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## Appeal Decision

Inquiry held on 21 to 24 February and 6 to 8 and 20 March 2023

Site visit made on 10 March 2023

**by O S Woodward BA(Hons.) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> June 2023

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**Appeal Ref: APP/Y3940/W/22/3308919**

**Land at Station Works, Station Road, Tisbury SP3 6QU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Tisbury Community Homes against Wiltshire Council.
  - The application is Ref PL/2021/09778, dated 27 September 2021.
  - The development proposed is redevelopment of the Station Works site to provide a mixed development of up to 86 dwellings, a care home of up to 40 bedspaces with associated medical facilities, new pedestrian and vehicular access and traffic management works, a safeguarded area for any future rail improvements, and areas of public open space.
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### DECISION

1. The appeal is dismissed.

### APPLICATIONS FOR COSTS

2. An application for costs was made by Tisbury Community Homes against Wiltshire Council. This application will be the subject of a separate Decision.
3. An application for costs was made by Tisbury Community Homes against Tisbury Parish Council. This application will be the subject of a separate Decision.
4. An application for costs was made by Tisbury Parish Council against Tisbury Community Homes. This application will be the subject of a separate Decision.
5. An application for costs was made by Wiltshire Council against Tisbury Community Homes. This application will be the subject of a separate Decision.

### PRELIMINARY MATTERS

#### Background

6. The appeal is for outline planning permission with access applied for in full and all other matters reserved. It has been agreed that the following drawings are the formal drawing set for the appeal: Refs LP01 Rev A, ESP01 Rev A, SS01 Rev A, S0001 Rev P2, S0002 Rev P1, and P6222 Rev P3. An illustrative masterplan has also been submitted. Although this is illustrative, there is nothing before me to suggest that a substantially different design would be likely to come forward at reserved matters stage. I have had regard to the

masterplan as appropriate throughout my Decision whilst acknowledging its illustrative nature.

7. Tisbury Parish Council (TPC) has been granted Rule 6 status for the appeal.

### **Planning Policy**

8. The Development Plan includes the Wiltshire Core Strategy 2015 (the CS), the Salisbury District Local Plan 2003, saved policies 2011 (the LP), and the Tisbury and West Tisbury Neighbourhood Development Plan 2019-2046, made 2019 (the TisPlan). The entire site, apart from a small section near Jobbers Lane, is allocated for development in the TisPlan, under Policy BL.7. I have had regard to this as appropriate throughout my Decision.
9. There is an emerging Local Plan, the Wiltshire Local Plan 2016-2036, but this is in the very early stages of production and has not yet undergone its Regulation 19 consultation. Since the policies in the plan are likely to be the subject of modification before the plan is adopted, it has very limited weight at this time. The TisPlan is in the very early stages of being reviewed. For the same reasons, this also has very limited weight.

### **Submissions**

10. A number of submissions were received during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required. The proposal itself did not change. A full re-consultation was undertaken regarding the phosphate mitigation proposals, with 21 days provided for comment between 1 and 22 March 2023. There would therefore be no prejudice to any party from my consideration of these documents and the appeal is determined on the basis of the revised and additional documents and drawings.

### **Putative Reasons for Refusal**

11. The appeal is made against the failure to determine the application within the statutory period. Since the appeal was made, the Council took the application to Planning Committee and agreed five putative Reasons for Refusal, if the Committee had been able to make a decision<sup>1</sup>.
12. The third putative Reason for Refusal includes an objection regarding the effect of the proposal on local infrastructure in the absence of a completed s106 Planning Obligation, in particular management and maintenance of the proposed open space, on-site waste facilities, railway land access, rights of way, off-site education facilities, and public art. A s106 Planning Obligation, dated 6 April 2023 (the s106) has since been submitted. The s106 secures:
  - in relation to the land for the construction and operation of the railway improvements and access to the land, the following:
    - identification of the land within which railway improvements works to widen the railway or to carry out station improvements would take place;
    - a multi-modal access between Jobbers Lane and the railway land; and,
    - safeguarding of the land and the access land;

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<sup>1</sup> See minutes of Southern Area Planning Committee of 10 November 2022

- a care home within Use Class C2 on the appeal site, for up to 40 bedspaces;
  - a Framework Travel Plan;
  - the provision, maintenance and retention of open space on the appeal site, as follows:
    - open space directly adjacent to the proposed care home;
    - a banked area of open space of at least 1.66 hectares (ha) to also include ecological mitigation land;
    - the residential open space;
    - a Management Company to manage and maintain the open space;
    - a Management Scheme to set out the detail for the management and maintenance;
    - a Landscape Plan; and,
    - if there is a shortfall of on-site open space provision at reserved matters stage, a contribution towards upgrading off-site public open space within the vicinity of the proposal;
  - contributions towards:
    - upgrading existing off-site equipped play areas in the vicinity of the proposal;
    - public art provision within the Tisbury Parish;
    - upgrading youth and adult recreation facilities within the vicinity of the proposal;
    - improving rights of way within the vicinity of the proposal; and,
    - on-site waste and recycling bins for the proposed residential homes.
13. There is a small area of unregistered land in the middle of the appeal site that has been excluded from the s106. The land is in an area that would almost certainly require development, either for the proposed access road or dwellings. However, the area of land is small and very narrow. There is no realistic possibility that this area could be developed independently or that any element of the proposal could come forward without complying with the s106. The s106 would remain enforceable because it covers the vast majority of the appeal site and proposal. The s106 is therefore acceptable in this respect.
14. The Council's CIL Compliance Statement, dated 20 March 2023, sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 as amended (the CIL Regs) and the tests at Paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. It has been confirmed<sup>2</sup> that the Council no longer seek contributions towards off-site education infrastructure. This element of the third putative Reason for Refusal is not therefore a main issue for the appeal.
15. The s106 also secures 21% of the residential units (ie not the care home units) to be affordable housing at a split of 60% affordable rented units and 40% shared ownership units. This equates to 11 affordable rented units and seven shared ownership units. Policy CP43 of the CS requires 30% affordable housing but this can be varied depending on the viability of the proposal. In the lead-up to the Inquiry, it has been agreed between the Council and the

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<sup>2</sup> See Paragraph 8.4 of the Statement of Common Ground, dated 1 March 2023

appellant that the proposed level of affordable housing is the maximum viable amount<sup>3</sup>. This element of the third putative Reason for Refusal has also, therefore, fallen away.

16. The final strand of the third putative Reason for Refusal is that the proposal does not provide a contribution towards nitrate mitigation. During the course of the Inquiry, the appellant provided additional information regarding phosphate mitigation measures. The Council is happy that this addresses its objections regarding nitrate mitigation. However, this remains a disputed issue with TPC and I deal with this in the Other Matters section of my Decision.

## **MAIN ISSUES**

17. The main issues are, therefore, as follows:

- whether or not the proposed land use is acceptable, with particular regard to the principle of the proposed loss of the existing commercial/industrial land uses and replacement with housing and a care home, including considering the need for a care home;
- whether or not the appeal site is suitably accessible, with particular regard to providing adequate access to services and facilities including in the event of flooding;
- the effect of the proposal on the character and appearance of the area, including whether or not it would conserve or enhance the landscape and scenic beauty of the Cranborne Chase Area of Outstanding Natural Beauty;
- whether or not the proposal would preserve or enhance the character or appearance of the Tisbury Conservation Area;
- the effect of the proposal on the special architectural and historic interest of listed buildings, St John the Baptist and Gaston Manor;
- the effect of the proposal on highway safety;
- the effect of the proposal on the efficient operation of the highway network in the vicinity of the appeal site; and,
- the effect of the proposal on healthcare.

## **REASONS**

### **Land Use**

18. The appeal site is only partially occupied. Policy BL.7 of the TisPlan explicitly allocates the site for a mixture of residential (point 4) and commercial (point 7) uses. Loss of the existing employment floorspace and land is therefore acceptable in principle, subject to considering what is proposed in replacement. Up to 86 dwellings are proposed. Policy BL.7 estimates the capacity of the site to be 60 dwellings. However, this is an estimate and not an upper limit. The overall density expected on the appeal site through Policy BL.7 is also not clear because it allocates an unspecified amount of commercial uses to the site. I therefore see no reason why up to 86 dwellings should not be proposed on the appeal site, in-principle.
19. An up to 40-bed care home, in Use Class C2, is also proposed. The care home would create approximately 40 full time equivalent (FTE) jobs. There would be a reasonable variety of roles. I acknowledge that many of the jobs would

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<sup>3</sup> See Paragraph 6.1 of the Statement of Common Ground, dated 1 March 2023

likely be relatively low paid and that the variety of employment opportunities would be lesser than more traditional commercial or industrial floorspace. Nevertheless, the existing site only provides 22 FTE jobs<sup>4</sup>, so this would represent an increase on existing.

