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## Appeal Decision

Inquiry held on 7-9 and 22-24 March 2023

Site visit made on 10 March 2023

**by Katie McDonald MSc MRTPI**

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

**Decision date: 5<sup>th</sup> May 2023**

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**Appeal Ref: APP/Y3940/W/22/3309170**

**Land off the B4069 East of Barrow Farm, Langley Burrell, Chippenham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Robert Hitchens Ltd against Wiltshire Council.
  - The application Ref PL/2022/04681 is dated 15 June 2022.
  - The development proposed is a residential development (up to 230 dwellings), a local centre (comprising commercial business and service uses (Use Class E), drinking establishment and hot food takeaway (sui generis) with a GIA limit of 675 square metres (sqm) of which no more than 200 sqm (GIA) shall be used for retail (Class E(a)) drinking establishment and hot food takeaway (sui generis)), associated works and infrastructure, ancillary facilities, open space, landscaping with vehicular access from the B4069.
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### DECISION

1. The appeal is allowed and planning permission is granted for a residential development (up to 230 dwellings), a local centre (comprising commercial business and service uses (Use Class E), drinking establishment and hot food takeaway (sui generis) with a GIA limit of 675 sqm of which no more than 200 sqm (GIA) shall be used for retail (Class E(a)) drinking establishment and hot food takeaway (sui generis)), associated works and infrastructure, ancillary facilities, open space, landscaping with vehicular access from the B4069 at Land off the B4069 East of Barrow Farm, Langley Burrell, Chippenham in accordance with the terms of the application, Ref PL/2022/04681, dated 15 June 2022, subject to the conditions set out in the attached Schedule.

### PRELIMINARY MATTERS

2. This appeal is against the non-determination of an outline planning application for up to 230 dwellings and a local commercial centre with all matters reserved. After the appeal was lodged, the Council resolved that it would have refused the planning application and provided 3 putative reasons for refusal. These related to the location of the development being outside the defined settlement boundary, the effect upon the character and appearance of the area and the failure to secure adequate provision for necessary infrastructure.
3. Wiltshire Council, as the Local Planning Authority (LPA) confirmed that the proposal falls within the description of a development in column 1 of Schedule 2, 10(b) (urban development projects). The LPA adopted a screening opinion

on 11 August 2021 and concluded that due to potential for likely significant cumulative effects, the development qualifies as an EIA development. A scoping opinion was also requested, which the LPA provided on 22 October 2020. Subsequently, the planning application was submitted with an Environmental Statement (ES). Following review, the ES is considered satisfactory in terms of Schedule 4 of the Town and Country Planning (EIA) (England and Wales) Regulations 2017. I have taken account of the ES accordingly.

4. The Environmental Impact Assessment (EIA) Parameters Plan<sup>1</sup> provides broad locations for development and the Concept Masterplan<sup>2</sup> illustrates the extent of developable areas. The EIA parameters plan was submitted as a plan for approval and would guide the reserved matters submissions. I have had regard to the plans so far as relevant to the appeal.
5. Langley Burrell Residents Association (LBRA) received Rule 6 (R6) party status on 29 November 2022 and Langley Burrell Without Parish Council (LBWPC) received R6 party status on 8 December 2022. Both parties presented evidence at the inquiry.
6. Two planning obligations, a bilateral agreement (s106) with the Council and appellant and a unilateral undertaking (UU) were submitted in draft form, discussed at the inquiry, and subsequently finalised. Because of the s106, putative reason for refusal 3, dealing with infrastructure, was not pursued by the LPA or R6 parties at the inquiry.

## **MAIN ISSUES**

7. Based on the submitted policies, site visit and the representations from the appellant, Council, LBRA, LBWPC, consultees and interested parties both in writing and at the inquiry, I consider the main issues are:
  - a) Whether the site is suitable for the proposed development, having regard to the Council's settlement strategy;
  - b) The effect of the proposal on the landscape character and appearance of the area, and;
  - c) The effect of the proposal upon nearby heritage assets.

## **REASONS**

### **The site, surroundings and proposal**

8. Located to the east of the Grade II listed Barrow Farmhouse and Barrow Cottage and to the west of the B4069, the site is open agricultural land currently in arable use, covering an area of around 10.8 hectares. Bordered by agricultural fencing, hedgerows, and other mature vegetation, the site has 2 public rights of way (PRoW) that run through the site. One on a broadly north south trajectory through the central and western part (PRoW Ref LBUR36) and the other on a roughly east west route through the southern part of the site (PRoW Ref LBUR35).
9. New residential development is located to the south-west, which forms the current urban edge of Chippenham, and was developed as part of the North Chippenham Consortium (NCC) development along with a new link road

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<sup>1</sup> Core Document (CD) A13

<sup>2</sup> CD A17

between the B4069 and A350. There is a private road to the west of the site that provides access to the Barrow Farm complex, and open agricultural land lies to the north. To the north east is the core of Langley Burrell, a small former Estate village, with its satellite dwellings dispersed to the north, east and west of the site, such as Barrow Farm, the Old School House, Pound House, 11-16 The Common and Kilvert's Parsonage.

10. The proposal is for a development of up to 230 dwellings with a local centre, which would provide Class E type commercial and business uses, a drinking establishment and hot food takeaway, amounting to around 675 sqm of floorspace, with not more than 200 sqm being retail. All matters are reserved, but the EIA parameters plan provides broad locations for residential development, commercial area, access, green and blue infrastructure, and foot and cycle ways.
11. The EIA parameters plan indicates that open space on the western part of the site would create a buffer between the development and listed Barrow Farm complex, with the reinstatement of historic field boundary hedgerows and the planting of an orchard. It also details landscape buffers on the south and east of the site, with 2 locations for sustainable drainage systems. Access is indicated from the B4069, Maud Heath's Causeway, with the insertion of a new roundabout.

### **Whether the site is suitable for the proposed development**

12. The development plan comprises the Wiltshire Core Strategy (January 2015)<sup>3</sup> (CS), Chippenham Site Allocations Plan 2017<sup>4</sup> (CSAP), saved policies from the North Wiltshire Local Plan 2011 (June 2006)<sup>5</sup> (LP), the Langley Burrell Parish Neighbourhood Development Plan 2016–2026 (made October 2017)<sup>6</sup> (LBNP) and the Wiltshire Housing Site Allocations Local Plan (February 2020).
13. Core Policy 1 of the CS sets out the spatial strategy for development in the area, identifying the settlements in a hierarchy where sustainable development will take place. Chippenham is identified as a top tier Principal Settlement, meaning it is a strategically important centre and a primary focus for development in the area. Principal Settlements will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure.
14. Core Policy 2 of the CS requires that at least 42,000 additional homes are built in Wiltshire between 2006 and 2026. This is disaggregated into 3 Housing Market Areas (HMAs). Chippenham is in the North and West HMA, with a requirement of 24,740 homes. The CS splits Wiltshire into several Community Areas, with Chippenham Community Area, under Core Policy 10, being given its own minimum housing requirement.
15. CS Core Policy 2 sets out that development will not be permitted outside the development limits unless in circumstances permitted by other policies. It is agreed between the main parties that the proposal does not meet any of the other circumstances and the proposal's location outside the development limits of Chippenham is contrary to CS Core Policy 2.

