



## COMMITTEE REPORT

**Item Number:**  
**Application Number:**  
S/19/1755/CHHO

**Ward:** Ridgeway  
**Parish:** Chiseldon

**Proposal:** Erection of 11 no. dwellings and associated works.

**Site Location:** Land East Of Berricot Lane, Badbury

**Case Officer:** Charlotte Hopkins (Chopkins@swindon.gov.uk)

**Agent:**

**Applicant**  
Bower Mapson Homes Ltd  
Willow House  
7 The Avenue  
Stanton Fitzwarren  
Swindon  
SN6 7SE

### Officers Report

#### Background

1. This application was brought before the Planning Committee on the 8th December 2020. Committee resolved to grant planning permission for a number of reasons set out in the Committee minutes against the recommendation of officers in their report. Since then, discussions have been ongoing in respect of the Section 106 agreement. During this time, the Council has been made aware of potential deficiencies in the reasoning that lead to the decision to grant planning permission (subject to the completion and signing of the S106 and appropriate conditions); the reasons given; and in the way that these reasons were reported. The deficiencies would make the decision difficult to defend in a legal challenge. In light of this, and following legal advice, this application is resubmitted back to Planning Committee for re-determination. There are no material alterations to the scheme; although there are amendments and updates throughout the report and members must still read it in full. The officer will be able to provide an update on S106 matters. No further consultation has been required.
2. The application is brought before Planning Committee at the request of Councillor Sumner for the reason that it is locally controversial.

3. The scheme initially sought full planning permission for the erection of 15no. dwellings and associated works, however revised plans have been submitted during the course of the application which reduced the scheme to 13no. dwellings and most recently to 11no. dwellings.

### **Adequate Reasons**

4. Although there is no general common law duty to give reasons, a particular application's circumstances may require reasons be given<sup>1</sup>. Where the report recommendation is accepted and approved by members, normally no further reasons are needed<sup>2</sup> (as they are detailed in the report). However, where members overturn officers recommendations, adequate reasons are normally required. Should members be minded to overturn the officer's recommendation for this application, adequate reasons need to be provided.

5. As to what constitutes adequate reasons:

*"The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the 'principal important controversial issues', disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their prospects of obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future such applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced."*<sup>3</sup>

6. The issue for the court is "...whether the information provided by the authority leaves room for "genuine doubt...as to what (it) has decided and why""<sup>4</sup>. If members are minded to overturn a recommendation for refusal that should mean addressing the officers' reasons for refusal and providing reasoning as to why members have decided those issues differently.
7. With this application it needs to be clear at least whether members view that the proposed development is in breach of the development plan, read as a whole; how the planning balance is concluded; whilst paying special regard and attaching "great weight" to heritage harm as required by Sections 66 and 72(1) of the

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<sup>1</sup> Dover DC v CPRE Kent [2017] UKSC

<sup>2</sup> South Bucks DC v Porter (No 2) [2004] 1 WLR 1953 ("South Bucks")

<sup>3</sup> South Bucks

<sup>4</sup> South Bucks

Planning (Listed Buildings and Conservation Areas) Act 1990, and to harm to the AONB as required by paragraph 172 of the NPPF respectively. The officer's views on these issues are set out in detail in this report.

## Summary of Recommendation

8. That planning permission be **REFUSED**

## The Proposal

9. This application seeks full planning permission for the erection of 11 no. dwellings and associated works on a greenfield site of approximately 0.6 hectares in area, located on the northern edge of the hamlet of Badbury.
10. The proposed layout would form a cul-de-sac style development of detached and terraced 2 storey dwellings and associated garages/parking courtyards. Overall the scheme offers 3 x 5 bed detached homes, 1 x 4 bed detached home, 2 x 2 bed terraced homes, 5 x 3 bed terraced homes. This mix includes 4 affordable terraced units (36.4 %).
11. Access to the proposed development is to the east of the site via Medbourne Lane. Medbourne Lane extends south into the village of Badbury, and to the north crosses the motorway bridge and continues to the village of Liddington.

## The Site and Surroundings

12. The site currently comprises of an open field that is grassed and slopes down from both Medbourne Road and the southern boundary of the site, to the north west corner of the site. The western boundary of the site is formed from a dense field hedge including Hawthorns of 5 to 6 metres tall, beyond which Berricot Lane is located. A break in the hedge provides views into the site from Berricot Lane and across the site towards residential dwellings adjacent to the southern boundary and out to the Ridgeway and Liddington Hill to the east/south east. A public right of way runs roughly west-east alongside the northern boundary of the site, with a small cluster of residential dwellings located to the north west along Berricot Lane. Beyond the public right of way is a band of trees and shrubs which opens up further to the east. The M4 motorway is located approximately 150 metres to the north of the site. Badbury Lane, which then becomes Medbourne Lane, runs parallel to the eastern boundary of the site and is lined by a dense belt of trees further north of the site. The eastern boundary of the site itself, contains an existing metal gated access and limited vegetation, allowing for unobstructed views into and across the site from the road and views out from the site up towards the Ridgeway and Liddington Hill. Directly to the south of the site are a number of residential properties whose gardens back onto the site.

13. The site is located adjacent to but outside of the rural settlement boundary of Badbury, as defined on the Local Plan Policies Map. Badbury is a small hamlet of approximately 40 dwellings. The site is also located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The site adjoins the boundary of the Badbury Conservation Area to the south and is located in close proximity of a number of Grade II listed buildings which include 30 Berricot Lane (north of site), 28 & 29 Badbury, 24 Badbury (south of site), Badbury Cottage (south east of site), together with 26 Badbury (south-east of site) which is a key building of interest and has the status of a non-designated heritage asset. The site may also be experienced from the Liddington Castle Fortification which is a Scheduled Monument.

## **Representations**

### **Neighbours**

14. 41 letters of objection received in response to initial consultation (erection of 15 no. dwellings), a further 24 letters of objection received in response to revised consultation (erection of 13 no. dwellings) and a further 20 letters of objection received in response to the latest revised consultation (erection of 11 no. dwellings). The main points raised can be summarised as follows:
- Principle:- site is outside defined settlement boundary, proposed increase in number of dwellings is a significant increase relative to size of the village
  - Design and Layout:- cul de sac layout proposed at odds with the general context and character. Marked difference to historic grain of Badbury, which is characterised by linear development along its principal road, density of development is substantially higher than development in adjoining conservation area
  - Highway related concerns:- the village is a notorious rat-run and is already hazardous for those on foot, surplus cars would be parked on roads and grass verges at the edge of the village, lack of parking due to garages and parking spaces falling below standard
  - Impact on landscape/countryside:- inappropriate and harmful to the AONB, urbanising impact, light pollution, harm to views as one approaches Badbury to the north.
  - Impact on conservation area and setting of listed buildings:- harm to the character and appearance of the conservation area, as well as causing harm to the setting of adjoining and nearby Grade II listed buildings.
  - Sustainability:- not sustainably located with no true choice of transport modes, no pavements, lack of facilities in hamlet (no school, church, shop, doctors, post office) and poorly served by public transport– nearest bus stop is on the A346, reliance on car, no sustainable energy measures

- Amenity:- detrimental to living conditions of adjoining neighbours, loss of privacy/overlooking to No.29 Berricot Lane, noise and pollution from M4 will impact future residents, unsatisfactory living standards with some houses failing to meet nationally defined space standards
- Wildlife:- impact on wildlife, timing of ecology survey during daytime and in the winter, relevant to note that the field was badly disturbed only a couple of years ago as a result of the water pipeline and the consequent earthworks and that it will take some years for it fully to recover its ecological balance and it is not possible so soon after to judge its ecology
- Infrastructure:- impact on infrastructure capacity, sewage systems unable to cope

### Chiseldon Parish Council

#### 15. *Initial Consultation (15 dwellings)*

Chiseldon Parish Council objects to the planning application on the same basis as it's objection to the site's inclusion in the Swindon Local Plan. The objections are reiterated below:

#### Sustainability.

- The hamlet has no footpaths along its length meaning walking is unsuitable due to issue of "rat running" that is prevalent in this area during rush hours. It is especially unsuitable for children and those with mobility issues.
- The narrow roads and aforementioned rat running also mean that cycling as a means of transport is hazardous.
- No public bus service stops within the hamlet meaning that those wishing to use public transport would need to navigate the narrow, unlit roads without footpaths, and then cross the A346 to access buses.
- The above 3 points mean that motor vehicle transport is the only viable solution. Badbury has no on-street parking facilities and properties often lack on-site parking. This results in the already narrow lanes being obstructed with parked vehicles. Introducing extra dwellings to this area with the associated number of vehicles is not sustainable for this hamlet.
- There are no facilities in Badbury with the exception of 1 public house. The area is not sustainable for further dwellings as every requirement means a motor vehicle must be used to access other facilities in the neighbouring villages.

