



LAND SOUTH OF FILANDS
MALMESBURY

PLANNING SUPPORTING STATEMENT

JULY 2016

LAND SOUTH OF FILANDS, MALMESBURY
 PLANNING SUPPORTING STATEMENT
 GLEESON DEVELOPMENTS LTD
 JULY 2016



Issue / revision	Prepared by	Lindsay Goodyear
Reference	Signature	LG
This document is issued for <input type="checkbox"/> Information <input type="checkbox"/> Approval <input type="checkbox"/> Comment <input checked="" type="checkbox"/> Submission	Date	22 July 2016
	Checked by	Jacqueline Mulliner
Comments	Signature	JM
	Date	22 July 2016
	Authorised by	Jacqueline Mulliner
	Signature	JM
	Date	22 July 2016
	Please return by	

LONDON
 Linen Hall
 162-168 Regent St
 London
 W1B 5TE

BOURNEMOUTH
 Everdene House
 Deansleigh Road
 Bournemouth
 BH7 7DU

TELEPHONE
 020 3664 6755

www.torltd.co.uk

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1.0 Executive Summary

The Application

- 1.1 Gleeson Developments Ltd (Gleeson) has submitted an outline planning application for approximately 3.63 hectares of agricultural land at Whitchurch Farm, located on the northern edge of the settlement of Malmesbury, a market town within Wiltshire. This outline planning application (all matters reserved except the means of access to the site – excluding internal roads, footpaths and cycleways) seeks planning permission for the residential development of the site, together with a new area of public open space, and access from Filands. The description of the development is:

“Outline planning application (all matters reserved except means of access) for residential development, including the construction of dwellings, the creation of new vehicular access with footways and cycleways and ancillary road infrastructure, public open spaces, children’s play area, landscape planting, surface water attenuation and associated infrastructure”

- 1.2 The planning application is supported by:

- Design and Access statement incorporating a Design Guide prepared by BMD Landscape, Design and Planning
- A Flood Risk Assessment and Foul and Surface Water Drainage Strategy prepared by FortRidge Consulting Limited
- A Landscape and Visual Appraisal and Landscape Strategy by BMD Landscape, Design and Planning
- An Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan prepared by Symbiosis Consulting
- An Ecological Impact Assessment prepared by EAD Ecology
- A Transport Assessment prepared by i-Transport
- A Framework Travel Plan prepared by i-Transport
- An Archaeological Desk-Based Assessment prepared by CgMS
- This Planning Supporting Statement prepared by Terence O’Rourke
- Waste Audit prepared by Terence O’Rourke
- Statement of community engagement prepared by Terence O’Rourke.

Sustainable Location

- 1.3 The site is in a sustainable location and suitable for development, as has been demonstrated by the planning permission granted on appeal in respect of the adjacent site, also to the south of Filands.

- 1.4 The market town of Malmesbury contains a local primary school, a good range of employment opportunities as well as a range of community, leisure and retail facilities. In proximity to the site is the Dyson Research and Development facility. Already a key local employer, Dyson is currently delivering a major programme of expansion expected to provide up to an additional 3,000 jobs in the town. Many of these additional jobs will be engineering based.
- 1.5 As a consequence of the range of employment opportunities, coupled with too few homes and affordability issues in the town, there is an established pattern of in-commuting for work. The majority of Dyson's workforce live outside the Malmesbury Community Area. The level of in-commuting for work will undoubtedly increase with the expansion, because the level of housing planned for the town does not match the level of jobs that exist now and that are being created.
- 1.6 Additional homes at the town, beyond those already planned, will help deliver the Council's vision, as set out in the adopted Wiltshire Core Strategy (WCS), to create stronger more resilient communities and greater self-containment within the market towns.
- 1.7 The WCS identifies Malmesbury as a second order settlement (only Salisbury, Chippenham and Trowbridge are identified as first tier settlements across the whole of Wiltshire). This means that it has "*potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better level of self containment and viable sustainable communities*" (WCS, Core Policy 1, our emphasis).
- 1.8 In this local context, and in the context of the wider housing need in the Housing Market Area (as described later), it is considered that Malmesbury is a sustainable settlement for additional deliverable residential growth, beyond currently planned levels.
- 1.9 The site is on the northern edge of Malmesbury, abutting and well related to the existing and permitted built form. The site is within walking and cycling distance of the local school and town centre. It is well related to key existing and proposed employment areas, including Dyson and the Malmesbury business park. The site is accessible to a range of bus services providing links into the town centre, to Cirencester and Swindon. The site is in a sustainable location.
- 1.10 Technical work undertaken in respect of the planning application has confirmed that there are no technical obstacles to the development as proposed, for example in relation to transport, ecology, heritage, ground conditions and drainage. The site is not within an area where the National Planning Policy Framework (NPPF) indicates development should be restricted, with reference to

footnote 9. It is not excluded from the presumption in favour of sustainable development. For these reasons the site is considered suitable for development.

- 1.11 Taken on its own merits, the site presents a suitable and sustainable location for residential development.

Housing Provision

- 1.12 There is a Government imperative to deliver housing. The overall housing requirement in the WCS (January 2015) is expressed as a minimum, as are the requirements for each of the Housing Market Areas. The distribution of these requirements to the Community Areas is indicative. The reason for the 'minimum' requirement is both because the NPPF requires a boost in housing supply but also because the requirement of 42,000 homes across Wiltshire fails to meet the objective assessment of housing need of 44,000 homes. The WCS Inspector, in finding the plan sound, was unequivocal that the WCS must have the flexibility to deliver more housing, including through a later Site Allocations DPD (SADPD) and neighbourhood planning.
- 1.13 To that extent, the delivery of this site is consistent with the settlement strategy WCS Core Policy 1 and the aims of WCS Core Policy 2 'Delivery Strategy', albeit it is currently located outside the limits of development, as defined by the saved policies of the North Wiltshire Local Plan 2011 (adopted 2006), which restrict the supply of housing outside the boundaries. These boundaries were defined to meet housing need only up to 2011, they are inconsistent with the NPPF because their continued application prevents the Council from meeting its housing requirement. Further, the Council cannot demonstrate a five-year housing land supply. By virtue of NPPF paragraph 49, the limits of development, associated with saved Policy H4, including the boundaries to which it relates, and WCS Core Policy 2, are out of date and carry reduced weight.
- 1.14 The Malmesbury Neighbourhood Plan (February 2015) (MNP) was examined prior to the WCS Inspector Report and was 'made' soon after the adoption of the WCS (January 2015). The MNP states that the 'limits of development' as set out in the WCS are simply brought forward from the North Wiltshire Local Plan 2011. So whilst the MNP allocates two sites for residential development, outside the limits of development, these limits have not been updated. This is left for the site allocations document. The MNP states an objective to '*Allocate sites for housing to at least meet the dwellings requirement for Malmesbury Town set out in the Wiltshire Core Strategy*' (MNP paragraph 1.1.6). Nothing in the MNP precludes further allocations of land for residential development, or further releases of land through the development management process, outside the limits. The proposal does not conflict with any of the policies in the MNP and is not constrained by NPPF paragraph 198.