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<sup>3</sup> CD D3

<sup>4</sup> CD D5

<sup>5</sup> CD D4

<sup>6</sup> CD D6

16. Whilst Core Policies 1 and 10 are also interrelated with Core Policy 2, and should arguably be read together, the location of the development outside the 'limits of development' does not necessarily render the proposal directly contrary to Core Policy 1 or Core Policy 10. This is because an assessment as to the suitability of the site in terms of sustainability principles would, in my opinion, be necessary when locating development on the edge of a Principal Settlement. This will follow later in this decision.
17. Saved Policy H4 of the LP also restricts development in the countryside, other than in specified circumstances, none of which apply to the proposal. Whilst it is not entirely consistent with the National Planning Policy Framework (the Framework) because it places restrictions upon development in the countryside, it remains part of the development plan. Given the site's location in the countryside, the proposal would also conflict with this policy.
18. Thus, there would be an in principle policy harm owing to the conflict with CS Core Policy 2 and LP saved Policy H4.

### **Landscape character and appearance**

19. The site is in Landscape Character Area (LCA) 8: Hullavington Rolling Lowland in the North Wiltshire Landscape Character Assessment<sup>7</sup> (NWLCA) and is described as a 'rural area of gently rolling hills and shallow valleys'. The main characteristics within LCA 8 include a patchwork of irregular, medium sized fields, mainly pasture, and larger more recent enclosures used for arable, especially on the richer soils; continuous hedges with many mature oaks; medium sized woodlands and deciduous copses; and fine stone villages with muted colours and dispersed farms.
20. The site is a large irregular sized arable field, and its immediate surroundings feature hedgerow boundaries with oaks, with nearby Bird's Marsh Wood. There are also dispersed farms nearby. The site contains features of LCA 8, but the NCC development has formed a blunt edge to Chippenham, and acts as a detractor. Equally, one of the management guidelines in the NWLCA is to minimise the landscape and visual effect of the expansion of Chippenham.
21. The management strategy actions include the objective of discouraging development in the rural hinterland and considering where development related to Chippenham is most appropriate in terms of landscape and visual effects.

### ***Rural approach to Chippenham and the relationship with the rural area***

22. The urban edge to Chippenham is clear, with the new link road and industrial development forming a strong boundary to the town. There is no built development north of the road, aside from historic dispersed dwellings or farm buildings. Indeed, this was the intention, with the CSAP setting out that "this road can also provide a clear visual and man-made boundary to the town." It also states that "the evidence suggests that further development north would have detrimental landscape and ecological effects, in particular with respect to cumulative impacts on the value of Bird's Marsh Wood County Wildlife site, and fails to meet Criterion 5 (Landscape) of Core Policy 10 without offering significant benefit over and above the development already permitted."

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<sup>7</sup> CD G4

23. The appellant's witness argues that the new settlement edge influences the character of the site and creates a permeable boundary, such that the proposal would be a logical extension of the existing urban settlement. Although the new edge is severe, and undoubtedly influences the site, I do not consider the link road to be a permeable boundary. On the contrary, it provides a clear distinction between town and country.
24. Therefore, development beyond the link road would appear as urban sprawl, considerably weakening this strong boundary, even if the site does have an urban influence. It would protrude further northwards than any other housing estate in Chippenham and would noticeably fill the open gap between Barrow Farm complex and Maud Heath's Causeway, presenting a new urban frontage onto the B4069.
25. I acknowledge that considerable planting and landscape mitigation is proposed, limiting development on the east, south west and western boundaries, with an 8m deep northern tree belt. Whilst its success would depend upon the quality of the final scheme proposed, the scale of landscaping proposed would ameliorate the impact of the development and form a fundamental part of its potential success. It would also provide a softer transition to the town than the existing link road and would become more established over time.
26. However, the landscaping would not hide the proposal, and it would remain a conspicuous development in the area. Even with the depth of eastern landscaping belt, it would still be obvious along the B4069, owing to the insertion of urban highway elements such as the roundabout and street lighting, and resulting hedgerow removal.
27. When on the site, there was a sense of rural tranquillity, and this markedly increased when moving northwards beyond the site and away from the roads. The land is frequently used by residents and on the site visit, which I acknowledge is a snapshot in time, I noted several walkers. The footpaths are accessible and provide a route to Bird's Marsh wood, important to the residents because of this recreational value.
28. The scale of the development, associated lighting, activity and sheer change to the area would detrimentally affect the tranquillity of the rural landscape within and around the site, including dark skies. It would also adversely affect land beyond to the north with the residential development influencing these open fields and value of the PRoWs. Whilst the northern tree belt would ameliorate the effect in time, the sense of being in a deeply rural location when north of the site would be diluted by the proposal. Additionally, the north south PRoW would be permanently changed with housing lining it instead of open fields and there would be a significant adverse effect for people walking the path as a sensitive visual receptor.
29. Nonetheless, other routes would be provided in areas of open space, and the east west PRoW would be located within the southern corner of green infrastructure. These could provide pleasant routes through the development as an alternative to the existing PRoW, although the important amenity value that the site currently offers for locals would still be considerably diminished.

### ***Landscape setting, identity and character of Langley Burrell***

30. The fields and dispersed dwellings surrounding Langley Burrell contribute significantly to its pastoral landscape setting and character as a former Estate village. Parish Build Policy 1 (PB1) of LBNP details that the urban edge of Chippenham within the rural Parish of Langley Burrell is a sensitive planning location, and development at the boundary will have a significantly different impact on the rural as distinct from the urban part of their setting. Landscape Policy 1 (LP1) of the LBNP also seeks to ensure that proposals respect the pastoral setting of the Parish. Additionally, the land is also identified in the LBNP as part of Langley Common, a non-designated heritage asset under Heritage Policy 3 (HP3), and development of the site would occupy around one quarter of the designated Langley Common<sup>8</sup>.
31. Because the development would be so close to the Langley Burrell junction on the B4069, and the core village<sup>9</sup>, the proposal would diminish the separation between the two places and lead to a closer urban edge. This would be sensed both spatially and perceptually, especially when turning right onto the B4069 towards Chippenham.
32. Additionally, the dispersed setting of the rural satellite properties would be weakened, with the development wrapping around the rear gardens. These dwellings are part of the historic village layout and common land. This would cause harm to the locally distinctive character, identity and landscaping setting of the village.
33. Therefore, owing to the location of the development, the separate identity of Langley Burrell would be diluted. For many residents, the sense of leaving Langley Burrell and travelling to Chippenham, or in the opposite direction, would be almost absent, particularly with the modern highway insertions.
34. Furthermore, 'view 4' from the LBNP is a strategic and important view, highly valued by residents, and the convergence point of several PRowS, facing west across the site from the access to Kilvert's Parsonage. This view would be transformed from mainly open views across the rural area towards Bird's Marsh Wood, to the entrance to a new housing development. Although the view has changed because of the NCC development, visual harm would arise from the modern highway elements and the development itself. That said, the effect of housing would be lessened as the landscaping belt develops.

