

WILTSHIRE COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY GLEESON DEVELOPMENTS LIMITED

LAND SOUTH OF FILANDS, MALMESBURY WILTSHIRE, SN16 9JN

PLANNING INSPECTORATE REFERENCE: APP/Y3940/W/17/3168452

WILTSHIRE COUNCIL REFERENCE: 16/07288/OUT

DATE OF INQUIRY: SEPTEMBER 2017

WILTSHIRE COUNCIL – RULE 6 STATEMENT OF CASE

1.0 INTRODUCTION

1.1 The Local Planning Authority validated the planning application which is subject of this appeal on 26th July 2016. The application was made in outline with all matters except access reserved for future consideration.

1.2 The description of the development was as follows:

“Outline planning application (all matters reserved except means of access) for residential development, including the construction of up to 71 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.”

1.3 The application was determined as a refusal under delegated authority on 25th October 2016. The Reasons for Refusal were as follows:

1. The proposal is outside of the framework boundary for Malmesbury and has not been allocated for residential development within the Wiltshire Core Strategy (January 2015) or Malmesbury Neighbourhood Plan (February 2015). The development fails to meet any of the special circumstances for the creation of additional residential units in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy and would result in harm to the

harm to the character and appearance of the locality. Therefore, the proposal is contrary to Core Policies 1, 2, 13, 51 & 57 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan, the Malmesbury Neighbourhood Plan and paragraphs 14, 17, 55 & 198 of the NPPF. As such, the proposal fails to promote a sustainable pattern of development and is contrary to the aforementioned local and national policies

2. The proposed development does not make any provisions for securing affordable housing on the site; financial contributions towards primary and secondary school provision, public rights of way; the on-going provision and maintenance of open space and waste facilities. The application is therefore contrary to Core Policies 3, 43, 45 and Saved Policy CF3 of the Wiltshire Core Strategy

1.4 This statement outlines the case which Wiltshire Council, as the Local Planning Authority (LPA) will be making at the forthcoming Public Inquiry.

2.0 APPEAL SITE AND SURROUNDINGS

2.1 The application relates to an approximate 3.6 hectare site located to the north of the Market Town of Malmesbury. The site is bordered to the north by the B4014 with a number of residential dwellings lining the opposite side of the highway. The site is mostly open agricultural fields, with a drainage ditch running within the eastern extent. It is enclosed by hedgerows along the northern and western boundaries, and post and wire fencing to the southern boundary. To the west of the application site, is a detached two storey dwelling, with a development of 180 residential dwellings underway on the land further to the west, known as Filands View. The land directly to the south of the application site was identified and permitted for the creation of a primary school, as part of the approval for the 180 dwellings at Filands View.

Temporary planning permission has been granted for the use of the site for the storage of soil from the adjoining Filands View development.

2.2 A public right of way (MALM 8) runs alongside the ditch in the eastern extent of the site, running from the B4014 footway to Reeds Farm estate to the south. A significant Oak tree is located within the rear garden of the detached dwelling to the west and adjoining the connection point within the site between the current proposal and Filands View.

2.3 The site is located outside of the framework boundary for Malmesbury and is not allocated within the Malmesbury Neighbourhood Plan (MNP) for residential development. The land has an agricultural land classification of 3.

3.0 PLANNING HISTORY

3.1 The following applications have been determined at the appeal site:

15/05017/FUL - Proposed Temporary Top Soil Storage Area In Connection With
Application 15/5015/REM - Approved

4.0 DEVELOPMENT PLAN CONTEXT

4.1 The Local Planning Authority's case will make reference to the development plan policies which are relevant to the appeal site. At the time of writing the statutory Development Plan against which the proposed development falls to be considered, as required by Section 38 (6) of the Planning and Compulsory Purchase Act (as amended) comprises:

- The Wiltshire Core Strategy;

- Saved policies within the North Wiltshire Local Plan;
- The Malmesbury Neighbourhood Plan.

4.2 The Wiltshire Core Strategy (WCS) was adopted in January 2015 after being found sound and compliant with the NPPF and thoroughly tested through an examination process. The Council will demonstrate that the development plan is not absent or silent and that relevant policies referred to within the reasons for refusal are not out of date. Wiltshire Core Strategy policies will provide a clear and up-to-date framework for the determination of this appeal.

4.3 Policies saved from the North Wiltshire Local Plan 2011 and contained within the Wiltshire Core Strategy will be referred to when relevant.

4.4 The Malmesbury Neighbourhood Plan (MNP) was formally made in February 2015. This document allocated residential development sites for the plan period to 2026 and the Council will demonstrate that the MNP did not allocate the site for residential development. Furthermore, the Council will demonstrate that these policies are not out of date

4.5 The council will notify relevant parties if there are any further published changes to the development plan or the emerging development plan position between the date of submission of this statement and the conclusion of the inquiry which may affect the policy context for the Malmesbury Community Area.

