'negligible'. The LVIA concluded the development could be accommodated without giving rise to important material landscape and visual effects. The Council's Landscape Officer concurred with those findings and raised no objections to the application¹⁶.
17. The development would clearly result in the loss of open agricultural land and urbanisation of the countryside. However, whilst pleasant enough, the land has a rather nondescript character, and makes little contribution to the wider landscape. The Council itself acknowledges that the impacts would be 'limited and localised'¹⁷. This is particularly so given the extensive housing already built and permitted on adjacent sites. The proposed appeal development would very much be perceived in that increasingly urbanised context. In my judgement, the site would be an obvious and logical location for housing, and the overall impact on the character and appearance of the area, including the landscape, would be minimal.

¹¹ Most recently in appeals APP/Y3940/W/21/3289757 & 3288653

¹² Ref 19/11569

¹³ APP/Y3940/A/12/2183526

¹⁴ APP/Y3940/W/21/3282365

¹⁵ Paragraph 174

¹⁶ Council's Statement, Paragraph 4.111

¹⁷ Council's Statement, Paragraph 4.105

18. CP51 of the CS requires that development should protect, conserve and where possible enhance landscape character, and that any negative impacts should be mitigated as far as possible. Given my conclusions above, I consider that any conflict with that policy would be minimal.

Other Matters

19. Malmesbury Town Council raised concerns regarding the ability of local infrastructure to cope with new development, in respect of amongst other things, local schools. However, the Council has not raised objections on this point and is satisfied these matters can be resolved through the planning obligation.
20. The Council has drawn my attention to a recently dismissed appeal at Drynham Lane in Trowbridge¹⁸. In that case, the Inspector concluded that there was an unacceptable highway impact, harm to local character and that the proposal was 'ill-thought out and unacceptable'¹⁹. The circumstances in that case were clearly different and I do not consider it represents a precedent for the current proposals.

Planning Obligation

21. A planning obligation in the form of a unilateral undertaking has been completed dated 6 July 2022 by the appellant and relevant landowners. This would secure contributions²⁰ in relation to the following: waste collection facilities (£6,461) comprising the provision of waste recycling bins for the development; early years education (£157,968); primary education (£375,160); secondary education (£321,160); a public art contribution (£21,300) and leisure contribution (£19,586) towards the upgrade of the changing rooms and pavilion at Malmesbury Cricket club and / or the upgrade of planning pitches and ancillary services in the vicinity of the appeal development.
22. The obligation would also secure affordable housing in respect of 40% of the units, of which 60% would be affordable rent units and 40% shared ownership units. The obligation also requires 10% of the affordable units to be 'adapted units' and sets out nomination rights and the housing mix for the affordable units. The obligation also provides for the provision of open space and play areas on site, as well as a sustainable drainage system (SUDS), the scheme to be agreed as part of a condition.
23. Although within the SoCG it was expressly recorded that all the planning obligation heads of terms had been agreed, including relating to the provision of public art²¹, rather surprisingly, the appellant resiled from that position at the end of the first day of the Hearing. The appellant cited an appeal decision where the Inspector found he could not be certain such a contribution would be compliant with the CIL Regulations²². However, other appeal cases have taken a contrary view²³. In my judgement, Policy CP3 of the CS refers to 'place-shaping infrastructure' which includes public art²⁴. Furthermore, Policy CP57 of

¹⁸ APP/Y3940/W/22/3295577 dated 20 September 2022

¹⁹ Paragraph 42

²⁰ Figures based on the indicative mix

²¹ Paragraph 5.19

²² APP/Y3940/W/21/3275352, Paragraphs 61-63

²³ APP/Y3940/W/21/3285428, Paragraph 60

²⁴ Paragraph 4.42 of the Core Strategy

the CS, relating to high quality design and place shaping, also seeks to ensure the integration of art into the public realm. Given this development plan policy support, I am satisfied that the public art contribution is CIL compliant.