20. The Council's economic development team has stated that the appeal site would be suitable for small and medium sized commercial units. I see no reason to dispute this. However, the Council as a whole does not object to the principle of a care home as a commercial use and Policy BL.7 does not mandate commercial or industrial uses for the employment element of the floorspace. The important factor is that the care home would provide a use that generates on-going employment. It has also been demonstrated that if more traditional commercial or industrial uses were proposed then this would harm the viability of the proposal to the extent that no affordable housing could be provided.

#### *Care home need*

21. Policy CP46 of the CS, although promoting independent living, ie extra care, where practicable, also explicitly encourages care homes. However, where they are to be located outside the larger settlements, as is the case with the appeal proposal, they must meet a number of exceptions. One of these exceptions is that need for the care home is demonstrated. In this regard, the appellant has submitted a Desktop Market Analysis, dated January 2023 by Christie & Co (the DMA).
22. The DMA finds supply of 113 beds in four care homes as existing and 64 further beds in one forthcoming care home. The conclusions are based on adopting a 10 km catchment area. Alternative evidence has been provided by TPC using a 10 mile catchment area, resulting in a supply of 430 beds. Shaftesbury is included within the 10 km catchment. In addition, Mere, Warminster and Gillingham are included within the 10 mile catchment. I acknowledge that the appeal site is close to the railway station and therefore could be more attractive to persons from Gillingham than might otherwise be the case, even if that is in relation to accessibility for the children of the occupants. However, Tisbury is its own settlement with its own rural catchment area, which should be the focus of the assessment of need. The number of alternative settlements should be minimised and I therefore adopt the 10 km catchment used by the DMA.
23. The supply in the DMA has excluded Albany House, which is the only existing care home in Tisbury, because of a high likelihood of it closing because of its outdated design and facilities, in particular a lack of en-suite rooms. I do not agree with excluding Albany House. Even if it has relatively outdated facilities, it is an existing operating care home and no substantiated evidence has been provided that it is closing or likely to close. The 19 beds in Albany House should therefore be included in the supply. The supply is also based on occupancy figures for existing care homes. The appellant has used a 'mystery shopper' technique to establish existing occupancy. TPC has arrived at different occupancy figures using Quality Care Commission data. Both methodologies are relatively robust which is likely why the difference between them is only 12 beds. Adopting the 'worst case' TPC data and including Albany House, the supply stands at 144 beds now and 208 in 2033.

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<sup>4</sup> I have adopted this figure because it is based on the evidence of the appellant who is also the landowner

24. The DMA calculates demand by applying Laing Buisson proportions<sup>5</sup> of the overall 65+ year old population within the catchment area, and then projecting the population to 2033. This equates to demand for 242 beds now and 332 beds in 2033. Although not included within the figures, the relatively higher dementia rate in Wiltshire, at 1.58% compared to the UK average of 1.33%, is also highlighted as a driver of demand. TPC has found that only 19 beds would be required as of 2040 from people who live in Tisbury, but this does not reflect the appropriate catchment area. TPC has also used a flat demand rate of 0.56% of 75+ year olds requiring care home accommodation. The Laing Buisson proportions used by the appellant are more granular, are based on a recent Elderly Care Market Report from 2021-22 and are logical in greatly increasing the demand as persons age. I have therefore adopted the appellant's figures in this respect.
25. The demand for care home beds is significantly higher than supply, both now and in 2033. Need for a care home in Tisbury has therefore been demonstrated and the proposal complies with Policy CP46 of the CS in this regard. The care home element of the proposal also complies with Policy BL.1 of the TisPlan, which requires suitable older persons accommodation to reflect evidence of need.

#### *Overall*

26. The loss of the existing commercial/industrial uses and the proposed mix of uses is therefore acceptable in-principle. The proposal complies with Policy BL.7 of the TisPlan in this respect. By extension, it also complies with Policy CP27 of the CS, which cross-references to Policy BL.7. It complies with Policy EB.1 of the TisPlan, which encourages new business and employment development on previously developed land. It complies with Policy BL.3 of the TisPlan insofar as it encourages the principle of development of previously developed land.
27. The proposal partially complies with Policy CP35 of the CS in that it would result in more FTE than would be lost and because the existing partially derelict and underused site is a significant detriment to the environment and amenity of the area. It would conflict with other elements of the policy, in particular regarding replacement employment land and marketing evidence regarding the existing use. However, these elements of the policy are subservient to the specific site allocation Policy BL.7 of the TisPlan and I place very limited weight on these conflicts.

#### **Accessibility (including flooding)**

##### *Public transport, services and facilities*

28. The appeal site is adjacent to Tisbury Railway Station. This provides regular services to Exeter and the west country and to Salisbury and onwards to London to the east. The nearest bus stops are by the station and provide infrequent services to Salisbury and Shaftesbury. The bus routes therefore provide limited accessibility. However, for such a rural location as Tisbury, the train services are excellent and provide direct and fast access to the wide range of services and facilities in Salisbury, Gillingham, and beyond. The site

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<sup>5</sup> 0.54% of 65 – 74 years, 3.30% of 75 – 84 years, 13.40% of 85+ years

is also close to the relatively wide range of local services and facilities along Tisbury High Street.

29. The appeal site is therefore close to meaningful public transport, services and facilities. However, they are all on the opposite side of the railway from the site. There is a level crossing, for pedestrians only, over the railway line (the Chantry crossing) that is also part of a Public Right of Way (PRoW, TISB 16) that runs from the crossing then through the appeal site before heading to the north and east. However, Network Rail (NR) has requested that there be no access between the Chantry crossing and the appeal site, for safety reasons. It is therefore proposed to close-off this route to the future occupants of the proposal.
30. If works come forward to dual the railway line and redevelop the railway station then they could include a new crossing of the railway that would directly link to the appeal site. The Council and NR have entered into preliminary discussions regarding the potential enhancements to Tisbury Railway Station. TPC has also confirmed that it has met with NR<sup>6</sup> who confirmed it has secured funding to produce a Strategic Outline Business Case to consider the railway station works. The report is due at the end of 2023. However, as it stands, there are no definitive commitments regarding the enhancements, no detail on any potential crossings of the railway, and no timetable for the works if they were to come forward.
31. The appeal proposal does not, therefore, rely upon a new crossing of the railway line as part of the railway works. The only alternative route is to travel along Jobbers Lane underneath the Three Arch Bridge (the 3AB) and then along Station Road<sup>7</sup> up to the station. It is this route which is put forward by the appeal proposal.

#### *Access under the 3AB*

32. The 3AB currently provides vehicular traffic through two of its arches, one in each direction, and the third arch is for the River Nadder. For pedestrians, the route through the 3AB currently involves using a narrow footpath that runs along the opposite side of the road from both the station and the entrance to the appeal site. There are no formal crossing points for pedestrians. There is no access for the disabled or segregated cycle routes.
33. A combined pedestrian and cycle way (hereon in 'the walkway') is proposed along Jobbers Lane to provide access to the appeal site. This would run from the appeal site, through one arch of the 3AB and terminate at a proposed pedestrian crossing over Station Road. Therefore, one of the lanes of vehicular traffic through 3AB would be closed. It is proposed to replace this with signal controls so that traffic can alternately pass in both directions through the one remaining arch.
34. Details of the required road and signal works and the limit of the proposed walkway and its detailed design have been provided but would be the subject of final agreement with the Highways Authority (the HA) and the Council. The

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<sup>6</sup> See Pedestrian and Cycle Crossing at Tisbury Rail Station Notes of Online Teams Meeting, dated 14 December 2022

<sup>7</sup> I am unclear precisely where the one physical road that runs past the appeal site and through the 3AB into the village changes name from Jobbers Lane to Station Road. However, for clarity of description, in this Decision I call it Jobbers Lane to the south of the 3AB and Station Road to the north

proposed walkway would be outside of the red line. However, the proposed walkway is an integral part of the proposal and has been relied upon by the appellants throughout the appeal. There are no alternatives before me. It is therefore necessary for me to assess the walkway as part of the proposal, whilst making suitable allowances for any changes to its detailed design that might be possible either at condition discharge or highways agreement stages.