- 1.15 The Site Allocation DPD has yet to be progressed by Wiltshire Council. At the earliest, the Council anticipates it will be adopted towards the end of 2017, but to date no draft has been published.

Planning Balance

- 1.16 The development represents sustainable development, being in a sustainable location and suitable for development. The benefits include the delivery of market housing, which must be given significant weight, the provision of affordable housing which can be given substantial weight, the benefit of construction jobs and new homes bonus which can be given moderate weight, as well as the provision of new landscape planting and open space which can be given significant weight.
- 1.17 Whilst the development would conflict with saved policy H4, because the application site is unallocated and extends beyond the limits of development, the development would accord with WCS Core Policy 1 and generally WCS Core Policy 2, save for the fact that the site is not allocated, as well as the spatial strategy for the Malmesbury Community Area, WCS Core Policy 13. The harm caused by the conflict with the policy is limited.
- 1.18 In the context of housing need and the benefits to be derived from the development across all three strands of sustainable development, there are material considerations that would indicate a decision contrary to the development plan.
- 1.19 Further, as a consequence of the lack of a SADPD and housing land supply shortfall, the presumption in favour of granting planning permission for sustainable development is engaged. This means that the development should be approved unless the harm significantly and demonstrably outweighs the benefits (NPPF paragraph 14). The development is not excluded from the presumption as a consequence of NPPF footnote 9, which highlights a number of designations where development should be restricted.
- 1.20 Drawing on the technical reports and Design and Access Statement, it is clear that the harm is limited to the loss of a greenfield site, which cannot be given significant weight given the need for greenfield releases in Wiltshire. The harm, in respect of conflict with out of date policies is very limited. These harms do not significantly and demonstrably outweigh the benefits.
- 1.21 Under the normal and tipped planning balance the development should be permitted.

2.0 The site and its surroundings

- 2.1 The site lies on the north edge of the market town of Malmesbury, to the south of the B4014. It comprises an agricultural field. The field is currently being utilised as a topsoil storage area for the neighbouring Bloor Homes development, referred to as Filands View in this statement. The western hedgerow has been broken and a haul road constructed between the site and the neighbouring development to access the storage area.
- 2.2 Access to the site is directly from Filands and there is also the potential for a second vehicle access through the Filands View development, but at the very least a pedestrian and cycle connection.
- 2.3 As mentioned, immediately to the west of the site is the Bloor Homes development that is under construction. The development will see the delivery of 180 new homes along with public open space and infrastructure, including access on to the B4014 and provides a site for a primary school.
- 2.4 There is a public right of way (MALM8) crossing the eastern part of the site, connecting Filands with the residential area of Reeds Farm Estate to the south, and providing access into the town centre.
- 2.5 Directly to the south of the site is a proposed primary school site that is in Wiltshire Council's control.
- 2.6 Malmesbury is a market town that experiences a considerable level of in-commuting, particularly to the one of the main employers, Dyson. Dyson Research and Development Facility lies in close proximity to the west of the site. Dyson is a key local employer in the town and is currently delivering a major expansion programme. Plans for the expansion were approved in December 2014 and work is well underway. The expansion will increase the number of employees by about 3,000. Dyson, along with other employment areas in the town, is within walking and cycling distance of the site and as such the proposed development would provide an attractive location to house employees, both new and existing.
- 2.7 The market town also contains a recently completed supermarket and town centre shops and services. It is an important service and employment centre in this part of North Wiltshire. The Worthies public open space lies a short distance to the south of the site.
- 2.8 The Cotswolds Area of Outstanding Natural Beauty lies to the west of Malmesbury. The site is separated from the AONB by intervening residential development and Dyson's research and development facility.

3.0 Relevant planning history

- 3.1 The adjacent area of land, to the west and south of the application site has planning permission for 180 dwellings and includes land for a new primary school. The application was approved at appeal, the appeal Inspector acknowledging the site as a sustainable location for development that had performed well in Wiltshire Council's own sustainability appraisal in regard to early work on the Core Strategy (2009). Reserve matters were approved in 2015 (with a recent variation in April 2016 also approved). Bloor Homes has commenced construction of this development. The application site forming a natural extension to this development.
- 3.2 The site itself has a limited planning history, but of note is the approval to use the land as a temporary topsoil storage area used in connection with the Bloor development to the west and south. Described above. The use of the area for topsoil storage is temporary and the consent runs until the 27 August 2019. Access to the top soil storage area has been created in a similar location to the site as proposed connection between the Bloor development and the proposed development.
- 3.3 Pre-application advice has been received in relation to the proposed development. This advice has been taken into account when formulating the proposals and is covered in detail in the Statement of Community Engagement and also referred to in the Design and Access Statement.

4.0 The proposed development

- 4.1 Gleeson's planning application for the development of land to the south of Filands has been made in outline with details of the point of access onto Filands. Full details of the site layout, scale, appearance and landscape treatment are left for future determination, through reserved matters applications, should outline permission be granted. To assist Wiltshire Council in assessing the likely impacts associated with the principle of the site's development, and to demonstrate how the scale of development proposed can be successfully accommodated on the site, an illustrative site master plan, parameter plan and a design and access statement, which incorporates a design guide, accompany the application.
- 4.2 If approved, the parameter plan, based on the illustrative layout, could be the subject of a condition, along with the details provided in the design guide, which would assist with the determination of reserved matters applications.
- 4.3 The details of the access to the site via Filands (B4014) are included within the submission. The access to the site was agreed with Wiltshire Council in pre-application discussion. During those pre-application discussions, Wiltshire Council Highway team raised their preference for a vehicle connection between the Bloor development and this site. However they recognise that this is not necessary to make the development acceptable, it is desirable only to provide an additional level of connectivity. The potential for this vehicle connection has been incorporated into the illustrative master plan / parameter plan.