24. The parties have produced an explanatory note²⁵ to accompany the planning obligation relating to specific drafting provisions that were not agreed. These do not go to the substantive content of the obligation. The first difference of opinion relates to what constitutes the 'commencement of development'. The appellant argues commencement should exclude 'archaeological excavations' (the obligation is currently drafted to reflect this) whereas the Council takes a contrary view.
25. I share the appellant's view that the Council's approach would be inconsistent with the agreed archaeology condition. This is effectively a 'pre-commencement' condition, requiring that no development take place until the appellant has secured the implementation of a programme of archaeological work in accordance with a scheme of investigation agreed by the Council. I note the commencement definition in the obligation also excludes other preliminary works of investigation (for example, relating to land contamination / remediation and exploratory boreholes), and so it would seem logical to exclude archaeological excavations as well. Furthermore, it would be unreasonable for such preliminary archaeological works to trigger substantial payments to the Council. The definition as currently drafted is satisfactory.
26. The second point of disagreement relates to whether the obligation should be enforceable against future purchasers of residential units and future chargees or mortgagees (Clauses 5.1(m)(ii) and (iii)). The obligation as drafted excludes such liability, but the Council considers the exclusionary clause at 5.1(m)(ii) should be deleted. In terms of 5.1(m)(iii) relating to future chargees, the appellant says this is no more than a statement of the law and so cannot be controversial. However, in respect of 5.1(m)(ii), I accept that such exclusions potentially weaken the Council's enforcement powers in respect of the obligation. This is especially important given the Council states it has experienced obligation breaches in recent years. I understand that a standard alternative approach is for a developer to enter into an indemnity with plot holders, which can also act as an incentive for developers to ensure obligations are provided in a timely manner. Therefore, I conclude that Clause 5.1(m)(ii) of the obligation should not take effect²⁶.
27. Subject to the above, I have no reason to believe that the formulas and charges used by the Council to calculate the various contributions and provisions of the obligation are other than soundly based. The Council has submitted a CIL compliance statement demonstrating how each contribution is founded in adopted policy, including details of the calculation formulas for the financial contributions requested. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework²⁷ and CIL Regulations²⁸.

²⁵ Hearing Document 6

²⁶ In accordance with Clause 3.4 of the Planning Obligation

²⁷ Paragraph 57

²⁸ Regulation 122

Planning Balance and Overall Conclusions

28. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise²⁹. The Framework also requires that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social and environmental dimensions and the interrelated roles they perform.
29. It is agreed that the Council cannot currently demonstrate a five year supply of deliverable housing land. The Council states it can demonstrate a 4.7 year supply whereas the appellant says it is 4.56 including the necessary buffer³⁰. The difference between the parties is not significant and the shortfall is relatively modest. Nonetheless, it is agreed that the so called 'tilted balance' derived from Paragraph 11(d)(ii) of the Framework is engaged. As such, the policies which are the most important for determining the appeal are deemed to be 'out of date'. This does not mean they carry no weight, and the development plan remains the starting point for decision making. The 'tilted balance' requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
30. In this case, the additional housing would be a very weighty benefit for the area, by introducing much needed private and affordable housing. At least 40% would be affordable homes. The scheme would boost the supply of housing in accordance with the Framework. It would create additional housing choice and competition in the housing market. It would create investment in the locality and increase spending in local shops. It would create jobs and investment during the construction phase, albeit for a temporary period.
31. The development would result in the loss of agricultural land, but the site is well related to a tract of existing and approved residential development, and the overall harmful impact on the landscape would be minimal. The Council itself accepts that the effects would be 'limited and localised'. In my judgement, the site would be an obvious and logical extension to existing residential development. There is potential for biodiversity enhancement and 'net gain' through additional planting and landscaping. No highway objections have been raised, and no harm is alleged in terms of non-designated heritage assets, (specifically archaeology), or ecology subject to the imposition of appropriate conditions. I am satisfied that the planning obligation accords with the relevant regulations, and I have taken it into account in my deliberations.
32. There would be some conflict with Policies CP2 and CP13 of the CS, and Policy H4 of the LP. At the Hearing, it was argued that a conflict with the development plan and departure from the plan-led system is, of itself, intrinsically harmful. I agree that a plan-led approach to development is certainly desirable, but in this instance, the development plan is not currently delivering a sufficient supply of housing. As the Council cannot demonstrate a five year supply of housing, this diminishes the weight that can be attached to any conflict with these policies.

²⁹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 & Section 70(2) of the Town and Country Planning Act 1990

³⁰ Statement of Common Ground, Paragraph 5.6

33. The existing housing shortfall, and provision of new market and affordable housing attracts substantial weight in favour of granting permission for the proposals, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. I am satisfied that none of the reasons put forward for opposing the development establishes that the harm would be significant or would demonstrably outweigh the benefits. Therefore, notwithstanding any conflict with development plan policies, it follows that the appeal should succeed, subject to conditions. I deal with these below.