35. The walkway would be segregated from the vehicular traffic. A signal controlled crossing of the road would be provided at the end of the walkway to join the existing footway on the western side of the road. Bus swept path analysis has been provided<sup>8</sup> showing, even with the existing footway retained, there would be sufficient space. Busses, and indeed cars, would need to travel on the carriageway at the point where people would likely be walking in the road to the north of the proposed crossing. However, traffic speeds would be low given the proximity of the bridge and visibility would be acceptable so I see no reason why this would unacceptably harm highway safety.
36. As it passes through the 3AB, the walkway would have a minimum clearance height across of at least 2.7m, complying with DfT Transport Note 1/20<sup>9</sup>. The proposed walkway would be 3m wide. This meets DfT standards where there would be a peak hourly cycle flow of 300 bikes or less, as would likely be the case for the proposed walkway, even with handrails of the height proposed. In addition, signage encouraging cyclists to dismount on the walkway could be erected and secured at reserved matters or highways agreement stages, and cyclists would have the option of using the vehicular route instead.
37. The walkway would therefore be an acceptable design to accommodate both pedestrians and cyclists, including for disabled persons. The proposal would, overall, improve access to the appeal site, and from the appeal site to the other side of the railway, through improvements to the current footway underneath the 3AB, the removal of the requirement to cross the road to the south and the introduction of a signal controlled crossing to the north of the bridge.

#### *Onward access to High Street and the railway station*

38. Policy BL.7 of the TisPlan requires that pedestrian access must be provided between the appeal site and Tisbury. The walkway and pedestrian crossing by itself would not provide access to Tisbury High Street or the railway station. It is therefore necessary to consider onward travel to Tisbury. There are two onward routes to High Street, either using Stubbles Path or continuing to walk along Station Road which also provides access to the railway station.
39. The Stubbles Path route is largely unlit, although low level solar lighting is proposed, and has a lack of natural surveillance. It is also a rough surface and is not, therefore, suitable as access for the disabled. However, it is also an attractive route, over the river, and, because it is located in a village in Wiltshire, does not feel unsafe.
40. The Station Road route involves walking along the highway or on a pedestrian route that is simply painted onto the road rather than segregated. It does not

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<sup>8</sup> See drawing Ref 6175 Rev P1 in the Transport Rebuttal of Chris Stanyard

<sup>9</sup> See Paragraph 10.8.16



meet Government guidance for inclusive mobility<sup>10</sup> and nor is it particularly appropriate for able bodied persons. However, Station Road is relatively narrow, bendy, and has multiple entrances and exits. All these factors naturally limit traffic speeds, despite an almost entirely notional 60 mph speed limit along part of the road, which lessens the danger to pedestrians. It is also relatively lightly trafficked.

41. The proposal would introduce residential accommodation and the care home on the opposite side of the station, where none currently exists. However, the walkway would provide access to the village side of the 3AB. The onward routes are used by existing residents and other people in the village and it is beyond the reasonable scope of the proposal to remedy their deficiencies. In particular, the bridge over the River Nadder on Station Road is listed and would be very difficult to satisfactorily widen. Nevertheless, the s106 secures a contribution which could be used to improve the Stubbles Path. Overall, I view the onward routes as providing suitably safe access to the village and the railway station, in terms of highway safety.
42. Using the walkway, the walking distances<sup>11</sup> from the appeal site to the bus stops and railway station would be between 300m and 690m, depending on the part of the site used for the starting point. To the Co-op in the village centre would be between 580m and 970m. The railway station would therefore be within the recommended 800m walking distance, as set out by the Chartered Institution of Highways & Transportation<sup>12</sup>. The town centre would also be within the same recommended distance from the majority of the appeal site. The bus stops would be further than the recommended distance of 300m<sup>13</sup>. However, the bus service is so infrequent that the services would likely be rarely used in any event.
43. The distances would likely be too great for the majority, if not all, future occupants of the care home to independently access the off-site services and facilities. I acknowledge PPG requires inclusive design and location of individual buildings for older persons<sup>14</sup>. However, a care home is proposed, not an extra care facility, and the majority of the future occupants would be unlikely to access the services in Tisbury even if the home were much closer and on the other side of the railway station. The care home would, however, be accessible to those services and facilities for the visitors to the future residents and the employees.

#### *Fluvial flooding*

44. The River Nadder flows through one of the arches of the 3AB. The appeal site is largely in Flood Zone 1, low risk. However, the part of the site where the proposed vehicular access to the site with Jobbers Lane is proposed is in Flood Zones 2 and 3b. The proposed walkway under the 3AB would also be within Flood Zone 3b along most of its length as would the retained vehicular access under the 3AB. There are therefore two potential areas of vulnerability for the proposal in relation to flooding – under the 3AB and at the proposed vehicular site access to Jobbers Lane.

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<sup>10</sup> See Paragraph 4.2 of Inclusive Mobility A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure, dated December 2021, by the Department for Transport

<sup>11</sup> I have used the Council's distances which were agreed to be accurate by the appellant under cross-examination

<sup>12</sup> See Paragraph 6.4 of Planning for Walking by the CIHT, April 2015

<sup>13</sup> See Table 4 of Buses in Urban Developments by the CIHT, 2018

<sup>14</sup> See Paragraph: 018 Reference ID: 63-018-20190626

### Sequential test

45. It is proposed to replace employment/industrial floorspace with residential and care home floorspace, thereby replacing 'less vulnerable' uses with 'more vulnerable' uses<sup>15</sup>. Paragraph 166 of the Framework states that the sequential test does not need to be applied again to allocated sites in the Development Plan. The appeal site is allocated in the TisPlan. PPG<sup>16</sup> states that Paragraph 166 applies if the proposed development is consistent with the use for which the site was allocated, which is the case with the appeal proposal. Therefore, in accordance with Paragraph 166 of the Framework, the sequential test does not need to be considered again.

### Exception test and 'essential infrastructure'

46. Paragraph 166 of the Framework states that the exception test may need to be reapplied, even where the site is allocated, if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage. In this regard, the evidence base<sup>17</sup> for the TisPlan considered the flood risk of the access road onto the appeal site and Jobbers Lane itself and stated it was appropriate to make the site allocation as long as safe pedestrian access is provided across the railway line to provide direct access into the village centre. It does not specify whether the access across the railway should be through the 3AB or another route potentially as part of the railway enhancement works.
47. Therefore, whilst vehicular access through the 3AB and from Jobbers Lane onto the appeal site was considered as part of the site allocation, the walkway was not. Nor was it clear whether or not non-vehicular access was expected under the 3AB as opposed to over or under the railway line as part of the potential railway enhancement works.
48. In addition, the walkway is not within the site allocation and is within Flood Zone 3b for most of its length. The walkway is transport infrastructure which is essential to provide access to the appeal site, as established above, and which has to cross an area at flood risk. This falls within the definition of 'essential infrastructure' as set out at Annex 3 of the Framework. Table 2 in PPG says that 'essential infrastructure' in Flood Zone 3b requires an exception test and, in addition, must also pass three additional requirements<sup>18</sup>. I undertake this assessment, for the walkway, below.

The development would not impede water flows, increase flood risk elsewhere, where possible reduce flood risk overall, and result in no net loss of floodplain storage

49. The walkway would be a relatively small structure in terms of volume. I acknowledge that the existing raised footpath could be removed and this could be required by Grampian condition. However, the existing footpath and supporting structure is not particularly large and no substantiated evidence has been provided that the walkway could be designed so that the total volume, where it is within Flood Zone 3b, would be lesser than that of the

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<sup>15</sup> See Annex 3 of the Framework

<sup>16</sup> PPG Paragraph: 027 Reference ID: 7-027-20220825

<sup>17</sup> Strategic Environmental Assessment for the Tisbury and West Tisbury Neighbourhood Plan, January 2019 & The Tisbury and West Tisbury Neighbourhood Plan Site Assessment, June 2017 & Strategic Environmental Assessment for the Tisbury and West Tisbury Neighbourhood Plan, July 2017

<sup>18</sup> PPG Paragraph: 079 Reference ID: 7-079-20220825

existing footpath. It has not therefore been demonstrated that the proposal would not result in a net loss in floodplain storage.