Key Benefits

- 4.4 In broad terms it is considered that the development would deliver the following benefits:
- The residential development proposed would assist Malmesbury in improving its self-containment by providing homes for new employees and helping to address net in-commuting
 - The delivery of much needed housing that is available now and would make a meaningful contribution to housing land supply across a range of types and tenures to support the town and wider housing market area
 - The delivery of much needed affordable housing
 - The delivery of publically accessible open space to benefit new and existing residents
 - Net biodiversity gain
 - Support for community facilities and services through an increase in the local population
 - Economic benefits, through construction activities and increased local population

- Reduction in surface water drainage issues for residents of Reeds Farm through greater control of surface water drainage from the site.

Greenfield site

- 4.5 Whilst the development of the site would result in the loss of a greenfield site, and a direct impact on the landscape character of the site itself, it should be noted that the loss of countryside per se cannot be considered to amount to significant harm and no other significant or demonstrable harm will result.
- 4.6 The following sections, with reference to the supporting documents, demonstrate that there are no technical obstacles that would prevent the development of the site for housing.

Housing development

- 4.7 The illustrative master plan makes provision for 71 new homes, of which up to 40% would be affordable in accordance with the policies of the Wiltshire Core Strategy. Details of the size and mix of the open market homes and of the tenure split of the proposed affordable homes will be discussed and agreed with Wiltshire Council prior to the determination of the application. However, it is the intention to provide a development of predominantly family housing as well as some housing suitable for the elderly in accordance with the feedback received in pre application advice from Wiltshire Council.
- 4.8 The precise location of the affordable housing units would be agreed at the reserved matters stage, but they could be provided in clusters of no more than 15 units to achieve integration within the development.

Public open space

- 4.9 The illustrative master plan makes provision for 0.55 hectares of public open space within the proposed development. This is provided as a sequence of green spaces through the scheme. This includes two areas set aside for local play, set within a new pocket park and village green.
- 4.10 To the east of the development a pocket park will include the public right of way (MALM8) which will enable connection into the wider public footpath network. The public right of way can be resurfaced to where it meets Reeds Farm to improve this route. The pocket park will also provide distant public views to Malmesbury Abbey.

Trees

- 4.11 An Arboricultural Impact Assessment (AIA) accompanies the application. It identifies a single oak tree on the western boundary of the site, but not located within the site, in close proximity to the proposed potential secondary access

point through to the Bloor development. A Tree Preservation Order protects this tree. The Arboricultural impact assessment has assessed the tree as a category B tree. Whilst there is some encroachment into the root protection area of this tree the Arboricultural Impact Assessment concludes that this is acceptable and in accordance with British Standards.

- 4.12 There is a single willow within the application site, on the north-eastern boundary. This tree is not protected. The AIA concludes that it will not be affected by the development as it lies within an area of landscape planting.

Hedgerow retention /removal

- 4.13 Construction would result in the loss of approximately 15 linear meters of species rich hedgerow and 15 meters species poor hedgerow, associated with access through the site on to Filands and the secondary point of connection to Filands View. However, a section of this hedgerow has already been removed as part of the haulage road to the topsoil storage area, although we note there is a condition to require the hedgerow to be re-planted. The proposals include 49 meters of replacement. Further details can be found in the Design and Access Statement and the Ecological Impact Assessment submitted with the application.

Landscape strategy

- 4.14 The site provides an appropriate rounding off of the north edge of the settlement and will integrate well into the landscape setting. The landscape strategy for the site has sought to introduce significant new tree and hedgerow planting to strengthen existing boundary vegetation and to enhance habitats. This will contribute positively to the appearance and character of the area in both the medium and long terms.
- 4.15 Whilst specific details would be submitted for approval at the reserved matters stage, there is significant scope for a net gain in this respect, which could be secured by condition.

Surface water attenuation

- 4.16 Greenfield runoff from the site currently discharges into a network of existing drainage ditches. The Flood Risk Assessment and Foul and Surface Water Drainage Strategy explains that although detailed ground surveys have not been undertaken, the desk based assessment has identified the underlying geology of the site as clay, which is inherently impermeable in nature. Such soils will render the use of soakaways ineffective.
- 4.17 The surface water drainage strategy therefore proposes the construction of an attenuation pond and swale, which will store surface water runoff before discharging it into the existing drainage network under controlled conditions. This

approach will ensure that runoff from the site will be controlled and kept to existing natural run off levels of a 1:1 year event.

- 4.18 The attenuation pond and swale will be provided within the open space alongside the existing drainage ditch that runs through the site. The basin can be planted with a range of suitable species to assist filtering the quality of the water prior to discharge into the ditch network. This will provide the necessary mitigation and be of ecological benefit. The accompanying Flood Risk Assessment confirms that the drainage proposals will have a positive impact on surface water drainage further down stream.

Foul water strategy

- 4.19 All foul water from the proposed development will be discharged through the connection through to the existing sewer system. Wessex Water has agreed this in writing.

Sustainable construction

- 4.20 The proposed homes will all be energy and water efficient and constructed to a standard that will meet the Building Regulations requirements for new developments. Should planning permission be granted, a Construction Environmental Management Plan (CEMP) could be prepared and submitted to Wiltshire Council for approval prior to construction commencing.

Site Access

- 4.21 The site will be accessed from a new access point on to Filands (B4014). The site will also be connected to the existing network of new streets created as part of the Bloor's development and provide an enhanced link to the town through improvements to public footpath MALM8.
- 4.22 The Transport assessment that accompanies this application confirms that the site is a suitable, accessible location for residential development. The development can be accessed safely by vehicle users and pedestrians / cyclists providing connectivity to the town and nearby employment areas.
- 4.23 A framework travel plan covering this residential development has been submitted in support of the planning application.

Archaeology

- 4.24 A desk based archaeology report has been prepared to accompany the application. The report confirms that survey work undertaken as part of the Filands View development identified medieval agricultural related features within the site. As suggested in the pre-application response, any consent that is issued can be subject to an archaeological condition to ensure the potential for these features on the site is investigated.