Conditions

34. I have reviewed the agreed list of suggested conditions in the light of the discussion at the Hearing and advice in the Planning Practice Guidance. The Framework is clear that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects³¹. Where necessary I have reworded the conditions for clarity. The numbers in brackets relate to the conditions in the schedule.
35. Commencement and reserved matters conditions are necessary to comply with the relevant legislation, with a shorter timescale than is standard to ensure prompt delivery of the scheme and address the five year supply deficit (1, 2, 3). Conditions requiring compliance with the approved plans is necessary for certainty and clarity (4). A condition relating to site levels is necessary to ensure the development is suitably integrated into the locality and to assist in informing the drainage strategy (5). A condition requiring an ecological parameters plan is necessary to protect the ecology of the site, and to achieve a net gain in biodiversity (6).
36. Conditions requiring a Construction Environmental Management Plan (CEMP) and Landscape and Ecology Management Plan (LEMP) are required to ensure works undertaken that may affect ecological features are carried out in accordance with specific procedures to secure their protection (7, 8). A lighting strategy is similarly required to protect ecological features and minimise disturbance to wildlife (9). A condition relating to archaeology is necessary to enable the investigation of heritage assets, ensuring their protection and recording (10). A condition requiring an arboricultural method statement is necessary to protect trees on site (11).
37. Conditions relating to surface and foul water drainage are necessary to ensure adequate drainage of the scheme and to prevent flooding (12, 13). A condition requiring implementation of the approved landscaping details is necessary to ensure a landscaped setting for the scheme (14). A condition requiring a Construction Method Statement is necessary to minimise disturbance to local residents, to ensure efficient traffic flow and to mitigate air pollution during construction (15).
38. Conditions requiring the provision of vehicle access and visibility splays, as well as pedestrian and cycling access are necessary in the interest of highway safety and to encourage sustainable travel patterns (16, 17). A condition requiring a provision of a Travel Plan is required to reduce vehicular traffic to the development (18). A condition relating to potential site contamination is

³¹ Paragraph 56

necessary to protect the health of future occupiers (19). Both parties now agree that a condition relating to ultra-low energy vehicle infrastructure is no longer necessary given the recent changes to the Building Regulations requiring provision of electric charging points in new developments. A condition specifying the number of dwellings is no longer necessary as this is now included in the description of development.

39. A number of the conditions relate to pre-commencement activities. In each case, the requirement of the condition is fundamental to make the scheme acceptable in planning terms. Subject to the imposition of these conditions, I conclude that the appeal should be allowed.

Matthew Nunn

INSPECTOR

APPEARANCES

FOR THE APPELLANT

John Litton	of King's Counsel
Jacqueline Mulliner	Terence O'Rourke
Stuart Robinson	Landscape Architect, BMD
James Smith	Solicitor

FOR THE COUNCIL

Hashi Mohamed	of Counsel
Lee Burman	Wiltshire Council - Planning
Christopher Roe & Steven Corbin	Wiltshire Council - Planning
Vicky Roberts	Wiltshire Council – Solicitor
Melanie Pomeroy-Kellinger	Wiltshire Council - Archaeology

INTERESTED PERSONS

Campbell Ritchie	Malmesbury Town Council
Kim Power	Malmesbury Town Council

HEARING DOCUMENTS

1. Appellant's costs application, dated 20 June 2022
2. Opening remarks on behalf of Wiltshire Council
3. Scheme of Delegation – Planning – Wiltshire Council
4. Site Visit Plan – suggested route
5. Wiltshire Council – Housing Register Statistics – 21 June 2022
6. Completed Planning Obligation (along with explanatory note) – dated 6 July 2022
7. Council's costs response, dated 25 June 2022
8. Appellant's reply to Council's cost response, dated 30 June 2022
9. Email from appellant dated 30 September 2022 relating to appeals APP/Y3940/W/21/3289757 & 3286855 (Land off Park Road, Malmesbury)
10. Email response from Council dated 7 October 2022 referring to an appeal APP/Y3940/W/22/3295577 (Drynham Lane, Trowbridge)
11. Further email response from the appellant dated 17 October 2022