### ***Other landscape matters***

#### *Local plan evidence base*

35. The Chippenham Landscape Setting Assessment (LSA)<sup>10</sup>, which formed the evidence base for the CSAP, shows the land as part of Strategic Area A1, with the area south of Bird's Marsh ascribed a moderate-high development capacity because "it is less sensitive being located to the edge of Chippenham, and if developed would not contribute to intervisibility between Chippenham and Kington Langley". The site falls in the southern part of Strategic Area A1 and the LSA was used to inform allocations in the adopted CSAP. Despite these findings, the larger site, which includes the appeal site, was not taken

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<sup>8</sup> Figure 8 CD D6

<sup>9</sup> Figure 4 CD D6

<sup>10</sup> CD G5

forward, with the new link road forming the boundary, as set out above. The findings are of moderate weight, particularly as the area proposed for this development is noted as having a moderate to high development potential and this evidence base led to an adopted development plan document.

#### *Emerging local plan evidence base*

36. The appeal site, as part of a much larger site to the north and west, has been considered in the Site Selection Report for Chippenham<sup>11</sup> (SSR), as part of the evidence base for the emerging Local Plan (eLP). The larger site has been taken forward through Stages 1-3. However, at the final stage in the process, the site was not pursued.
37. The site scores 4th, with the top 3 being proposed as potential allocations for housing led development in the eLP. The site scores poorly in 3 of the Place Shaping Priorities (PSP) site selection criteria. Yet, of these, 2 relate to criteria which the site could not possibly score any better because of the geographical location of the site being outside the River Avon valley and the implementation of the link road (PSP3 and 5). The other PSP the site scored poorly on was the effect upon the landscape setting for Langley Burrell. I have come to similar conclusions above, and this would be an adverse effect of developing the site, noting the significant differences in scale of the proposed allocation with the appeal proposal.
38. The commentary also recognises that development in the north eastern part of the site would be more incongruous than the low-lying southern half. Given the size of the proposed allocation, this site would clearly be the 'southern section'. Therefore, although the site is not proposed to be taken forward in the eLP, the site lies in a less sensitive southern area, and the conclusion for the proposed allocation was that there "no major adverse effects (where mitigation is considered unachievable) are likely". Although the eLP is yet to be examined and the conclusions in the SSR are of limited weight, they are similar to those found in the LSA.

#### *Previous appeal decision*

39. A much larger proposal was considered at this site in an appeal in 2016<sup>12</sup>. It was around double the size of this scheme, running up to Dog Kennel Plantation and the edge of Bird's Marsh wood. The Inspector at the time found that the southern part of the site would be less sensitive to development and any change would be of a lesser magnitude once the NCC land had been developed. During the inquiry, much was made as to the distinction between the northern and southern parts of that appeal site. However, it is clear to me that the northern boundary of this proposal is highly likely to have been the north-south divide in the previous appeal when comparing both indicative masterplans.
40. The Inspector ultimately concluded that the proposed development would be significantly harmful to the character of the rural area surrounding Chippenham, particularly the northern part of the site. He also found that there would be significant localised harm to the visual qualities of the area, this was concentrated in the northern part of the site, which does not

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<sup>11</sup> CD D11

<sup>12</sup> CD E2.A – The appeal decision was quashed on the Inspector's planning balance and never redetermined, but the main parties agreed that the Reasons section was material to this appeal.

experience the same level of influence from the edge of the town as the area closest to the NCC land.

41. I agree with the previous Inspector that this proposal would be less sensitive than any development further north towards Bird's Marsh wood and Kington Langley.

#### *Landscape value and effect*

42. The Landscape and Visual Impact Assessment<sup>13</sup> (LVIA) formed part of the ES. The appellants' witness, Mr Harris, did not carry out a separate assessment of landscape value in his proof of evidence, but adopted the position of the LVIA. The Council heavily criticised Mr Harris' methodological approach and questioned whether the LVIA or Mr Harris' evidence provided a correct assessment of landscape value having regard to current industry standard landscape management guidelines. Mr Harris also appeared to have little regard to newly published guidance<sup>14</sup>.
43. Nevertheless, Table 6.24 of the LVIA provides a summary of effects, mitigation and residual effects, and the commentary in the LVIA also expands on these assessments. Whilst the assessment does not explicitly follow the steps in GLVIA<sup>15</sup> Figure 5.1, the residual effect is moderate or major adverse for LCA 8, Strategic Area A1, site landscape character and arable fields. Site hedgerows and trees are moderate beneficial. Although not combined to an overall effect, it is clear to me that if one were to combine the effects, this would result in a moderate/major adverse change to localised landscape character. Indeed, Mr Harris details that the "LVIA identified that the development would result in moderate adverse landscape harm to the landscape character area in which the site is located<sup>16</sup>". The Council's witness, Ms Bolger, concluded the overall effect on landscape would be moderate/major adverse.
44. Therefore, whilst I understand the importance of applying the correct methodology and up to date guidelines, there is very little between the 2 witnesses in terms of the finding of an adverse effect on landscape character. Thus, even if Mr Harris' approach to landscape value is flawed, the point adds nothing to the Council's objection. Incidentally, I have also found there to be an adverse overall effect on landscape character.

#### *Future development*

45. Those objecting to the appeal raised many concerns about future development to the north of the site. I cannot attach any weight to this concern as this is not before me. However, I do understand these concerns, particularly given the planning history and proposed allocation in the eLP. The appellant has submitted a UU which proposes an 8m wide tree belt along most of the northern boundary, with a management plan of 20 years. Whilst this would not stop any future development from taking place, it may offer some comfort to the residents of Langley Burrell.

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<sup>13</sup> CD A12.M

<sup>14</sup> CD G6

<sup>15</sup> CD G1

<sup>16</sup> Mr Harris Proof of Evidence 7.4



### ***Landscape conclusion***

46. Considering the other matters, the site adjoins the urban boundary of Chippenham and is clearly less sensitive to development than areas further north which are not subject to this appeal. Both Council funded (LSA) or authored (SSR) studies consider that the site has development capacity, and the southern part would be less sensitive than development north of the appeal site. This would also meet the objective of the NWLCA of discouraging development in the rural hinterland.
47. Notwithstanding, the proposal would introduce a permanent urbanising feature into this pleasant rural area. Landscape mitigation would go some way to ameliorate the negative effect, and the effect would reduce over time, but the proposal would still result in localised harm.
48. Therefore, the proposal would have an unacceptable effect on the character and appearance of the area. There would be conflict with Core Policy 51 of the CS and Policies PB1, LP1 and NE2 of the LBNP. These policies seek to protect, conserve and where possible enhance landscape character, protect the urban fringe and rural landscape, promote countryside amenity and the rural footpath network. There would also be conflict with paragraph 174 of the Framework, which seeks to recognise the intrinsic character and beauty of the countryside.
49. However, given the proposed shared footway/cycleway on site, and the retention of the existing PRowS, the proposal would provide opportunities to enhance and improve linkages between the natural and historic landscapes of Wiltshire. Therefore, the proposal would comply with Core Policy 52 of the CS, which seeks to ensure proposals have an acceptable effect on the provision, retention and enhancement of Wiltshire's green infrastructure network.
50. Furthermore, as the proposal is outline, and the EIA parameters indicate how the proposal could create a strong sense of place by drawing on local context and surrounding features, there would be no conflict with Core Policy 57 of the CS, which seeks to ensure developments provide high quality design and place shaping.