5.0 The development plan

5.1 The development plan relevant to the application comprises:

- The Wiltshire Core Strategy (adopted January 2015)
- The saved policies of the North Wiltshire Local Plan 2011 (adopted June 2006, saving direction June 2009)
- Malmesbury Neighbourhood Plan (made February 2015).

5.2 The extent to which the proposed development complies with the policies contained in the development plan is set out below.

Wiltshire Core Strategy

The Strategy for growth

5.3 The Wiltshire Core Strategy (WCS) was adopted in January 2015 and sets out the spatial strategy for Wiltshire over the period 2011 - 2026. The WCS is intended to form one part of a series of development plan documents including a site allocations plan for Chippenham and a separate allocations plan for the rest of Wiltshire. The WCS intended these documents to provide “*surety of supply throughout the plan period, in accordance with national policy, and help to complement neighbourhood planning*” (paragraph 1.5). Since adoption of the WCS, the Chippenham Site Allocations Plan (CAP) plan has stalled, at examination stage, and the Wiltshire Site Allocation Plan (SAP) has been significantly delayed and is yet to be published in draft form.

5.4 WCS Core Policy 1 sets out the settlement strategy, which focuses on growth of the three principle settlements of Trowbridge, Chippenham and Salisbury, it also supports “*significant growth*” at second tier settlements, defined as Market Towns, which include Malmesbury.

5.5 WCS Core Policy 1 (CP1) confirms that the market towns have the “*ability to support sustainable patterns of living*” with the “*potential for significant development that will increase the jobs and homes in each town in order to help sustain and where necessary enhance their services and facilities and promote better level of self containment and viable sustainable communities*” (our emphasis). This provides explicit acknowledgement that Malmesbury is a sustainable settlement that can and should accommodate growth.

5.6 The proposed development accords with the principles for growth established by WCS CP1.

The Delivery Strategy

5.7 WCS Core Policy 2 (CP2) sets out the delivery strategy. It states that provision will be made for the delivery of *at least* 42,000 new homes. This is distributed to

three Housing Market Areas (HMAs), with the North and West Wiltshire Housing Market Area (NWHMA), within which the site lies, accommodating a *minimum* of 24,740 new homes in the period 2006 - 2026. The WCS includes strategic allocations but there are no strategic allocations at Malmesbury.

5.8 In regard to the overall requirement, it should be noted that in December 2014, the WCS examination Inspector concluded at paragraph 78 of his report that:

“Overall, the balance of evidence suggests that the objectively assessed housing need, to be disaggregated across the three Wiltshire HMAs, is currently in the region of 44,000 dwellings over the plan period”.

5.9 At paragraphs 80 and 81 of his report, the Inspector accepted the lower overall figure of 42,000 dwellings on the conditional basis that Wiltshire Council would:

- prepare both the SAP and CAP
- undertake neighbourhood planning
- publish an updated Strategic Housing Market Assessment in early 2016
- undertake an early review of the WCS.

5.10 He considered that, with these provisions, the Council would be able to proactively seek to meet, and if necessary reassess, the objectively assessed need for housing (OAN) and plan for its provision accordingly.

5.11 None of these documents have reached an advanced stage of production:

- the Chippenham Site Allocations Document is stalled
- the SADPD is not published, even in draft form
- the updated SHMA is delayed from early 2016 to autumn 2016 at the earliest
- there is no commitment from the Council, in its LDS, to review the WCS.

5.12 The supporting text to WCS CP2 provides a table entitled *“indicative housing requirements – settlements and community areas”* which is intended to help *“direct development at a strategic level to the most suitable, sustainable locations and at appropriate times”* (paragraph 4.26). These indicative requirements are also contained in the requirements for each Community Area, which for Malmesbury is established in WCS CP13. The word ‘indicative’ is important as it reflects the fact that the OAN is higher and the housing requirements must be considered as minimums. WCS CP2 clarifies that development proposals should be in *“general conformity with”* the community area strategies (discussed below).

- 5.13 WCS CP2 also provides the policy context for development outside of the defined limits of settlements (for Malmesbury this is the framework boundary brought forward from the North Wiltshire Local Plan, adopted 2006). It states that development outside the “*defined limits of development*” will not be permitted, unless those limits are altered through the identification of sites for development in subsequent SAP and neighbourhood plans. The proposed development lies outside the North Wiltshire Local Plan’s settlement boundary and is unallocated. This policy is relevant to the consideration of the application.
- 5.14 However, WCS CP2 intrinsically recognises that breaches of the North Wiltshire Local Plan framework boundaries are essential in order to meet housing requirements. To date the Council has failed to bring forward the SAP on which the policy is reliant to deliver various alterations to settlement boundaries and deliver housing to meet requirements and boost housing supply. Whilst the Council currently anticipates adoption of the SAP in December 2017, with only 8 years of the plan period remaining, no draft plan has been published.
- 5.15 In addition, the Council is unable to demonstrate a five year supply of housing land (see below). Policies for the supply of land for housing (policies of housing development restraint) should be considered out of date with reference to paragraphs 49 and 14 of the NPPF.
- 5.16 The proposed development is in conflict with WCS CP2 in so far as it is not an allocated site. However, it is in general conformity with the CP2 requirement to deliver development to meet needs in a sustainable manner and in the context of the housing need this limited conflict with the policy can be set aside to facilitate the delivery of sustainable development.