#### Conservation Area and North Wessex Downs AONB

- The proposed site is located directly next to the Badbury Conservation area as detailed in the document "Badbury Conservation Area Appraisal and Management Plan" Adopted by Swindon Borough Council in February 2009.
- Item 6.1 on page 18 of this document details how this conservation area could be enhanced and improved.

- It encourages planning to respect and promote what is special about this conservation area. It should also seek to ameliorate or remove negative elements. These points should be considered when assessing this application.
- The site lies completely within the North Wessex Downs Area of Outstanding Natural Beauty and as such it should be considered whether the location in question is suitable for a new development. The plot seeks to include 15 dwellings which this council believes is a major development on AONB land for which exceptional circumstances would have to be demonstrated. The council does not feel that exceptional circumstances have been demonstrated in this respect.
- The location of the proposed development is not entirely in keeping with the linear nature of this Hamlet which should be preserved as one of its main characteristics as listed in the Badbury Conservation Area Appraisal and Management plan listed above. Page 12 item 31 states “The predominant pattern of development is linear. Dwellings and former farm buildings stand beside the highway as it winds through the hamlet”. Page 13 also states “....backland development is uncharacteristic of this predominantly linear village”.

This site received significant local opposition during the SHELAA process and during the Local Plan consultation. The council has also been requested through representations by residents of Badbury at its meeting of 9<sup>th</sup> December 2019, that in the event that officers intend to decide the matter through delegated authority, and such a decision is to grant planning permission, this application is called in before the planning committee at Swindon Borough Council.

#### *Revised Consultation (13 dwellings)*

The council has reviewed the revised plans and still objects by majority vote.

- The majority of our previous objections remain, although we commend the developer on the thatched houses to the front and reducing the number of houses on the plot.
- We believe the developer has gone a long way to ensure the development fits in with the style of buildings within the hamlet, whilst there are still a few more houses than we would prefer.
- If it were of benefit we would be pleased to open dialog with the developer to discuss ways of mitigating concerns of the PC and the local residents for this proposed development.

#### *Revised Consultation (11 dwellings)*

- The Parish Council planning committee voted to OBJECT to this revised application on the basis of the objections previously submitted by the council.

### Planning Policy

16. In the revised submission, the total number of dwellings has reduced from 13 (previously from 15) to 11. It is understood the percentage of affordable housing will be 36%, which thus exceeds the requirement in Local Plan Policy HA2 and is

therefore a benefit of the proposal. However, the revised number of dwellings would still lead to a significant (circa 25%) increase in the number of dwellings in Badbury, therefore the scale of development remains disproportionate to the size of the rural settlement, and would considerably alter its built form through the introduction of an inward facing scheme that does not correspond to the prevailing linear settlement pattern. On this basis, the view remains that, owing to the limited size and existing settlement pattern of Badbury, the proposed development would constitute major development within the North Wessex Downs AONB. NPPF paragraph 172 directs that planning permission should be refused for major development in AONBs unless there are exceptional circumstances and where the development can be demonstrated to be in the public interest. The proposal does not demonstrate the exceptional circumstances required to allow major development in the AONB. A policy objection is raised.

### Conservation

17. Despite proposing amendments and reducing the number of dwellings, the proposed development is in principle inappropriate and as a result causes harm to the significance of the conservation area and the designated heritage assets via development within their setting. The proposed scheme would be a discordant development which in principle is inappropriate as well as poorly conceived design which does not reflect local character or distinctiveness. Following most recent revisions (11 dwellings), the in principle objection remains to the scheme as well as to the detailed design of the scheme and layout where there are serious concerns as to the ability to reinforce local distinctiveness. Recommended that the application is refused planning permission for the reasons previously given.

### North Wessex Downs Area of Outstanding Natural Beauty (AONB) Unit

18. The AONB unit objects to the proposed development and objected as part of the SHELAA process. Given the scale/density of the development within this hamlet, the proposal can be categorised as a major development as it would have the potential to permanently alter the prevailing character of the hamlet and surrounding countryside within a protected landscape. Development should only be permitted in an AONB if exceptional circumstances exist, for which the agent has failed to demonstrate. The scale of development would overly urbanise this approach to the development, dominating the wider open countryside to the detriment of the natural beauty of the AONB and its special qualities. The proposed development by reason of scale, density, layout and design would have a harmful effect on the landscape character of Badbury and the natural scenic beauty of the AONB. The development would be contrary to the North Wessex Downs Management Plan.
19. The revision still retains the suburban character, the inward facing layout, density, design and car parking for the terraces adds significantly to this. The revised development still fails to reflect the linear character of the village.

### Landscape

20. Objection raised in principle. Having reviewed the site for the recent SHEELA process, it is not considered that the site is suitable for a development of this type due to the harmful effect on landscape character, the AONB, the Conservation Area and the visual harm to those who have views of it to include adjacent residential properties, roads passing the site and nearby public rights of way. It does not matter how the scheme is amended or rearranged, due to the objection in principle.

### Urban Design

21. The proposal is considered harmful to the character and context of the area and the way it currently functions. The proposal seeks to fill in the gap which is essentially part of the village's setting and its approach. The development is considered discordant and inharmonious to its existing rural character through its offering of a dense and tight-knit insular configuration. Facilities such as schools, healthcare and retail are also absent from the area making the scheme unsustainable and reliant on private vehicles which is contrary to accessibility principles.

### Highways

22. Objection in principle to the proposed development by way of its reliance on travel by car. The revised Site Layout shows 11 houses served by an access road that forms a priority junction onto Badbury Lane. The proposed access can be delivered in accordance with prevailing highway design standards. The development is seen to fall below the standards set in the new Parking Standards document (2021), in as much as two of the eleven dwellings fall short by one space. However in this case, given the site-specific circumstances, it is not considered the non-compliance would be likely to give rise to a significant hazard to highway safety, therefore refusal is not recommended on parking grounds. In respect of visitor parking, adequate provision is made within the site. Cycle parking could be accommodated either within garages or in gardens and a standard Planning Condition would ensure that adequate provision is made. In respect of movement on foot, the Site Layout plan shows a connection to the footpath that runs alongside the site and that connection is welcomed. Whilst there are no concerns for the changes to the layout, the view is retained that the site is fundamentally unsuited to new residential development and the objection set out in the memo of 1st April 2020 still holds due to the site being poorly accessed, to the extent that it is fundamentally contrary to the transport guidance of the NPPF. The Local Highway Authority recommends refusal on these grounds.

### Drainage

23. Following review of drainage strategy, the LLFA requested information on Microdrainage (or similar software) outputs for the 1 year, 30 year and 100 year (including an allowance for climate change) and details of exceedance flow route management. Following review of further submitted details, the LLFA recommends approval subject to conditions.

Archaeology

24. The proposed development is in a highly sensitive area for archaeology. The Historic Environment Record indicates the presence of medieval settlement remains within the red line area. The archaeological evaluation requested has now been undertaken at the site (Thames Valley Archaeological Services Archaeological Evaluation (BLB19/159, dated April 2020). In light of the findings, there is a need for further archaeological mitigation work should the application be consented. It is recommended that an archaeological condition for monitoring and recording is attached to any grant of consent.

Ecology

25. The planning application is supported by a Preliminary Ecological Appraisal Report (November 2020). The Council's consultant Ecologists have reviewed this report and advised that it provides a sound assessment of the sites current status and potential for protected and notable species to be present. No objection raised subject to conditioning the ecological enhancement/mitigation measures set out in the report, together with other conditions as noted.

Arboricultural

26. No objection, subject to conditions. Concerns initially raised in relation to the position of the dwelling in Plot 3, the location of the soakaway and the siting of acoustic fencing (all related to Plot 3). These matters have now been satisfactorily addressed in Site Layout Rev H, updates to Plot 3 Rev C, updated Tree Survey and Arboricultural Report, updated Drainage Strategy Rev A, Landscape Layout Rev E. No objection raised, subject to conditions.