5.0 THE CASE FOR THE LOCAL PLANNING AUTHORITY

5.1 The Local Planning Authority will produce evidence to substantiate the reasons for refusal. The main issue in respect of each reason is set out below together with a description of the Councils case.

Refusal Reason 1 – Development Contrary to the Plan Led System

5.2 The Council relies upon the primacy of the development plan that is enshrined in the NPPF and reaffirmed at paragraphs 11, 12, 17, 150 and 196 where emphasis is placed upon the importance of a plan led system.

5.3 Furthermore, paragraph 198 of the NPPF confirms that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

5.4 The Council's case will confirm that the appeal site lies outside of the limits of development for Malmesbury. Furthermore, the Council will demonstrate that the site was assessed during the site selection process and sustainability appraisal for the MNP and was not allocated for residential development. The Council shall also demonstrate that the Development Plan is supporting the delivery of houses in a timely manner and to an extent greater than the supply identified in Policy 13 of the Wiltshire Core Strategy.

5.5 The Council's case will go on to set out the reasons why it believes the proposal would not meet any of the exceptional circumstances identified in WCS paragraph 4.25 where development outside limits of development is acceptable. Similarly, since the site lies beyond the limits of development, it does not comply with saved policy

H4 of the North Wiltshire Local Plan as it does not meet the exceptions, such as agricultural needs, set out in that policy.

5.6 In addition, the Council will also demonstrate that the use of a green field at the edge of Malmesbury will result in some degree of harm to the visual amenities of the surrounding area, which will be required to be considered in the planning balance.

Refusal Reason 2 – Planning Obligations

5.7 The Council contends that in accordance with Core Policy 3 of the WCS, planning obligations will need to be sought to mitigate the impacts of the development. The Council will liaise with the appellants to agree the following within a Statement of Common Ground, and it is therefore possible that reason for refusal 2 will be addressed prior to the Inquiry taking place:

- Obligations that are to be covered by a s106;
- Obligations that are to be covered by CIL;
- Obligations that could potentially be delivered by a planning condition.

5.8 The Council will provide “without prejudice” planning conditions that it considers should be imposed in the event of the appeal being allowed.

Housing Land Supply

5.9 Paragraph 49 of the NPPF, identifies that 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 land for housing. At the time of the determination of

the application, the Council was not able to demonstrate a 5 year land supply in the North and West Housing Market Area, which contains the appeal site. Since this time two significant material changes have occurred which the Council shall present in its case.

5.10 Firstly, in his Written Ministerial Statement the Minister of State for Housing & Planning & Minister for London made clear that relevant policies for the supply of housing in a Neighbourhood Plan, should not be deemed 'out of date' under paragraph 49 of the NPPF if within 2 years of the date of the statement, the Neighbourhood Plan allocates sites for housing and the Local Planning Authority can demonstrate a three-year supply of deliverable housing sites. The Council shall demonstrate that both of these circumstances apply in this case, and that the policies of the MNP should carry full weight in decision making in the determination of this appeal.

5.11 Secondly, Planning Practice Guidance states that annual housing land supply assessments should normally not need to be updated for a full 12 months 'unless significant new evidence comes to light or the local authority wishes to update its assessment earlier'. The Wiltshire Core Strategy confirmed that site allocations at Chippenham, one of the principal settlements in the North West Housing Market Area, would be identified in the Chippenham Site Allocations Development Plan DPD (CSAP). In February 2017, the Inspector conducting an examination of this plan issued his report, concluding that subject to modifications, the plan has passed the test of soundness and is capable of adoption. The Council considers this to be significant new evidence and, in March 2017, published a Housing Land Supply Statement update in (with an April 2016 base date). The updated HLSS shows that the Council is now able to demonstrate a 5 Year Land Supply in the North and West Housing Market Area. The council will notify relevant parties if there are any further

published changes to the housing land supply position between the date of submission of this statement and the conclusion of the inquiry.

List of Documents referred to in this Statement which will form part of the updated Core

Document List:

- NPPF
- North Wiltshire District Local Plan 2011
- Wiltshire Core Strategy
- WCS Inspector's final report
- Malmesbury Neighbourhood Plan
- Wiltshire Community Infrastructure Levy Charging Schedule Adopted (May 2015)
- Wiltshire Community Infrastructure Levy Planning Obligations
- Supplementary Planning Document (May 2015)
- Community Infrastructure Levy Regulations (2010) as amended
- Relevant case law
- Relevant planning and appeal decision

The Local Planning Authority reserves the right to add to the list above and to refer to other relevant documents as appropriate, including those specified in or need to respond to the Appellant's Statement of Case.