The strategy for growth in the Malmesbury Community Area

- 5.17 The strategy for Malmesbury Community Area is set out in Core Policy 13 (WCS CP13). The policy supports the expansion of the employment areas close to the site (Dyson, Malmesbury Business Park and the land north of Tetbury Hill) and continues to save the employment allocations of the North Wiltshire Local Plan at Tetbury Hill and the garden centre site. The majority of the new employment opportunities will be to the north of the town, in proximity to this site.
- 5.18 WCS CP13 requires applications for development in the community area to address the issues set out in paragraph 5.73 of the supporting text. The issues raised can be summarised as:
- Providing appropriate levels of housing for the town, acknowledging that green field development is likely to be required
 - Consideration of primary school places and the infrastructure needs of the town

- Diversification of the employment base to strength the economy and reduce the acknowledged in-commuting
 - The need for additional convenience retail (a supermarket has been constructed at the town since this supporting text was drafted)
 - Protection of the towns historic assets such as the Abbey and Conservation Area
 - Conservation of the Cotswold AONB and its setting
 - Managing the development of the Cotswold Water Park
 - Recognise the role of neighbourhood plans.
- 5.19 The proposed development accords with these criteria where relevant, delivering new homes to the town and recognising the role of the design guidance provided in the MNP (see Design and Access Statement). Glimpsed views of the Abbey are retained and the Landscape and Visual Impact assessment confirms that any impact on the AONB would be negligible due to the scale of the development and intervening topography, vegetation and built development, which includes the Dyson site and the Filands View development.
- 5.20 In regard to the delivery of an appropriate level of housing for the town, the supporting text to WCS CP13 acknowledges the pattern of in-commuting and housing affordability issues in Malmesbury. WCS CP13 allocates a minimum of 1,395 new homes to the community area, of which it expects 885 to occur at Malmesbury. Table 5.7 of the WCS records that there have been 483 completions in the town (as at 2014) and there are 486 specific permitted sites. As such endnote 37 clarifies that *“Malmesbury town has sufficient commitments to exceed the indicative requirement”* (page 481).
- 5.21 Whilst this may be the case, as these are indicative requirements and clearly minimums the “indicative requirements” should certainly not be seen as a ceiling to the delivery of sustainable development, as represented by the application site. Housing development is needed to support the local economy and meet local needs. Exceeding the housing requirement must be viewed as a positive/beneficial factor, particularly given that the application proposals are not inappropriate or of a scale that would conflict with the settlement strategy for Wiltshire as a whole, the NWHMA or Malmesbury town.

Other relevant policies of the Core Strategy

- 5.22 The proposed development makes provision for up to 40% of the proposed new housing units to comprise affordable homes, in accordance with WCS Core Policy 43. The housing size and type will be discussed and agreed with Wiltshire Council prior to the determination of the planning application, taking into account the Wiltshire Strategic Housing Market Assessment and the needs of Malmesbury. The supporting illustrative master plan demonstrates how the mix of affordable

housing requested in the pre-application response by Wiltshire Council, can be delivered (see section 5.8 of the Design and Access Statement).

- 5.23 The housing mix demonstrated on the illustrative master plan also includes 6 no. 1 bed flats to meet the requirements of WCS Core Policy 46 to meet the needs of vulnerable and elderly people.
- 5.24 WCS Core Policy CP50 seeks to protect wildlife and habitats and seeking opportunities for biodiversity enhancement. The accompanying ecology report demonstrates how the development will delivery a net gain in terms of the biodiversity of the site.
- 5.25 The illustrative master plan has been developed in accordance with a landscape strategy to demonstrate the ability to create a sequence of green spaces and preserve views of Malmesbury Abbey as well as views out into the countryside. The planning application is supported by a Landscape and Visual Appraisal that confirms that the development will have a limited impact on the local landscape due to the sites self containment provided by the surrounding topography, vegetation and existing built form. Consequently, the proposed development protects the landscape resources of the site and its landscape setting, as required by WCS Core Policy 51.
- 5.26 The illustrative master plan demonstrates that the site can accommodate 0.55ha of public open space, in a sequence of green spaces throughout the development. The scheme enhances Wiltshire's green infrastructure network in accordance with WCS Core Policy 52.
- 5.27 The need to create a high quality, attractive development with a distinct sense of place has underpinned the evolution of the master plan in accordance with the objectives of WCS Core Policy 57 and as described in the Design and Access Statement.
- 5.28 The site is in an accessible location, as reconfirmed in the accompanying transport statement, and accords with the requirements of WCS Core Policies 60 and 61. The promotion of sustainable forms of transport and the establishment of pedestrian and cycling links through the site lie at the heart of the illustrative master plan and will help ensure the promotion of alternative forms of transport to the private car. In addition, a travel plan would be agreed with Wiltshire Council should planning permission be granted.
- 5.29 The application is accompanied by a transport assessment as required by WCS Core Policy 61. This assessment confirms that traffic generated from the proposed development would be accommodated within the existing highway network without significant effects. WCS Core Policies 60, 61 and 62 are complied with.

- 5.30 The proposed development lies in flood zone 1 and makes provision for surface water attenuation facilities, to ensure that the proposed development will not be at risk of flooding, nor will third party land be at greater risk of flooding following the development including allowing for climate change. WCS Core Policy 67 is therefore satisfied.

Malmesbury Neighbourhood Plan

- 5.31 Malmesbury Neighbourhood Plan (MNP) was made in February 2015. It is formed of two parts, volume I contains the plans vision and main policies and volume II contains a design code for development. The Parish Councils of Brokenborough and St Paul Malmesbury without and Malmesbury Town Council prepared the MNP.
- 5.32 The plan provides for approximately 270 new homes in the town, on three sites (Backbridge Farm, Burton Hill / Malmesbury PCC site and Burnham house). Collectively these sites should deliver 87 dwellings more than the minimum indicative requirement set in the WCS. The proposed development will not prevent these allocations from being brought forward.
- 5.33 The MNP states the built up areas of the town are defined by the framework boundaries, as carried forward from the North Wiltshire Local Plan. There are no policies within the MNP that resist development outside the settlement boundaries. There is no explicit conflict of the application proposals with the MNP.
- 5.34 Further, the supporting text refers to the proposals map (which shows the Parish boundaries) which leads the reader to believe that the MNP sets the Malmesbury town parish boundary as the “limits of development” / settlement framework boundary, which includes this site.
- 5.35 The MNP also sets out requirements to ensure a mix of housing to meet local housings needs (policy 4 and 5). The design and access statement and illustrative master plan demonstrate how the local evidence of need, as provided by Wiltshire Council, can be incorporated into the scheme. Whilst this application is in outline, this principle can be carried forward to the detailed design.
- 5.36 In addition, part two of the MNP provides place making and quality design guidance. The design guidance is comprehensively considered in the Design and Access Statement, which explains how the illustrative master plan has responded.

North Wiltshire Local Plan 2011, adopted June 2006

- 5.37 Whilst a number of policies in the plan are saved, the plan is time expired, inconsistent with the NPPF and out of date in that it does not allocate land to meet present needs. Policy H4, which restricts housing development outside the settlement boundaries, is a policy relevant for the supply of housing. The policy can be afforded very little, if any, weight.