Environmental Health Officer

27. Noise impact assessment requested in order to assess whether the development will give rise to an adverse impact on the amenity of future residents. Following submission and review of Planning Noise Assessment 20/0069/R1, the Environmental Health Officer has confirmed that the proposal is acceptable in this location, subject to post construction/pre-validation surveys.

Historic England

28. On the basis of the information available to date, no comments are offered. It is suggested that the views of the Council's specialist conservation and archaeological advisers are sought.

Affordable Housing

29. Housing Strategy & Development Officer confirms the mix being offered is acceptable - 2 x 2 bed and 2 x 3 bed. The split agreed is 70/30 between Rented (Social or Affordable) and Intermediate (including Low Cost Home Ownership initiatives), so 3no. Rented and 1no. Intermediate

Crime Design Officer

30. Concerns raised with initial scheme around the proposed footpath beside plot 8, which did not uphold the responsibility to ensure that design considers crime prevention. Confirms revised layout addresses concerns providing a clear and open route and objection is therefore removed.

Thames Water

31. On the basis of information provided with regard to water network and water treatment infrastructure capacity, no objections are raised to the planning application. Thames Water recommend informatives be attached to any planning permission granted.

North Wiltshire Swifts

32. Recommends that the Council conditions the installation of 13 integral swift bricks in clusters of 2/3 preferably in the north, east and west gable ends or elevations close to the eaves with clear flight access.

**Planning Considerations:**

33. The main considerations in the determination of this application are whether the proposal accords with the National Planning Policy Framework 2019 and the relevant policies of the Swindon Borough Local Plan 2026 (2015).

**Policy Context:**National Planning Policy Framework

34. The National Planning Policy Framework (2019) sets out the Government's planning policies for England and how these are to be applied. Of particular relevance are sections: 2: 'Achieving Sustainable Development', 5: 'Delivering a sufficient supply of homes', 8 'Promoting healthy and safe communities', 9 'Promoting sustainable transport', 12 'Achieving well-designed places', 15 'Conserving and enhancing the natural environment' and 16 'Conserving and enhancing the historic environment'.

Swindon Borough Local Plan 2026

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.
36. The following policies of the Adopted Swindon Borough Local Plan 2026 (adopted in 2015) are considered relevant to this application:
  - SD1 '*Sustainable Development Principles*' sets out the development principles which underpin the local plan

- SD2 '*The Sustainable Development Strategy*' aims to meet Swindon's development needs whilst protecting the Borough's most important assets
- SD3 '*Managing Development*' seeks to take a positive approach to reflect the presumption in favour of sustainable development
- DE1 '*High Quality Design*' seeks high standards of design for all development
- DE2 '*Sustainable Construction*' aims to ensure new developments are designed and constructed to minimise their environmental impact
- HA1 '*Mix Types and Density*' advises that housing development should be designed and respect the character of the surrounding area
- HA2 '*Affordable Housing*' seeks all developments of 15 homes or more, or on sites larger than 0.5 hectares to provide 30% affordable housing
- EN1 '*Green Infrastructure Network*' requires development provides for the protection and integration of visually or ecologically important existing trees, hedges or woodlands.
- EN3 '*Open Space*' seeks all development to provide or contribute towards public open space
- EN4 '*Biodiversity and Geodiversity*' seeks to protect and enhance biodiversity and provide net local biodiversity gain.
- EN5 '*Landscape Character and Historic Landscape*' seeks to protect and enhance the intrinsic character, diversity and local distinctiveness of the landscape
- EN6 '*Flood Risk*' seeks to minimise the risk and impact of flooding
- EN7 '*Pollution*' seeks to protect the amenity of future users of development from the emission of pollutants from an existing use
- EN10 '*Historic Environment and Heritage Assets*' requires that development affecting heritage assets shall conserve and where appropriate enhance their significance and setting.
- IN1 '*Infrastructure Provision*' seeks to ensure all new development makes a positive contribution to sustainable growth by mitigating its impacts upon infrastructure
- IN4 '*Low Carbon and Renewable Energy*' seeks to achieve an increase in the level of renewable energy generation in Swindon Borough through integrating renewable/low carbon energy in new development
- TR1 '*Sustainable Transport*' seeks to reduce the need to travel and support and encourage the sustainable, safe and efficient movement of people
- TR2 '*Transport and Development*' encourages sustainable travel and seeks to mitigate the impact of development and ensure that suitable parking provision is provided

## Other Material Planning Considerations

- Swindon Residential Design Guide (2016)
- Swindon Borough Council's Parking Standards for New Development (2021)
- The North Wessex Downs AONB Management Plan 2019 -2024
- Badbury Conservation Area Appraisal (2009)

## **Principle of Development**

37. The development strategy for the Borough is set out in Swindon Local Plan Policy SD2. This policy supports the key government objectives for sustainable development in the most accessible locations, identifying that development will be brought forward through opportunities within the urban area and the development of allocated strategic sites. The proposed development is located outside of the Badbury rural settlement boundary as defined by the Policies Map and therefore lies within the open countryside. Policy SD2 of the Local Plan states that development proposals in rural and countryside locations outside the rural settlement boundary will be permitted where:
  - local needs have been identified and allocated through a Neighbourhood Plan or Neighbourhood Development Order; and/or
  - it supports the expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in a rural service centre; or
  - it is in accordance with other policies in this Plan permitting specific development in the countryside
38. The site is not allocated or identified for development in a Neighbourhood Plan and the proposal would not support the expansion of tourist or visitor facilities. As a result, the proposed development would not provide a suitable location for housing and, in this respect, is contrary to Policies SD1 (sustainable development principles) and SD2, of the Local Plan and the National Planning Policy Framework (the Framework) which amongst other things, seeks to protect the character and appearance of the countryside and ensure that the majority of new development is located within defined settlement boundaries.
39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
40. At the planning inquiry for Land at Hill Cottage Blunsdon (Planning Inspectorate reference: APP/U3935/W/17/3192234, SBC reference: S/OUT/17/1032) the council's position was that it is able to demonstrate 2.7 years' supply of housing land in the Borough.
41. Paragraph 11 d) of the NPPF, states that, in instances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless:

- i. the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole
42. The lack of a demonstrable 5 year housing supply is not in itself a reason for approval, and in this case, the proposal would make a modest contribution (11 dwellings) to the overall supply of housing in the Borough. Rather, those policies which concern the provision of housing cannot alone be the basis of a refusal and the proposal has to be assessed against the policies within the NPPF as a whole. In this instance the element of Local Plan Policy SD2 referring to settlement boundaries, cannot be considered a reason for refusal alone.
43. Turning back to the first bullet point of paragraph 11 part d), and relevant to the current proposal, policies in the Framework that protect areas or assets of particular importance include those applicable to Areas of Outstanding Natural Beauty and those applicable to heritage assets (as confirmed in footnote 6 of the NPPF). The proposal will be assessed against these policies in the following sections of this report.

## **Heritage Assets**

44. In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character and appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
45. Paragraph 193 of the NPPF states 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). Policy EN10 of the Local Plan seeks to ensure the historic environment is sustained and enhanced. This includes all heritage assets including historic buildings, conservation areas and archaeology. Development affecting heritage assets shall conserve and where appropriate, enhance their significance and setting.
46. The proposed development is in a highly sensitive area for archaeology, with the Historic Environment Record indicating the presence of medieval settlement remains. A comprehensive archaeological evaluation and assessment was requested prior to determination which has now been prepared and submitted for consideration. The Council's consultant archaeologist has reviewed the archaeological assessment and raises no objection but identifies a need for further archaeological mitigation work should the application be consented. An archaeological condition for monitoring and recording is required to be imposed on any consent granted.