### **Heritage assets**

51. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to designated assets in the planning balance. This includes any harm to the setting of a listed building. Similarly, section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a conservation area.
52. The Framework details that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

53. There are several heritage assets that would be affected by the proposals, both designated and non-designated. Each one is assessed individually below, and I refer to the spectrum of harm for the designated assets on a scale of low, moderate and high.
54. Many of the assets have cultural associations with Francis Kilvert, a Victorian diarist. Kilvert is known to have visited the area from when his family moved to Langley Burrell in 1855 to his death in 1879. The rectory (now known as 'Kilvert's Parsonage') was his main residence between 1863-1864 and 1872-1876. His diaries cover 1870-1879, and therefore his second period of residence.

### ***Designated Heritage Assets***

#### *Barrow Farmhouse – Grade II Listed and Barrow Cottage – Grade II Listed*

55. The significance of Barrow Farmhouse derives principally from the historic and architectural interest of its physical fabric as a 16th century building. It has a group value with the closely associated Barrow Cottage, and this contributes to the overall significance of the asset, being functionally linked as agricultural housing. The farmhouse is located within an agricultural setting with arable land to the north, west and east, which is appreciated from the PRowS both within the site and to the north. This also contributes to its significance given the historical functional associations.
56. Barrow Farmhouse is also mentioned in Kilvert's Diary where he records visiting the farmhouse in performing his parish duties. To access the farmhouse from the Parsonage, Kilvert would have passed through the site and the value of the building's setting within agricultural land is elevated by this association. However, whilst the direct route from the parsonage to the farmhouse would be through the site, the bucolic setting of the route has significantly changed with modern development, the NCC development and the new link road.
57. Barrow Cottage is located to the south of the farmhouse, with its gable end facing west. It was formerly 2 cottages, associated with Barrow Farmhouse as workers' cottages. Its significance principally derives from the historic and architectural interest of its physical fabric as a 17th and 18th century building.
58. The proposal would result in the western field being developed into housing and the commercial uses. The setting of the farmhouse and cottage would be changed from being predominantly surrounded by arable land to a housing estate on the west. Whilst the primary significance of the farmhouse and cottage is derived from their physical attributes and group setting, the agricultural surroundings contribute to their setting, and thus significance. The proposal would weaken this association, and the association with Kilvert, and this would detrimentally affect the setting of the listed buildings.
59. However, the EIA parameters plan would secure an area of open space between the housing and the farmhouse and cottage that would create a buffer zone, with historic hedgerows reinstated. The concept masterplan also details that the area could be planted up with a small-scale orchard, once typical of farmsteads in this area. Views from the open space to the listed buildings would also be possible from this open space, similar to views appreciated from the existing PRow.

60. The buffer area mitigates the harm to some extent, by retaining an element of open space nearest to the listed buildings which could be put to 'agricultural' type uses. The reinstatement of the historic hedgerows would also be beneficial to the setting of the buildings, bringing back these elements lost to modern agriculture. Furthermore, agricultural land to the north and east would remain undeveloped, such that the historic agricultural associations and the contribution this has to their setting would not be entirely lost.
61. Consequently, considering the mitigation proposed, the change to the setting of these building would result in less than substantial harm to the significance of the buildings. For both buildings, I consider this to be moderate on the spectrum of harm, given the proposal would affect their setting, and significance, in a similar way.

*The Old School – Grade II Listed*

62. The significance of The Old School is derived mainly from its physical fabric, with historic and architectural interest taken from the principal east elevation, and the design elements which give legibility to its past use as a schoolhouse. There is also another connection with Kilvert, who visited the school regularly and wrote about this in his diaries. There is an artistic interest derived from Kilvert's visits.
63. The school would have been accessed from all sides, given the satellite dwellings to the east and south. The setting could have been a large amount of the parish, with the school being a focal point. The conversion to a dwelling, and the creation of a garden area has changed this setting considerably, yet historical links can be understood when viewing historic maps.
64. Development of the site would remove a small portion of its historical agricultural or common land setting to the south and south west of the school. However, I note there are no direct footpath links from the site, and there is a reasonable distance of around 150m between the site and the school, interspersed with other dwellings. Undeveloped land to the north, east and west would also remain, as would the historical association of the school to the core of Langley Burrell village.
65. Therefore, whilst there would be some harm to the setting of the asset, this would be low in the spectrum of less than substantial harm.

*Pound House – Grade II Listed*

66. The significance of Pound House is derived mainly from its physical fabric, with historic and architectural interest being derived from its legibility as a former row of 3 traditional rubble masonry cottages. The agricultural land surrounding the building also contributes to the setting of the asset, and thus its significance. This is because of its historic association with the surrounding common land, with the former dwellings having the Pound to the front, which was the location for holding stray animals off the Common.
67. Given the removal of common land with the Enclosure Award, the conversion of the cottages into one, and the well established curtilage, the significance of the dwelling now relates more to the Pound at the front than any of the surrounding land. Furthermore, the appeal site is about 175 m south of the asset with intervening buildings and landscaping.

68. Therefore, although the asset may have formerly been in the same ownership, there is little else to link it to the site. That said, the proposal would remove an element of agricultural land that may have been historically associated with Pound House. This would cause a very small element of harm to the significance of the asset, which would be less than substantial and very low in the spectrum of harm.

*The Pound – Grade II Listed*

69. The Pound's significance is principally derived from its historic former use, and the former common land that once surrounded it. Whilst the site may have formed part of this wider land associated with stray animals on the Common, the Pound is now isolated from the site by Pound House. The proposal would have no effect upon its setting or the ability to understand its significance given the intervening distance. Therefore, despite the R6 parties' evidence, I consider that the proposal would cause no harm to the significance of the asset.

*Kilvert's Parsonage – Grade II\* Listed*

70. Located to the east of the site on the other side of the B4069, the significance of Kilvert's Parsonage is principally derived from the architectural and historic interests of its physical fabric as an example of an early 18th century minor country house with later 19th century alterations.
71. Given that Kilvert lived in the building, there is a significant historic and cultural association to the building's significance. There is also a considerable association to the wider land surrounding the parsonage, given that Kilvert traversed these lands undertaking his parish duties by visiting various properties in Langley Burrell, such as Langley House, the School House and church.
72. The proposal would affect only a small proportion of the wider setting of the asset, by developing this field into a housing estate. However, given the new link road, development at the Wavin industrial site directly to the south of the Parsonage, proximity to the urban edge of Chippenham and large roundabout, this setting has considerably changed already, such that it is no longer the bucolic land it once was in this location. Furthermore, a considerable amount of other land associated where Kilvert walked would remain undeveloped, such as land to the north, including footpaths to the core of the village, School House, church and Langley House.
73. Therefore, the proposal would have a limited effect on the significance of the listed building overall. This would be less than substantial, and very low on the spectrum of harm.