- 5.38 Nevertheless, the proposed development also accords with the following saved policies in the North Wiltshire Local Plan:
- 5.39 Policy NE14 that seeks to protect landscape features such as hedges and trees where they can be successfully and appropriately incorporated into the design. Landscape features have been incorporated into the design, including retention of boundary hedgerows where practicable.
- 5.40 Policy T5 seeks to protect public rights of way. There are no public rights of way within the site, but the horizontal alignment of the public right of way adjacent to the site has been protected.
- 5.41 Policy CF3 requires new housing development to make provision for open space on site equating to 15sqm for local parks and 3sqm for play areas per person. The illustrative master plan demonstrates an excess provision of open space.

Conclusion

- 5.42 Whilst the development proposed accords with a number of key policies in the development plan, including the overall settlement and delivery strategy, and does not conflict with the MNP, it does conflict with saved policies of the local plan and the WCS, in so far as it is not allocated for development.
- 5.43 The weight to be attached to this conflict, and the harm derived from the conflict, is limited.
- 5.44 The next section identified the material considerations that would enable the policy to be set aside in favour of the grant of planning permission.

6.0 Delivering a sustainable development: The National Planning Policy Framework

- 6.1 Paragraph 14 of the National Planning Policy Framework (NPPF) published in March 2012 places a presumption in favour of sustainable development at the centre of the planning system. Paragraph 6 of the NPPF defines sustainable development for the purposes of the planning system as *“the policies in paragraphs 18 to 219”*. Paragraph 197 clarifies that, *“in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development”*.
- 6.2 Notwithstanding the presumption, the NPPF highlights that section 38(6) of the Town and Country Planning and Compulsory Purchase Act 2004 remains unchanged. The Act places a statutory duty on local planning authorities to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration. The relevant facets of sustainable development detailed in the NPPF are therefore discussed below in relation to the site and the development proposed.

Building a Strong and competitive economy (NPPF section 1)

- 6.3 The NPPF identifies that there are three dimensions to sustainable development that direct the role of the planning system. One of these is the economic role *“contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation”* (paragraph 7).
- 6.4 It is the Government’s position that housing construction contributes significantly to the economy and therefore provides economic benefit. Statistics from the Home Builders Federation identifies that 1.5 full-time jobs are created per every home built, as well as accompanying improvements within the UK supply chain.
- 6.5 Significant growth is still anticipated in Malmesbury associated with the expansion of Dyson’s research and development facility, and ensuring there is a sufficient mix of homes to meet the needs of existing and new employees. Dyson anticipate the creation of an additional 3,000 jobs in the town, this will have a significant impact given that Malmesbury already experiences a considerable level of in-commuting.

Promoting sustainable transport (NPPF section 4)

- 6.6 The NPPF requires *“the transport system to be balanced in favour of sustainable transport modes, giving people a real choice about how to travel”* (paragraph 29). As such it directs local planning authorities to *“support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of*

transport” (paragraph 30). The achievement of these aims is an important material planning consideration.

- 6.7 The land to the South of Filands is well connected to the public highway and footpath network. It lies within easy walking and cycling distance of a range of employment, retail and education facilities, and adjoins a regular and frequent public transport route, providing services southwards to Malmesbury town centre, Cirencester and eastwards to Swindon. This accessible location will provide new occupants with a “real choice” in regard to how they travel.
- 6.8 Framework travel plan for the proposed residential units have been submitted with the application in accordance with paragraph 36 of the NPPF, the implementation of which will assist in reducing the overall level of car movements and help new occupants identify more sustainable modes of travel.
- 6.9 In accordance with paragraph 32 of the NPPF, this application is accompanied by a transport assessment. This concludes that:
- The proposed access to the site is safe and suitable
 - The site is located in reasonable walking and cycling distance of a large range of facilities and services and is a sustainable site for development
 - Improvements to the local public right of way will improve pedestrian and cycle links in the area
 - The development is likely to have a very small impact on the local highway network and operationally, the development will not have a noticeable impact on queuing and delay during peak hours at local junctions. As such the proposed developments meets the tests of the NPPF.

Delivering a wide choice of high quality homes (NPPF paragraph 50 and section 6)

- 6.10 Paragraph 17 of the NPPF states that *“planning should proactively drive and support suitable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs”*. The supply of available and deliverable sites for housing within the Wiltshire North West Housing Market Area (N&W HMA), within which the site lies, is a key material consideration.
- 6.11 Paragraph 47 of the NPPF makes it very clear that local authorities are charged with the need to *“boost significantly the supply of housing”* and should ensure that there is a *“supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements”*.

- 6.12 Paragraph 49 states that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”*. A recent Court of Appeal judgment rejected the narrow definition of the key phrase *“relevant policies for the supply of housing”*, opting for the wider definition that relevant policies are all those considered in that case (Hopkins Homes and Richborough Judgment 17 March 2016). Relevant policies of the local plan, WCS and MNP would be affected.
- 6.13 Irrespective of the five year housing land position, the WCS housing requirement is a minimum and not a cap on development. This equally applies to the MNP. The WCS examining Inspector, in accepting a housing requirement across Wiltshire of 42,000 dwellings (rather than the OAN of 44,000 dwellings) identified the need to deliver more than the requirement through the SADPD. There is also a need to accommodate additional homes to replace an allowance of 900 homes, made in relation to Swindon and which do not meet the needs of Wiltshire.
- 6.14 The application should be supported on the basis that it will provide homes and represents a sustainable development.
- 6.15 Notwithstanding this position, Wiltshire cannot demonstrate a five-year housing land supply. Wiltshire Council’s latest published position is its Housing Land Supply Statement (September 2015) with the base date of April 2015. This document states that for the North and West Wiltshire Housing Market Area (which includes Malmesbury) a 5.6 year supply exists. However, the position has been updated, following the suspension of the Chippenham Site Allocations Development Plan Document (DPD) examination. In recent officer reports to planning committee and in appeal, the Council has clarified:

“Housing Land Supply has to be regularly assessed. The Council’s April 2015 Housing Land Supply Statement, published in September, indicated that there was a 5.6 years land supply available in the north and west housing market area. However, this included some sites identified for housing in the draft Chippenham Sites Allocation Plan. The Examination of this plan was suspended by the Inspector late last year to allow the Council to undertake further work to address concerns raised by him regarding the site selection procedure, sustainability appraisal and deliverability of the proposed allocations in the plan (policy CH1 South West Chippenham; CH2 Rawlings Green and Policy CH3 East Chippenham).