47. The application site adjoins the boundary of the Badbury Conservation area to the south, therefore the development has the ability to affect the setting, character and appearance of the conservation area given the importance of the open countryside beyond the boundary. There are also a number of Grade II listed buildings within the vicinity of the application site, including 30 Berricot Lane, 28 & 29 Badbury, 24 Badbury, Badbury Cottage. 26 Badbury is identified as a 'key building of local interest' and a non-designated heritage asset. It is also noted that the site may also be experienced from the Liddington Castle fortification which is a Scheduled Monument. The development is therefore within the setting of these heritage assets.
48. Badbury is a relatively small settlement which is predominantly a scattering of dwellings located along a spine road. To the north of the village, the road forks with Berricot Lane with a green space at the fork which acts as an informal village green, with a number of historic buildings located around the green at this junction. It is at this point that the rural undeveloped countryside is experienced, particularly in gaps and spaces in and around the historic buildings which give glimpses to the rolling hills and long distance views beyond. The importance of the landscape character around the edge of the village is specifically highlighted within the Badbury Conservation Area Appraisal which identifies the special interest that justifies the designation of Badbury as a Conservation Area including the *"rural setting of the village in a pastoral landscape with significant views to surrounding countryside, including Liddington Castle"*. Section 2.4 goes on to note that *"landscape setting is an important part of the special interest of this small conservation area. The views of surrounding agricultural land and local landmarks contribute to its character and reinforce the area's identity as a scarp settlement between down and plain"*. The application site forms part of the undeveloped and open setting in and around the built form, which forms the transition between the village and the open countryside beyond.
49. Development in the hamlet is very closely associated with the main road as noted in section 3.1 of the conservation area appraisal: *"the predominant pattern of development is linear. Dwellings and former farm buildings stand beside the highway as it winds through the hamlet"*. In addition, the contribution of historic vernacular with the thatched cottages and historic buildings gives a character and appearance that is important to the significance of the area.
50. Policy EN10 of the Local Plan states that development within or which would affect the setting of the Borough's Conservation Areas will conserve those elements which contribute to their special character and appearance. As discussed above, the significance of the Conservation Area derives from the linear nature of the settlement, its agricultural setting and open green edge and typical vernacular thatched downland cottages. The proposed development is to be accessed and laid out around its own access road with the dwellings facing inwards in a cul-de-sac design, which is incongruous with the historic linear pattern of development. The development would introduce a negative and discordant visual intrusion to the experience and historic development of the settlement through the removal of the open and undeveloped aspect of the village which can be experienced within the village and from gaps and spaces in and around the historic buildings. The site at

present provides an important link to the wider countryside and the proposal would significantly erode this. The proposal therefore fails to preserve or enhance the setting and special character and appearance of the conservation area, contrary to Local Plan Policy EN10, the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

51. The identified listed buildings within the vicinity of the site are significant for their materials, construction and relationship to the early development of Badbury. Number 28/29 Badbury directly to the south of the development site, are grade II listed thatched dwellings listed as late 17<sup>th</sup> century or early 18<sup>th</sup> century, which were formerly a row of cottages. No. 30 Berricot Lane, north of the development site is a grade II listed 18<sup>th</sup> century thatched cottage. Badbury Cottage to the east of the main road is a grade II listed two storey thatched 18<sup>th</sup> century cottage set back from the main road, whilst 24 Badbury is also a grade II listed thatched cottage 18<sup>th</sup> century or earlier located to the south of the site in the fork in the road around the informal village green. With relation to their setting, the buildings like much of the historic buildings in this location front the road edge and have large open spaces surrounding. The Council's Conservation Officer advises that although OS Maps are not definitive to explaining relationships between sites, there is clearly a historic association of the fields to the extremity of Badbury and the clear historic association and relationship of the subject site with the historic buildings to the front which are located around a small informal green. This component of the village is experienced as a very historically sensitive location and development within proximity of the open spaces surrounding this area has an impact to how the group of historic buildings are experienced in this location.
52. The listed buildings are examples of historical, vernacular rural dwellings, such that their countryside surroundings contribute to their legibility and thereby to their significance. The proposed development would remove the open aspect and introduce development into the open countryside. The overall scale, bulk and massing of the new dwellings would overly dominate the views of the open area and significantly change the experience and nature of these views. It is considered that as a result of the inherent relationship and historic connection between the historic buildings and the open countryside, the proposed development would fail to preserve the significance of the listed buildings by reason of development within their setting, contrary to Local Plan Policy EN10, the NPPF and section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
53. It is clear that the proposal will cause harm to the significance of the designated heritage assets, thus failing to preserve the character and appearance of the conservation area and setting of nearby listed buildings. Although serious, the harm to the heritage assets in this case would be 'less than substantial', within the meaning of the term in paragraph 196 of the Framework.
54. Paragraph 197 of the Framework seeks that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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. It is noted that 26 Badbury was not assessed within the heritage statement despite

being noted on the conservation area map. A similar assessment to setting is made with regards to the listed buildings for development within the setting of 26 Badbury which forms part of the collective group of historic buildings at the northern extent of the village. The open spaces and open aspect's surrounding the buildings is important to how they are experienced, which would be significantly eroded as part of the proposed scheme. As such, weight, should be given to the detrimental harm caused by the scheme which causes harm to the significance of the non-designated heritage asset via development within its setting.

55. Whilst the site may be present in long distance views from Liddington Castle Hill Fort, it is considered that the proposed development would cause neutral harm to the Scheduled Monument via development within its setting.
56. Paragraph 196 of the NPPF states that where there is 'less than substantial harm' to designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Whilst benefits of the development include the development of market and affordable housing in the context of a housing land supply shortage, socio-economic benefits of expenditure from future occupiers and short term employment opportunities in construction, this would be at the expense of the historic environment which is afforded considerable importance and weight. The limited public benefits identified do not outweigh the less than substantial harm caused. The scheme conflicts with the Framework, which directs at paragraph 193, *'that great weight should be given to the asset's conservation... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'*.
57. Given the national importance to protecting heritage assets, relative to the modest benefits that would result from the development, the considerations that weigh in favour of the proposal do not clearly outweigh the identified harm to the heritage assets, to justify the development. Furthermore, whilst it is acknowledged that there is a lack of five year supply of housing land, housing land supply issues are likely to be temporary, while the harm to the setting, character and appearance of the conservation area and the setting of the listed buildings would be permanent. In the application of paragraph 11 d) i), in light of the findings above on heritage assets, the heritage policy set out in the framework provides a clear reason for refusing the development.

## **Impact on Landscape and AONB**

58. The development site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Policy EN5 of the Local Plan applies which seeks to protect, conserve and enhance the intrinsic character diversity and local distinctiveness of landscape within Swindon Borough. The policy states proposal within the Borough which are within and/or abuts the North Wessex Downs AONB must accord with the relevant criteria set out in the AONB Management Plan and paragraph 115 and 116 of the NPPF (paragraph 115 and 116 of the 2012 NPPF are superseded by paragraph 172 of the revised NPPF).

59. Paragraph 172 of the NPPF requires decision-makers to attribute 'great weight' to conserving landscape and scenic beauty in AONBs, which have the highest state of protection in relation to these issues. The scale and extent of development within these areas should be limited. Paragraph 172 directs that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Footnote 55 confirms that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
60. Whilst it isn't possible to derive precedents from decisions reached elsewhere in different contexts, it is noted that development of 10 dwellings<sup>5</sup> <sup>6</sup> and 20 dwellings<sup>7</sup> have been found to be major development in AONBs, which demonstrates that depending on the details of the proposed site, relatively small-scale proposal can be considered as major development in the AONB for the purposes of NPPF paragraph 172. Further, the North Wessex Downs AONB Management Plan (2019-2024) states that "*as a general guide to assessing the likely impact of development on the AONB, The North Wessex DOWNS AONB unit define 'major development' as set out in the Town and Country Planning Development Management Order*" (i.e. 10 dwellings or more).
61. The primary purpose of the AONB designation is to conserve and enhance the natural beauty of the area. The North Wessex Downs AONB Management Plan (2019-2024) emphasises that the special qualities with regards to development in the AONB come from its "*undeveloped and rural quality*", "*containing typically modest villages with distinctive and ancient settlement patterns*".
62. The proposed development would lead to a significant increase to the small hamlet of Badbury, with an increase of circa 27.5% in the number of dwellings. The proposed development would considerably alter the built form of the rural hamlet, through the introduction of a relatively dense inward facing scheme that does not correspond to the prevailing linear historic settlement pattern of Badbury where dwellings are closely associated with the main road which winds through the village. This is with the exception of the proposed terrace fronting Medbourne Lane. Instead the cul-de-sac style development would introduce a suburban character to the rural landscape with an associated expanse of hard standing and parking courtyards.
63. Open views exist across the site from a number of public vantage points in the vicinity, despite the presence of boundary vegetation and nearby residential development. These views are experienced by residential properties, users of the road passing the site and nearby public rights of way. The views provide visual

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<sup>5</sup> Land south of Tregellast Parc, St Keverne Appeal Ref: APP/D0840/W/18/3208554

<sup>6</sup> Land adjacent to 113 Broad Park Road, Bere Alston, Appeal Ref: App/Q1153/W/16/3157958

<sup>7</sup> Part of Motha Farm, Carey park Road, Polperro, Looe, Cornwall, Appeal ref: APP/D0840/W/16/3146313

links to the wider countryside, and contribute to the character of the locality. Glimpses to the open countryside are provided at the informal village green to the south of the development site. The eastern boundary and part of the western boundary of the site allow views into and across the site, whilst long distance views out of the site to fields and rolling hills including Liddington Hill to the east/ south east of the site are provided. The development would curtail these views and links with the wider countryside, which form part of the rural character and setting of the hamlet of Badbury. The development would also impose development at close quarters to users of the public right of way which runs west-east, restricting views across and out of the site, as well as views towards the conservation area which includes a number of listed buildings. It should be noted that the Landscape Appraisal submitted in support of the application does not contain a winter assessment and therefore whilst the western and parts of the northern boundaries of the site are to a degree screened by mature vegetation, the visibility provided varies at different times of the year.