*Langley Burrell Conservation Area*

74. The significance of the conservation area is gained from the historic and architectural interest of the collection of former Estate cottages and dwellings and associated public buildings. Mainly located along one road, Maud Heath's Causeway, the conservation area provides a sense of a quintessentially rural village. The proposal would be located sufficiently enough away from the conservation area boundaries such that there would be no direct harm resulting from the proposal.

*Previous appeal decision*

75. As detailed above, the previous appeal was for a much larger site, which ran up to the backs and north of Pound House, the Pound and the School House. The Inspector concluded that there would be less than substantial harm to Barrow Farmhouse, Barrow Cottage, Pound Cottage and The School House, similar to my findings on this smaller scheme.

***Non-Designated Heritage Assets***

*Langley Common (being the heart of Kilvert Country)*

76. As detailed previously, Langley Common is defined as a non-designated heritage asset in the LBNP, by Heritage Policy 3 (HP3). It is detailed within the LBNP under 'Figure 8', by a hand drawn cross hatching on an OS map of the area. This includes the site along with land to the north of Kilvert's Parsonage and Maud Heath's Causeway and the north of the site up to Dog Kennel Plantation. The significance of the asset is derived from local interest due to its associations with Kilvert's diary entries and the area contains a network of PRoWs and it preserves a valued open rural setting to Bird's Marsh Wood and listed buildings on or neighbouring the Common.
77. The intention of HP3 is "to ensure that the scenes and vistas described by Kilvert in his diaries would be both recognisable today and that the rural landscape enjoyed by Kilvert remains accessible to the community and continues to provide amenity value to the community."
78. The appellant's heritage witness attempted to reduce the value of the asset by various means. Whilst the evidence has some merit and was clearly well researched, the fact remains that the site would be located on land which is allocated as a non-designated heritage asset in the adopted development plan.
79. The site would occupy around a quarter of the hatched blue land in Figure 8 and irrespective of the appellants' views on the value, the development would harmfully affect the significance of this asset by removing the open agricultural aspect and replacing it with housing. It would also be visible from other parts of the asset and there would be a moderate level of harm to Langley Common.

*Maud Heath's Causeway*

80. Maud Heath's Causeway is a pathway that runs from Chippenham to Wick Hill, passing through the village of Langley Burrell at a distance of around 4.5 miles. The route was funded by the bequeath of a local widow, Maud Heath, in the 15th century to provide a 'dry' route across the River Avon flood plain to Chippenham. Of note is the Grade II\* Listed raised section adjacent to the river, east of Langley Burrell.
81. The route varies considerably in form and character, and the section that would be affected by the proposal is along the B4069. Evidence of narrow stone setts are visible in places, marking the edge of the footway, but the significance of this part of the causeway is limited, given the modern highway insertions, proximity to the urban edge of Chippenham and busy nature of the road with vehicular traffic.

82. HP2 of the LBNP details that development within or affecting the setting of the Causeway must address and have appropriate regard for this locally distinct and listed feature; proposals which do not demonstrate such regard will not be permitted. The development would result in a new roundabout entrance, which could realign the footway, losing part of the original causeway route. It would also introduce yet another modern highway element to this historic routeway and the prevalence of entrance landscaping would not mitigate the effect.
83. Whilst the significance of this part of the causeway is limited, and the proposal would only affect a small proportion, it would nevertheless cause a low level of harm to its significance.

### ***Heritage conclusion***

84. The proposal would lead to harm to the setting of designated heritage assets and the significance of non-designated heritage assets. In terms of designated assets, the less than substantial harm would be moderate at most. For the non-designated assets, there would be moderate or low level of harm. There would be conflict with HP1, HP2, HP3 and HP4 of the LBNP, along with Core Policy 58 of the CS.
85. HP1 seeks to preserve heritage assets and their settings to reinforce the quality and character of Langley Burrell. All development should complement and enhance Langley Burrell's distinct historic character and identity. HP4 seeks to ensure that proposals for new buildings or changes of use of land avoid harm to the rural landscape, setting of the hamlets or groups of buildings including the hamlet at the former farmstead at Barrow Farm, the cluster of buildings at Pound House and the Old School House and Kilvert's Parsonage. Core Policy 58 seeks to ensure developments protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance.
86. The Framework sets out that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. For non-designated assets, the Framework details that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I shall carry out the heritage balance later in the decision.

## **OTHER MATTERS**

### **Housing land supply**

87. It is agreed between the Council and the appellant that the Council cannot demonstrate a 5 year housing land supply. The appellants and Council have agreed to a range – with the appellant asserting a 4.36 year land supply with a shortfall of 1,555 homes and the Council claiming a 4.70 year land supply with a shortfall of 618 homes against the minimum local housing need across Wiltshire. The difference between parties is marginal when comparing the 0.34 year variance, but there is a shortfall nonetheless and even accounting for the size of the local authority, it could not be described as modest.

88. The Council and appellant have also agreed that there is a shortfall of between 880 and 1,219 homes against the minimum housing requirement for the Housing Market Area over the plan period (to 2026) and a shortfall of 1,326 to 1,366 homes in Chippenham compared to its minimum housing requirement over the same plan period. Both R6 parties argued that this was a temporary position, and delivery would improve, but I must take account of the current situation.
89. The Council is in the process of preparing the eLP. Evidence presented indicates that that the timetable for adoption is programmed for the end of 2024, but it also indicates submission for examination in quarter 2 of 2024. The appellants claimed that to anticipate adoption of a local plan of this scale within 6-8 months of submission is overly optimistic. I agree. The timescales promoted by the Council would be an extremely quick turnaround for a plan of this size.
90. In the interim, it was accepted by the Council that there is no other practical plan led solution to remedy the shortfall and that there has been a failure in planning policy to deliver housing in the area. Given the housing land supply shortage has now been in place for over 3 years, it is persistent and is expected to continue for another 21 months at an absolute minimum<sup>17</sup>. This is not, as put by LBRA, a temporary mathematic blip<sup>18</sup>. Moreover, the Council agree that in order to restore a 5 year housing land supply and meet the minimum housing requirement over the plan period, it will be necessary to support the development of unallocated greenfield sites outside of settlement boundaries<sup>19</sup>.
91. LBWPC referred to a recently completed housing needs survey<sup>20</sup> for Langley Burrell, which outlines there to be no need for affordable housing. However, it was widely accepted at the inquiry that the proposal would primarily go towards meeting the housing need in Chippenham. Furthermore, the survey does not fully represent the whole of Langley Burrell with a "below average response rate of 16% with 20 replies received"<sup>21</sup>. Therefore, it is of very little weight, and does not change my findings on the scale of housing need in the borough.