50. The detailed design of the walkway could be controlled by condition and/or a highways agreement to be a relatively open structure, reducing its effect on the flow of water. In comparison to the overall upstream volume of water, the volume of the structure would be negligible. However, the effect at the localised level of the flow of water through the 3AB and immediately surrounding area is hard to predict and has not been modelled. The structure would be a relatively high proportion of the cross-sectional area under the 3AB where flood water would likely flow. It would also likely capture some debris, potentially further increasing any effect on flood water. It has not, therefore, been demonstrated that the walkway would not unacceptably impede water flows or increase flood risk elsewhere.
51. With regard to the proposal reducing flood risk overall, no works, for example to the upstream water meadows, are proposed. However, this is not a reasonable or proportionate expectation of the proposal and this is only a requirement 'where possible'.

The infrastructure must remain operational and safe for users in times of flood and will be safe for its lifetime taking account of the vulnerability of its users

52. Different hazard ratings are provided in two different documents produced by the Environment Agency (the EA) – FD2321/TR1 (TR1) and Flood Risks to People Phase 2 Guidance Document Ref FD2321/TR2 (TR2). The EA has provided guidance<sup>19</sup> that the ratings in TR2, despite pre-dating those in TR1, should be used. This is because TR2 is a practical measure whereas TR1 is more scientific and theoretical. I have adopted the EA's advice and used TR2, because a practical measure is a more reliable way to assess flood risk for a real life scenario, specifically Table 13.1.
53. The hazard rating of a flood is calculated by the depth multiplied by velocity plus the debris factor. The relevant depth of flooding is that of a design flood event, which is a flood of 1:100 years likelihood plus an allowance for climate change<sup>20</sup>. It is common ground, and I agree, that the allowance for climate change for the proposed walkway should be 40%, based on it being 'essential infrastructure' within Flood Zone 3b. Two primary models are available to assist with calculating the likely flood depths – EA2008 and JFlow. These are generalised models and it is common ground, and I agree, that they can only go so far in providing an accurate calculation of flood levels under the 3AB. However, data from the models can be combined with mapping data using nodes to understand likely flood levels in a design flood event. Node 1.008 is directly under the 3AB and therefore best represents flooding under the 3AB.
54. A design flood event based on a 40% allowance for climate change and this node would be 91.81m AOD under the 3AB. The proposed walkway would be at 91.3m AOD at its lowest point where it passes through the 3AB. This equates to flooding depths of 0.51m on the proposed walkway. No debris factor is therefore required because the flood depth would be shallower than 0.75m<sup>21</sup>. The velocity is difficult to calculate but it would be unlikely to be

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<sup>19</sup> Supplementary Note on Flood Hazard Ratings and Thresholds for Development Planning Control Purpose, dated May 2008

<sup>20</sup> PPG Paragraph: 002 Reference ID: 7-002-20220825

<sup>21</sup> See the EA's Flood Risks to People Phase 2 Guidance Document Ref FD2321/TR2

significantly above 1 m/s and would not, therefore, affect the overall hazard rating in this instance.

55. Based on the above, in a design flood event there would likely be a flood hazard rating of 'danger for most' on the walkway, which includes the general public and, of course, the residents of the care home. There would also likely be more regular flooding at lower flood levels. It is difficult to be precise about how regular these events would be because of the inherent uncertainties of the flood modelling and because of the lack of information regarding the walkway set out above. However, the appellant has accepted in their closing submissions that flood events of 1:10 years or greater are likely to flood the proposed walkway. These events would likely often result in a flood hazard rating of 'danger for some' which is a danger to occupants of the care home and to children within the residential part of the development.
56. The walkway would not, therefore, remain operational and safe for users in times of flood and, by extension, would not be safe for its lifetime taking account of the vulnerability of its users. I have given consideration to whether or not the details of the proposed walkway could be controlled wither by condition or a future highways agreement to overcome this issue. However, the room for manoeuvre is limited because of the requirement to maintain suitable head height and user width of the walkway, as well as to successfully integrate the walkway back into the highway to the north of the 3AB. It has not therefore been demonstrated that a walkway of suitable design whilst simultaneously also being of suitable height AOD to avoid the flooding issues could be achieved.

The development would provide wider sustainability benefits to the community that outweigh the flood risk

57. One of the specific examples of wider sustainability benefits provided in PPG<sup>22</sup> is the re-use of suitable brownfield land as part of a local regeneration scheme. This is precisely what is proposed, and the development would result in the efficient use of a previously developed site which is currently under-used, contaminated and mostly vacant, and which is allocated for development in the TisPlan. There would, therefore, be wider sustainability benefits to the proposal.
58. Although the walkway would not be safe during certain times of flood, signage could likely ensure that future occupants and other persons using the site would be able to make appropriate decisions on whether or not to attempt to ford the flood waters. Future residents and other users of the appeal site would also be able to exit the site in the event of a design flood event, by turning south, away from the 3AB. This is a safe access and egress route however it is of limited benefit because this route does not lead to either the services and facilities of Tisbury or the railway station. It merely provides access to a safe area off the appeal site which is unnecessary in any event because the main part of the appeal site itself would not be flooded as it lies in Flood Zone 1. These factors do not, therefore, overcome the isolation that would be caused to some occupants of the proposal in the event of flooding under the 3AB.

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<sup>22</sup> PPG Paragraph: 036 Reference ID: 7-036-20220825

59. Pluvial flooding is also a consideration. The proposal would keep surface water run-off to greenfield rates up to a 1:100 year flood event plus climate change allowance, and this could be controlled by condition. The proposal would therefore lessen the contribution of the appeal site to pluvial flooding on Jobbers Lane and through the 3AB and also within the appeal site at the point of the proposed vehicular access. However, despite being a betterment, there would still be a degree of pluvial flooding affecting the 3AB. Although not necessarily the case, this could be at the same time as fluvial flooding, further worsening the flood risk in this location. This has not been modelled by the appellant.
60. I acknowledge that the onward routes to the village, on the other side of the 3AB, have similar likelihoods of flooding as the walkway, based on the data presented to me. I also acknowledge that any flooding would likely only be maintained for a few hours, for example in the flood event in October 2021 the flooding lasted for seven hours. However, the flooding would lead to many of the future residents of the proposal being isolated on the appeal site in certain times of flood. Also, as set out above, it has not been demonstrated that the walkway would not impede water flows or result in a net loss of flood plain storage thereby worsening flooding either under the 3AB or elsewhere. It has not, therefore, been demonstrated that the wider sustainability benefits to the community would outweigh the flood risk.

#### *Overall*

61. Due to the frequency of the train services and the reasonable range of facilities and services within the village, both of which are better than might be expected for such a rural location, the appeal site is in an accessible location and would encourage non car-based transport. This would also discourage and limit out-commuting by future residents. However, the walkway would not remain operational and safe for users in certain times of flood. The main part of the appeal site, whilst not being directly affected by flooding, relies on the walkway to provide access to the services and facilities of the village and the railway station, and would become isolated to its occupants during certain flood events. It has also not been demonstrated that the walkway would not unacceptably impede water flows, increase flood risk elsewhere, or result in no net loss of floodplain storage.
62. The proposal would therefore fail to comply with Policy CP3 of the CS which requires the proposal to provide necessary infrastructure, Policy CP46 of the CS which requires older persons accommodation to enable older people to live securely and independently, Policy CP60 of the CS which requires developments to be in accessible locations, and Policy CP61 of the CS which requires it to be demonstrated that the proposal is capable of being served by safe access to the highway network. The proposal also fails to comply with Paragraphs 110 and 112 of the Framework which require safe and suitable access be achieved for all users and Paragraphs 166 and 167 regarding the exception test for the walkway and overall flood considerations.
63. Although mentioned at Paragraphs 116 and 117 of the TisPlan, there is no mandate within the TisPlan that access to the other side of the railway must be through a new crossing as part of the potential future railway station works. Nevertheless, Policy BL.7 of the TisPlan requires proposals to make provision for an appropriate pedestrian access to and from the development

and the rest of the village. It has not been demonstrated that this would be achieved and the proposal therefore fails to comply with the policy.