64. It is considered that the scale and layout of the development would overly urbanise the northern approach to the village, dominating and interrupting the views to wider open countryside, to the detriment of the natural beauty of the AONB and its special qualities. The development also has the potential to create additional harm in terms of light spill for the proposed properties and any street lighting, creating harm to the dark skies environment which is a special quality of the AONB. The scheme would result in a discordant urban intrusion into the rural landscape, failing to protect and conserve its intrinsic character in terms of historic settlement pattern and natural beauty, contrary to Policy EN5 of the Local Plan, the AONB Management Plan and paragraph 172 of the NPPF.
65. Taking into account the above and the nature, scale and setting, it is considered that relative to the limited size and settlement pattern of Badbury, the proposed development of 11 dwellings would constitute major development within the North Wessex Downs AONB. Paragraph 172 of the NPPF directs that planning permission should be refused for major developments in AONBs other than in exceptional circumstances and where the development can be demonstrated to be in the public interest. Consideration of such applications should include assessment of:
  - the need for the development including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy
  - the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
  - any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated
66. In terms of the first bullet point, it is accepted that Swindon Borough Council is unable to demonstrate a deliverable five year housing supply. In this respect, the development would contribute to meeting a need for housing in the Borough, including 36.4% affordable homes. However considering the second bullet point, there is clear scope for that need to be met other than by major development in the

AONB, given the amount of land within the Borough that lies outside of the AONB and in higher tier settlements in the settlements hierarchy. Turning to the third bullet point, the proposal would have a harmful effect on the landscape character of Badbury and the natural scenic beauty of the AONB. The proposal would introduce considerable built form at the northern boundary of the hamlet, with the cul-de-sac layout appearing incongruous with the prevailing linear historic pattern of development. The development would erode the rural setting of the village and restrict views to open countryside at the boundaries of the settlement, with further potential harm from light spill. The visual harm created by the proposed development would extend to those who have views of it to include adjacent residential properties, users of the road passing the site and users of the public rights of way.

67. Whilst the site would support a need for housing in the Borough, including 4 affordable units, this would not demonstrate the exceptional circumstances referred to in paragraph 172 in which major development in AONBs would be supported. The development would result in a detrimental impact upon the character and appearance of the area and would not conserve or enhance the landscape or scenic beauty of the North Wessex Downs AONB contrary to Local Plan Policy EN5, the North Wessex Downs Management Plan and paragraph 172 of the NPPF. In considering paragraph 11 d) i) of the NPPF, the policies within the framework with regards to the impact on the AONB, provide a clear reason for refusing the development.

## Design and Layout

68. Section 12 of the NPPF places great emphasis on the creation of high quality buildings and places in the planning and development process. Paragraph 127 of the NPPF notes developments *should “function well and add to the overall quality of the area”, be “visually attractive as a result of good architecture, layout and appropriate and effective landscaping”, “are sympathetic to local character and history, including the surrounding built environment and landscape setting”, “establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit”.*
69. Swindon Local Plan Policy DE1 states that high standards of design will be required for all types of development and development will be assessed against context and character, layout, form and function, amenity and quality of the public realm. The adopted Residential Design Guide also requires high design standards as well as offered guidance on layout, context and character amongst other factors.
70. Policy DE1 requires development to be in context with the existing natural, built and historic environment, and to respond positively to enhance or create distinctive character and identity. Badbury is characterised by a predominately linear pattern of development which is closely associated with the main road as it winds through the hamlet. This offers a relatively low density form of development contributing to

the rural setting of the village. Conversely, the application proposes a cul-de-sac style of development, with the site accessed and laid out around its own access road with the dwellings facing inwards, with the exception of the proposed terrace fronting Medbourne Lane to the east. This results in a tightly-knit, insular style of development which is at odds with the historic grain and linear development pattern of Badbury and instead urbanises the areas rural character. Plots 5-11 propose a much higher density than existing surrounding development and in particular the courtyard style arrangement and off-plot parking would typically be found in suburban areas. The Swindon Residential Design Guide advises at page 26, section 3.46 that “*character and context should help inform the most appropriate car parking arrangements particularly in established and historic areas*”.

71. It is accepted that the reduction from 15 to 11 dwellings assists to reduce the density and has allowed increased soft landscaping to the front of plots 1 and 2 for example, which is visible at the entrance to the development. However, this does not overcome the objections raised overall to the cul-de-sac layout and density presented within this rural context.
72. Badbury conservation area is characterised by a mix of downland cottages and late 20th century bungalows, with traditional thatched downland cottages forming the typical village vernacular. The application proposes detached two storey thatched cottages with render at plots 1, 3 and a terrace of 3 thatched rendered cottages at plots 9-11. Plots 2 and 4 are detached two storey dwellings constructed of natural stone with stone slate or clay tiled roofs whilst Plots 5-8 is a two storey stone terrace with a clay tiled roof.
73. Section 4.2 of the Residential Design Guide states in line with Policy DE1, development proposals will be assessed in terms of siting, orientation, scale, massing, materials and detailing. Whilst the proposal presents thatched cottages with materials and architectural features which attempts to reflect the village vernacular, concern is raised that the proposed thatched cottages are oversized and lack the small proportions of historic thatched cottages. As a consequence, it is considered that the height and massing of the buildings would distract and dominate the historic thatched cottages. It is noted that the smaller proportions of the historic buildings may be difficult to achieve against today's building regulations standards, however given the layout and density of the proposed scheme together with the proximity to the existing historic buildings, no other conclusion can be reached other than that the proposal will dominate and overbear the historic buildings. Further, the slope of the site results in the change in levels being emphasised at Plots 9-11 and the excessive circa 10.5 metre heights are exacerbated as a result. Plot 2 and 4 also appear excessively tall with a wall height that is equal to the roof height. The thatched cottage at Plot 3 also has a large brick extension to the rear which attempts to create a mock later extension, however an extension of this size overcomplicates the already excessive proportions of the building.
74. Policy DE2 of the Local Plan aims to ensure new developments are designed and constructed to minimise their environmental impact and contribute to meeting statutory targets for reductions on CO2 emissions, whilst Policy IN4 aims to

achieve an increase in the level of renewable energy generation in Swindon Borough through integrating renewable/low carbon energy in new development. Although the application is not accompanied by an environmental/sustainability appraisal, nor any plans detailing sustainability measures, in the applicant's letter of the 28<sup>th</sup> February 2020 it is stated *'As well as our standard triple glazing and our external walls having insulated 150mm wide cavities, we will be proposing heating the homes with Air Source Heat Pumps rather than fossil fuel boilers'*. Whilst these measures would bring about environmental and sustainability benefits to the scheme, the detail is lacking within the application submission and any approval should be subject to the condition that full details are submitted to the LPA for approval.

75. Overall, it is considered that by virtue of the layout, design, scale and bulk, the development fails to respond to the local identity and character of the area, in conflict with Policy DE1 and Policy HA1 of the Local Plan and the Residential Design Guide. The development is also contrary to para. 127 of the NPPF which seeks to ensure developments *"are sympathetic to local character and history" and "establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials"*.