### **Provision of market and affordable housing**

92. The proposal would deliver up to 230 dwellings, many of which would be for economically active people. This is a significant number of homes, and particularly important in the context of the shortfall for general market housing, but also in the context of an identified need for affordable housing in the wider area. This proposal would also provide a policy compliant<sup>22</sup> 40% affordable housing.
93. Given that there are shortfalls in the whole of Wiltshire, greater minimum shortfalls in the HMA and even greater shortfalls in Chippenham itself, the delivery of market and affordable housing for the people of Chippenham is of substantial weight. This is particularly relevant when considering the

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<sup>17</sup> If the eLP is adopted in line with the Council's timetable

<sup>18</sup> 23 – LBRA Closing Statement

<sup>19</sup> 2.37 Housing Statement of Common Ground

<sup>20</sup> ID26

<sup>21</sup> ID26 Paragraph 4, bullet 4

<sup>22</sup> CS Core Policy 43

Government's objective of boosting significantly the supply of homes and the location of the site being on the edge of the highest tier settlement. I also consider the site to be deliverable in the next 5 years based on what I heard at the inquiry.

### **Economic benefits**

94. There would be economic benefits associated with the additional spending from the new housing, along with temporary construction spend and job creation. Additionally, there would also be a new commercial centre created with the proposal, providing Class E type uses, a takeaway and drinking establishment.
95. The provision of these uses would support economic growth and productivity, contributing to the local economy and provide new jobs. These elements should be afforded significant weight in favour of granting planning permission, in line with the Framework which sets out that significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development.

### **Environmental benefits**

96. Residents and the R6 parties are concerned over the effect of the proposal upon ecology and biodiversity. However, the substantive evidence before me concludes that there would be no unacceptable impact upon protected species or habitats, providing suitable planning conditions are imposed, such as the requirement for no net biodiversity loss and the construction environmental management plan.
97. Embedded mitigation and biodiversity enhancements are proposed in the scheme itself and these are also secured in the planning obligation and conditions, such as the requirement for a landscape and ecology management plan. This would include long term objectives and targets, management and maintenance for the open space. Indeed, the ES concludes "following mitigation and enhancement measures, overall effects are considered to be beneficial at the site to Site-European / international level of minor- moderate significance and will ensure a net gain in biodiversity terms"<sup>23</sup>.
98. The appellant estimates there would be a 24.51% biodiversity net gain (BNG) for Habitat units and a 40.39% BNG for Hedgerow units<sup>24</sup> and attached moderate weight to these gains. However, for this to weigh in favour, a condition requiring net gain in line with, or exceeding, the ES would be necessary. Having considered the representations by the residents, the weight placed upon this by the appellant, and Core Policy 50 of the CS, I consider that BNG should be required. As the figures set out would exceed the industry standard of 10% net gain, this would also be of moderate weight in favour of granting planning permission.

### **Social benefits**

99. The proposed local centre would be a benefit to future residents and existing residents in the area, providing an alternative to travelling into the centre of

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<sup>23</sup> CD A12.L (5.7.40)

<sup>24</sup> CD A12.K Annex 5.3



Chippenham for basic provisions or socialisation. It would be located on the front edge of development and is likely to be attractive to passers-by. It enables the development to become more sustainable by providing these services for its residents and it would be a social benefit to the scheme of moderate weight.

100. The proposal would provide new public open space, which would primarily meet the needs of the new residents, but could be accessed by other residents nearby given the PRowS, and this is of limited weight.
101. Contributions in the planning obligation would be put towards bus services, improved footway/cycleways, green travel vouchers, PRow improvements and a Travel Plan. This would ensure the site has good accessibility to facilities and services, with residents being provided with a genuine choice of transport modes. Care would need to be taken to ensure legible and safe links between the site and the NCC development are provided as the link road could act as a barrier between, and a condition would be necessary to ensure satisfactory crossings.

### **Highway safety**

102. Whilst LBWPC claimed the proposal would cause an adverse effect on the highway network, no substantive evidence was presented to demonstrate this.
103. I accept the proposal would inevitably lead to an increase in traffic. However, the highways evidence before me demonstrates that, with the imposition of planning conditions, the proposal would have an acceptable effect upon highway safety and would not cause a severe effect upon the network. There are also no statutory objections, or objections from the highways authority, on this matter.

### **Planning obligations**

#### *Section 106*

104. The s106 commits to providing:
  - 40% affordable housing on site, split 60% affordable rented, and 40% shared ownership with at least 10% of all units being Adapted Units.
  - On site play area and open space (and its landscape and ecology management).
  - £123,782 towards the provision of new, extended, diverted or increased frequency bus services for access to and beyond the town centre, employment centres, schools and colleges.
  - £31,601 towards the provision and implementation of a Travel Plan.
  - £189,840 towards the provision of a shared surface path enhancement from the development along the eastern side of the B4069 to Cocklebury Lane and Saxby Road.
  - £250 per dwelling for green travel vouchers to encourage the use of public transport.
  - £63,480 towards the improvement of facilities at Langley Burrell Recreation Ground.
  - £5,000 for the upgrade of PRow LBUR36 at its southern extent to improve drainage and facilitate access to bus stops on the link road.
  - £69,000 for the provision of on-site public art.

- £1,055,240 for the provision of expansion of Abbeyfield School.
- £509,293 to address the impact of the development upon the highway network, including capacity enhancements to sites identified in the Chippenham Transport Strategy.
- £23,230 for the provision of waste and recycling facilities for the new dwellings.
- £10,000 towards the Council's costs of monitoring the implementation of the planning obligations.

105. The Community Infrastructure Levy (CIL) Compliance Statement adequately sets out sufficient justification for the affordable housing, travel plan, play space and the monetary contributions. Based on this evidence, I consider all the obligations would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

106. I deal with the affordable housing and open space above, but the other provisions in the obligation are mitigation to make the development acceptable, and neutral in the planning balance.

#### *Unilateral undertaking*

107. The UU commits to providing:

- woodland tree belt planting on most of the northern boundary of the site, which shall comprise native tree planting around 8m deep with a 2m access route. The planting shall be managed in accordance with a management plan for at least 20 years from initial planting.
- signage contribution of £5,000 to be distributed to Langley Parish Council for use toward funding interpretation boards and the signage of walking routes in association with the connection to Francis Kilvert.
- monitoring fee of £500.

108. The woodland planting would provide suitable and necessary boundary planting for the proposal. It would ameliorate the development and provide screening from the northern footpaths and Bird's Marsh wood. It would also provide a strong, natural boundary to the site and I consider it would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

109. The signage contribution would aid understanding of the area and its historic links to Kilvert. It would not offset the heritage harm, but it would enhance understanding and provide a minor betterment. Thus, it would meet the tests. The monitoring fee would also meet the tests based on the evidence presented in the CIL Compliance Statement.

#### *Outstanding matters*

110. The Council have requested that the S106 and UU should ensure the obligations would be enforceable against future purchasers of residential units and future chargees or mortgagees. The obligations as drafted exclude such liability, but the Council consider the exclusionary clauses (clause 15.3.1 in the S106 and 11.2.1 and 11.2.3 in the UU) should be deleted. The Council argues that they have experience of developer's failing to comply with obligations and once the dwellings have been sold, it is difficult to pursue enforcement, particularly for matters such as affordable housing.