Following the suspension of the Examination, another planning inspector in December 2015 considered a 28 house development on a site at Arms Farm, Sutton Benger – which is located within the same north and west housing market area as Melksham. The Council’s position for the purposes of the appeal was, following the suspension of the examination into the Chippenham Site Allocations

DPD, that the Council could not demonstrate a five-year supply of deliverable housing sites; and it is important to recognise that paragraph 49 of the Framework is explicit in terms of advising that: where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date.

As CP2 seeks to constrain development within defined limits, the Inspector concluded that CP2 is a relevant policy for the supply of housing; and he did not consider that it can be regarded as up-to-date, and thus reduced the weight to be afforded to the constraints that it imposed and, to a scheme's conflict with them. However, it is also important to record that the Inspector did conclude that irrespective of the Council's ability to demonstrate a 5 year supply of housing sites, CP1 remained up-to-date.

Since the Inspector's decision (in mid-December 2015) and the conclusions referenced above, the Council has not yet been able to update its position on 5 year housing land supply and a further appeal at Bradford on Avon for a mixed development of 60 houses and employment land (refused by this committee in September 2015) was allowed in March with the Inspector citing the fact that CP2 could not be considered up to date due to the lack of a 5 year land supply. In these circumstances, this application for housing must be considered in the context of the presumption in favour of sustainable development and consideration of the adverse impacts of the development compared to the benefits." (Application reference: 16/00497/OUT heard by Strategic Planning Committee on 11 May 2016)

6.16 We agree with Wiltshire Council that it cannot demonstrate a five year housing land supply, we have reached this conclusion independently and not solely based on the suspension of the Chippenham Site Allocation DPD examination. Specifically, the requirement presented in the Housing Land Supply Statement (September 2015) is wrong for the following reasons:

- The OAN was considered to be 44,000 and 42,000 is a minimum requirement
- An allowance should be made for the 900 homes at Swindon
- The requirement for the period 2015 to 2020 should be higher as the shortfall from previous years should be addressed within the five year period, more positively reflecting the requirement of the NPPF to boost significantly the supply of housing
- The Council has a record of "persistent under delivery" and therefore 20% should be applied, increasing the requirement.

- 6.17 With regard to the deliverable supply, the council has included a windfall allowance, sites in adopted or emerging development plans, local plan allocations, sites allocated in Neighbourhood Plans and sites that have a resolution to grant subject to the completion of a section 106 legal agreement. There are several sites included in the supply that we do not consider will deliver in the way that the Council's trajectory anticipates. The tests of deliverability set out in footnote 11 of the NPPF are not met in a number of cases, and an adequate supply to meet the five year requirement does not exist, irrespective of our concerns in regard to the requirement.
- 6.18 The delivery of high quality market and affordable housing would be a substantial benefit of the scheme.

Requiring Good Design (NPPF section 7)

- 6.19 The NPPF recognises that, *"well designed buildings and places can improve the lives of people and communities"* (paragraph 8). Paragraph 50 requires local planning authorities to *"deliver a wide choice of high quality homes, widen choice for home ownership and create sustainable, inclusive and mixed communities"*. The delivery of good design is a significant component of achieving sustainable development.
- 6.20 The Design and Access Statement submitted with the application demonstrates how the master plan has sought to create an inclusive new community and a development that responds to its surroundings and the local context. The mix and type of new homes to be provided remains to be agreed with Wiltshire Council, but it will help provide a variety and choice in the market.
- 6.21 Paragraph 66 of the NPPF states *"applicants will be expected to work closely with those directly affected by their proposal to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of new development should be looked on more favourably"*. The statement of community engagement submitted with the application explains the consultation undertaken with local residents and key consultees and how the feedback received has shaped, in a significant and positive way, the proposals and the evolution of the master plan in regard to design.

Promoting healthy communities (NPPF paragraphs 69 to 78)

- 6.22 Section 8 of the NPPF recognises the role to be played by the planning system in *"facilitating social interaction and creating healthy, inclusive communities"* (paragraph 69).
- 6.23 In accordance with paragraph 70 of the NPPF, the proposed development makes provision for a children's natural outdoor play area, and the public rights of way provides connections to the wider countryside in accordance with paragraph 73.

6.24 The proposed development is therefore considered to satisfy the NPPF objectives because:

- The mix of proposed uses and their arrangement, as shown on the illustrative master plan, will provide opportunities for meetings between members of the community and will create active street frontages
- The illustrative master plan has taken account of the need to deliver a safe and accessible environment by proposing a series of clear and legible pedestrian routes, with high quality public open space overlooked by development
- The provision of open space, including picnic and play space, will encourage outdoor activity and therefore a healthy lifestyle, benefitting new and existing residents.

Meeting the challenges of climate change and flooding (paragraphs 93 to 108)

6.25 Section 10 of the NPPF highlights the importance of planning in helping to shape places to meet the challenges of climate change.

6.26 A Flood Risk Assessment and Foul and Surface Water Drainage Strategy have been prepared to support the planning application. This statement confirms that the site is located in flood zone 1, and that the site's development will not flood or subject third party land and buildings to increased flood risk, including making necessary allowances for climate change. As mentioned, the surface water attenuation features should benefit local residents down stream by controlling run off from the site to low levels.

Conserving and enhancing the natural environment (NPPF section 11)

6.27 Section 11 of the NPPF emphasises the importance of considering the potential impact of development on the natural environment, which covers the landscape, geology, soils and biodiversity.

6.28 The proposed development seeks to maintain and enhance the biodiversity of the site through the retention of species-rich hedgerows and trees where possible, and through the provision of significant landscape planting and appropriately designed and planted surface water attenuation ponds.

6.29 The proposed development site does not constitute a valued or a designated landscape and as set out in the landscape and visual appraisal, the visual impacts associated with the proposed development will be limited to the immediate area of the site, due to the small scale of the proposed development, the degree of containment afforded by the topography of the local area and the vegetation and existing built form / site context on the edge of Malmesbury.