## **Character and Appearance**

### *Design*

#### Existing

64. The existing site accesses are lined by mature trees and hedges. From Jobbers Lane, the appeal site therefore has a partially rural appearance. The east and north parts of the appeal site are a steep slope, largely grass but with some trees particularly to the top of the slope. The main part of the site, though, comprises fairly large industrial buildings, mostly in a poor state of repair, and large areas of hardstanding which is used for a mixture of car parking and storage. As acknowledged at Paragraph 109 of the TisPlan, this main part of the site is an eyesore.
65. The site is bordered by the railway line with railway station and car park beyond to the west. The village of Tisbury lies to this side of the site, rising up a hill from the station. The village has a mixed architectural vernacular and a complex layout, reflecting its organic growth over centuries. It is attractive. It is highly visible because the village lies on a hill overlooking the appeal site. However, the village largely only offers glimpsed views back towards the appeal site because the railway station is an intervening feature from many viewpoints.
66. To the east, beyond the slope, is farmland, which is relatively open. However, the trees to the north, south and at the top of the slope within the site, combined with the low level of the developed part of the site, heavily restrict views of the site from the open countryside. It is largely visually self-contained from the surrounding countryside. There are two Public Rights of Way (PRoW) that run to the north and east of the site, including the PRoW which runs over the Chantry crossing and then through the top part of the site. These afford views of the site although these quickly become restricted moving northwards because of existing trees.

#### Proposed

67. The proposal is in outline, save for access. The illustrative masterplan indicates a central spine road with dwellings in a series of small terraces, semi-detached and detached layouts largely fronting onto the spine road. Some courtyard development is also proposed, running at right angles to the spine road. A care home building in a moderately large block is proposed towards the Jobbers Lane end of the appeal site. The built form would be limited to the flat part of the appeal site, on the currently developed land. The slope to the east would remain. An area would be safeguarded alongside the railway for the possible future rail works. An acoustic barrier at least 2m high is likely to be required along this boundary, as set out in the Noise Impact Assessment, dated July 2020 (the NIA). No details of this have been provided.
68. The Design Principles Document, dated January 2023 (the DPD) sets out further design detail. The proposed buildings would be a mixture of 2 and 2 ½-storeys, including 'landmark buildings'. Landscaped areas are proposed around the care home, in the centre of the site, and around the drainage works to the north. The DPD details active frontages to the spine road, open

space and parking courts. Detailed design guidance is set out with regard to façade, fenestration, detailing, roof forms etc.

69. Vehicular access would be from Jobbers Lane, by altering the current easternmost access road and removing the western access. As set out above, despite being outside the red line, because the proposed walkway is integral to the proposal, I also consider this as part of the design. This would be a functional, metal structure running from the site, through the 3AB and onto Station Road. It is a requirement from NR that the Chantry level crossing be fenced off so that future occupants of the development would not use it. No details of how this would be achieved has been provided.

#### Assessment

70. It is not unusual to have dwellings backing onto railway lines or onto surrounding open space. Although the NIA recommends that buildings be orientated to have their gardens and noise sensitive rooms facing eastwards in response to noise from the railway, the likely noise from station announcements and trains is not particularly high, at 50 to 60 dB and 72 dB respectively. In addition, an acoustic barrier could be constructed to partially the noise pollution. It would likely be 2m tall but this is not particularly high for a boundary wall. There is, therefore, no reason to believe that a successful final detailed design could not be achieved within the design parameter of dwellings and their gardens backing onto the railway safeguarded land.
71. Ensuring that the buildings and open spaces appropriately address one another and the proposed spine road, particularly with regard to active frontages, would be important. This has been acknowledged by the DPD and, again, there is no reason to believe this could not be achieved at the detailed design stage.
72. Tisbury village is an attractive village that provides a pleasant variety of layouts and building styles on a hillside. It would not be possible to replicate this on a flat site with a new build development. However, the DPD acknowledges the importance of reflecting local architectural vernacular where appropriate and of introducing variety to the proposed building designs. The illustrative layout shows that a mixture of building and terrace types, lengths and orientations could be achieved on the site. The care home block would be relatively large. However, the bulk and mass of this block could be broken up at the detailed design stage through careful consideration of the footprint, fenestration detailing and roof form. The proposed 2 and 2 ½-storey heights reflect the scale of buildings within Tisbury and are appropriate for the area.
73. The internal western 'boundary' to the safeguarded rail land is not yet resolved. This would present design challenges. However, given the requirement to safeguard land for the potential railway improvements and the uncertainties surrounding that at this stage, it is acceptable to leave the detail of this for the reserved matters stage.
74. The proposed areas of communal/public open space in the illustrative masterplan are relatively small. There would be limited scope to significantly increase the size of these at the proposed density. However, they would provide some communal outside space. The s106 secures that the amount of communal open space would meet local standards, or that a payment would be made in lieu to upgrade local facilities. The majority, if not all, of the

proposed houses would likely have their own private gardens, and a dedicated area of open space would be provided for the care home as secured through the s106. Although there is no commitment to provide children's playspace on the appeal site, and there would be limited space for this provision, the s106 secures payment for the improvement of off-site facilities.

75. A fairly substantial fence or other landscaped barrier would be required to prevent use of the Chantry crossing by future occupants, because it is a clear desire line to access Tisbury village centre. However, the PRoW only stretches across a relatively small part of the appeal site and there is no reason to believe that a suitable design could not be achieved at the detailed design stage.
76. The proposed walkway would be of a functional design but this is out of necessity because of the flooding and highways considerations. The detailed design could be controlled by condition, reserved matters submissions, and/or a highways agreement. Subject to this control, it would likely be of acceptable appearance.
77. The above considerations would likely lead to the illustrative masterplan evolving. However, the proposed density provides capacity for such changes and considerations to be accommodated within the context of a spine road and linear development. It is also important to remember that the appeal site is largely previously developed land and the efficient use of such land is encouraged by Paragraph 119 of the Framework.

#### Overall

78. The existing site is unattractive and run down. The proposed development would be of a density that ensures that a high quality final design could be achieved. Detailed design considerations could be appropriately controlled through future condition discharge and reserved matters submissions, or by a highways agreement with regard to the proposed walkway. Overall, the proposal would result in an enhancement to the character and appearance of the appeal site and surroundings.
79. The proposal therefore complies with Policy BL.7 of the TisPlan, which requires high quality design. It complies with Policy BL.3(2) of the TisPlan insofar as it supports the development of previously developed land for residential development. The proposal complies with Policy CP52 of the CS which requires that proposals make appropriate provision for open space, Policy CP57 of the CS which requires high quality design and the efficient use of land, and Policy CP27 of the CS because it is of a scale that is appropriate for Tisbury village and its role as a Local Service Centre in the settlement hierarchy. It also complies with Saved Policy R2 of the LP with regard to open space provision in new developments.

#### *Cranborne Chase Area of Outstanding Natural Beauty (the AONB)*

80. The appeal site lies in the AONB, within The Vale of Wardour Character Area 8A. The key characteristics of this area are chalk downlands, mixed agricultural landscape, wooded character, village settlements, rivers, and a sense of enclosure provided by the surrounding upland landscapes. The existing land to be developed is an industrial, poorly kept site that does not positively contribute to the AONB. The surrounding agricultural land would



remain as would the tree belts to the north, south and eastern boundaries. The slope would remain vegetated and green. The character of an urban area surrounded by the agricultural land beyond the top of the hill would remain. As established above, the character and appearance of the developed part of the appeal site would be enhanced by the proposal. The appeal proposal would, therefore, not materially affect any of the AONB's key characteristics.

81. The proposal would generate additional traffic movements. However, these would be relatively limited in the context of the level of existing traffic movements on the surrounding roads to the site within the AONB. There would therefore be a very limited effect on the character and appearance of the AONB in this regard.
82. The appeal site falls within an International Dark Sky Reserve (IDSR). The current site causes light pollution from the existing buildings and external floodlighting. The site is also affected by the general light pollution from the village of Tisbury and the railway station. The type of lighting required for the proposal could be controlled by condition to limit light pollution. There would not, therefore, be any material harm to the IDSR as a result of the proposal.
83. The proposal is not for major development in the AONB, as defined by Paragraph 177 of the Framework, because it would be of relatively modest scale, on a previously developed site that is relatively visually contained, and it would have a positive effect on the AONB because it would enhance the character and appearance of the site and its surroundings, as set out above. Because the appeal site is within the AONB it is within a valued landscape with regard to Paragraph 174(a) of the Framework. Overall, the proposal would enhance the landscape and scenic beauty of the AONB and it therefore complies with the Framework. The proposal also complies with Policy CP46 of the CS insofar as it requires older persons accommodation to have no landscape harm.