111. I understand the Council's position and agree that the clauses could potentially weaken their enforcement powers in the longer term. Additionally, whilst there are other ways of pursuing enforcement, such as breach of contract, ensuring that future purchasers are liable would focus a developer's mind to ensuring the obligations are fulfilled. Furthermore, the developer could provide indemnity for future purchasers, so that the developer would be liable even after completion. The appellant considers that the monitoring charge would enable the Council to pursue any breaches, however, this would be for monitoring, not enforcement. Therefore, I conclude that clause 15.3.1 in the S106 and clauses 11.2.1 and 11.2.3 in the UU should not take effect.

### **Other considerations**

112. Numerous other decisions and judgements were put before me and I have had regard to these so far as necessary. However, the material circumstances of all the other decisions are different to this one, and I have assessed this proposal upon its own merits. For the same reason, this proposal would not set a precedent for other development.

113. The proposal would result in housing being located near to neighbouring dwellings. This could impact upon the existing occupants' living conditions, however the distance maintained between dwellings would not result in there being an adverse or unacceptable effect based on the EIA parameters plan. Additionally, the planning system does not exist to protect private interests such as views.

### **PLANNING BALANCE**

114. The proposal would conflict with the development plan as a whole. Firstly, the site is located outside the limits of development and there is an 'in principle' policy harm. There would be permanent harm to the character and appearance of the area and the identity of Langley Burrell, although this harm would be localised and would reduce over time as landscaping matures. Additionally, there would be less than substantial harm to designated heritage assets and harm to undesignated heritage assets.

115. As required by the Framework, great weight is given to the harm to the significance of the designated heritage assets, although the harm identified is moderate at most. The proposal would also directly affect non-designated heritage assets, causing moderate harm to the significance of the assets.

116. However, the benefits I have identified above would cumulatively amount to public benefits in the heritage balance, such that I consider the totality of the public benefits to be more than sufficient to outweigh the harm to all the heritage assets. The Council's witness also arrived at the same conclusion<sup>25</sup> for this scheme, as did the previous Inspector<sup>26</sup> for a much larger scheme. Thus, the heritage harm does not provide a clear reason to refuse the development under Framework paragraph 11 d)(i).

117. Consequently, having regard to the lack of a 5 year housing supply, Framework paragraph 11 d)(ii) is engaged, such that there is a presumption in favour of granting planning permission for sustainable development, unless the adverse impacts of doing so would significantly and demonstrably

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<sup>25</sup> V Davis Proof of Evidence 3.9

<sup>26</sup> CD E02.A

outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

118. The harm to the character and appearance would be the primary adverse impact and is of considerable weight in the balance. Although not enough on its own to outweigh the public benefits, the moderate harm to heritage assets should also be considered in the overall balance.
119. The 'in principle' policy harm is of limited weight because there is no obvious remedy to the housing shortfall and this overall position indicates that the development plan is failing to meet its strategic challenges. Thus, despite the number of permissions for housing that have been granted, delivery is not forthcoming, and the settlement strategy and limits of development are not working effectively. Ad hoc and unplanned development is necessary to address the shortage of housing land supply in this area, and there would be inevitable harm to the character and appearance through green field developments.
120. Furthermore, the location of the development on the edge of Chippenham as a Principal Settlement means the site could not be better located in terms of its proximity to a primary development area. Together with its commercial uses, footpath/cycle links, green travel plan, public open space and other obligations in the S106, I consider the development would be sustainable. Therefore, there would be compliance with Core Policies 1 and 10 of the CS.
121. The persistent shortfall in market housing is considerable and there is a substantial shortfall in affordable housing. The proposal would provide up to 92 affordable dwellings for people in housing need and up to 138 market dwellings. This would make a significant contribution to housing supply and provision of both affordable and market housing is of substantial weight. Furthermore, there are other social, economic and environmental benefits outlined above, such that, when applying the tilted balance, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the many benefits of the proposal, when assessed against the policies in the Framework taken as a whole.
122. Consequently, the material considerations indicate a decision other than in accordance with the development plan.

## **CONDITIONS**

123. Conditions covering time limits and the reserved matters are necessary to provide certainty and in the interests of proper planning [conditions 1-4]. An updated version of the Biodiversity Metric spreadsheet is necessary to ensure that there would be a BNG [condition 5]. I have amended this condition following final draft conditions submitted, given I have concluded that BNG would be necessary. A lighting strategy is necessary to ensure that the external lighting avoids any disturbance to bats [condition 6]. Whilst the appellant considers this should be a pre-occupation condition, I agree with the Council that this should be determined when the reserved matters are agreed. This is to ensure that the street lighting can be fully assessed by the Council in consultation with its ecologists and highways officers.
124. A condition relating to safe crossing points access at both Maud Heath's Causeway (B4069) and the North Chippenham Link Road are necessary to

ensure a suitable and safe access for pedestrians [conditions 7]. A Construction Environmental Management Plan is necessary to ensure adequate protection and mitigation for ecological receptors prior to and during construction [condition 8]. Conditions relating to trees and landscaping are necessary to protect existing trees and to ensure that the visual amenity benefits of the scheme are maximised [conditions 9-10].

125. Drainage and flood prevention conditions are necessary to ensure satisfactory drainage and future maintenance of the site in the interests of flood prevention [conditions 11-12]. A construction method statement is necessary to minimise any detrimental impact on the living conditions of nearby residents or biodiversity and to avoid any pollution or dangers to highway safety [condition 13]. A site-wide phasing plan is necessary to ensure the development comes forward in a coherent and planned manner [condition 14].
126. A wayfinding scheme is necessary to encourage walking and cycling to Chippenham town centre [condition 15]. Conditions relating to odour and noise control, and hours of delivery, are necessary for the commercial uses to safeguard the amenity of future residents [conditions 16, 18 and 19]. Improvements to the M4 Junction 17 are necessary to ensure the safe and efficient operation of the M4 [condition 17].
127. All pre-commencement conditions [conditions 7 – 14] are fundamentally necessary to be agreed prior to the commencement of development.

## **CONCLUSION**

128. For the reasons set out above, I conclude that the appeal should succeed, and outline planning permission be allowed subject to the conditions set out below.

*Katie McDonald*

INSPECTOR

**APPEARANCES**

<b>For the Local Planning Authority:</b>	
Hashi Mohamed, Counsel for the Local Planning Authority	Instructed by Sarah Hickey, Wiltshire Council Legal Services
He called	
Victoria Davis BSc(Hons)	Senior Planning Officer, Wiltshire Council
Michelle Bolger FLI Dip. LA BA(Hons) LA PGCE BA(Hons) Eng	Director, Michelle Bolger Expert Landscape Consultancy
Sarah Hickey LLB(Hons)	Senior Solicitor, Wiltshire Council
<b>For the appellant:</b>	
Paul G Tucker KC and Constanze Bell, Counsel for the appellant	Instructed by David Hutchison, Pegasus Group
He called	
Hannah Armstrong BA(Hons) MSc IHBC ACifA	Associate Heritage Consultant, Pegasus Group
David Hutchison BSc(Hons) DipTP MRTPI	Executive Planning Director, Pegasus Group
Paul Harris BA DipLA CMLI	Director, MHP Design Ltd
Robyn Evans LLB(Hons)	Solicitor, The Robert Hitchins Group Limited Legal Department
<b>For the Langley Burrell Without Parish Council Rule 6 Party</b>	
Vivian A Vines MBE, SLCC	Clerk of the Parish Council
<b>For the Langley Burrell Residents Association Rule 6 Party</b>	
Dr Rachel Hooper BSc MSt MBA MPhil PhD	
<b>Interested parties:</b>	
Edward Barham	Local resident