### **Residential Amenity**

76. Paragraph 127 of the NPPF requires that development promotes health and well-being with a high standard of amenity for existing and future users. Policy DE1 of the Local Plan requires consideration of amenity in respect of light, outlook, privacy, noise, disturbance, pollution and smell. The Residential Design Guide provides further detailed guidance in respect of Policy DE1.
77. No.27-29 Badbury currently enjoy unobstructed views across the development site from their rear elevations and gardens. Concern has been raised that a single storey rear extension and conservatory extension at No. 29 Badbury is not shown on the proposed site layout plan, which creates a false misrepresentation of the distance between the existing property and the proposed development with the conservatory extension at No.29 extending approximately 4.5 metre beyond the rear wall as currently detailed.
78. Revised layout plans have been submitted (Site Layout Rev H) which in reducing the number of units has effectively removed Plot 2 as initially proposed. Plot 1 has been re-orientated, with the gable end facing south east towards the rear of 27 Badbury. This south east facing gable includes a first floor en-suite window and given this is a non-habitable room, a condition could be imposed requiring that this window be obscurely glazed in order to protect the privacy of No. 27.
79. The Swindon Residential Design Guide SPD sets out separation distances to help relieve the impact of development for existing residents to ensure good solar access to rooms and gardens and to satisfy the privacy, outlook and amenity requirements of Policy DE1. The SPD sets out a minimum separation distance of 12 metres between development which is arranged rear to side. In the case of the gable end which forms the south east side elevation of proposed plot 1, a separation distance of 13 metres is achieved to the rear elevation of No.27 Badbury at the closest point. This achieves the standards set by the SPD, therefore the amenity of this

neighbour will not be unacceptably harmed. Given the off-set angle of the dwelling at Plot 1 to the rear elevations of No. 28 and No.29 Badbury, the proposal would not result in direct overlooking to the rear facing windows of these properties and therefore would not lead to unacceptable loss of privacy or light.

80. Whilst the proposal will obstruct views out from the existing dwellings located at the sites southern boundary, loss of view is not in itself a material planning consideration. Given the siting and orientation of the proposed dwellings in relation to the existing dwellings, it is not considered outlook will be harmed to an unacceptable degree to the extent that the development would be considered overbearing. Boundary fencing and appropriate landscaping to be agreed within a landscaping scheme, would help maintain privacy between gardens and ground floor windows. Overall, the scheme would not lead to an unacceptable impact to neighbouring amenity in accordance with Policy DE1, the SPD and the provisions of the NPPF.
81. It is considered that the future residents of the development would also benefit from suitable amenity levels in terms of privacy levels, outlook, access to light, internal and external space. Each dwelling would have access to private external garden areas and whilst the configuration of plots 5-7 results in a somewhat narrow and awkward external amenity space, on balance, in considering these are 2/3 bed dwellings, the garden size is adequate. The internal floor area of Plots 5 & 8 (2 bed, 4person) at 73.9m<sup>2</sup> falls slightly below the national standard of 79m<sup>2</sup>, as well as Plots 6 & 7 (3 bed, 5 person) which achieve 92.2m<sup>2</sup> compared to the national standard of 93m<sup>2</sup>. On balance, this discrepancy is not considered to be significant and the development would overall provide a good standard of living for future occupiers. With regard to residential amenity the development is compliant with Policy DE1 of the adopted Local Plan.
82. In addition to Policy DE1, Policy EN7 of the Local Plan requires that where development would be adversely affected by the emissions of pollutants from an existing use, the proposal will only be permitted where the users of the future development are protected from loss of amenity from those emissions in accord with Policy DE1. Paragraph 180 of the NPPF requires an assessment of new development to ensure it is appropriate for its location taking into account the likely effect of pollution on health and living conditions. The M4 motorway is located approximately 150m to the north of the site. Following a noise survey carried out at the site and in consideration of the internal and external noise levels as detailed in the British Standard BS 8233:2014, the assessment indicates that a suitable internal noise climate can be achieved with the windows closed and therefore mechanical ventilation systems are recommended. Acoustic fencing is proposed to the northern boundary and part of the western boundary of the site to achieve the daytime external amenity noise criteria within the gardens. The Environmental Health Officer is satisfied with the measures proposed, subject to these being secured by condition and post development validation surveys to demonstrate the standards have been achieved. The development complies with Policy DE1, EN7 and the provisions of the NPPF in residential amenity terms.

## Highway Access, Safety, Parking and Accessibility

83. Policies TR1 and TR2 of the adopted Swindon Borough Local Plan seek to ensure new development is located and designed to reduce the need to travel and to encourage sustainable alternatives and that access for developments is appropriate to the scale, type and location of the proposal without detriment to highway safety and traffic movement. The NPPF at paragraph 108 requires appropriate opportunities to promote sustainable transport modes can be or have been taken up, safe and suitable access to the site can be achieved for all users, any significant impacts from the development on the transport network or on highway safety can be mitigated to an acceptable degree.
84. Paragraph 103 of the NPPF states that “significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes”. Policy SD1 of the Local Plan states that development should be accessible by walking, cycling and/or public transport and Policy TR2 states that new development should be located and designed to reduce the need to travel and to encourage the use of sustainable transport alternatives, particularly walking and cycling, and provide the potential to maximise bus travel.
85. The development site is located in close proximity to the settlement of Badbury, although Badbury itself is very limited in terms of facilities and services with only a public house. The village of Chiseldon is located to the south west of Badbury, beyond the A346 Marlborough Road and has facilities such as a primary school, doctors surgery a parish church, pubs and hotel, a Spar shop and petrol station. Three Trees Farm Shop and Café is also located to the south of the Chiseldon village. The closest of these facilities is located approximately 15-20 minutes walk away from the application site. It is also noted some employment opportunity exists in the Old Dairy business park located in the south part of the village and at the care home. The village of Badbury is not itself served by a bus service, with the nearest bus stops located on the A346 Swindon to Marlborough Road at the junction with Badbury, at a distance of approximately 0.5-0.6 miles from the application site and a 10-12 minute walk. A regular Monday- Friday bus service is provided, with a slightly reduced service on a Saturday.
86. Whilst some of the local services and facilities, including the bus stops, are located within what might be considered an achievable walking distance, the quality of the walking environment must also be assessed. The route between the proposed development site and just before the junction with the A346 to access the facilities within Chiseldon, lacks pavements and instead pedestrians would have no choice but to walk along the grass verge or road. There is limited street lighting within the village core, with a lack of street lighting between the edge of the village and the A346 (Marlborough Road) which further reduces the attractiveness of the walking route. As identified above, future residents would also have to cross the busy A346 which has no controlled pedestrian crossing facility, in order to access the services and facilities in Chiseldon and the north bound bus stop to Swindon. For these reasons, walking and cycling is unlikely to appear as a very attractive option for residents, particularly in hours of darkness. That said this doesn't mean that no new residents will choose to cycle or walk.

87. Although paragraph 103 of the NPPF acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (and this should be taken into account in decision-making), it is difficult to argue that the site is genuinely well located to minimise travel and maximise the use of sustainable transport modes. Instead, Officers are of the view that the development is poorly accessed and would be car dependent, contrary to the spirit of the NPPF and policies SD1 and TR2 within the Local Plan. As a consequence this weighs against the development.
88. The development site itself would be accessed directly from Medbourne Lane to the east of the site, in the form of a new simple priority junction. The road is derestricted at this point i.e subject to a 60mph speed limit, although the Badbury village signed boundary and associated 30mph speed limit is immediately to the south of the proposed access, meaning traffic speeds past it can be expected to be below the posted 60mph limit.
89. Highways Officers consider that the proposal will generate relatively low levels of vehicle traffic with generated movements likely to be split between movement to the south, towards the A346, and movement to the north in the direction of Swindon. Highways Officers confirm that by way of the volume of vehicle flow and geometry of the local highway network, no issue of network impact or safety concern is raised.
90. The Highway Officer requested further details were submitted to evidence existing vehicle speeds or alternatively a visibility splay appropriate to the posted speed limit is demonstrated on the proposed site layout plan, in order to confirm the acceptability of the access in highway safety terms. Information has been provided on traffic speeds and the Site Layout Plan updated accordingly. The Highways Officer is content that the means of access shown on the updated Site Layout Plan is safe for both drivers and for pedestrians.
91. The proposed dwellings are to be served by a short street, proposed to be offered for adoption. Concern was raised with the initial plans due to both the geometry of the on-site street which did not lend itself to shared use, the access to terraced plots fronting Medbourne Lane and the dimensions of some of the car parking spaces. The Highways Officer has confirmed that the layout proposed in the Site Layout Plan Rev H, is acceptable in terms of the highway geometry with a uniform 6m shared space now shown. The revised scheme also accommodates a footpath connection to the terrace fronting Medbourne Lane (now plots 9, 10 and 11).
92. Policy TR2 of the Local Plan requires parking is provided in line with the Council's adopted Parking Standards. The Council has recently adopted new Parking Standards in January 2021, which require 1-2 bed dwellings in this location provide 2no. parking spaces and 3+ bed dwellings provide 3no. parking spaces. As a result of the newly adopted standards, Plots 6 and 7 now fall one parking space short of the required number, providing 2 spaces instead of 3. The proposal make provision for three visitor parking spaces and in that respect, fully accords with the new Standards. The development is seen to fall below the standards set in the

new Parking Standards document, in as much as two of the eleven dwellings fall short by one space. Highways Officers recommend that given the site-specific circumstances, the non-compliance would be unlikely to give rise to a significant hazard to highway safety and do not therefore recommend refusal on parking grounds. The parking can therefore be accepted.