### **Conservation Area**

84. Tisbury Conservation Area (the CA) covers much of the village and extends from the western boundary of the appeal site out over the village. An important part of the significance of the CA is that the village lies on a hillside and provides views of the surrounding valley setting. Key views include along Station Road over the railway station with the appeal site in the background. As set out above, the proposal would be replacing an existing unattractive site and would result in an enhancement to the character and appearance of the site and surroundings. Views of the green slope within the appeal site would be maintained because the proposal would be limited to at most 2 ½-storeys and because the green slope would remain undeveloped.
85. The proposal would therefore enhance the setting of the CA, its character and appearance, and its significance, complying with Paragraph 197 of the Framework. It also complies with Policy BL.7 of the TisPlan which requires proposals to reflect the site's proximity to the CA.

### **Listed Buildings**

86. Tisbury contains a grade I listed church, St John the Baptist. The tower is an important part of the significance of the listed building. Its tower is prominent from many views in and around the village, but particularly from the railway

station and on Vicarage Road looking towards the appeal site. The tower is often currently seen against a green backdrop. Maintaining the ability to appreciate the church and its tower both to and from the appeal site is therefore important. From certain views and angles, new buildings would likely form a backdrop to the spire, even after accounting for the zones of sensitivity set out in the DPD. However, importantly, the green backdrop behind provided by the steeply sloped land would remain as such. The proposal would also be replacing an existing unattractive site and would enhance the character and appearance of the site and therefore the setting of the church.

87. Gaston Manor is a grade II\* listed house, lying to the east of High Street. The building sits in generous grounds and derives some of its significance from the views from the house and its grounds across the village. However, it primarily faces west, is fairly distant from the appeal site, and the proposal would only have a limited effect in the background of lesser views out from the building and its grounds. The proposal would also be replacing an existing unattractive site and would enhance the character and appearance of the site and therefore the setting of the church.
88. The proposal would therefore sustain and enhance the architectural and historic interest, and significance of the listed buildings, complying with Paragraph 197 of the Framework. It also complies with Policy CP57 of the CS which requires proposals to be sympathetic to historic buildings.

### **Highway Safety (vehicular)**

89. The road to the south of the appeal site is a country lane. As it approaches the proposed vehicular access to the appeal site it is relatively narrow. The 3AB is very narrow and on the opposite side is a tight bend. As the road continues into the village it is still narrow, there are multiple entrances and exits, and there is a narrow bridge over the river on the far side of the station. Although past the appeal site and in the first part of the other side of the 3AB the speed limit is 60mph, the character and nature of the road slows traffic. The appellant's traffic survey has confirmed the 85<sup>th</sup> percentile speeds outside the proposed vehicular access are 28.1mph eastbound and 26.5mph westbound.
90. The 3AB currently provides vehicular flows each way using two of the arches. It is proposed to close one of the two existing arches and signal controls would be introduced either side of the 3AB to enable traffic to pass both ways through one arch. This would result in average queue lengths at the proposed signals of 20m deep, or between two and three vehicles. At the appeal site end this would overlap with the proposed access, but traffic could simply wait within the appeal site for the traffic to move. On Station Road, remaining and proposed lane widths would be suitable for traffic to pass in either direction at all times. Drawings have been submitted demonstrating that any proposed signage and signal equipment could be accommodated whilst maintaining a suitable road width.
91. There is an existing access point to Dave's Garage between the proposed signals. The Dave's Garage access has relatively good sightlines in both directions, including through one of the arches of the bridge. The proposed walkway would partially obstruct this view but some visibility would remain. There are various options to deal with this entrance at the point of

implementation, including creating a further traffic signal for the garage. Concern has also been raised regarding the length of the intergreen period of the signalling being too short to allow cyclists to safely navigate the route. However, the length of the intergreen can be resolved in discussion with the HA at the point of implementation. In the context of the relatively low traffic flows it is likely that a suitable solution could be found to both these issues through the implementation of the signalling system.

92. The Fire Service has confirmed that the remaining arch is large enough to accommodate a fire tender because the actual height of bridge is greater than the plated height. It has raised a concern regarding the width of Station Road if pavements are added but concludes that it could still proceed with caution on a red light. This is not an unusual situation for an emergency service. Even during the flood events discussed above, the emergency services could access the appeal site by arriving from the south and likely, in most situations, also under the 3AB because they are equipped to drive through flood hazard ratings up to 'danger for all'. Although there might be access issues on the wider network with regard to flooding, these are beyond the scope of the proposal to consider and would apply equally to existing development in Tisbury and elsewhere. Acceptable emergency service access to the appeal site would, therefore, be achieved.
93. Tisbury is not particularly near major roads. The A303 is 13 km to the north and the A350 is 16 km to the south west. It is only served by minor roads, not even a B-road. The roads in all directions are narrow country lanes with multiple hazards. However, this is the existing situation. Although presenting a degree of difficulty, there is no evidence before me that the roads are impossible to use to access the appeal site. This much is clear because they are currently used to access the entire village of Tisbury. The proposal would not materially alter this situation or the numbers of people and vehicles using these roads. The appeal site is therefore adequately served by wider road infrastructure.
94. The proposal would not, therefore, unacceptably harm highway safety and it complies with Policy BL.3 of the TisPlan insofar as it states that there should be no unacceptable impact on the road network. It also complies with Policy CP61 of the CS which highlights the importance of providing adequate access for the disabled, and Policy CP62 of the CS which states proposals must mitigate any adverse impacts on the transport network.

### **Free-flow of Traffic**

95. The appellant's traffic survey was conducted during a lockdown period in 2020. However, it was adjusted to account for the reduced traffic to normal flows. A 'sense check' has been undertaken against a permanent traffic counter 100m south of the appeal site and the predicted and proposed traffic flows are in accordance with that data. The survey found that the proposed introduction of the signal controlled junction would have limited effect on traffic flows. Some of the assumptions in the survey are questionable. For example, slower average speeds should have been used, a longer intergreen period might be required for cyclists, and not accounting for spikes in traffic flow just before trains arrive. As discussed above, a further traffic light phase might also be required for traffic entering and existing Dave's Garage.

96. However, the calculated saturation at the proposed junctions is 35%, including predicted traffic from the future occupants of the proposal. Even allowing for an extra light phase, the saturation would only be 50%. Saturation needs to be at or near 90% to be of concern and the appellant's modelling also assumed a pedestrian crossing every cycle, which would be unlikely in reality, so there is significant headroom. Other questionable assumptions include the radii and physical lengths used in the survey. However, these would not materially alter the conclusions, even if the Council's approach was adopted.
97. There is no evidence before me that there are any issues with capacity at the current station car park and no reason to believe the proposal would materially change this given the good accessibility by foot from the appeal site to the railway station.
98. Overall, the proposal would result in an average of less than one car per minute being added to the highway even in the am peak hour. The proposed signal controlled junctions are on a relatively lightly used road and the modelling has demonstrated there would be sufficient capacity for traffic flows to be accommodated, even if further changers were required. The proposal would, therefore, have an acceptable effect on the efficient operation of the highway network in the vicinity of the appeal site. It would comply with Policy BL.3(3) of the TisPlan insofar as it requires proposals to have no unacceptable impact on the local road network. It also complies with Policy CP62 of the CS which requires proposals to mitigate any adverse impacts on the transport network.