Schedule of Conditions

- 1) The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Details of the appearance, landscaping, layout, and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of one year from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan - BMD.20.035.DR.001; Parameter Plan - BMD.20.035.DR.004; Site Access Plan - ITB16003-GA-003F).
- 5) No development shall take place 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 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.
- 6) The first of the reserved matters applications to be submitted shall be accompanied by an Ecological Parameters Plan showing the locations and specifications of all measures required to achieve no net loss and a net gain in biodiversity. It will align with the Indicative Landscape Plan (Drawing BMD 20.035.DR014 Figure 3 of the Ecological Technical Note) prepared by BMD (15 February 2022) and must ensure that ecological connectivity is maintained, through the retention and creation of on-site hedgerows, wildflower grassland, wetland grassland and shrub / scrub planting. No development shall take place, including any works of site clearance and preparation, until the Plan has been approved in writing by the local planning authority. The development shall be undertaken in strict accordance with the approved details.
- 7) No development shall take place, including demolition, ground works / excavation, site clearance, vegetation clearance and boundary treatment works, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall incorporate details of the avoidance, mitigation and protective measures detailed in Section 4 of the Ecological Impact Assessment (ead Ecology, August 2021) to be implemented before and during the construction phase, including but not necessarily limited to the following: (a) Identification of ecological protection areas / buffer zones and tree root protection areas and details of physical means of protection, for example exclusion fencing; (b) Pre-construction / construction working

method statements for protected / priority species, such as reptiles, amphibians, birds, badger and bats; (c) Work schedules for activities with specific timing requirements in order to avoid / reduce potential harm to ecological receptors, including details of when a licensed ecologist and / or ecological clerk of works (ECoW) shall be present on site; (d) measures to ensure that no external lighting will be permitted during the construction phase other than in accordance with details that have first been submitted to and approved in writing by the local planning authority; (e) Key personnel, responsibilities and contact details (including Site Manager and ecologist / ECoW); (f) A timeframe for the provision of a compliance report to the local planning authority to be completed by the ecologist / ECoW and to include photographic evidence. Development shall be carried out in strict accordance with the approved CEMP.

- 8) Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall incorporate all measures detailed in Section 4.0 of the Ecological Impact Assessment (lead Ecology, August 2021) and shall include a schedule of long-term objectives, management responsibilities and maintenance prescriptions to ensure each ecological feature required by the Indicative Landscape Plan Drawing BMD 20.035.DR014 (BMD 15 February 2022) is retained and managed for the benefit of biodiversity. The LEMP shall include a mechanism for monitoring success of the management prescriptions, incorporating a review and necessary adaptive management in order to attain targets. The LEMP shall also include details of the legal and funding mechanisms by which long-term implementation of the Plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.
- 9) Before construction begins, a lighting strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall be implemented as approved in accordance with an agreed timetable. Any lighting strategy submitted must include a lux plot which demonstrates that a level of 0.5 Lux can be achieved at the edges of sensitive ecological features. No new external lighting within individual residential properties shall be installed unless otherwise agreed in writing by the local planning authority and which shall be in accordance with the approved lighting strategy.
- 10) No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been previously submitted to and approved by the local planning authority. The development hereby permitted shall not be occupied until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed in accordance with the programme set out in the Written Scheme of Investigation to the satisfaction of the local planning authority, in consultation with the County Council's archaeological officers.

- 11) No demolition, site clearance or development shall begin on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing details of construction works in relation to trees has been submitted to and approved in writing by the local planning authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the Method Statement must provide the following: (a) A specification for protective fencing to trees during both demolition and construction phases which complies with BS 5837:2012 and a plan indicating the alignment of the protective fencing; (b) A specification for any scaffolding and ground protection within tree protection zones in accordance with BS 5837:2012; (c) A schedule of tree works conforming to BS 3998:2010; (d) Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires; (e) Plans and particulars showing the siting of the service and piping infrastructure; (f) Details of how the ditch will be constructed in close proximity to T10; (g) A full specification on how the construction of the access road and any parking spaces will be achieved within the root protection areas of retained trees including details of any no-dig method; (h) Details of the length of hedgerow to be removed to facilitate the pedestrian access; (i) Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the local planning authority of the findings of the supervisory visits; (j) Details of all other activities, which have implications for trees on or adjacent to the site.