### **Biodiversity**

93. The NPPF requires biodiversity to be taken into consideration during the determination of applications, avoiding significant harm to biodiversity and promoting opportunities to incorporate biodiversity improvements in and around developments. Policy EN4 Biodiversity and Geodiversity of the adopted Local Plan is also relevant.
94. The planning application is supported by a Preliminary Ecological Appraisal Report (November 2020). The Council's consultant Ecologists have reviewed this report and advise that it provides a sound assessment of the sites current status and potential for protected and notable species to be present. Suitable recommendations are given for detailed presence/absence surveys for reptiles, the results of these should be reported, with appropriate precautionary working methods/mitigation clearly set out for the approval of the LPA. The provisional ecological enhancement/mitigation measures are appropriate and have been made into recommendations which can be conditioned with any approval. A lighting plan needs to be provided which will keep retained habitats in darkness. Works are also to be carried out in accordance with the submitted Tree Survey and Arboricultural Impact Report (P.M. Griffiths, November 2020) and associated Tree Survey / Tree Protection Plan (Drawing no. 069/401 Rev. A). To achieve net biodiversity gain, the application proposes a wildlife pond to increase aquatic habitat availability, green spaces sown with wildflower and grass seed mix, bird/bat boxes, habitat piles, hedgerow creation and/or restoration. The Council's Ecologist confirms that the proposal is acceptable with regards to Ecology and recommends a series of conditions should planning permission be granted. The proposal is considered to meet the requirements of Policy EN4 and the NPPF.

### **Arboricultural**

95. Policy EN1 of the Local Plan requires that development provides for the protection and integration of visually or ecologically important existing trees, hedges and woodlands. The application is supported by a tree survey and arboricultural impact report (ref PMG/C154, November 2020) that also includes an assessment of the implications of the proposed development on the existing trees and a tree protection plan. The existing trees are around the periphery of the site, located along the western and southern boundaries, and the development footprint is largely outside their root protection areas (RPA). There is a maturing Hawthorn (T9) adjacent to the proposed access and it is identified for removal. The Arboricultural Officer is in agreement with the tree survey assessment that the tree's form is affected by the proximity to the overhead cables and acknowledges that, if planning permission is granted, its loss could be mitigated by replacement planting along the same boundary.

96. The Arboricultural Officer initially raised concern in relation to proposed plot 3 and the conflict with trees in the north west corner of the site. These matters have now been satisfactorily addressed in Site Layout Rev H, updates to Plot 3 Rev C, updated Tree Survey and Arboricultural Report (Nov 2020) and updated Drainage Strategy Rev A and involve: revising the internal layout of the dwelling in Plot 3 to emphasise access to the rear garden space over the side which is constrained by the overhanging tree canopy of two sycamores; moving the garage further to the east away from the boundary hedge; re-routing the proposed soakaway to avoid the root protection area of adjacent trees; re-siting the acoustic fencing at the north west corner of the site with the methodology proposed as hand dig; the siting of the fence posts to avoid any damage to the root systems of the adjacent trees. The Arboricultural Officer raises no objection following these amendments. The proposal has demonstrated that visually and ecologically important trees and hedges will be protected, according with Policy EN1 of the Local Plan.

### **Drainage**

97. Policy EN6 of the Local Plan seeks to minimise the risk and impact of flooding. The application is supported by a Drainage Strategy. The LLFA raise no objections and propose conditions be added to any permission granted. Thames Water also raise no capacity issues and make a number of advisory informative comments, which can be added to the decision notice.

### **Affordable Housing**

98. Paragraph 64 of the NPPF states where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution from the site). Policy HA2 of the Swindon Borough Local Plan requires affordable housing is sought on site at a ratio of 30% on all suitable sites proposed for development that comprise 15 or more dwellings or sites of 0.5 hectares or more. As the site is 0.6 hectares, the threshold is met and the application proposes affordable housing on site at a ratio of 36.4%, which exceeds the requirement set by Local Plan Policy HA2.
99. The Council's Housing team has raised concern whether a Registered Provider would be willing to take on the affordable units. However, White Horse Housing Association have confirmed an interest in taking on the affordable units. The affordable housing would need to be secured by way of a S106 legal agreement; it is advised that any S106 legal agreement require the relevant contracts to be entered into between White Housing Association and the landowners prior to commencing the development to alleviate any concerns the Site could not provide onsite affordable units.

### **Infrastructure Requirements:**

100. In addition to affordable housing which has been addressed above, this section considers the overarching infrastructure policy framework set out through Policy IN1 of the adopted Local Plan. The Community Infrastructure Levy Charging Schedule was adopted on 26th March 2015.

101. The Community Infrastructure Levy Regulations 2010 (as amended) 'CIL Regs' came into force on 6th April 2010. The CIL Regs Regulation 122 embedded three of the five tests of Circular 05/2005 as statute. Regulation 122 states that where an item of infrastructure may be requested as a planning obligation, in order to support a decision the three following test must be satisfied:

- Necessary to make the development acceptable in planning terms
- Directly related to the Development, and
- Fairly and reasonably related in scale and kind to the development.

102. Compliance with Regulation 122 is therefore material to any contributions that will inform a decision to grant planning permission.

103. The development would be CIL liable development based on the approved Community Infrastructure Levy Charging Schedule (April 2015). The development is located within the Council's adopted CIL Charging Schedule 6th April 2015 Residential Zone 2. The standard CIL rate as set out in the adopted CIL Charging Schedule do not reflect the rates that would be chargeable as these are index linked annually on the 1st January in any given year.

## **Open Space**

104. Policy EN3 of the adopted Swindon Borough Local Plan details a requirement for residential development to provide or contribute towards public open space in line with open space standards set out in appendix 3 of the Local Plan. This development would generate a requirement to secure off-site open space contributions. In the event that planning permission is granted, this would be necessary to secure by way of a S106 agreement.

## **Other Matters**

### **Strategic Housing and Economic Land Availability Assessment (SHELAA)**

105. Local Authorities' are required by the National Planning Policy Framework and Planning Practice Guidance to carry out a SHELAA. The SHELAA assessment aims to identify sites with potential for any future development. It does not allocate sites to be developed, nor confer any permission or authorisation for development. The site in question (as part of a slightly larger 0.72 hectare site) has been assessed against the SHELAA requirements and was found to be suitable for potential future development, however the SHELAA assessment did identify constraints in terms of the AONB and proximity to heritage assets.

### **Draft Local Plan and Sustainability Appraisal**

106. The proposed site was included as a potential housing allocation site in the Regulation 18 (Emerging Strategies) consultation of the Local Plan. However, the proposed site has not been taken forward as part of the Submission Draft Local Plan. The site has been assessed for the purposes of the Sustainability Appraisal Report of the Submission Draft Local Plan. The Sustainability Appraisal outline the primary reasons for the site's rejection as follows:

*“The Sustainability Appraisal identifies landscape and conservation concerns with the development of the site. Overall, it is felt that the potential dis-benefits of developing the site outweigh its benefits”.*

107. It is also noted that the site scored particularly poorly in terms of the Transport topic of the Sustainability Appraisal, in terms of its ability to reduce the need to travel and promote more sustainable transport choices, which was assessed in terms of accessibility to public transport facilities (including a regular bus service and commuter bus service).