## **Healthcare**

99. The possibility of on-site health services is allowed for in the proposal. However, no commitment has been provided and the nature of the services is not yet known. Therefore, whilst it is possible that such services would at least partially mitigate the increased workload on local primary healthcare facilities, in particular Tisbury Surgery, I place limited weight on this. Some, and perhaps many, of the future occupants of the care home would be existing users of the surgery. However, there would almost certainly also be new people not from the area. I am therefore satisfied that the proposal would result in increased pressure on primary healthcare facilities within Tisbury.
100. Tisbury Surgery were represented at the Inquiry and confirmed that it is at capacity and needs more space to expand. This would involve making structural changes. The Integrated Care Board (ICB) is in control of funding for primary healthcare. This is reactive and takes time to respond to increased demand. There is therefore likely to be a lag between the proposed care home becoming operational and then funding coming through for the surgery. There would also likely be a further lag before any funding could be effectively used, either for structural changes or in relation to staffing or other factors.
101. The Wiltshire Infrastructure Delivery Plan 3 2011 – 2026, dated December 2016, recognised that, at that time, there was a requirement to develop primary healthcare facilities in the Tisbury community area, with an identified funding gap of £101,982. However, this figure is not related to the effect of the appeal proposal on healthcare facilities. No specific requests have been made regarding funding either in terms of the nature of facilities or other

measures required in mitigation. A review mechanism style of clause within the s106 would not be reasonable because the amount of contribution is not known. A CIL Regs compliant request for a contribution has not therefore been made. Therefore, the proposal would have an acceptable effect on healthcare and any mitigation required regarding primary healthcare facilities in Tisbury should be dealt with by the ICB in due course.

## **OTHER MATTERS**

### **Ecology**

102. The proposal has the potential to increase phosphate pollution of the River Avon through waste water discharge, and could thereby harm the conservation objectives of the River Avon Special Area of Conservation (SAC). Natural England require that new residential development within the catchment of the River Avon, which includes the appeal site, is phosphate neutral.
103. The Council has a strategic scheme for the River Avon, which is already funded and which covers up to 60 homes ie the site allocation in the TisPlan. A bespoke solution is required, however, for the additional up to 26 homes and up to 40-bed care home proposed. In this regard, a Unilateral Undertaking (the UU), dated 6 April 2023, secures the use of two parcels of land at Totterdale Farm so that they no longer be used for agriculture and instead be planted and managed as grassland and woodland for 80 years, through a Fallow Land Management Plan, dated March 2023 (the FLMP).
104. Parcel 1 (Warren Field) is 4.7 ha of grass pasture. Parcel 2 is 3.1 ha currently used for arable land. These uses have been established for at least 10 years. The FLMP secures a Mitigation Scheme which would change the land to a habitat matrix of low maintenance grassland, to a specified species mix, and woodland, at a minimum of 100 trees per ha. The UU secures that the landowner of Totterdale Farm has responsibility for the establishment and maintenance of the parcels, for at least 80 years. The Mitigation Scheme would equate to 4.93 phosphate credits, which would deliver nutrient neutrality through a reduction in leaching into the catchment area comprising the River Avon SAC, to offset the additional phosphate loading that would arise from the proposal. The Council's ecologist has confirmed that the mitigation would be acceptable.
105. In addition, conditions could control that consumption of water by future occupants of the proposal would not exceed 110 litres per person per day and that a suitable drainage strategy be implemented to reduce phosphorus run-off. I am therefore satisfied that the proposed mitigation, in combination with the Council's strategic scheme, provide strategic and site-specific solutions to ensure that the proposal would be phosphate neutral.
106. The appeal site falls within the 'core area' for two protected bat species. The part of the appeal site that would be developed does not provide suitable habitat or foraging routes for the bats. However, the slope to the eastern part of the site does provide potential foraging opportunities, albeit limited because of its discontinuous condition and relative isolation to the wider landscape. This main foraging route would remain and there would be at least 15m 'dark corridor' between the trees and the proposed built form. The slope would be retained without access for the future occupants. Any proposed

lighting could be controlled by condition to conform to relevant standards to limit the effect on the bats. The proposal would therefore have an acceptable effect on the protected bat species.

107. In general terms, the appeal site is largely previously developed and of limited ecological value. However, the proposal would result in the loss of a small amount of hedgerow and other incidental green spaces and habitats. The slope to the eastern part of the site, which provides relatively valuable semi-natural habitat and some protected species, eg reptiles and nesting birds, would be retained and access to the slope would be controlled to protect the habitat. An overall biodiversity net gain and the appropriate protection of habitats could be secured by condition. There is no reason to believe that these measures could not be achieved given the low existing ecological value of the site.

### **Other**

108. The existing air quality of the appeal site and Tisbury as a whole is very good, substantially below the average for the Country. The traffic that would be generated by the proposal would be relatively limited and would not have a material effect on the very low baseline.
109. The appellant undertook pre-application consultation on the masterplan for the proposal, including meeting with the Council, Tisbury Parish Council, a local Ward Councillor and a public meeting attended by local residents. The degree to which this consultation influenced the evolution of the masterplan is debatable. However, Policy BL.7 of the TisPlan requires that a masterplan be consulted upon with the community and other interested parties. It does not set out what the results of that consultation should be on the design process. As I have set out above, I have found that the proposal would enhance the character and appearance of the area. The masterplan is therefore acceptable both in the method of its creation and its final design.

### **Objections**

110. Significant numbers of objections have been submitted, including from the Campaign to Protect Rural England, West Tisbury Parish Council, Sutton Mandeville Parish Council, Hindon Parish Council, Fonthil and Berwick St Leonard Parish Council, Swallowcliffe Parish Council, Teffont Parish Council, Chilmark Parish Council, Donhead Parish Council, the Access to Tisbury Group, the Salisbury Civic Society, and the Tisbury and West Tisbury Neighbourhood Plan Steering Group.
111. The letters of objection raised various concerns in addition to those addressed above, including: limited benefits to local people from the proposed housing; inadequate consultation with the community on a masterplan; the proposed flood attenuation pond could be a safety hazard; unacceptable burden on primary schools; an alternative crossing of the railway line either a footbridge or tunnel needs to be built first or as part of the proposal; and concern regarding land contamination given that part of the site used to be a gas works.
112. I have taken all of these factors into consideration. Most are not in dispute between the main parties. Most were addressed in the Officer's Report, with the Council concluding that there would be no material harm in these regards.

No substantiated evidence has been submitted that leads me to any different view. Others are addressed in my reasoning above, can be addressed by conditions or are dealt with by the s106.

### **PLANNING BALANCE**

113. The proposal would result in the efficient use of a previously developed site which is currently under-used, contaminated and mostly vacant. It would provide up to 86 homes, up to 18 of which would be affordable, in a Council that can only demonstrate a 4.7 year supply of housing land. An up to 40 bed care home is proposed, the need for which has been demonstrated. Construction of the development would create jobs in the short term. In the long term, the future occupants of the proposal would contribute to the local economy. Jobs would also be created in the care home. The proposal would redevelop a site which is unattractive to the point that it has been described as an eyesore in the TisPlan and it would enhance the character and appearance of the area. A biodiversity net gain could be achieved as secured by condition. Although relatively small, some public open space would be provided, which would provide benefits to the local community as well as future occupants of the proposal.
114. The benefits of the proposal are therefore weighty. However, they are negated because the appeal site would not be suitably accessible to all users during certain flood events, at which point it would become isolated from Tisbury and the railway station. This is a clear breach of the site allocation policy, as well as other policies in the Development Plan. It has also not been demonstrated that the walkway would not unacceptably impede water flows, increase flood risk elsewhere, or result in no net loss of floodplain storage, which are the requirements for 'essential infrastructure' within Flood Zone 3b as set out in PPG. Failing to pass the PPG tests constitutes a clear reason for refusing the development proposed. Therefore, I do not need to undertake the 'tilted balance' as set out at Paragraph 11(d) of the Framework, for the reasons set out at Footnote 7 and Paragraph 11(d)(i).
115. Therefore, the proposal fails to comply with the Development Plan when considered as a whole and there are no material considerations that indicate I should make a decision otherwise.