In order that trees to be retained on-site are not damaged during the construction works, no demolition, site clearance or development should commence on site until a pre-commencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the local planning authority, to discuss details of the proposed work and working procedures.

Subsequently and until the completion of all site works, site visits should be carried out on a monthly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the local planning authority for approval. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

- 12) No development shall take place on site until the following drainage details have been submitted to and approved in writing by the local planning authority: Detailed drainage calculations, covering the whole drainage network. These calculations shall demonstrate: (a) The 1 in 30-year rainfall event is contained within the drainage system without causing flooding to any part of the site; (b) The 1 in 100 years plus 40% climate change rainfall event does not cause flooding to any building (including a basement) or utility plant; (c) The site has been designed to ensure that flows in excess of the 1 in 100 year rainfall event are managed in exceedance routes that minimise the risks to people and property.

The calculations should set the MADD factor / additional storage value to 0m³/ha to prevent an over-estimation of attenuation storage available on

site. Due to the outfall to an ordinary watercourse, the calculations should also be simulated with a surcharged outfall, to ensure that this does not cause flooding on site. The drainage drawings should show the pipe / link & manhole / node numbers used in the calculations in order to link the drawing with the detailed calculations. Plans should demonstrate how exceedance flows in excess of the 1 in 100 year rainfall (+40% climate change) will be safely managed on site in order to prevent an increase in flood risk to people or property. A drainage ownership & maintenance plan shall be included, detailing maintenance activities, their frequency, and parties responsible for actioning them on site. No part of the development shall be occupied until surface water drainage has been provided in accordance with the approved scheme.

- 13) No development shall take place 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 details have been fully implemented in accordance with the approved plans.
- 14) All soft landscaping within the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwellings hereby permitted 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 on the site shall be carried out in accordance with the approved details prior to the occupation of any dwelling or in accordance with a programme which shall first have been approved in writing by the local planning authority.
- 15) No development shall begin on site (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. It shall include details of the following: (a) the parking of vehicles of site operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials used in constructing the development; (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (e) wheel washing facilities; (f) measures to control the emission of dust and dirt during construction and prohibition on burning of materials; (g) a scheme for recycling / disposing of waste resulting from demolition and construction works; (h) measures for the protection of the natural environment; (i) hours of construction, including deliveries; (j) drainage arrangements during the construction works; (k) vehicle routing for construction vehicles including a site access management strategy to manage access during construction works; (l) Where piling is required this should be continuous flight Auger piling wherever practicable to minimise impacts.

The approved Construction Method Statement shall be fully complied with throughout the construction period.

- 16) No part of the development hereby permitted shall be occupied until the ghost priority right hand turn lane junction, footways and cycleway in an easterly direction from the vehicular site access to the roundabout of the B4014/ A429, together with an internal spur road, internal junction and adjacent footways have been carried out in accordance with drawing ITB16003-GA-003F. The visibility splays shown on the approved plans shall be provided with no obstruction to visibility at or above a height of 0.6m above the nearside carriageway level (except those to the left from the internal access junction which will need to be secured as part of any build-out on the land to the west). The visibility splays shall be maintained free of obstruction at all times thereafter.
- 17) No dwelling hereby permitted shall be occupied until the means of access into the site for pedestrians and/or cyclists has been constructed in accordance with the approved plans, including a pedestrian access link to the PROW MALM8 (to be shown within reserved matters application drawings). The access shall be permanently retained for pedestrian and cycle purposes only.
- 18) Prior to the occupation of the 10th dwelling, a Residential Travel Plan will be submitted to and approved in writing by the local planning authority. The Travel Plan shall include implementation and monitoring details, and it shall be implemented in accordance with the agreed details. The results of the implementation and monitoring shall be made available to the local planning authority on request, together with any changes to the Travel Plan arising from those results.
- 19) No development shall begin on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out. If the reports indicate contamination may be present on, under or potentially affecting the development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's 'Model Procedures for the Management of Land Contamination CLR11' (or any subsequent authoritative guidance replacing that document). A report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the local planning authority. If the report indicates that remedial works are necessary, full details of the work must be submitted to and approved in writing by the local planning authority. The remedial works must be implemented prior to the commencement of the development, or in accordance with a timetable that has been previously agreed in writing by the local planning authority. On completion of any required remedial works the applicant shall provide written confirmation to the local planning authority that the works have been completed in accordance with the agreed remediation strategy.