**INQUIRY DOCUMENTS**

ID1	Appellant opening submissions and appearances
ID2	Council opening submissions and appearances
ID3	LBRA opening submissions
ID4	LBWPC opening submissions
ID5	Edward Barham's objections to the appeal
ID6	Verified views plan
ID7	Figure 24 – Location of visualisations from Michelle Bolger's evidence
ID8	Clean draft UU – 8 March 2023
ID9	Viewpoint 2 and site appraisal plan from the Landscape Visual Impact Assessment used in previous Appeal Decision APP/Y3940/W/15/3139183
ID10	Approved landscaping plan for the North Chippenham development and new link road
ID11	Viewpoint 13 from the Landscape Visual Impact Assessment used in previous Appeal Decision APP/Y3940/W/15/3139183
ID12	Tracked changed comparison of UU – 8 March 2023
ID13	Site visit itinerary
ID14	Woodland Planting Belt Plan, MHP, referred to in UU
ID15	Appeal Decision APP/Y3940/W/22/3290305
ID16	Clean copy S106 Agreement (09 March 2023)
ID17	Track changes comparison copy of S106 Agreement (09 March 2023)
ID18	Plans and documents to be appended to S106 Agreement
ID19	Draft conditions with comments from parties (08 March 2023)
ID20	Appellant's response to Inspector's questions on housing land supply
ID21	Council's response to Inspector's questions on housing land supply
ID22	Updated conditions – agreed with both Council and appellant
ID23	Clean copy S106 Agreement (22 March 2023)
ID24	Track changes comparison copy of S106 Agreement (22 March 2023)
ID25	Plans and documents to be appended to S106 Agreement
ID26	Langley Burrell housing need survey
ID27	Appellant's response to Langley Burrell housing need survey
ID28	SHELAA submission for Barrow Farm, Chippenham
ID29	Council closing submissions
ID30	LBRA closing submissions
ID31	LBWPC closing submissions
ID32	Appellant closing submissions
ID32	Completed planning obligations (s106 and UU)

## **SCHEDULE OF CONDITIONS**

- 1) Details of the access, 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:  
Location Plan CH.CAP.2 Rev C  
EIA Parameters Plan P20-1508-06E
- 5) The reserved matters submitted pursuant to Condition 1 must be accompanied by an updated version of the unlocked Biodiversity Metric spreadsheet. This should demonstrate biodiversity net gain (BNG) in line with, or exceeding, the BNG detailed in Technical Appendix 5.1 Annex 5.3 of the Environmental Statement (Core Document A12.K). The spreadsheet must be accompanied by maps referencing the current measured habitats within the site and those proposed for BNG.
- 6) The reserved matters submitted pursuant to Condition 1 must be accompanied an external Lighting Strategy. The Lighting Strategy must contain information on the type(s) of lighting appliance(s) to be installed, the height and position of fittings, illumination levels and light spillage. The Strategy will also demonstrate [via a lux plot of the site or the part of the site to which the submission relates] that all areas of importance to ecology, (specifically hedgerows, trees, ditches, areas of retained rough grassland and attenuation areas) will be at a level of 0.5 Lux or less unless localised variations are justified and agreed with the local planning authority as part of the submitted details in consultation with the local highways authority.
- 7) No development shall commence on site until details of the means of access for pedestrians to cross Maud Heath's Causeway (B4069) and the North Chippenham Link Road have been submitted to and approved in writing by the Local Planning Authority. The pedestrian access strategy shall be subject of a Road Safety Audit.  
  
No building hereby permitted shall be occupied until the approved footway/crossing points have been provided in accordance with the approved details.
- 8) No site clearance, preparatory work or development shall commence on site until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The approved CEMP shall be complied with throughout the construction period for the development and shall include details of:
  - a) Means of protection for, ecological protection areas/buffer zones.



- b) Working method statements for protected/priority species.
  - c) Mitigation strategies, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
  - d) Work schedules for activities with specific timing requirements to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
  - e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
  - f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- 9) No site clearance, preparatory work or development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management to attain targets. The LEMP shall be implemented in accordance with the approved details.
- 10) No site clearance, preparatory work or development shall commence on site, until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (an Arboricultural Method Statement (AMS)) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837:2013 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved details.
- 11) No development shall commence on site until a scheme for the discharge of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall incorporate sustainable drainage details, including any off-site works and any permissions for connections to private drainage systems/land drainage consents. The submitted scheme must include:
- a) Strategy to demonstrate how surface water will be managed throughout the construction phase.
  - b) Detailed hydraulic modelling calculations, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
  - c) A timetable for its phased implementation.
  - d) The management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- The development shall be implemented in accordance with the approved details.

- 12) No development shall commence on site until a foul water drainage strategy, including any phasing, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 13) No development shall commence on site, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be complied with throughout the construction period for the development and shall include details of:
  - a) site management arrangements including on-site storage of materials, plant and machinery; on-site parking and turning provision for vehicles for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
  - b) a programme of works, including measures for traffic management and details of temporary signage;
  - c) wheel washing facilities;
  - d) measures to control the emission of dust and dirt during construction; and,
  - e) delivery, demolition and construction working hours.
- 14) No development shall commence on site until a phasing plan identifying the sequencing of the proposed development, including the commercial local centre, play areas and amenity areas, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing plan.
- 15) No dwelling shall be occupied until a wayfinding scheme to enhance walking and cycling to Chippenham Town Centre has been implemented in full, which shall first have been submitted to and approved in writing by the local planning authority.
- 16) Prior to the occupation of each commercial premises on site producing hot food, equipment to control the emission of fumes and odour from the premises shall be installed in accordance with a scheme, which shall first have been submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated, maintained and retained for so long as the use continues.
- 17) No part of the development hereby permitted shall be occupied unless or until the improvement scheme identified for M4 Junction 17, Drawing ref: Stantec 37813/2007/100/001 F, titled 'Chippenham Gateway M4 J17 Section 278 Works General Arrangement' (or an alternative scheme that provides equal or greater benefit), has been completed to the written satisfaction of the Local Planning Authority (in consultation with National Highways) and open to traffic.
- 18) The rating level of sound emitted from any fixed plant and/or machinery including extraction fan equipment for the proposed hot food takeaway associated with the proposed commercial local centre development, shall not exceed background sound levels at the boundary of the nearest noise sensitive premises at any time. All measurements shall be made in accordance with the methodology of BS4142 (2019) (Methods for rating

and assessing industrial and commercial sound) and/or its subsequent amendments.

- 19) Deliveries shall be taken at, or despatched from, the proposed commercial local centre only between 0730 and 1800 Monday to Saturday and 0900 and 1300 on Sundays, Bank or Public Holidays.

**\*\*\*END OF CONDITIONS\*\*\***