### **CONCLUSION**

116. For the reasons above, the appeal is dismissed.

*O S Woodward*  
INSPECTOR

## **ANNEX A: APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Freddie Humphreys - counsel for the Local Planning Authority. He called:

Brian Johnson ARB	Senior Urban Design Officer, Wiltshire Council
Richard Hughes MRTPI	Area Team Leader Development Management (South Team), Wiltshire Council
Carrie Whittaker	Flood and Coastal Risk Management Technical Advisor, Environment Agency
Benjamin Wilding CEng MICE	Senior Civil Engineer, Atkins Ltd on behalf of the Lead Local Flood Authority
Robert Rossiter CMI	Strategic Specialist – Transport, Wiltshire Council

### FOR THE APPELLANT:

Richard Turney - counsel for the appellant. He called:

Simon Trueick MRTPI	Director of Planning, Intelligent Land
Gary Rider	Design Director, Thrive Architects
Bava Sathan CEng MICE FIEH RPEM	Partner, Campbell Reith Hill LLP
Karun Ahluwalia	Director, Christie & Co
Stuart Willis	Associate, Clarke Willmott LLP

### FOR THE RULE 6 PARTY:

Simon Bell - counsel for the Rule 6 Party. He called:

Andy von Bradsky RIBA FRSA	Director, von Bradsky Enterprises
Richard Burden MCMi(rtd) MCIPD FLI PPLI	Principal Landscape and Planning Officer, the Cranborne Chase AONB Partnership Board
Clyde Whittaker	Representative for Tisbury Parish Council
Dr Adam Smith GP	Partner, Tisbury Surgery
Councillor Gerry Murray	Vice Chairman, Tisbury Parish Council

### INTERESTED PERSONS:

Tim Martin	Parish Councillor, Ansty - appearing on behalf of Sutton Mandeville, Hindon, Fonthil and Berwick St Leonard, Swallowcliffe, Teffont, Chilmark and Donhead Parish Councils
Richard Budden	Local resident
Dr Suzanne Keene	Honorary Chair South Wiltshire Group, Campaign to Protect Rural England



## **ANNEX B: DOCUMENTS**

- 1 List of appearances on behalf of the Council
- 2 Opening submissions for the appellant, by Richard Turney, dated 21 February 2023
- 3 Opening on behalf of the Council, by Freddie Humphreys, dated 21 February 2023
- 4 Opening statement on behalf of Tisbury Parish Council, by Simon Bell, dated 21 February 2023
- 5 Hindon Lane, Tisbury Application – Report to Committee
- 6 Tim Martin Transcript
- 7 Appeal Decision Ref APP/D1265/W/20/3256221, dated 19 January 2021, for Land South-West of Blandford Forum By-Pass, Blandford St Mary, Dorset

### *Phosphates submissions*

- 8.1 Totterdale Farm Phosphate Mitigation – Fallow Land Management Plan, dated February 2023, by Holbury Consultancy Services
  - 8.2 Phosphate credit: statement, dated 28 February 2023, by Holbury Consultancy Service
  - 8.3 Technical Note, dated 21 February 2023, by Holbury Consultancy Service
  - 8.4 Request for discretionary advice service (Natural England), dated 21 February 2023, by Tisbury Community Homes Ltd
  - 8.5 Ecological Statement Totterdale Farm Woodland Creation, dated February 2023, by JM Stratton and Co
  - 8.6 Technical Note: Warren Field Management, dated 10 March 2023, by Holbury Consultancy Service
  - 8.7 Totterdale Farm Phosphate Mitigation – Fallow Land Management Plan Final Version 3.0, dated March 2023, by Holbury Consultancy Services
  - 8.8 Agreed position between Tisbury Community Homes & Natural England, dated 17 March 2023
- 9 High Court in R (University Hospitals of Leicester NHS Trust) v Harborough DC [2023] EWHC 263 (Admin)
  - 10 Technical Note 1: Response to Mr Stanyard Rebuttal, dated 3 February 2023, by John Russell
  - 11 Infrastructure Funding Statement extract
  - 12 Wiltshire Infrastructure Delivery Plan 3 2011-2026 Appendix 1: Tisbury Community Area, dated December 2016

### *Traffic surveys*

- 13.1 K&M Traffic Surveys Data
- 13.2 Photograph of location of traffic data collection

- 14 Tisbury Parish Council – Minutes of September Meeting 1

### *Highways and transport submissions*

- 15.1 Full Input Data and Results, dated 7 March 2023
- 15.2 Full Input Data and Results, dated 7 March 2023, for Dave's Garage
- 15.3 Email from Simon Trueick, dated 7 March 2023, Subject: Linsig Update as referred to in evidence
- 15.4 Technical Note 2: Response to Mr Stanyard Additional Information, dated 8 March 2023, by John Russell
- 15.5 Technical Note, dated 15 March 2023, by Chris Stanyard
- 15.6 Traffic Survey Assessment, by Robert Rossiter
- 15.7 Additional Traffic Modelling Assessment, by Robert Rossiter

16 Appeal Decision Ref APP/X0360/W/22/3309202, dated 9 March 2023

17 Gary Rider Profile

*Site visit*

18.1 Inquiry appeal site visit – walking route map pt 1

18.2 Inquiry appeal site visit – walking route map pt 2

18.3 Inquiry appeal site visit - Road routes to and from Tisbury

19 Statement of Richard Budden

*Phosphate consultation responses*

20.1 Phosphate consultation responses – Anne Ralphs, dated 13 March 2023

20.2 Health of Wiltshire chalk streams – 2021

20.3 Wiltshire Council Ecologist Response

20.4 Comment by Richard Budden

20.5 Comment by John Berkley-Mathews, dated 15 March 2023

20.6 Natural England Letter, dated 17 March 2023

20.7 Tisbury Parish Council's Submissions

20.8 Tisbury Parish Council's Submissions – Addendum

20.9 Comment by Richard Norgan

20.10 Fallow Land Management Plan Comment by Rosemary Buck

20.11 Wiltshire Council – Statement on Phosphorus Mitigation, dated 20 March 2023

20.12 Email from David Holroyd, Head of Water Quality at the Wiltshire Fisheries Association, Salisbury and District Angling Club and Teffont Fishing Club, dated 15 March 2023

20.13 Comment by Annabella Wass

20.14 Comment by John Edgley

20.15 Comment by Wida and Willian Rowe

20.16 Comment by Lucy Stone

20.17 Comment by Helen Osborne

20.18 Comment by Zoe Marks

20.19 Comment by Holly Morse

20.20 Comment by Julia Willcock

20.21 Comment by Helen Mockridge

20.22 Comment by David Bright

20.23 Comment by Sam Peters

20.24 Comment by Kenneth Borton

20.25 Comment by Martha Stone

20.26 Comment by Mark Dunkley

20.27 Comment by Juliet Cox

20.28 Comment by Rex Stevenson

20.29 Comment by Rachel Boase

20.30 Comment by Polly Tye

20.31 Comment by Philippa Wood

20.32 Comment by Peter Smales

20.33 Comment by Penelope Smales

20.34 Comment by Nicola Burton

20.35 Comment by Mr and Mrs Allison

20.36 Comment by Terry Weadon and Sutton Maneville

20.37 Comment by Lyndsay Bootham

20.38 Comment by Louise Stone

20.39 Comment by Kitty Dunkley

20.40 Comment by Gustavo Montes de Oca

- 20.41 Comment by Gerald Blundell
  - 20.42 Comment by Ella Stome
  - 20.43 Comment by Elizabeth and Gordon Sorensen
  - 20.44 Comment by Dean Green
  - 20.45 Comment by Claudia Businaro
  - 20.46 Comment by Christabel Hunter
  - 20.47 Comment by Catherine Allison
  - 20.48 Comment by Barry Fitzpatrick
  - 20.49 Comment by Amanda Brockway
  - 20.50 Comment by William Kerr
  - 20.51 Comment by Terry Wheadon and Lynda Gale
  - 20.52 Comment by Tamsin Bullock
  - 20.53 Comment by Sophie Moore
  - 20.54 Comment by Sophie Milburn
  - 20.55 Comment by Sean Coleman
  - 20.56 Comment by Sarah Nicholls
  - 20.57 Comment by Rob Trim
  - 20.58 Comment by West Tisbury Parish Council
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- 21 Joshua Berry Email, dated 27 February 2023
  - 22 Letter from Clarke Willmott, dated 15 March 2023
  - 23 Closings on behalf of the Council, dated 20 March 2023, by Freddie Humphreys
  - 24 Closing Statement, dated 20 March 2023, by Simon Bell
  - 25 Closing submissions for the Appellant, dated 20 March 2023, by Richard Turney
  - 26 Formal Response, by Nicola French of Holbury Consultancy Service, dated 29 March 2023
  - 27 Strategic Appropriate Assessment of developments in Wiltshire occurring in the River Avon SAC catchment, dated 28 February 2022
  - 28 Community Infrastructure Levy (CIL) Compliance Statement (Revised Version) dated 20 March 2023, by Wiltshire Council