## **Planning Balance and Conclusion**

108. Special attention has been paid to the desirability of preserving listed buildings and their setting and preserving or enhancing the character and appearance of conservation areas as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The scheme would cause ‘less than substantial harm’ to the setting, character and appearance of the conservation area as well as to Grade II listed buildings via development within their setting. The proposal fails to preserve the traditional, linear and agricultural character of the area or make a positive contribution to the locality in terms of its local character and distinctiveness. The site as existing adds to the significance of the listed buildings through the open, rural setting, which would be undermined by the proposed development. The NPPF requires any harm to the significance of any designated heritage assets should require clear and convincing justification and that the harm is weighed against the public benefits. The limited public benefits that arise from the development do not outweigh the ‘less the substantial harm’ identified. The proposal fails to preserve or enhance the setting of the conservation area or the setting of listed buildings, contrary to section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in conflict with Policy EN10 of the Local Plan and the NPPF which seeks to conserve the historic environment.
109. The proposal site is located outside the Badbury rural settlement boundary and constitutes development in the open countryside, contrary to Policy SD2 of the adopted Swindon Borough Local Plan 2026. As the Council cannot currently demonstrate a 5 year housing land supply and because of the provisions of Paragraph 11 d) of the NPPF, this is not sufficient to raise a policy objection in relation to this issue alone.
110. Paragraph 11 d) of the Framework, states that, in instances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. Pursuant to footnote 6, this includes the policies applicable to AONBs and designated heritage assets, which are both relevant considerations in the assessment of the proposed development scheme.
111. In light of the findings above on heritage assets, the application of policy on heritage assets in the framework provides a clear reason for refusing the

development. Turning to consider the impact on the AONB, the framework attributes great weight to conserving and enhancing landscape and scenic beauty of AONBs. Taking into account the nature, scale and setting of the proposal and relative to the limited size and existing settlement pattern of Badbury, it is considered that the proposed development of 11no. dwellings and associated works in this context constitutes major development within the AONB representing a circa 27.5% increase in the number of dwellings in the hamlet. Paragraph 172 of the NPPF directs that planning permission should be refused for major development in AONBs unless there are exceptional circumstances and where the development can be demonstrated to be in the public interest. It is acknowledged that the delivery of 11no. dwellings including 4 affordable units is a benefit given the absence of a 5 year housing land supply within the Borough. However, it is not considered that this constitutes exceptional circumstances required to allow development in the AONB, nor that the proposal would be in the public interest. The framework therefore provides a clear reason for refusing the proposal with regards to the impact on the AONB. The proposal is contrary to Policy EN5 of the Local Plan, the AONB Management Plan and the provisions of the NPPF.

112. The presumption in favour of sustainable development, or tilted balance, does not apply given the clear harm identified to the areas and assets of particular importance which includes to designated heritage assets and the AONB. Although the tilted balance is not engaged in this case, for completeness it is felt useful to comment on part ii) of paragraph 11d) as to whether the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. There are benefits to the proposal which would include the provision of housing in the context of the current housing land supply shortfall, together with the affordable units the scheme would deliver in a rural area, the contribution towards economic growth during the construction phase and the additional population created would also be likely to assist the local economy in terms of utilising local services. Nonetheless, the benefits would be limited given the reasonably modest scale of the development proposed. Considering the harm identified to the character and appearance of the conservation area and setting of listed buildings and the building of local interest, the harm to the landscape and scenic beauty of the AONB, the harm caused to the character of the area in terms of design and layout, together with the poor accessibility of the site and reliance on private motor vehicles, the benefits of the development would not outweigh the harm identified above. The proposal conflicts with Local Plan Policies SD1, SD2, DE1, HA1, EN5, EN10, TR2, the Residential Design Guide (2016) and the provisions of the NPPF. As such, the proposal does not represent sustainable development and permission should be refused.

## Recommendation

113. That Planning permission be **REFUSED**.

## **Reasons**

1. The application proposes the unsustainable development of a greenfield site located within the countryside, outside the identified Badbury rural settlement boundary as shown on the Local Plan Policies map. The proposal does not comply with policies SD1 (Sustainable Development Principles), SD2 (The Sustainable Development Strategy) of the Swindon Borough Local Plan 2026 (2015) and the NPPF (2019).
2. By reason of its context and location, the proposed development constitutes major development in the AONB for which exceptional circumstances have not been demonstrated, nor is the proposal in the public interest. The development would result in a detrimental impact upon the character and appearance of the area and would not conserve or enhance the landscape or scenic beauty of the North Wessex Downs Area of Outstanding Natural Beauty. In these respects, the development is contrary to Policy EN5 of the Swindon Borough Local Plan 2026 (2015), the provisions of the NPPF (2019) and the North Wessex Downs Management Plan 2019-2024.
3. The proposed scheme would result in an incongruous, prominent form of development that has an unacceptable design and in principle which causes harm to the setting, character and appearance of the conservation area as well as to other designated and non-designated heritage assets via development within their setting. The proposal would fail to preserve the traditional, linear and agricultural character of the area and fails to make a positive contribution to the locality by not embracing the qualities of local character and distinctiveness. The proposal is, therefore, contrary to Policies DE1, EN5 and EN10 of the Swindon Borough Local Plan 2026 (2015) and the heritage paragraphs of the NPPF (2019).
4. The proposal, by reason of its siting, design and layout, would appear out of context with its surroundings failing to respect the character and visual amenity of Badbury and the rural setting. The proposal is therefore contrary to Policy DE1 and Policy HA1 of the Swindon Borough Local Plan 2026 (2015), the adopted Swindon Residential Design Guide (2016) and the NPPF (2019).
5. The development site is remote from services and facilities and offers very limited opportunities for public transport. The development would as a consequence be car-dependent and contrary to the requirements of para 103 of the NPPF (2019) and Policy TR2 and Policy SD1 of the Swindon Borough Local Plan 2026 (2015).

## **Informatives**

1. This decision shall be in respect of the following plans and documents:

Design and Access Statement, Heritage Assessment (DPDS, November 2019),  
Location Plan Drawing No 069-51, Refuse Vehicle Swept Path Analysis Drawing

No B726/1, Thames Valley Archaeological Services Archaeological Desk Based Assessment (dated November 2019) all received by the Local Planning Authority on the 2<sup>nd</sup> December 2019

Landscape Appraisal (Patrick Griffiths, dated October 2019) received by the Local Planning Authority on the 16<sup>th</sup> December 2019

DPDS Letter in response to Conservation comments (dated 10<sup>th</sup> February 2020), Significance Matrix, Badbury View Comparison, Representations in respect of the Swindon Borough Local Plan 2036 Regulation 19 Submission Draft Consultation (dated January 2020) all received by the Local Planning Authority on the 11<sup>th</sup> February 2020.

Email correspondence PFA Consulting dated 14<sup>th</sup> February 2020 received by the Local Planning Authority on the 14<sup>th</sup> February 2020

Topographical Survey Drawing No 19916-200-01 received by the Local Planning Authority on the 17<sup>th</sup> February 2020.

Planning Noise Assessment 20/0069/R1 received by the Local Planning Authority on the 30<sup>th</sup> March 2020

Thames Valley Archaeological Services Archaeological Evaluation (BLB19/159, dated April 2020) received by the Local Planning Authority on the 24<sup>th</sup> April 2020

Plot 1 Drawing No 069/110 Rev A, Plot 2 Drawing No 069 128, Plot 4 Drawing No 069/129, Plot 5 -8 Drawing No 069/118 Rev C, Plot 9 -11 Drawing No 069/119 Rev B, Garage Plots 1, 3, 4, 9 and 11 Drawing No 069/25 Rev C, Material Schedule Drawing No 069/60 Rev B, Schedule of Gross Internal Floor Space in m2, Street Space Diagram Drawing No 069/130, Proposed Drainage Strategy Statement B726 Revised all received by the Local Planning Authority on the 26<sup>th</sup> August 2020.

Preliminary Ecological Appraisal Report (UE0409\_BerricotLn\_PEA\_2\_201116, November 2020) received by the Local Planning Authority on the 17<sup>th</sup> November 2020.

Plot 3 Drawing No 069/115 Rev C, Site Layout Drawing No 069/101 Rev H, Drainage Strategy Drawing No B726/03 Rev A, Tree Survey and Arboricultural Impact Report PMG/C154 November 2020, Landscape Layout Drawing No 069/400 Rev E, Local Character Drawing No 069/130 Rev B all received by the Local Planning Authority on the 23<sup>rd</sup> November 2020.

2. CIL Liable Development: This development constitutes Community Infrastructure Levy (CIL) liable development. CIL is a mandatory financial charge on development.

End of Report