Conserving and enhancing the historic environment (NPPF Section 12)

- 6.30 Section 12 of the NPPF emphasises the importance of considering the impacts on the historic environment, and in particular designated heritage assets. The application is accompanied by a desk based archaeology report. As noted above, previous field investigations, associated with the Filands View development, have identified some medieval agricultural remains in the very northern corner of the site. A scheme of post consent works will be agreed with Wiltshire's County Archaeologist to ensure the remains are recorded in a manner appropriate to their importance.

Neighbourhood Planning

- 6.31 The development plan for the site includes the Malmesbury Neighbourhood Plan, which does not allocate this site for development (detailed in the following section). The NPPF states that "*where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted*" (paragraph 198, our emphasis).
- 6.32 The delivery of this site is not in direct conflict with the MNP, per se, as there is no policy in the MNP that restricts or precludes the development of additional sites on the edge of the settlement.
- 6.33 Instead, the MNP relies on the saved settlement boundaries of the North Wiltshire Local Plan and WCS Core Policy 2 to protect countryside outside the 'limits of development' but, as discussed earlier, these boundaries are out of date.
- 6.34 The development of this site would not prejudice the delivery of the MNP allocated sites and it is noted that two of the three allocated sites have yet to be progressed to the planning application stage.
- 6.35 Notwithstanding the above, if the development were considered to be in conflict with the MNP, it would be necessary to take a balanced cost/benefit approach as the MNP policies are caught by NPPF paragraph 49. The use of the word "*normally*" in the circumstances described in the NPPF could indicate that where the plan led system is failing to deliver, the weight to be attributed to it should be reduced. Currently none of the allocated sites have come forward for development.

Summary

- 6.36 The proposal represents sustainable development, delivering good design, safe access, new homes to support Malmesbury, accessibility to sustainable modes of transport, ecological benefits and improvements to the surface drainage network. Overall, the proposed development is considered to accord with the core planning principles set out in the NPPF, and will deliver sustainable development.

7.0 Infrastructure - Draft heads of terms for a planning obligation

- 7.1 As part of a planning permission for the proposed development at Filands, Gleeson anticipates entering into a section 106 obligation and section 278 agreement with Wiltshire Council concerning the following matters:
- The percentage, mix, tenure, phasing and transfer of affordable housing units
 - The phasing, management and maintenance arrangements for the delivery of the public open space
 - The phasing, management and maintenance arrangements for delivery of the surface water attenuation facilities
 - Suitable triggers for the payment of a financial contribution towards the provision of primary and secondary school places arising from the proposed development
 - Contribution per dwellings towards waste and recycling containers for each unit
 - Upgrade/ surfacing of footpath MALMS8 from outside of the site boundary to just north of the Reeds Farm estate
 - Any arrangements, as might be necessary and reasonable to contain in a legal agreement for the implementation and monitoring of the travel plan
 - Any arrangement for the transfer of land to Wiltshire Council or its nominee.
- 7.2 All discussions will need to have regard to Wiltshire Council's Community Infrastructure Levy, which is non negotiable and which is currently £85 per square meter for new residential development at Malmesbury.

8.0 Conclusions & Planning Balance

- 8.1 This planning application submitted by Gleeson Developments Ltd seeks outline planning permission (with all matters reserved with the exception of the means of access) for residential development at land south of Filands, Malmesbury. The site is well related to the built form of Malmesbury, taking into account the Bloor development and the school site to the south.
- 8.2 The site is suitable and available for development now. The approval of the application would facilitate the delivery of high quality new homes (including affordable homes) and public open space at a market town and in proximity to a range of significant employment opportunities and existing facilities, services, retail and leisure opportunities. The development would foster opportunities for greater self-containment and help to deliver a more sustainable settlement pattern and the WCS vision.
- 8.3 The site's development of the scale and form proposed would contribute to the housing need in Malmesbury in a sustainable manner. It would also meet the wider requirement in the community area and that of the housing market area.
- 8.4 Whilst the site lies outside the 'limits of development', originally defined in the North Wiltshire Local Plan which had a time horizon until 2011, it would deliver new homes in accordance with the WCS aim set out in CP1, CP2 and CP13. This growth should not be restrained by time expired boundaries or unwarranted caps on development scale, particularly in the context of the minimum requirements, OAN and Government mandate to "boost significantly" the supply of housing land.
- 8.5 In accordance with section 38 (6) of the Planning and Compulsory Purchase Act 2004, there are material considerations that indicate the development should be approved despite being contrary to some elements of the development plan. Regardless of the position in regard to housing land supply, the proposed development is considered to deliver sustainable development that accords overall with the core planning principles set out in the NPPF and the Wiltshire Core Strategy.
- 8.6 Additionally, and at the present time, in the absence of a five year housing land supply within the NWHMA, the policies relevant for the supply of housing in the North Wiltshire Local Plan, the WCS and the MNP cannot be considered to be up-to-date. In such circumstances, paragraph 14 of the NPPF requires planning authorities to grant planning permission for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF, or specific policies in the NPPF indicate that development should be restricted. This is known as the tipped planning balance.

- 8.7 The technical information submitted with the application demonstrates that there are no technical or environmental constraints to the development of this site and demonstrates that the site is suitable to deliver the development proposed. There are clear social, environmental and economic benefits that would accrue from the proposed development when assessed against the NPPF.
- 8.8 The proposal will broadly provide the following benefits:
- The delivery of much needed housing that is available now and would make a meaningful contribution to housing land supply across a range of types and tenures, in a sustainable location that would support the town and is consistent with the policy objective to boost significantly the supply of housing
 - The delivery of much needed affordable housing in a sustainable location
 - The delivery of publically accessible open space to benefit new and existing residents
 - Net biodiversity gain, through ecological enhancement, diversification and habitat creation, improving the low value of the site
 - Support for community facilities and local services and facilities through an increase in the local population
 - Economic benefits, through construction activities and increased local population
 - Reduction in surface water drainage issues for residents of Reeds Farm through greater control of surface water drainage from the site.
- 8.9 In conclusion, the weight to be given to the policy conflict and localised harm is a matter of planning judgment for the decision maker but we would give the conflict very little weight. The benefits are substantial. The development represents sustainable development and the planning balance falls in favour of granting planning permission.